Ordoliberalism and the Making of the Economic Constitution: State, Law, and Money in the Market Economy

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Abstract

The aim of my research is to explore the political economy of ordoliberalism in its historical trajectory. Beginning from the years of its inception during the interwar period, the dissertation focuses on the specific conditions and political economy of the Weimar Republic as the framework within which the ordoliberal framework was developed. Moving on to the postwar period, the dissertation examines the attempts of operationalization of the ordoliberal framework within the context of West Germany and the social market economy. Having analysed the success and contradictions that this attempt brought out, the dissertation proceeds by exploring the ways in which the experiment of the social market economy re-ignited the international character of the ordoliberal framework and its reconceptualization within the context of the process of European integration. Working through the wider framework of the Bretton Woods regime, its political economy and contradictions, the dissertation proceeds by inspecting the ways in which ordoliberals positioned themselves in relation to Bretton Woods at a time when the social market economy was showing signs of exhaustion. The eventual collapse of Bretton Woods caused a reconsideration of European integration, a process concomitant with the rise of monetarism and the return of authoritarian liberalism. The final part of the dissertation examines the specific role of the ordoliberal framework in the process of the creation of the European Monetary Union, as well as the constitutional and political economy challenges that the Eurozone crisis brought to the foreground.

Table of Contents

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Introduction

In general terms, ordoliberalism can be defined as a liberal tendency developed during the interwar period (with a strong presence in Germany but by no means confined there) that purported the necessity of a state-created "order" (*Ordnung*) as a prerequisite for the proper functioning of the market. Its correlation with the postwar West German 'social market economy' of the 1950s and 1960s rendered it a subject of wider scholarly attention, a circumstance also responsible for the promotion of the persistent (and yet misleading) notion that ordoliberalism is a "German" tradition. During the 1970s, ordoliberal ideas largely receded from public deliberations. After a short-lived renaissance following the collapse of the Soviet Union and enhanced debates around the possibility of integrating former socialist countries into the Western market economy by following the example of the social market economy, ordoliberalism returned to the spotlight more forcefully with the outbreak of the financial crisis and its mutation into a European 'sovereign debt' crisis between 2008 and 2010. This time, it was "rediscovered" as the ideological framework that dictated German political economy and crisis management. "Re-nationalized" in the press as a "particularly German tradition" (*Economist* 2015), ordoliberalism became a common explanatory reference for German insistence on austerity and fiscal consolidation (Dyson 2010; Dullien & Guérot 2012; Blyth 2013; Nedergaard & Snaith 2015; White 2017).

The aim of this research is to explore ordoliberalism in its historical trajectory and to highlight its influence (or lack thereof) within the overall political economy of the historical period that spans from the interwar period until the Eurozone crisis. While a central argument of the dissertation is that ordoliberalism is not a specifically German tradition,[1] specific conjunctural reasons necessitate that Germany is given a crucial role in the unfolding of ordoliberalism's historical path. This is not only because ordoliberals themselves have somewhat embraced this view (one would be hard pressed to find people *outside* Germany who would self-identify as *ordoliberals*), but because voices critical of ordoliberalism have also adopted this perspective (Blyth 2013). For these reasons, it became imperative to engage with predominant views on ordoliberalism, while also building on further research and closer scrutiny in order to demonstrate the misleading perspective of the 'nationalisation' of ordoliberalism and its consequences.

Those latter critical voices have tended to approach ordoliberalism in a somewhat paradoxical manner, i.e., by moving backwards throughout history. Starting from an approach that identified it as the guiding theory behind the austerity process implemented during the Eurozone crisis, ordoliberalism came to be retrospectively assigned as playing a key role in the very architecture and design of the European Monetary Union (EMU). Moving more into the direction of social and economic history, a further step taken consists of the acknowledgement that ordoliberalism is also to be found behind the

[1] See also Dyson 2021.

social market economy (SME) of West Germany in the immediate postwar period. Lastly, this arch that would occasionally be supplemented by analyses of the emergence of the ordoliberal framework in the pre-World War II with special (if not exclusive) attention to the Freiburg School.[2] A consistent element of scholarly attention to ordoliberalism has revolved around attempt to demonstrate continuity between contemporary recipes of fiscal consolidation and the Freiburg School's writings. Among other things, this indicates that whether from critical or friendly accounts, ordoliberalism has been (and continues to be) seen as a *German* tradition.

This schematic view became, after examining the relevant literature, somewhat puzzling. How was it possible for a specific theoretical framework developed in Germany approximately one hundred years ago to survive the test of time and the drastic transformations that have taken place since the interwar period, to lose none of its influential power and to determine the political economy of contemporary Europe so forcefully? What made this puzzle even more peculiar was the fact that most non-German economists, political economists, historians and political scientists have not even heard of ordoliberalism. On a last note, another question of ambiguous continuity posed itself: utilized by divergent or even competing accounts, the identification of ordoliberalism with the Freiburg school became a breeding ground for a wide range of approaches that reached, however, entirely divergent conclusions. Confronting these ambiguities, it became pertinent to fill the gaps produced by such perspectives and to investigate ordoliberalism in a way that had not been attempted until today, namely to look at ordoliberalism in its entire centennial trajectory and to highlight its changes, adaptations, transformations *and* its invariance within that period. In this context, it became possible not only to dissect the specific ways through which the ordoliberalism of the interwar period (whether in the form of the Freiburg School or in international meetings such as the Walter Lippman Colloquium) relates to the postwar social market economy or, for that matter, the process of European integration all the way to the outbreak of the Eurozone crisis. At the same time, to properly trace the development of ordoliberalism, highlighting its continuities and breaks in that historical period, also meant engaging with the wider framework (whether that be political, economic, social or monetary) with which ordoliberalism existed, engaged with and attempted to influence. This method became the arch of my research.

[2] In most accounts, (German) ordoliberalism is described as consisting of three varieties: the Freiburg School around Walter Eucken and Franz Böhm; the so-called 'sociological liberalism' of Wilhelm Röpke and Alexander Rüstow; and the so-called Cologne school of Alfred Müller-Armack (Kolev 2016).[2] This delineation corresponds to different emphases that each thinker focused on but it could also be misleading: the common aspects of these varieties easily overcome their focus shift and it is this fact that allows one to speak of ordoliberalism without having to recount all variations at every step. This research will follow a similar approach, putting less emphasis on their differences (while these will of course be highlighted when necessary) than their commonalities.

Ordoliberalism from the interwar period to the end of World War II

Moving in the opposite direction of mainstream views, I started my investigation by evaluating the claim of the Weimar Republic as the birthplace of (German) ordoliberalism.

There was clear evidence that this approach has a lot of merit. The expansion of mass democracy through the establishment of universal suffrage, the sudden and unexpected emergence of a social-democratic government, the economic and monetary instability that characterised the 'doomed Republic' and the revolutionary threat from the radical left *and* the reactionary opposition of the far right were all crucial ingredients forming the ordoliberal framework. Moreover, the 1929 stock market crash and the subsequent global depression shocked ordoliberals as much as other contemporaries, forcing them into a reconceptualization of central categories such as 'laissez-faire' and state intervention. Their views on money, banking, markets and crises were deeply affected by these historical events, forged into essential and distinctive characteristics of the ordoliberal view. As a direct consequence, the emergence of the Nazi regime in 1933 was an equally defining moment for ordoliberalism, though my research showed that retrospective views on ordoliberalism which claim that ordoliberalism was, *from its inception*, a theoretical framework developed in opposition to Nazism are exaggerated and misleading.

Summarising the findings of the interwar trajectory, I was struck by a specific correlation that few scholars have emphasized – if noticed at all. That concerned the obvious fact that the advent of mass democracy (which informed the ordoliberal insistence on the necessity of an authoritarian strong state to insulate markets from political discretion); the collapse of the pre-1914 liberal order, with its specific monetary framework (i.e. the gold standard); the rise of state/central planning and protectionism as alternatives to the collapse of the liberal order; the collapse of the laissez-faire paradigm and of the belief in a self-regulating and self-correcting market (which led ordoliberals to call for a specific legal/regulatory framework upheld by a strong state as a prerequisite for the proper functioning of markets); the rise of capital concentration through cartels and monopolies (which led to the advocacy for restricting private power and for the establishment of a framework for optimal competition); the combined threats of socialism (in its more social democratic form) and communism (in either its Soviet or radical versions) towards private property and markets; and, finally, the necessity to ground the above conclusions in an insulated (from mass democracy and political discretion) structure, without direct intervention in the economy but by providing a regulatory framework that can encase market failures, were theoretical conclusions that were not confined to German thinkers, academics and public figures.

Using these outlines to map out what I term the *ordoliberal framework*, it was unavoidable to note that these events and conditions, as well as the specific responses to them were, visible in a number of liberal and conservative thinkers way beyond Germany. As it has been increasingly shown (the most recent examples being Kenneth Dyson's 2021 monumental *Conservative Liberalism, Ordoliberalism and the State* or Klara Mattei's 2023 *Capital Order*), liberals all around Europe and the US responded to such changes and events by producing (either in collaboration or alone) identical responses: criticism of *laissez*-faire but rejection of *state planning or interventionism*, suspicion towards *mass democracy* and outright *hostility* towards socialist/communist alternatives, attempts to bring back the *gold standard* or to design almost *identical alternatives*, the promotion of the price mechanism and a competitive order regulated by a strong state as the optimal forms of economic rationality. Beyond the German thinkers who have been identified with ordoliberalism, the very same conclusions were reached by figures like Luigi Einaudi and Benedito Croce in Italy; Louis Rougier and Jacques Rueff in France; Paul van Zeeland in Belgium; Reinhardt Kamitz in Austria; Lionel Robbins in the UK and Frank Knight and Henry Simons in the US – to name a few well known personalities.

One of the confusing elements around ordoliberalism is the fact that those who later came to be called "ordoliberals" initially defined themselves as "neoliberals". Chosen by a group of thinkers who met in Paris in 1938, united by the desire to salvage the liberal order from multiple threats (Mirowski & Plehwe 2009; Reinhourdt & Audier 2018), the concept of neoliberalism was meant to indicate a break with a term that has since faded from view ("paleo-liberalism"). If the "golden years" of the liberal order had been torn apart by the combined events of rising oligopolies/monopolies (that demonstrated the non-existence of perfect competition); the outbreak of the first world war (that euthanized the notion that trade brings peace); the Russian revolution (that put the planned economy into the veritable horizon); and the 1929 crash and Great Depression (that buried the fantasy of a self-correcting market mechanism), ordoliberals were only willing to accept two of these as *passé*: the world of monopoly power and the belief in the self-correcting abilities of the market, immediately setting themselves apart from 'paleo-liberals'. At the same time, they became obsessed opponents of the planned economy, while refusing to even contemplate that international trade could have negative consequences, thus allowing for the continuous rubbing of shoulders with other forms of liberalism, 'paleo-liberalism' included. For all purposes, and given that the opposition to paleo-liberalism was a crucial unifying element in those years, the notion that ordoliberalism was a particularly *German* version of neoliberalism does not really withhold under closer scrutiny.

Having established that what would be called the *ordoliberal framework*, as it was developed in the interwar period, was not a German phenomenon I found myself at a crossroads: should I not engage with each of the non-German neoliberal thinkers, their thoughts, writings, and special context as a means of investigating ordoliberalism? Or should I remain within an approach that prioritises the German paradigm, thereby running the risk of over-emphasising the *German* side of ordoliberalism even while rejecting its *nationalisation*? I responded to this challenge by remaining within Germany for two reasons: firstly, having carefully analysed the political economy of Weimar Republic, of the Great Depression and of the Nazi regime inside Germany, all of which functioned as a framework within which German ordoliberalism emerged, would necessitate the dedication of as much space and thoroughness to each of the non-German representatives of neoliberalism. I judged that to be an overburdening strategy and a distraction. Secondly, and more importantly perhaps, historical developments themselves put German ordoliberalism in the spotlight: in contrast to those international neoliberals who participated or were influenced by the positions expressed in the Colloquium, only the German members of this network found themselves in *positions of power* and influence in the aftermath of World War II.

Ordoliberalism in the postwar period

This historical fact was, for reasons analysed in detail in this dissertation, a contingent and somewhat accidental consequence which did, however, manage to play an important role in assigning a (German) 'national' identity to the ordoliberal framework. As I show, West Germany, in contrast to all other countries in Europe at the end of WWII, found itself occupied by the US military (British and French occupying forces soon handed over hegemony to the US). And even though the US government administration was , at the time privy to Keynesian positions, the US military was not. Instead, it was under the leadership of believers in free markets, fiscal orthodoxy, balanced budgets and tight monetary conditions. Neither the head of the Office of the Military Government of the United States (OMGUS) Lucius Clay nor his personal choice of financial advisor, the banker Joseph Dodge, were Keynesians. Given that the new geopolitical reality was set in opposition to the USSR and towards the reconstruction of the industrial capacity of West Germany, the personnel of the OMGUS played a crucial in promoting a specific market order and, in that process, they also found very useful local allies in the ordoliberals. With some exceptions and conflicts that I note, the OMGUS and ordoliberals shared a lot of common ground: markets against (SPD visions of) socialisation/nationalisation; liberalisation of prices against price controls; monetary reform led by an independent central bank.[3]

The specific reforms, supported by the US authorities and designed (to a significant extent) by German ordoliberals marked the opening stages of the social market economy. Within this context, the dissertation proceeds by examining the details of how specific ordoliberals (such as Adolf Lampe, Walter Eucken, Ludwig Erhard, Alfred Müller-Armack, Wilhelm Röpke) intervened and influenced the discussions around and design of the currency reform through advisory roles or in direct policy-making positions, the thesis turns to the question of the setting up of an independent central bank (*Bank deutscher Länder,* followed by the Bundesbank) that became a crucial framework for the currency reform and the social market economy.

This analysis allows for tackling the quite dominant position that ordoliberals opposed central bank independence (CBI), a view that I demonstrate as fallacious by rejecting the dominant narrative that focuses on the monetary views of Eucken who died in 1950 and whose experiences of CBI were coloured by the Autonomy Act of the Reichsbank of 1922; examining how *other* ordoliberal figures

[3] It is perhaps crucial to note at this point that similar monetary reforms took place all over postwar Europe. None of them, however, were coordinated by an *independent* central bank. Nor were the conditions of the currency reform equivalent: in occupied European countries postwar inflationary tendencies had an *external origin,* i.e. Nazi expansion and appropriation of monetary supply and depletion of foreign reserves. In Germany, by contrast, it was related to maintaining a stable domestic war economy.

(like Wilhelm Röpke, Otto Veit, Walter Muthesius, Ludwig Erhard) actively participated in the promotion of CBI during the 1950-1957 negotiations before the inauguration of the Bundesbank – and how they continued to promote CBI after that.

For those ordoliberals who looked at the gold standard as a means of guaranteeing fiscal discipline, spending cuts and insulating of monetary policy from democratic control or pressure, CBI quickly proved to be the *second best alternative* (during the period when they thought there might be a return to the gold standard) or the *optimal solution* (when it became clear that there would never be a return to the gold standard).

The dissertation then proceeds with a thorough discussion of the process of price liberalisation and the ordoliberal influence in its design and implementation, finally turning to the question of the social market economy and the so-called *Wirtschaftswunder* ('economic miracle') of West Germany in the 1950s. Especially in relation to the so-called 'economic miracle', the dissertation starts from highlighting the framework of West German economic reconstruction *outside Germany* (and beyond the ordoliberal reforms), with a focused consideration of the significance of the Marshall Plan and the GARIOA funds, the London Debt Agreement of 1953.

Establishing a clearer understanding of the ordoliberal framework by pointing at the various debated about the social market economy *within* the (international) ordoliberal camp, the dissertation moves on to an investigation of the implementation of the social market economy paradigm and the various obstacles and contradictions encountered in the process. Focusing on the *social* aspect of the *social market economy*, for example, allows for the outline of a specific compromise that ordoliberals were forced to accept, while also pointing at their attempts to overcome this setback by reconceptualising it in a way more concomitant with their views. The conclusion is that although the inauguration of social welfare was in fact a compromise (primarily between ordoliberals and social Catholics in and outside of the CDU, as well as SPD pressure), ordoliberals did not simply accept this as given and worked steadily to *reconceptualize* the actual content of welfare and social policies in a way that smooths out potential distortions of the market economy.

A second example for evaluating the realisation of the social market economy concerns a vital and central concern of the ordoliberal framework in relation to the formation of cartels and monopolies as symbols of market distortion. Zeroing in on the discussions around the legislation of an anti-Cartel law in West Germany, the direct participation of ordoliberals in drafting the law (drafted by Franz Böhm at the request of Ludwig Erhard) is demonstrated, adding further evidence of ordoliberal influence. This exposition does not, however, omit the fact that the final law passed in the Bundestag also included compromises for which ordoliberals like Böhm declared their disappointment.

This section closes with an attempt to trace (and evaluate) the changes and continuities in the ordoliberal framework from the period of its inception to the social market economy, evaluating a prominent argument that posits a postwar ordoliberal abandonment of the authoritarian strong state in favor of an embrace of the democratic process via a constitutional order. Contesting this approach, my argument is that the democratic order that ordoliberals embraced in the postwar period was based on a reconceptualization of its key features away from the mass democracy and the threat that it posed for the competitive order of the interwar period.

Instead of the pluralistic, militant democracy of Weimar, what ordoliberals embraced in the postwar period was the democracy of the sovereign consumer. In other words, instead of a democratic order based on the deliberation between collective groups or parties representing social constituencies, ordoliberals promoted a democratic order framed around individualized consumers. Instead of political conflict and deliberation through collective organs, consumer preference. In this reconceptualization, the freedom of consumers as a postulate of postwar democracy stood in opposition to both the planned economy and social/political mobilizations. If the mass democracy of the interwar period was drawn along class lines, Ludwig Erhard would announce that in the postwar democratic order of West Germany, the class struggle was over.

Within this context, the hostility towards mass democratic procedures, collective subjects (euphemistically described as *private power* according to ordoliberal parlance) remained consistent and re-appears in the more seemingly benign concept of *depoliticization*. The postwar economic constitution, a central category of the ordoliberal framework, could now be geared towards the creation of constitutional constraints that could limit majoritarian democracy and its tendencies towards *politicization*. In this noticeable inversion, suspicion towards mass democracy was transformed into a democratic virtue, while democratic advances – like trade union power, the welfare state and goals of full employment or any form of *mass* politics – are increasingly described by key ordoliberal figures as totalitarian threats.

The section ends with a comment about the crucial ordoliberal realization that the nation-state container continues to force compromises and the watering down of the economic constitution vision, an acknowledgement that leads a significant amount of ordoliberals (not without dissenting views, however) towards the promotion of a return to the *international* or *trans-national* elements of the ordoliberal framework. This turn is exemplified in the direct ordoliberal participation and encouragement of the process of European integration.

Ordoliberalism and early European integration

Starting from the wider context established by the Bretton Woods agreement and an outline of the debates that animated its design, implementation and key features (such as fixed exchange rates and capital controls) a detailed look at the ways in which ordoliberals understood and positioned themselves in relation to this new monetary order is offered.

Following that exposition, the dissertation engages with the practical operationalization of European integration, shedding light into its early steps through a meticulous account of the institutional forms that it took: from the European Payments Union and the European Coal and Steel Community all the way to the signing of the Rome Treaty in 1957. This allows me to discuss and evaluate in more detail the overall influence of the ordoliberal framework during early integration, as well as to analyze the actual interventions (and participation) of ordoliberals in key aspects of integration, such as competition law. At the same time, it also provides me with an opportunity to return and demonstrate the *transnational* aspect of the ordoliberal framework by elaborating on the visible endorsement of central features of the ordoliberal framework by non-German delegates and negotiators. As I argue, a commonly shared vision of free markets regulated (but not *directed*) through competition law was present in specific, key delegates of the negotiations for European unification, delegates who more often than note agreed with each other *despite* divergent national interests (French or German industry, for example) and despite their role as representatives of their respective countries.

Here one can observe that the same conflicts that had appeared in the drafting of the West German anti-cartel law (that pitted German industrialists against ordoliberals like Erhard or Böhm) resurfaced during European negotiations. Challenging accounts that see European integration as an process of inter-governmental and diplomatic set of compromises, this research posits that the eventual success of the European project represents a consequence of these mutually shared vision of these *transnational networks* and not nation-state based compromise.

My research then proceeds with a detailed discussion of the *split* within the ordoliberal camp, cut along pro-EEC and anti-EEC lines, concluding that although some first generation ordoliberals rejected the EEC, the majority saw in it a ripe opportunity for *upscaling* the economic constitution and avoiding the *compromises* involved within the framework of the nation-state. As von der Groeben argued, echoing Eucken, what was at stake in the deliberations around European integration

> "...was not a choice between market economy, freedom and prosperity on the one hand, and planned economy, protectionism, controls and poverty on the other, but differing views on how the market economy and freedom could be safeguarded, within not only a national but a European framework" (Von Der Groeben 1985: 49).

Ordoliberalism in the post-Bretton Woods era

Consistent with the attempt to ground the analysis of the ordoliberal trajectory in the wider context within which it developed, the research offers an overview of the main coordinates that led to the collapse of Bretton Woods, primarily located in the gap created between the supply of dollars around the world and their parity with US gold reserves. Yet, although the question of the collapse of Bretton Woods is, in itself, a research question that has spawned an endless amount of commentary, my aim here was not to bring forward the *definitive* account but the broad outlines (and their perception) of that monumental historical moment. Shifting focus towards Germany and Europe in general, the aim was to reconstruct how this collapse precipitated the EMU – as well as changing ordoliberal positions.

Within this context, certain key elements are highlighted. Starting from an account of France's struggle against US hegemony filtered through Jacques Rueff's influence on De Gaulle for a return to the gold standard, my research shows that France was in fact seeking to *transform*, *not abandon*, the global monetary system. At the same time, the inflationary pressures from the supply of dollars had alerted West German authorities about the threat of imported inflation, while the different circumstances that West Germany found itself in the 1960s – in contrast to the previous decade, compromises in the name of international rehabilitation were no longer necessary – reformulated West German capacity to act. For this reason, while West Germany reacted to the gradual unraveling of the Bretton Woods system by allowing a certain loss of competitiveness in order to uphold the overall system, it increasingly became the case that the choice between undervaluing the DM or imposing capital controls was not optimal. Consequently, in 1969, a temporary float of the DM was chosen by the Bundesbank and supported by the government.[4] The result was a regime of floating currencies that came into being not due to ideological/monetarist conviction, as some accounts suggest, but out of necessity to avoid the imposition of either capital controls or devaluation.

Having established the wider context, parallel developments within the ordoliberal framework are outlined. Key aspects of the transformations that took place concern a consistent move closer to the Hayekian paradigm (signaling a move away from the influence of Wilhelm Röpke) and, separately, a re-iteration of the authoritarian aspects of ordoliberalism that are contextualized within the radical increase in workers' militancy of that period. The question of democracy, which appeared to have been 'solved' within ordoliberal thinking through the promotion of a *sovereign consumer* type of democratic regime, was now seen as relatively complacent and concomitant with visions of mass participation, resurfacing the issue once again and placing it in the spotlight.

While this renewed focus was not as obvious within the European context, with a wide range of counter-vailing powers obstructing such a relapse, turning attention towards Latin America exemplifies the point. Here, the example chosen to demonstrate this transformation of the ordoliberal framework is James Buchanan, a political scientist and constitutional law commentator from the US, who has come to be a leading influential thinker among the third generation of ordoliberals up until today.

The similarities of Buchanan's theory with ordoliberalism consisted of an unequivocal support of a market economy, Eucken's Rousseau-ian concern about the individual "dissolving in the collective mass" (Horn 2022), the mutual recognition of the necessity of a rules-based order as a guarantee against abuses of *private* power. Buchanan would also promote a specific normative and methodological individualism through the development of his Public Choice Theory as a safeguard against

[4] The concerted effort of European countries along similar lines increased the pressure. As Germann (2021) shows, in 1971 the central banks of Belgium and the Netherlands demanded $140 million in gold, France cashed in on $282 million and the Bank of England demanded, in August 1971, a three billion dollars' worth of gold guarantee.

collective/organized interests.[5] In any case, Buchanan's work gave rise to the concept of *constitutional political economy*, a term designating the need for constitutional constraints on so-called "unlimited democracy", presented as a case of the "tyranny" of majority rule. Lastly, by focusing on questions of fiscal spending and public debt, the limits placed on organized interests and the need for (constitutional) law as *constitutive* of markets, the affinity of Buchanan with the ordoliberal framework is outlined.

This realization, however, enriched the approach that saw a reiteration of the authoritarian elements of ordoliberalism, even in its new (and benign-sounding) constitutional political economy. And this becomes clear through the investigation of a fact that scholars of ordoliberalism or neoliberalism have paid little attention to: the direct participation of James Buchanan in the design and drafting of dictator Pinochet's constitution, a fact that is framed within the wider context of a Mont Pèlerin regional meeting in Pinochet's Chile in 1981 in which both Buchanan and other proponents of ordoliberalism (such as *Aktionsgemeinschaft Sozialmarktwirtschaft* president Wolfgang Frickhöffer) took part and presented relevant (and revealing) papers.

In parallel to the adoption of Buchanan's constitutional political economy, ordoliberalism also became a key factor in the embrace and promotion of *monetarist* positions. In an attempt to properly evaluate the relationship of 1970s ordoliberalism with monetarism, this research focuses on the fact that a chief driver for monetarism in West Germany was to be found in the Bundesbank, whose practical policy rendered Western German monetarism quite unique (Johnson 1998; Germann 2021), more *pragmatic* then *ideological*. As Germann shows, "paradoxically, Germany's decision to float served to maintain the 'embedded liberal' compromise domestically, while exacerbating the speculative capital movements that would contribute to its undoing elsewhere in the capitalist world in the decade to follow." (Germann 2013: 784).

Within this context, certain ordoliberals remained (at least initially) suspicious of monetarism, viewing its destructive relation to the existing monetary regime as a form "libertarian" or "laissez-faire" policy, favoring instead a credit policy (which was, at the time, even described as *dirigiste*). At the same time, other ordoliberals (such as Norbert Kloten and Peter Bernholz) were early converts and regular participants of the Konstanz Seminar circle which introduced monetarism to West Germany.

Ordoliberalism and the EMU

Parallel to these changes and continuities of the ordoliberal framework in relation to its political and monetary aspects, the specific period was also characterized by the acceleration of discussions around the potential for a monetary unification as the next step of European integration. To contextualize these,

[5] As noted in the relevant parts of the dissertation, the differences between Buchanan's theoretical framework and the early, Freiburg School ordoliberalism of Eucken are not negligible. Most notably, Buchanan's methodological individualism which is based on the exposition of politicians and state employees as selfish and short-term oriented stands in contrast with the ordoliberal view of a unitary state guided by 'scientific experts' (see also Biebricher *forthcoming*). Furthermore, the public choice theory embrace of direct democratic procedures such as referendums also appears as oppositional to the early ordoliberal strong state as a safeguard *against* democratic processes.

the research takes a close look at each step taken by official authorities, focusing on the Werner Report of 1970, the creation of the 'Snake' exchange rate arrangement and the creation of the European Monetary System of 1979 as the background that framed the Maastricht Treaty.

The aim here is to investigate the existence of ordoliberal influences in that very process, based on the conceptualization and trajectory of ordoliberalism that has taken place in the previous chapters. Some obvious points are highlighted: firstly, the discussions and process of European monetary integration take place under the auspices of a rather unique approach to common currency areas, namely their accompaniment by a strict *institutional arrangement* and a *legal/regulatory* framework for promoting and encasing the market economy by consolidating fixed exchange rates, liberalisation of capital flows, low inflation targets, balanced budgets and an independent central bank. Once again, these mutually shared aims as expressed by negotiating participants – who, by the time of the negotiations around the Maastricht Treaty consist mainly of an *epistemic community* of central bankers of the Delors Committee – challenges a common historiographical perspective that sees European integration as the result of compromises between conflicting *national* traditions and growth models.[6]

Having outlined the common features, however, the research suggests an explanatory framework for conceptualizing divergences within European integration: rather than understanding any emerging differences as reflecting conflictual national interests, the proposal here is to conceptualize them as reflecting *divergent paths* for arriving at the *same result*. In this context, what characterizes the disparities relates directly to whether reaching the same goals can be achieved through a process of austerity (as in the case of economically weaker countries) or maintenance of existing equilibrium *without austerity* (as in the case of Germany). An outline that examines the specific features of the Maastricht Treaty is then laid out.

Ordoliberalism and the Eurozone crisis

The last part of the research is dedicated to evaluating the correlation between the invariant ordoliberal aim of constructing an *economic constitution* and the reality of the EMU. Drawing on the distinction of the EEC as a *micro-economic* and the EMU as a *macro-economic* constitution, the analysis highlights the importance of the EMU as an external constraint signifier, further dwelling into the specific ways that the EMU exemplifies the operationalization of key ordoliberal concerns: namely, a supra-national institutional form that constitutionalizes specific economic and monetary arrangements, establishes the institutional insulation of monetary policy from democratic/social pressures, a process overseen by an equally independent constitutional authority that embeds its judicial primacy by regulating and overseeing national domestic law *through a unification* of common aims and principles.

Consistent with the objective of evaluating the transformations of the ordoliberal framework, the research engages with oppositional forces to this process *within* the ordoliberal network. For this

[6] The misleading presuppositions of such an approach are most strikingly obvious in the impossibility of placing driving figures like Valerie d'Estaing, Jacques Delors and Raymond Barre from France as representatives of some French *dirigiste* tradition.

reason, particular attention is given to a specific constituency of ordoliberal/neoliberal voices who partially revive Wilhelm Röpke's objections to European integration (as analyzed in chapter 4). Resuscitating the central points of critique around structures such as the Common Agricultural Policy (CAP) or the *dirigiste* framework, these ordoliberal/neoliberal-influenced interventions (centered around the *Mont Pèlerin Society*) challenged the EMU vision from the perspective of a certain lack of clarity and ambiguities. While some of these concentrated on the unease of the ways in which issues of central bank independence and fiscal discipline would be sufficiently safeguarded through the Maastricht Treaty, others went further and attacked the EMU plans with reference to tendencies of federal centralization and bureaucratization.

Reflecting a more libertarian strand of the neoliberal paradigm, these objections would later evolve and coalesce with more far right and nationalist voices who were moving towards a direction of revitalizing the nation-state in opposition to what they saw as an undermining of national distinctiveness – as expressed in the more successful constitutionalization of ordoliberal recipes in countries like Germany or Switzerland. Fearing that monetary unification would result in fiscally-lax countries imposing their inflationary paths on those who had a tradition of fiscal discipline, these Eurosceptics attempted (without much success) to change the discourse and create intellectual obstacles to the EMU.[7]

Leaving aside such objections, however, and the limited effect they had in the construction of the EMU, most ordoliberal-inclined thinkers saw the new monetary union in positive light, confining their commentary on rather secondary issues of how to further embed and expand the principles upon which it was based – as well as keeping watch on those EMU member states that tended to diverge from them. They recognized that core values of the ordoliberal framework were visible in the constitutional and political economy arrangement – such as fiscal discipline exerted both through markets *and* institutional agreements such as the SGP or the absence of bailout possibilities for recalcitrant members on behalf the fully independent ECB.

Would such an outlook justify the characterization of the EMU as an 'ordoliberal cage' (Ryner 2015)? Such a view became especially predominant after the outbreak of the Eurozone sovereign debt crisis of 2010, animated by the (supposedly *particularly German*) insistence on austerity[8] and leading to conclusions purporting that the whole mechanism of the EMU was, from the beginning, designed to benefit German hegemony. And while it is correct to indicate that Germany benefited from the exchange

[7] Eventually, as the research notes, such positions would be absorbed and propagated by parties such as the *Alternative für Deutschland* (AfD) which, before its transformation into a far right, anti-migrant party, represented a neoliberal critique of the EMU.

[8] Such a perspective does not only tend to ignore, when convenient, the equally stringent insistence on harsh austerity by other member states (such as the Netherlands or Finland) but it also obscures the indispensable role of the embrace of fiscal consolidation by national elites *within* the peripheral states that were experiencing the devastating policies. Rather than being caught off guard, governing parties of the last decades in places such as Greece, Portugal and Spain had attempted to implement identical policies. The high social and political cost, however, had undermined their full implementation. The Eurozone crisis represented thus a 'perfect storm' moment, allowing them to pursue the same policies under the illusion that they would not pay the price themselves (see Moury & Standing 2017; Roufos 2020; Moury et al 2021). Events would prove them wrong but that does not undermine the fact that austerity was supported domestically as much as it was externally.

rate established by the euro (set at the level of the DM it allowed German export competitiveness)[9], an approach that purports that this was something *imposed* by Germany on non-compliant member states ignores decades of policy preference by European elites in the orientation of copying *Modell Deutschland* (without, however, the equivalent concern for a developed welfare state, high compensation for specific sectors of the working class). As Cafruny & Talani (2019: 9) would put it, rather than a one-sided hegemony position, German relations to the EMU reflect a "mutual dependence".

Nonetheless, it has become very common to ascribe the architecture of the EMU (Blyth 2013), the unfolding of the crisis and its framing (Ojala & Harjuniemi 2016) and the austerity 'solutions' (Bulmer 2014) as directly resulting from an ordoliberal bias. Key ordoliberal figures like Feld objected to this identification, claiming that while the EMU contains elements of the ordoliberal framework the crisis response included the endorsement of policies that would be, strictly speaking, incompatible with ordoliberal teachings (Feld et al 2015), further adding that the main coordinates of both EMU architecture and crisis management corresponded, not to ordoliberal positions, but to a "lesson of applied monetary economics" (ibid: 57).

But ordoliberals were not the only ones to object and many non-ordoliberal scholars have challenged various aspects of this narrative. Writing before the inauguration of the EMU McNamara (1998) had mounted an attack on the claim of German hegemony, arguing that on the basis of normative explanations of hegemonic dynamics (with the examples of the US at the forefront), such an perspective on Germany's position in the EMU is "difficult to extend [...] to a regional context, especially in the monetary realm (McNamara 1998: 25).

From another perspective, Cadwell & Snaith (2018) question the characterization of the EMU as ordoliberal given the fact that "the EU is, and does, more than an 'economic constitution' would suggest (Cadwell & Snaith 2018: 1065). In yet another challenge, Dooley (2017) interrogates German responsibility for the outbreak of the Eurozone crisis, while Cardoso et al (2021) have produced an argument that challenges the imposition of austerity as a German/ordoliberal inflicted process by emphasizing the two-side process of structural reforms, local 'ownership' and participation as necessary features *without which* external imposition is rendered practically impossible. As Moury et al (2021) concluded, domestic executives saw in the Eurozone crisis an opportunity "to pass reforms that they deem necessary but could not have passed in the past because they were very unpopular or were blocked by powerful interest groups" (Moury et al 2021: 11).

EMU, constitutionality and crisis

[9] It is perhaps worth repeating that ordoliberalism is not a framework oriented towards the defence of a specific sector of German capital. As Dyson notes in his extensive review of ordoliberalism, "German negotiating positions" during the Eurozone crisis "had more to do with the protection of a German coordinated-market economy model of export-led growth than with the defense of Ordo-liberalism" (Dyson 2021: 13).

The thesis has established that the process of European integration owes a lot of its framework to ordoliberal positions. Not only did the EEC embedded key principles of the ordoliberal framework, such as competition law and the embedding of market principles through constitutionalization but, moreover, special attention was given to the fact that these principles were not confined to German negotiators or decision-makers but were widely shared across member states. In this context, the common goal of establishing the proper regulatory framework for the advancement of the market economy was not only ever-present in the EEC after the Rome Treaty but even more forcefully so in the EMU.

The creation of a single currency run by an entirely independent, non-majoritarian central bank represents without a doubt a further stop in the direction of 'denationalizing' or 'depoliticising' money, while the executive/legislative structures of the EMU are predominantly reliant on other, equally non-majoritarian institutions (such as the Commission and the Eurogroup). Political, democratic and social pressures are more directly and profoundly insulated from affecting key aspects of monetary policy, while economic policy itself, while ostensibly in the jurisdiction of member states, is framed within an increasingly complex and self-propelling system of rules, regulations and legislations, the ignoring of which carries the real effect of directly enforceable sanctions. Supervised by a Constitutional Court that has elevated its jurisdiction above that of national law, the EMU also includes a feature that was latent but hardly noticeable in the EEC: it is fully irreversible. As the Eurozone crisis showed, there is not even a legal protocol or defined procedure for a member state to leave the Eurozone.

All the above attributes of the European Monetary Union should be enough to safely argue that indeed it does represent the operationalization of an ordoliberal economic constitution. Nonetheless, in relative agreement with Caldwell & Snaith (2018), it is crucial to recognize that despite this unprecedented affinity, the EMU is not only an economic constitution. But this assertion is supplementary to the fact that, in all possible and realistic ways, what the EMU represents is the closest ever experiment for operationalizing the overwhelming framework of ideas that first appeared in the interwar period and continue to develop ever since – without, however, losing their original characteristics.

For this reason, the last part of the thesis will attempt to evaluate the economic constitution from a novel perspective, one pertaining to a more literal translation of the concept. Namely, through the profoundly fragile constitutionality of the EMU as it exists and as it has manifested itself through battles around its meaning and structure at a constitutional level. Starting from the specific example of Greek austerity and the potential *non*- or *anti*-constitutionality of its voting and implementation, the final part will approach the same question from the perspective of the constitutional battle that took place between the German Federal Court (*BVerfG*) and the European Court of Justice (*ECJ*) in the context of the political economy of the European Central Bank, a conflict that could be considered as one that threatened the continuation of the EMU more than anything that had taken place until that moment.

In this final section, it is demonstrated that the functions of the 'economic constitution' could be seen as non-applicable in the case of Greece given the strongly ambiguous juridical justification of austerity via the Greek constitution (a seeming paradox that is explained through a historical/analytical approach of the content of the constitution itself). But it was also hard to maintain in the context of the *BVerfG*'s challenge on the ECB, especially after many commentators attributed the German court's hostile verdict against the ECB as stemming from ordoliberal sensitivities. While that latter position is challenged, showing that contemporary ordoliberals were explicitly and publicly against the *BVerfG*'s ruling, this conflict did indicate a series of misunderstandings and the incompatibility of an approach that sees the EMU, the economic constitution and German political economy and hegemony as identical.

Finally, the conclusion of the thesis reviews the examined trajectory and combines the findings to re-assert the main inferences that have guided, methodologically and analytically, the whole research. It thus repeats the insistence of examining ordoliberalism as a framework instead of a (German or otherwise) policy-oriented apparatus, adding however that this appears to be at the same time the weak point of ordoliberalism. Seen as the expression of a legal framework meant to encase and protect the market economy and private property by establishing a competitive order, it would be absurd to claim that the ordoliberal framework has not been successful - how else could one describe contemporary political economy (especially within the European context)? But the framework-building conceptualisation also necessitates *compromises*, for the simple reason that frameworks are not in themselves capable of determining and pre-emptively resolving all aspects of social, political and economic life and conflict, something visible also in the institutional forms for promoting or maintaining price stability, a central constitutive principle of the ordoliberal framework. For ordoliberalism, the most efficient way of avoiding the potential erosion of the capitalist economy and its class society remains the establishment of an economic constitution, a market order established through law, that can repress, undermine and/or neutralize all market distorting tendencies of social and political life. This vision, as this dissertation has demonstrated, presupposes the strengthening of the state mechanism and the uninhibited development of competitive markets, despite their historically persistent capacity to generate exploitation, inequality and ecological devastation. But its success continues to be undermined by the reality of social contradictions and antagonism which no regulatory framework can make disappear.

CHAPTER 1: On Theory and Methods

Given the relatively wide range of the topics and historical periods included in this research, it is only appropriate to extend the theoretical and methodological tools utilised for an elaborate engagement. Starting from the perspective that ordoliberalism represents a specific *political economy* which is, however, not confined to Germany, the research employs a series of methodological approaches that look at the topic from a critical and international perspective (CIPE). Secondly, given that the topic is to trace the emergence of ordoliberalism and to then properly situate its influence throughout a specific trajectory that spans both historical time and geo-spatial ground, conjunctural analysis, critical junctures and process tracing are also utilised to frame this effort. Lastly, since ordoliberalism is identified as a commonly shared framework of a variety of actors, the theoretical work on *epistemic communities* (and, especially, *transnational* epistemic communities) forms the background for translating the specific ways through which ordoliberalism could (or could not) affect direct policy making, discursive changes and frame-setting.

CIPE, conjunctural analysis, critical junctures, and process tracing

Following Jäger et al (2016), I adopt the position that the concept of "methodology is more general than method", referring to the way "methods are combined and applied" (Ibid: 101). For this reason, I chose to incorporate a set of relatively distinct and yet adjacent methodological approaches to deal with the various levels of abstraction *and* concreteness through which the research unfolds. This choice reflects the need to explore the ways through which such a topic can be approached from a variety of standpoints without however losing track of the stated aim, i.e., the evaluation of the trajectory and influence of the ordoliberal framework via different historical conjunctures and critical junctures.

As a starting point, ordoliberalism is in this research understood and posited as a specific *political economy*. Moreover, as this research will demonstrate, it is not a *specifically German* political economy. From this perspective, elements of International Political Economy (IPE), seen as the study of "the complex interrelationship of economic and political activity at the level of international affairs" (Cohen 2008: 16) seems fitting. Nonetheless, following Cafruny et al (2016) and Germann (2021), the two dominant mainstream schools of thought in IPE – realism and liberalism – contain a number of presuppositions that show themselves less fitting for a thorough study of ordoliberalism, prompting instead an approach that centres on Critical International Political Economy (CIPE): on the one hand, the notion of IPE's real objects and agencies as "objective and separate" is contrasted with their recognition as forming (and being formed by) a historically dynamic process (Cafruny et al 2016). Rather than being driven by a "search for general laws that hold true for all times and places", CIPE is concerned with producing "historically specific explanations of particular social and international orders" (Germann 2021: 16). More specifically, CIPE challenges the IPE approach that sees "socio-economic and political structures as neutral categories, given and immutable" (Ibid). As noted by Cox (1981: 129), the purpose of a critical approach is not to take "institutions and social and power relations for granted but [to] call them into question by concerning itself with their origins and whether they might be in the process of changing". In other words, CIPE is directly concerned with the historical trajectories of institutions, political agents, ideas and their transformation, seeing such a process as firmly embedded in a context of political contestation and conflict with no tendency towards equilibrium. In contrast to realist/liberal IPE approaches that presuppose stability and equilibrium in their theoretical toolbox, seeing research as a form of 'problem solving' path to reach (or return to) such equilibrium, CIPE posits the need to account for uneven, conflictual development and crisis (Cafruny et al 2016: 4).

Using the work of Jäger et al (2016) to further contextualize this, it is worth restating that CIPE develops as a response to positivist and radical subjectivist/relativist takes, drawing instead from the tradition of historical materialism. The direction of this methodological suggestion is shown by its rejection of the normative "disciplinary split between […] economics (a discipline related to the market), […] politics (a discipline related to the state) and sociology (a discipline related to the personal)" (Jäger et al 2016: 104). Rejecting the disciplinary (and analytical) separation of political economy into sociology, political science and (neoclassical) economics (Cafruny et al 2016: 3) and re-appropriating Marx's approach as a *critique of political economy* (Callinicos 2016: 49), CIPE examines the intersection of these (superficially) separated categories, remaining closer to an understanding of *political economy* as a "pre-disciplinary approach"[10] with an "integrative analysis of economic, politics and society" at its core (Ibid).

As I will show, ordoliberals themselves adopt a similar outlook, insisting on the "inter-dependence" of orders, economic processes and theoretical fields (Eucken 1948; Peacock & Willdgerodt 1989b; Kolev 2010, 2019), criticizing any forced separation and positing a more holistic view that can be related back to what *political economy* signified in the past. While their normative conclusions tend to re-introduce this separation (visible in the insistence to detach economic/monetary policy from political activity), their theoretical grounding recognizes these as inter-connected. As Fèvre (2022 argues), ordoliberalism constitutes a *political economy of power*, signifying "an overall approach to the social sphere through the prism of economic issues [that] aims to act on the existing state of affairs through an economic policy guided by theory" (Fèvre 2022: 17).[11]

As Jäger et al insist (2016: 106), CIPE reads Marx's scant but visible methodological suggestions through the lens of "leaving behind Cartesian separations between mind and matter, consciousness and materiality". Rather than fixed categorizations, their approach examines "processes,

[10] Jessop and Sum (2001) call it "post-disciplinary", but I hold that the essence of the argument is the same.

[11] Crucial to note here, however, that Fèvre himself is forced to conclude that while central to their framework, "ordoliberals provided no explicit definition of power, whether economic, social, or political" (Fèvre 2022: 18). Slobodian (2018: 269) goes further and states that ordoliberal theory essentially "hide[s] the asymmetries of power".

flows and relations" (Ibid). Asserting, alongside critical realist views, that each methodological approach "presupposes an *ontological position*" (Ibid: 107), CIPE methodology asks the question of whether "objects and social relations have causal powers which may or may not produce *regularities*" (Sayer 1992: 2f.) It is this perspective that makes the selective use of CIPE methodological tools relevant to the investigation of ordoliberalism, as its "generative powers" – whether during the Weimar Republic, postwar West Germany or at the EU/EMU level – "do not always lead to certain events but are rather to be seen as tendencies" (Jäger et al 2016: 107). Equally useful is the insistence found in CIPE on prioritizing the need of utilizing abstractions in order to deal with concrete phenomena or, as they put it, "a systematic reflection related to concrete historical phenomena and processes" (Ibid: 109). Concluding, CIPE is incorporated in this research as an attempt to "combine agency-oriented/subjectivist as well as structuralist/objectivist/systemic perspectives by overcoming the distinction between both." (Ibid: 110; see also Ryner 2012; 2015).

A second methodological tool that proved useful for my research, and one with significant commonalities to CIPE is *conjunctural analysis*. Constructed as a way to "historicise the present" (Grayson & Little 2017: 62), conjunctural analysis was formed through Stuart Hall's quasi-Gramscian[12] approach, attempting to "weave together strands of philosophical and ideological thought; social dynamics and economic developments and think them together with the political terrain of the present" (Ibid). Utilising this method in order to analyse the ambition and scope of Thatcher's program, Hall tried to make sense of the shifting away from the so-called postwar compromise, avoiding the trappings of deterministic approaches. Seeking to formulate the new terrain that was being opened, Hall conceptualized the historical period of this transformation as a key *conjunctural* moment, thereby spelling out a periodisation (moving through crisis and contradiction) while also seeking out longer trajectories of thought.

Conjunctural analysis places emphasis on moments of crisis as central drivers of transformation. But while its use has been more broadly to examine the shift from the post-war embedded liberal order (or "social democratic settlement) during the 1970s, I chose to expand this horizon and to examine the ways through which moments of crisis *beyond* the 1970s (namely: the interwar period, the direct aftermath of World War II, the 1970s and the Eurozone crisis) determined the development of the ordoliberal framework *and* the ways in which it intervened (or tried to) in direct policy making processes. In a parallel context, a focus on the long process of European integration from the 1950s until today can be illuminated by insights provided by the conjunctural analysis found in the work of Carfuny & Ryner (2003; 2007), Van Apeldoorn et al (2003), Becker and Jäger (2012) and van Apeldoorn (2013). Providing useful critical commentaries on how mainstream theories of European

[12] As Grayson & Little (2017) clarify, Gramsci's work may have solidified Hall's approach but that did not make him a *Gramscian*. Similarly, the utilisation of conjunctural analysis here does not imply an adoption of a Gramscian framework. Central Gramscian categories such as hegemony are critically assessed in this research, especially in relation to Germany's role within European integration.

integration "are unable to conceptualize adequately power relations" (Van Apeldoorn et al 2003: 17), this approach proves especially appropriate for the overall study of the ordoliberal framework.[13] Conjunctural analysis is thus an illuminating way to engage with different aspects of the European political economy, zeroing in on national, global and inner-European interactions and maintaining an eye on the influence of ordoliberal/neoliberal knowledge networks in the integration process and their role in conjunctural moments of crisis.

This research also employs elements of *critical junctions/junctures* methodology. What I found appealing in this approach was its ability to provide "tools for studying the political origins and reform of important institutional arrangements that exert a long-lasting influence on their social and political environment" (Capoccia 2015: 147). Strongly related (but not confined to) an analysis that examines how critical junctures give rise to *path-dependent* outcomes, critical juncture provides a crucial tool for correlating both institutional structures *and* the questions of political agency, choice and compromise. Without adopting a strict and linear causal relation between institutional transformation and path dependency, the critical junctures methodology can point at potential "disconnect[s] between the institutional outcome and the initial preferences of the most powerful actors on the scene", thereby avoiding the "pitfall of attributing institutional outcomes to such preferences" (Ibid). In particular, this disconnect can be further understood as representing moments of conflict between theoretical constructions, practical operationalizations of desired outcomes, their institutional expression and the continuing social antagonism that persists within capitalist societies that generates unwanted but unavoidable compromises that tend, occasionally, to reconfigure the overall framework (see chapters 3 & 4 in this dissertation). In the specific context of a theoretical project (ordoliberalism) that prioritises *institutionalisation* and, eventually, *constitutionalization* as indispensable for providing a regulatory framework for the market economy, a critical junctions' approach is particularly helpful.

Borrowing from Karl Polanyi's dictum that in some moments in history "time expands … and so must our analyses" (Polanyi 1944, 4), the critical junctions' approach allows for an enlargement of the temporal horizon of the research, seeking to trace later consequences as arising during critical historical junctions, with the overall aim to re-iterate that "what may seem to be causing the institutional outcome at a certain moment may in fact be the effect of decisions made much earlier in time that became entrenched in institutional arrangements." (Capoccia 2015: 155). This, I will argue, is the case in the process of European integration and the eventual emergence of the EMU via an integrated dialogue with central ordoliberal predicates. Finally, and against the accusation that a "focus on agency *and* contingency as key causal factors" (Capoccia 2015: 156, my emphasis) undermines the degree of divergence (i.e. the process through which an exogenous shock affects the situation in such a way as to generate multiple divergent outcomes), a combination of agency- and contingency-focus (without however equating them) that the critical junctions' approach offers is highly suitable.

[13] As noted, the ordoliberal framework claims to be a *political economy of power* but, as will be shown, only identifies *specific* aspects of that power.

This account brings us to the next methodological borrowing that informs this research, namely the contextualisation of *process tracing*. As Peter Hall and others have shown, the aim of this systematic form of analysis is to observe "if the multiple actions and statements of the actors at each stage of the causal process are consistent with the image of the world implied by [a] theory" (Vail 2018: xi). Here again, the evaluation of ordoliberalism acquires a new dimension: struggling to find its place within the world during the interwar period but moving into positions of influence in West Germany during the post-war period, the ordoliberal framework appears to somewhat fade from view during the troubled years immediately before and after the unravelling of the post-liberal embedded order. Briefly morphing into the monetarist paradigm, it re-appears as a reference point during the German unification and, more vividly but somehow with less historical noise, during the Eurozone crisis. In such a German-centred mapping, however, a crucial transformation of the ordoliberal framework from the nation-state level into the supra-national terrain is obscured and ignored. The flight into European integration attempted (and succeeded) by the so-called second generation, comprising of figures like Joachim Ernst-Mestmäcker, Hallstein and von der Groeben, was crucial in further developing the pre-existent cross-national ordoliberal framework (what Slobodian has referred to as 'ordo-globalism') within the parameters of European integration, as well as for formulating more clearly the passage from a vision of a *national economy* towards a global conceptualisation of markets. From this perspective and as an example, a critical engagement with the role of ordoliberal ideas during the crisis management *after* 2010 would fall short if evaluated on the basis of the "image of the world" outlined by earlier ordoliberal figures such as Eucken, Röpke and Böhm.[14] Focusing on "the unfolding of events or situations *over time*" (Collier 2011), process tracing will allow for an expose of as much the temporal *repeated-ness* of central ordoliberal concerns and prescriptions, as well as the difficulties and eventual transformations that their encounter with a practical operationalization demanded.

The specific case of ordoliberalism offers another example of testing out the methodological framework of critical junctures and path-dependent processes. Taking Lehmbruch's assertion that "during critical junctures [....] old hegemonic discourse coalitions are challenged by new ones" (Lehmbruch 2001: 43) seriously, the early ordoliberal trajectory could be seen as an attempt to challenge predominant discourse coalitions, albeit one that was only partially and even so for a very short time successful (namely in the governments of Brüning and von Papen). In the postwar period of West Germany, however, ordoliberalism appears as victorious against other suggestions and policy options, establishing the distinct form of the social market economy. This outlook, however, does not preclude a certain level of continuity between the two periods. As we shall see in chapters 2 and 3, in fact, a significant degree of (institutional, constitutional and economic framework) continuity with the pre-war

[14] A similar mystification has taken place in relation to the ordoliberal embrace of central bank independence. As I will show in Chapter 3, the predominant view of an ordoliberal rejection of CBI rests unjustifiably on the work of Walter Eucken, an ordoliberal thinker that died years before the Bundesbank was even inaugurated, let alone before the widespread adoption of CBI as the central bank model *par excellence*.

predicament has been pointed out by many commentators (indicatively, see Tribe 1995; Dukes 2014; Dyson 2021). Closer to Lehmbruch's view that the progress of specific discourses often includes "the integration of new elements or shedding of others" (Lehmbruch 2001: 44), we can identify a process that does not imply a sharp differentiation and complete break from past policies or institutions even during discourse displacement. As we shall notice in relation to specific institutional arrangements (such as central banks or even the very essence of mass democratic representation), ordoliberals have proven to be particularly flexible and pragmatic – to the extent that the 'core discourse' remains the same and to the extent that specific institutional or political arrangements can be utilized in its service.[15]

It is a central theme of this research that in its movements from ideational activation to institutionalisation, the historical mutations of the ordoliberal project have not radically transformed its core presuppositions. Despite "contestation about whether adaptations to changing circumstances threaten the integrity of the tradition" (Dyson 2021: 119), and while rejecting an approach to ordoliberalism that sees it as static and formalized, ordoliberalism continues to occupy a distinct space within the family of liberalism/neoliberalism, and that distinctiveness is based on certain key characteristics that it does not share with other schools of thought or traditions. Despite the various transformations that have taken place since the heyday of Eucken, Röpke, Böhm and Rüstow, and reading through the periodic centrifugal tendencies – such as the conceptualization of the market as either a 'spontaneous order' (Hayek) or as a terrain whose potential is unleashed through *Ordnungspolitik*; the engagement and entanglement with Buchanan's constitutional economics, public choice theory and methodological individualism (Kirchgässner 1988; Feld & Köhler 2011); the relation to monetarism – it remains nonetheless possible to ascertain that certain key elements of the ordoliberal framework that appeared in the interwar period and were further developed later retain their central role within the project. The rejection of the notion of a self-regulating market or laissez-faire capitalism; the insistence on a state-led, institutional embedding of specific legal/constitutional rules as means to establish price stability, credibility and competition; the attempts to embed the competitive market and the strong state within a moral context that is not the automatic result of the price mechanism or competition; an insistence on an understanding of the necessity of technical knowledge that betrays an elitist conceptualization; the necessity to drastically limit the capacity of organised interests in influencing economic and monetary policy; all these are elements of the ordoliberal framework that have survived the passage of time and which continue to delineate it from other liberal traditions, despite the historical changes that have taken place.

From this perspective, even if the cognitive justifications for an *Ordnungspolitik* mentioned above change in accordance with the perceived challenges of each period, it would be amiss not to recognize a significant level of continuity (and, in some institutional aspects such as central banks, a degree of *path dependency*). Here, rather than focusing on abrupt shifts in policy making that embed or

[15] This point is especially crucial in the discussion between the relation of ordoliberalism to democracy.

dis-embed ideational paradigms (Blyth 2002), this research will try to flesh out the progressive flow of the ordoliberal framework, an approach closer to the work done by Berman (2006) and Fourcade (2009) who focus on "slow transformations over time through incremental steps via adaptation and adjustment to changing realities" (Schmidt 2018: 75). Ordoliberals, in this context, represent a "wide range of thinkers over successive generations who build on one another's ideas over time" (ibid. 76), while also getting involved in interpretative and policy-related conflicts that also show a specific persistence in time.[16] Rather than distinct theorisations and divergent approaches and along with Dyson (2021), I recognize in the ordoliberal trajectory a "family resemblance". It is such continuity, for example, that helps the framing of the ordoliberal conceptualization of the strong state and its relation to democracy.[17]

Summarizing the specific use of these methodological tools, the key concern is to allow for an engagement with both the abstract/normative level of the ordoliberal framework *and* the concrete way through which this is operationalized in the historical trajectory under examination. For achieving this, an international political economy approach is chosen, given the conviction that the ordoliberal framework is not confined to a national economy, but a specifically critical version (CIPE) in the sense of rejecting central presuppositions found in IPE about questions of market equilibrium, market efficiency and the proclaimed depoliticization of the market and price mechanisms. At the same time, the application of conjunctural analysis is chosen as a way of indicating that moments of crisis and historical transformations have been crucial for the development of the ordoliberal framework, expanded in this case to examine a time span that has not been attempted before in existing literature. Similarly, a critical junctions approach allows for the elaboration of path dependency and the ability (or lack thereof) of ordoliberal long-standing influence. At the same time, the critical junctions approach permits the combination of institutional transformations and issues of agency, choice and compromise, a framework crucial for locating and conceptualizing the significance of the ordoliberal framework in operationalized political economy. Finally, process tracing is chosen with an eye to establishing the consistency of the ordoliberal framework as it unfolds over time, making it possible to evaluate its temporal repeated-ness.

In conclusion, this research will oscillate between tracing ordoliberal *continuity* while also accounting for and explaining the historical changes and divergences present in its trajectory. The next section will now turn to the theoretical framework that will be utilized to examine ordoliberalism with the aim of properly grounding *the way through which* ordoliberal positions have (or have not) been influential in the historical period under investigation.

[16] Case in point the specific disagreements and conflicts that animate ordoliberal views around European integration.
[17] The suggestion that the postwar period sees an ordoliberal abandonment of the anti-demorcatic strong state concept in favour of a democratic constitutional order will be shown to be more discursive than substantial.

From epistemic community to advocacy network … and back?

A central question which this research wishes to address is the process and the historical conjuncture that allowed an intellectual project to transform itself into an epistemic or discursive community, an advocacy coalition/network and, in this manner, to achieve a noteworthy level of influence on policy design, implementation and compliance policing.[18] How is it that a set of thinkers join forces by overriding their relatively divergent origins and start producing a collective response to a series of historical challenges? An added layer in the specific case of ordoliberalism concerns its *transnational* or *cross-border* appeal as an epistemic community, capable of exerting influence not merely at the national/domestic level in West Germany (see chapter 3), but also at the supranational field of European integration (see chapters 4 & 5). In this perspective, the question is how a policy paradigm gets translated into a transnational project and what type of transformations can be observed in this mutation. Lastly, the question arises as to how one can properly measure the extent of this influence: does it relate to the capacity to advocate for a specific design of policy, framed within the set of "common causal and principled beliefs" (Haas 1992)? Or should it be measured in relation to an observed institutionalization of this core set of beliefs, an approach that allows one to discern influence *even when* (or perhaps *especially when*) these beliefs come to be seen as so "common sense" that direct and formal ordoliberal participation in their dissemination essentially fades into the background (Skogstad & Schmidt 2011)?

In this field of enquiry, research centering on 'epistemic communities' offers indispensable insights. In attempting to answer the persistent questions of how ideas are disseminated, why they prevail against others and how they translate into policy, Haas' (1992) suggestion that "epistemic communities are the channels through which new ideas circulate from societies to governments, as well as from country to country" (Haas 1992: 27) seems to correspond well to the ordoliberal example. Taking advantage of the already existing research on the question of neoliberalism (and, to some respect, ordoliberalism) as an *epistemic community* (Plehwe 2009, 2010; Schmidt 2018), I return to its definition by Haas as "a network of professionals with recognized expertise and competence in a particular domain and authoritative claim to policy-relevant knowledge within that domain or issue area" (Haas 1992: 3)[19], who also "share principles normative and causal beliefs". There will be enough evidence provided to show how ordoliberalism fits this definition especially in relation to economic issues like inflation, sound money, and private property.

A variety of analytical frameworks have been utilized to put such an approach into context but, following Schmidt (2018), the overall approach of *discursive institutionalism* proves especially helpful. Defined as a proposition to "theorize about the substantive content of ideas and the interactive processes

[18] In existing literature the difference between an epistemic community and an advocacy coalition reflects certain criticisms of Haas's epistemic community definition as too "rigid" to be applied successfully to any one community of experts (see Wright 1997: 41; Radaelli 1997: 169). Nonetheless, as Verdun (1999: 315) argues, the concept of an advocacy coalition is more relevant when there are "clear rival advocacy coalitions", losing its clarity in their absence.

[19] It was, after all, Franz Böhm himself who defined the Freiburg School and the ordoliberal project as a "research and teaching community between lawyers and economists" Böhm, 1957.

of discourse in an institutional context" (Schmidt 2018: 69), discursive institutionalism contains as much investigations into 'ideational turns' in comparative politics (Blyth 1997; also Hall 1989), as well as questions of 'agenda-setting' (Baumgartner & Jones 1993). Within the same scope, the significance of worldviews, of Foucault's discursive approach as delivering "the conceptual understanding of policy problems" (Scherrer & Young 2010), of frames, narratives and the use of collective memories (or mythologies) is highlighted, allowing one to examine different aspects and moments of the ordoliberal trajectory and its transformation from an intellectual project into a policy-advice vehicle and, eventually, its transformation – as this research will attempt to show – into an overall framework "so all pervasive that [it] largely recede[s] into the background" (Schmidt 2018: 69).

What this research wants to focus on is the interactive relation between the 'ideational' aspect of ordoliberal thought and the concrete level of material transformations and subsequent policy-related propositions. In this context, a *process tracing* framework will allow a closer examination of the historical trajectory of the ordoliberal project, identifying the different positions it occupies within this historical arch: from attempts to establish ordoliberalism as an epistemic community during the interwar and its rather limited "efforts to develop, shape, prioritise, and possibly generalize preferences and perspectives" (Plehwe 2010: 306), all the way to the early postwar period and the ordoliberal direct engagement as a policy- and framework-building coalition within the social market economy of West Germany. Similarly, attention will be paid to its direct entanglement in the context of the European Union, concluding with the process of its transformation into a wider framework of shared beliefs in the process of European monetary integration. Especially in the latter part of the research, the dynamic between the epistemic aspect of the ordoliberal framework and the concrete but "hidden consequences" of its actual implementation will be highlighted. In short, this research will begin with highlighting the foundations of ordoliberalism during the interwar period, the process of its establishment as an overall consensus in relation to the market economy with an emphasis on the institutional and regulatory outlines for such a predicament in Western Germany, the nature of the obstacles that it met in the process and, finally, the ways in which overcoming these barriers and engaging in policy experimentation led into the supra-national level of European integration (chapters 4 & 5).

In each of these periods, the theoretical and ideological justification of the ordoliberal framework took different forms, often reflecting (without however being reducible to) the exact positions held by ordoliberal proponents within the arena of policy making – positions ranging from professional authority, policy advice, institutional roles and the existence of a cognitive infrastructure that allows the dissemination of their positions into policy making apparatuses (Hirschman & Berman 2014).[20] From this perspective, the ability of ordoliberals to influence policymaking and framework-

[20] As Hirschman & Berman explain, 'professional authority' refers to the growing significance of academics within policymaking; 'institutional position' refers to their presence in policy-making organizations such as central banks or elite networks; and 'cognitive infrastructures' refer to "*styles of reasoning* prevalent among policymaking elites, as well as the establishment of economic *policy devices* that produce knowledge and help make decisions".

building will be evaluated against the background of their proximity to policymaking, the use of their professional expertise within academic institutions, their participation in advisory networks and boards, affinity to central banking circles and international organisations, committees and think tanks. Given that the ability of an epistemic community to influence policy depends on its resources and institutional access, the diverging results of ordoliberal leverage during the years show a direct relation to the positions held in each period. Crucially however, the ability of ordoliberal thought to become a "common conceptual framework" *despite* the absence of a specific institutional position or academic authority will also be given space. Rather than occupying the position of another *interest group*, the persistence of the ordoliberal framework will be situated within the more complex ecology of the progressive dissemination and absorption of fundamental values and understandings generated from a specific *class perspective* and disseminated through the path dependent construction of institutional *obstruction* of potential alternatives.

This is a crucial point marking a certain "departure" from the close study of epistemic communities, but only so in the sense of tracing a residual effect of previous ordoliberal engagements. It is part of the thesis put forward in this dissertation that a great part of political economy issues of the contemporary predicament saw their historical emergence in the interwar period: most notably, the shift towards a *fiat money* economy and the role of central banks, the process of democratisation and its perceived effects on state spending/inflation, the correlation between cross-national trade and exchange rate questions. Ordoliberals, as much as others, attempted to approach and respond to these issues in varied ways, firstly by defining the *problems* to which they had *solutions*, and secondly by proposing a regulatory legal/constitutional framework as the most suitable way for embedding *impromptu* responses into a path dependent trajectory. At these levels (defining the issues and providing the solutions to them), ordoliberal positions have been successful as both direct and *background* influence, as forms of concealing normative or *politicised* suggestions through their framing within the 'depoliticization' myth of purely 'scientific' or technical advice. In specific periods, in fact, the gradual ability to determine the framework of the discussion, of the specific actors who can (and should) legitimately intervene, of the range of policy options and the assigning of discretionary capacity disguised as technical expertise to very specific institutional actors (such as central banks), appear to be more powerful in promoting the ordoliberal framework than the apparently marginalized position specific ordoliberal thinkers occupy within intellectual think tanks and academic projects.

Clarifying this context, we can observe that even though ordoliberal positions during the Weimar years were advanced as necessary to avoid the traps of mass democracy, of (hyper)inflationary events and of the instability of a 'weak state' in the context of a widespread disillusionment with liberalism, ordoliberals nonetheless had a relatively limited impact on the policy-making process or the establishment of an accepted framework. It was not until the postwar period that this would change, with ordoliberalism successfully situating itself *within the policy making field* as a counter-force against different forms of state planning (whether in its Nazi precedent or in its Soviet, Keynesian or generally 'collectivist' expressions), as a widely accepted framework for sound and stable money (making use of one-sided articulations of the collective memory of hyper-inflation) and as the proper policy environment for advancing the interests of the postwar subject of the "sovereign consumer" (Olsen 2019). In this specific period, ordoliberals proved increasingly capable of promoting a set of "shared conceptions about the appropriate role of government, a number of common political ideals, and collective memories of past policy experiences"[21] (Hall 1989: 383; see also Lehmbruch 2001: 43) both internally and in collaboration with the (US) Allied authorities.

Receding into the background and morphing with monetarist positions during and after the 1970s, ordoliberal positions increasingly take the shape of a so-called 'constitutional political economy', deeply entangled with the work of James Buchanan on constitutional political economics and public choice theory. As we shall see, that pivot also marks a (concealed) return to the framework of authoritarian liberalism, long before the electoral victories of Thatcher and Reagan. Yet, instead of a divergence from its overall framework, we can observe this a reconfiguration as firmly based on the pre-existing ordoliberal insistence on a legal regulatory framework for navigating the market economy. This conceptualisation was already visible in the crucial ordoliberal term of the 'economic constitution', the functionality of which presupposes the existence of a state capable of neutralising antagonism and organised interests, i.e. the ordoliberal strong state. With the inauguration of the EMU (and, later on, its crisis) ordoliberalism makes a forceful "come-back". Debates around the significant degree of assimilation of its framework *and* the institutional embedding of some of its key coordinates within the European economic and political elites flourish. In this context, by emphasising the necessity of strengthening a "rules vs. discretion" framework and the prioritisation of "technical" and "depoliticized" forms of policy making, ordoliberal actors will continue to structure their interventions around the normative defence of a globalized economy by pointing at the unavoidable requirements that follow from its existence i.e., the exposure to global competitive pressures as the scaffolding that ought to determine domestic policy and considerations of 'moral hazard' as the skeleton that ought to guide international coordination. Crucially, the re-emergence of the transnational aspects of ordoliberalism will demonstrate the unsuitability of designating ordoliberalism as a "German idea" even more clearly, especially as we closely examine the process of European integration and the conflict (and commonly shared beliefs) of key actors behind it. This will also allow a critical appraisal that conceives of the EMU as a vehicle meant to service German interests, positing instead a wider and mutually agreed process of a supra-national institution and its accompanying regulatory framework meant to facilitate, advance and maintain the market economy *as a whole*.

[21] The evocation of the Nazi experience and, in parallel, the Soviet example as indicative of the undesirability of any state planning are such cases, bordering between "common political ideals" and "collective memories of past policy experiences". Alongside, however, we also find the persistent use of the hyper-inflation episode of 1923 (often misleadingly portrayed as characteristic of the whole Weimar era or uniquely responsible for Nazism) and the fading from view of the authoritarian deflationary policies of Chancellor Brüning.

As Plehwe (2010: 311) notes, it is often the case that in studying epistemic communities, “the origins of their underlying values and principles beliefs remain obscure”. It is the avoidance of such a perspective that guides the choice to begin this research by tracing the ordoliberal framework well within the historical context of its appearance, focusing on the specific events and circumstances of the interwar period that map the background of the specificity of ordoliberal positions. The “political and social construction of fundamental values” (ibid.) and their persistence over time will therefore be of central importance, while also setting them against historical contingency, developing conflicts and transformations responding to changing circumstances. Though applying it to the ordoliberal project, we can state with Plehwe that “while there is no such thing as a timeless and essential neoliberal truth shared by each and every member of the neoliberal discourse community, the range of interpretations emanating from this community is not openly pluralist either” (Plehwe 2010: 322).

Like similar epistemic/discursive communities that put forward their own suggestions (such as in the case with the Austrian or Chicago schools), early ordoliberalism does broadly conform to Haas’s definition of epistemic community. But when examining ordoliberalism from the prism of process tracing and within a historical trajectory, this characterisation acquires more nuance: if in the early years of Weimar ordoliberals attempted to constitute themselves as an *epistemic community* consisting of “professionals from a variety of disciplines and backgrounds” (ibid.) within Germany (chapter 2), their direct engagement in the Walter Lippman Colloquium and the postwar Mont Pèlerin gathering reflects their pursuit of becoming a *transnational* epistemic community by strengthening the already prevalent focus on cross-border associations and collaborations. Similarly, their direct engagement with postwar West German governance and policy making transforms them more openly into an advocacy coalition (chapter 3), a role that retains some validity in, at least, specific aspects of the process of European integration (chapters 4 & 5). Moving on to more contemporary events, and specifically in the context of the constitutional conflict at the epicentre of European integration, the German Federal Constitutional Court and the European Central Bank and the European Court of Justice, key contemporary ordoliberal figures (like Lars P. Feld) will provide advice that would “offset or outweigh the pressures […] to offer alternative advice which is more consistent with the pre-existing political interests or preferences of high-level policymakers” (Haas 1992: 20).

Finally, as Plehwe (2010) has argued, the difference between an epistemic community and an advocacy network is worth keeping in mind. Ordoliberals shift from a group “of scientists and experts primarily mobilizing their scientific knowledge” (Plehwe 2010: 309) – during the Weimar Republic and the Nazi period – to a postwar morphing into an advocacy network now comprising “a broader range of social strata” that include fellow-minded journalists with crucial access to mainstream media and/or PR campaigns as pressure groups towards policymakers *and* the public. In its transnational epistemic community character (expressed as much in the Walter Lippmann Colloquium or the Mont Pèlerin Society after the war), ordoliberalism initially appears as a much weaker advocacy network (Plehwe 2010: 309) than in its engagement with policy proposals and implementation during the ‘social market economy.[22] This scope of influence however changes gears during direct engagement with European integration (chapter 4), while by the time we reach the era of the European Monetary Union and its economic crisis, one could well put forward the argument that ordoliberalism has been transformed into a transnational discourse community who “influence knowledge transfer far beyond the agenda-setting stage” (Plehwe 2010: 310), being a reference point for wider theoretical and ideological justifications of philosophical and moral sensitivity.[23]

There is, as many have noted, a seeming and periodic waning of influence and public attention to ordoliberalism, usually temporalized in the late 1960s (with the so-called gradual weakening of the social market economy) and the 1970s (where ordoliberalism appears to have been absorbed, even momentarily, into the ascending monetarist ideology). One can, however, offer a different interpretation. Following Schmidt’s (2011) succinct remarks on the topic, the suggested waning of influence or direct public attention of ordoliberalism in this period can be re-interpreted as a moment of *increased* significance, by shifting focus on the veritable *institutionalisation* of the ordoliberal framework into both policy-making apparatuses *and* public opinion. Within this context, ordoliberal ideas can be approached as “hidden in plain view”, forming as they do the overall context within which policy is decided and debated. Even if the epistemic/discursive community recedes in the background and there is no directly visible advocacy network busy with producing and disseminating ordoliberal ideas in the academic, policy and public sphere, ordoliberalism can been seen as becoming a “common conceptual framework” (Eichengreen 1992: 263) shared by social elites and proponents of the market system.[24]

Today, in fact, ordoliberalism can be described as a “substantial body of consensual theoretical and empirical knowledge” (Kapstein 1992) shared by key actors without however the need for the constant presence of a community of advocates in key positions (whether academic, political or advisory). Central within this “common conceptual framework” are approaches to monetary stability (that directly engages with questions of inflation and sound money), the importance of competitive markets and of the price mechanism, the centrality of private property and a specific role for the state, all wider goals meant to be reached and sustained through a dual process of (initial) expert engagement *and* (later on) institutionalized path dependency and discursive predominance. If so-called ‘technical’ experts connected to economic policy decisions achieve the removal of policy areas from particularistic,

[22] Nash (1976: 26) described this as follows: “The participants [of the Mont Pèlerin meeting], high in the Swiss Alps, were only too conscious that they were outnumbered and without apparent influence on policy-makers in the Western world. All across Europe, planning and socialism seemed ascendant”. A year later, as chapter 3 will show, the situation would look very different for ordoliberals in West Germany.

[23] Indicative of this are the ordoliberal projections during the Eurozone crisis which offer a simultaneous ideological justification of abiding to a rules-based regime on the basis of both a *technical* advocacy of austerity as a necessary competitiveness-oriented catching up in a globalized economy and an *ethical* justification of austerity from the perspective of avoiding *moral hazard* issues. The divergence with the interwar propagation of ordoliberal solutions as responses to the instability of mass democracy, hyper-inflation and a weak state or, accordingly, the justification of the social market economy in the postwar era as a preferable alternative to different forms of state planning, is quite striking.

[24] Such a perspective can also be utilised to approach and explain the constant reference of key political and monetary authorities (especially in Germany) to “ordoliberal values” at a moment when ordoliberal structures (in the academic field, for example) appear less prominent.

politicised reach, the establishment of institutions is meant to ensure that via path dependency and framework building, policy areas are consistently driven away from public control.

Structure of the thesis

This dissertation is structured in the following way: firstly, **Chapter Two** ("Conceptualising the Economic Constitution") takes a closer look at the emergence of the ordoliberal project in the inter-war period in the European continent. Triggered into existence through a critical evaluation of the Weimar Republic, the 1929 Crash and the emergence of Nazism, this chapter aims to situate the social, political and economic environment which made ordoliberalism a necessary development for a group of (international) liberals who tried, in the context of the radical undermining of the previous liberal order, to both re-animate what was salvageable from the liberal tradition while also contextualizing it in response to the combined inter-war pressures such as class antagonism, universal suffrage and visions of protectionism and central planning. Influenced by the earlier socialist calculation debate, in which older liberals like Ludwig von Mises battled out their defence of the market economy and private property, but moving beyond them in the context of a world-wide crisis, we find inter-war ordoliberals struggling to conceptualize a new role for the state that goes beyond both the emerging attractiveness of state planning and the *laissez-faire* paradigm to which planning was responding. The chapter will examine the trajectory of the birth of the ordoliberal framework in the context of the Weimar Republic (by investigating ordoliberal perceptions of the period as well as the attempt to directly influence economic and social policy), the global crisis of 1929 and the Nazi regime. Having set out the historical parameters within which ordoliberal positions developed, it will then expose the core characteristics of this specific, and new at the time, form of liberalism and their development into a specific framework (rather than an ideology). This layout will be particularly important for evaluating the transformations *and* continuity of the ordoliberal tradition in the following decades with which this research analyses.

Chapter Three ("Building the Economic Constitution") looks at the post-war developments and attempts to come to terms with the first visible attempt to design and implement an ordoliberal-based economic constitution. For reasons that will be explained, this attempt was only possible (and somewhat successful) in West Germany, so the focus of the chapter will be on the constitutive elements of that construction (the 1948 currency reform, the price liberalization and the significance of the Allied central actors within occupied West Germany), while also looking at the institutional forms that allowed this (such as the *Bank Deutscher Länder* and the Bundesbank). This will then lead to a description of the the process behind the conceptualization and implementation of the *Soziale Marktwirtschaft* (Social Market Economy). Starting from an evaluation of the term itself and its role in the intellectual history of ordoliberalism, the chapter will continue by examining specific area policies in which attempts to implement ordoliberal-designed frameworks was attempted (most prominently, the anti-Cartel law in Western Germany), and others where such an approach was less successful (such as the Pension Reform of 1957). This chapter will also engage with a discussion of the concept of the *social*, both in terms of the Social Market Economy and in the wider ordoliberal framework. In its conclusion, this chapter will evaluate the question of a transformation or continuity between the early, interwar period and its maturity into the postwar world.

Chapter Four ("Upscaling the Economic Constitution") will examine the significance of ordoliberalism within a more international context. Starting from the consideration of the global monetary regime of Bretton Woods and the various ordoliberals views on that system, the focus will then turn towards the design and creation of the European Union with the 1957 Rome Treaty, re-examining in parallel the so-called end of the social market economy in the 1970s. As I will show, the EU represents a conceptual and practical attempt embraced by specific ordoliberals who tried to envision the expansion of the economic constitution through supra-national institutions. And though its inauguration was responsible for creating a veritable split within the ordoliberal camp (examined in detail in the chapter), the actual creation of the EU and the process of its development can indeed be said to correspond to the post-war re-instatement of key elements of the ordoliberal project, moving closer to a vision of an international rules-based order that avoids the mishaps and compromises that spring up within the context of a national polity, its class composition and the various institutional forms that can, through the expansion of the democratic form of governance, exert direct influence on economic policy making. Taking a closer look at the policy-makers and technocrats behind the design and creation of the EU's competition law, the significance of ordoliberal thinking will be highlighted. In conclusion, the chapter will attempt to evaluate the understanding of the EU as an embodiment of the ordoliberal economic constitution.

Finally, **Chapter Five** ("Embedding the Economic Constitution") will examine the process of European integration as it culminates in the creation of the European Monetary Union, again through the lens of ordoliberal influence and significance. Taking the collapse of the Bretton Woods regime as its starting point, this chapter will then proceed by assessing the claims that identify this period as signalling the waning of influence of the ordoliberal framework, its receding into the background and eventual morphing into the rising wave of monetarism. My research will challenge this approach, not so much by denying the specific fading into the background of ordoliberalism per se, but through showing that monetarism and ordoliberalism belong to very similar traditions of thought. At another level, the discussion of the specific period will allow for a return to the question of authoritarian liberalism. As I will demonstrate, the notion that the postwar era signalled an abandonment of the authoritarian elements present in ordoliberalism, giving space to a pro-democratic constitutional order, is rather misleading. The merging of ordoliberalism with Buchanan's constitutional political economy and the move towards public choice theory will be contextualized in the specific events of the 1970s and will be shown to represent expressions of a forceful return of authoritarian liberalism, especially in the context of Latin America. Having examined these changes, the chapter will proceed by taking a closer look at the foundations of the EMU project, from the Werner Report of 1970 all the way to the voting of the Maastricht Treaty in 1992. In this context, the chapter will delve into the renewed conflicts within the ordoliberal camp in relation to the EMU, linking these with the earlier debates that took place during the inauguration of the EEC. Finally, the chapter will evaluate the assertion that sees the EMU as the more complete representation of the ordoliberal economic constitution. In closing, the dissertation will focus on two separate constitutional challenges that took place within the EMU in an attempt to reach some conclusion about the actually fragile constitutionality of the project. Examining these through the prism of ordoliberal influence, the chapter will close with an evaluation of the claim around the *ordoliberalization* of Europe.

CHAPTER 2: CONCEPTUALIZING THE ECONOMIC CONSTITUTION

Ordoliberalism in the interwar era

Summary

This chapter traces the foundations of the ordoliberal project in the interwar period and, more specifically, in the context of the Weimar Republic of Germany, the 1929 crisis and the Nazi period. The structure of the chapter follows an exposition of these key historical conjunctures, an examination of their main features and characteristics and the ways in which ordoliberals experienced, understood and reacted to these events thus laying the basis for the development of the ordoliberal framework.

A doomed Republic

The Weimar Republic can be described as an enormous social, political and economic experiment that took place between the end of the First World War and the rise of Nazism. This was a period in which economic, political, social and gender relations were revolutionised in ways unforeseen before the end of the war: the global monetary order of the past era, the gold standard, was abandoned and gradually replaced by fiat money; mass democracy became a widespread form of political organization in most advanced capitalist countries; and the US emerged as the global hegemonic economic power. The story of the Weimar Republic is tightly linked with all these developments, the coordinates and consequences of which continue to structure the world we inhabit today. At the same time, these transformations were also responsible for the development of the overall neoliberal framework, of which *ordoliberalism* represents a specific constellation.

To this day, it has become a very common historiographical approach to describe Weimar as a "doomed republic" (Lee 1998; Taylor 2013), a regime that was "born in defeat, lived in turmoil and died in disaster" (Gay 1968: 2) or else "a gamble which stood virtually no chance of success" (Henig 1998). The suggestion is that Weimar was pre-destined to end in failure, a view that draws from the so-called peculiar, incomplete, and/or unique German road to democracy, framed around fragile institutions and desperate political attempts to integrate antagonistic social forces within a radically new environment. In the crucial ten-year period between 1919 and 1929, the argument goes, inexperienced political rulers failed to contain social conflict and tried to paper it over through massive state spending which, in the context of a hostile and collapsing international predicament, shattered state budgets and monetary stability. By 1930, when Chancellor Brüning came to power, an authoritarian imposition of austerity had become, so the argument goes, inevitable (Ferguson 1995). "Deflation", Tooze adds, was the only option "under the rules of the gold standard" (Tooze 2014: 17).

This teleological view of Weimar, Williams (2011: x) notes, reflects a specific historical approach that takes the Nazi regime as its starting point and works backwards to explain the failure. What is often lost in this widespread depiction of Weimar as a "doomed" experiment is the fact that this viewpoint has its roots in the contemporaneous conservative opposition to the Republic. Depicting Weimar as a temporary deviation was promoted, for example, by Field Marshal and Reich President Paul von Hindenburg himself, the official responsible alongside his Chief of Staff Erich Ludendorff, for the "stab in the back" (*Dolchstoß*) legend.[25] Along similar lines, the conservative (and antisemitic) historian Friedrich Meinecke spoke at the time of the Weimar Republic as an "emergency construction" (*Notbau*) with little chance of long-term survival. Even within the SPD, in fact, belief in the ability of the Weimar Republic to overcome its contradictions and conflicts waned over time.[26]

This negative discourse on the Weimar Republic, initiated and kept in place primarily by its conservative critics, has been effectively adopted way beyond such political viewpoints, casting a "long shadow" over subsequent historical discussions, as Hans Mommsen has pointed out. In "German historical consciousness", Mommsen adds, "the Weimar Republic has always been associated with the stigma of failure" (Mommsen 1989: vii). It is more than telling that the post-war success of West Germany gave birth to the slogan "Bonn is not Weimar".

Taking a closer look at the conservative criticism levelled against Weimar, at the time and *post facto*, illuminates a number of issues. Not only does it highlight the systematic work done by conservatives to undermine the Republic from within during its existence, but it also sheds light on the exact characteristics of Weimar that were seen as most disturbing. Starting from the usual depiction of the Republic as resting on a national betrayal and humiliation that led to German defeat in the war,[27] one can also find discernible voices of opposition to women's emancipation (Dyson 2021: 159) that carried the accusation of "feminizing" the nation,[28] while other social transformations (such as higher wages and social protection) were increasingly conceptualized as leading to a loss of moral identity and compass – thereby ignoring a contrasting view that would see the Weimar period as one of social and cultural regeneration, innovation and emancipation. Underlying such views lies a grander accusation: that of "too much democracy". In fact, lurking behind the transformations that took place during the Weimar period lies the all-encompassing charge that the 'greatest misfortune' was that of mass democracy (Kershaw 2015: 86). This was what made the overall decline possible, giving too much

[25] Testifying in 1919 before a parliamentary commission that was investigating the causes of the 1914 war and the 1918 defeat, Hindenburg and Ludendorff arrogantly dismissed the chairman's questions and read a prepared statement which included the *Dolchstoßlegende*, immediately popularizing it.
[26] By the late 1920s, an increasing amount of SPD politicians were expressing their frustration at the Republic's gridlock, a view that was most openly expressed by the SPD-affiliated provincial governor of East Prussia, August Winnig, who publicly proclaimed his doubts on the Republic's survival possibilities in 1928.
[27] It is indicative of this mythology how this inversion worked: while Hindenburg and Ludendorff knew that the German war effort was doomed, urging Kaiser Wilhelm II to negotiate an armistice, they also called for a shift to a civilian government. Though it was obvious that this was done in order to make the new government a scapegoat, the SPD did not hesitate to take the lead. As Kershaw puts it, the attitude of the military was: "The parties of the left have to take on the odium of this peace. The storm of anger will then turn against them" (Kershaw 2015: 86)
[28] For a pioneering examination of the position of women in Weimar, see Canning (2009).

power and leverage to the working class and its organizations (political parties, trade unions etc.) and leading to a strengthening of the labour pole that threatened not only imperial, aristocratic and militarist Germany but also the defenders of market liberalism.

Such positions were highly prevalent during Weimar. But in retrospective accounts in the postwar context, a more nuanced approach was put forward that conformed to the postwar universal embrace of democracy. Here, the "failure" of Weimar was seen as a consequence of a widespread *mistrust* against democracy – conceptually connected to the argument of a "peculiar" German trajectory in relation to democratic rule – prevalent in both extremes: the Nazis and the communists. In this narrative, the openly hostile conservative view of Weimar is transformed and presented as an allegedly pro-democratic position, undermined by extremist and popular mistrust at democratic procedures. While consisting of an element of *relative* or circumstantial truth –the NSDAP's relation to parliamentary democracy requires no explaining but the KAPD's necessitates more context[29] – emphasizing this shared Nazi/Communist distrust on parliamentary democracy serves as a means of mystifying and ignoring the equally crucial, influential and decisive rejection of democratic rule by conservative elites, industrial and financial interests, all of which were particularly active (after 1929) in calling out for an end of the "democratic experiment". It also masks the extent to which these same forces overwhelmingly rallied behind the Nazi regime as the preferred solution to the Gordian knot of the Weimar Republic.

This seemingly contradictory approach – claiming, that is, that the Weimar Republic was at the same time characterized by "too much democracy" *and* by forces that opposed it – is united through its conservative background. And especially in the postwar environment, it served a very particular role in allowing Weimar's conservative critics to maintain that the anti-democratic forces of the KAPD and the *too-democratic* forces of the SPD, are in fact *more responsible* for the decline of the Republic and the rise of Hitler than Weimar's conservative critics. Drawn to its logical conclusion, this reversal achieves an incredible feat: it places a bigger share of responsibility for Nazism on its victims than on those who were in fact tolerant (if not outright supportive) of Hitler as an unavoidable resolution of Weimar's dysfunctions and who, more often than not, retained comfortable positions within the Nazi regime, even when they did not directly collaborate with it. From this perspective, "the democratisation of society in the Weimar Republic was the cause of Nazism and the reconstruction of liberal democracy had to be a democracy of the political; in other words, a democracy without demos, understood as the mob." (Bonefeld 2002: 126)

Ordoliberalism is a liberal project that was also born in the interwar period. Its overall framework was forged in response to the same stimuli, representing a dual attempt to salvage its historical origins (classical liberalism) while also adapting them to the contemporary predicament. More specifically, the

[29] See Rosenhaft 1983

collapse of the old liberal order, associated with laissez-faire economics and the monetary constitution of the gold standard, forced proponents of ordoliberalism to reconceptualize the ways in which the successes of the past could be emulated in such a radically new environment. This new predicament was as much influenced by a forceful reconfiguration of the role of the state in relation to the economic order, as it was with the advent of mass democracy as a specific form of state rule. Along a similar trajectory, the development of (and conflictual relationship between) private capital and working-class organizations created the need to construct a theoretical framework that, according to ordoliberalism, kept both *particular interests* “disempowered”.[30] The result was the elaboration of the need for an “economic constitution” immersed in the conceptualization of an “interdependence of orders”. It is a central claim of this research that the development of this framework within the interwar period has left its traces in the further historical development of ordoliberalism. To properly contextualize it, however, necessitates a closer look at what exactly the Weimar Republic was.

Weimar’s political economy

For the first time in German history, two crucial but hitherto institutionally marginalized social forces (Catholicism and social democracy) took control of a “state organized on a democratic and parliamentary basis” (Lehmbruch 2001: 71). “The dramatic removal of the pre-war order after the revolution of November 1918”, as Wegner reminds, “paved the way for representative democracy in Germany, but also left the future of the economic order uncertain.” (Wegner 2020: 46).

The Weimar Republic was officially announced a few days before the armistice between Germany and its Allied enemies was signed, with the German Social Democrats (SPD) and the Catholic Centre Party (DZP) forming its first coalition government. These two parties, brought to power through a common peace platform[31], tried to manage a multiplicity of socially explosive circumstances that emerged after Germany’s defeat.[32] Of those, perhaps the most pressing concerned the increased

[30] The concept of ‘disempowering’ particular interests is a central feature of ordoliberal thinking but it also reflects an inherent contradiction. To start with, and following a Hegelian logic, the notion of particularity presupposes a universality to which it is included. In the case of ordoliberalism, this universality can be expressed in the conceptualisation of a market order governed through a state-led regulatory framework. The state, in its role of creating the necessary conditions for a market economy, “instead of entering into the immanent content of the thing” (i.e. the economy), is normatively meant to “forever [survey] the whole and [stand] above the particular existence of which it is speaking […]” (Hegel 1807: 32). In the ordoliberal theoretical framework, private capital (in the form of monopolies/cartels) and the working class (through its trade unions) are seen as the *particular*, contingent and arbitrary aspects of a given content (the market economy), with the empowerment of each being responsible for different but equally disruptive distortions. It is in fact the very capacity to distort *universality*, i.e., the proper functioning of the market order via the regulatory framework of the state, that gives rise to the need to disempower *particularity*. This conceptualisation, however, already undermines the theoretical presupposition of an equidistant universal perspective towards particulars; while one of the two particulars (private capital) is a *presupposition* for the existence of the market order (and in fact is meant to be defended by all means), the other particular which ordoliberal theory pretends is equivalent, that of the working class, has the potential to abolish the market economy and its state.

[31] “Only the Liberals, Centre Party and SPD appeared to be capable of formulating a coherent foreign policy and backing it with the necessary popular support.” (Tooze 2014: 219)

[32] As Leaman (1988) argues, the Weimar Republic “…bore the marks of a hastily constructed form of government which owed as much to the *opportunism of anti-democratic forces* as to the good will of the social-liberal alliance which made up the republican bloc…” (Leaman 1988: 13)

militancy of the working class[33]. Pushed by the arrogant but suicidal militarism of German nationalism, the economic collapse precipitated by the war and the influential example of the Russian revolution[34], the last days of the war found workers in open revolt all around Germany, participating in uprisings initiated by sailors and soldiers in Kiel that quickly moved to Berlin, Hamburg and elsewhere.[35] At the same time, the Weimar Republic wrestled with the nationalist response which interpreted both the military defeat and its eventual outcome as a humiliating betrayal that needed to be confronted with might[36]. Lurking behind these internal pressure points lay an equally confining international context, with the key issue of war reparations further compounding the sense of uncertainty and economic asphyxiation inside Germany.

In its development, the radical militancy of significant sectors of the working class during the early Weimar years stood *between* the visions of Germany as a militarised national community (promoted by nationalist forces) and that of a civic national community (promoted by the SPD and the DZP). It had soon been made clear that ending the war was only the first step. The Weimar coalition government quickly understood that working-class demands would become "increasingly radical if peace and democracy failed to provide bread, jobs and adequate wages" (Ferguson 1995: 164), leading SPD/DZP towards a policy focused on a simultaneous aversion of the revolutionary threat through violence and repression (a choice most visible in the utilisation of the de-militarized Freikorps units against radical workers)[37] while at the same time implementing a set of pro-working-class *integrative* reforms. This simultaneous policy of appeasement and repression (or else, as McElligott has described it, the simultaneous imposition of emancipation alongside social disciplining)[38] would remain one of Weimar's most central characteristics and contradictions.

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[33] As Wegner puts it, "This became clear to the steel companies when their owners accepted the eight-hour working day in view of the threat of expropriation by the workers' councils (Stinnes–Legien agreement)." Wegner 2020: 46

[34] It remains crucial to note that the radical expressions of the German workers' movement had substantially different positions from the Leninist/Bolshevik model. Key representative of this anti-Bolshevik approach was the KAPD which was closer to the positions of the historical tendency of council communism, rejecting the notion of a vanguard revolutionary party. For more, see Luxemburg (1906) *The Mass Strike;* (1918) *The Russian Revolution*. As Kershaw has argued, "[…] research has made absolutely plain that the forces wanting a Bolshevik-style solution were insignificant even within the 'councils' movement'" (Kershaw 1990: 4). For more on the KAPD see Camatte (1971) and Luban 2012.

[35] The name of the Republic itself was a reflection of this social instability: the declaration was made in Weimar precisely because Berlin was considered too unstable and "Red" to ensure the needed safety and stability of a new government.

[36] As mentioned, Field Marshall Hindenburg popularized the ideologically charged but inaccurate notion that the German Army had been "stabbed in the back" by socialists and pacifists. As Tooze points out, "between 9 and 11 November 1918, it was the Germans who negotiated at Compiegne as though they represented a government and an army capable of continuing the struggle, when in fact both were in a state of dissolution. The Germans would protest their betrayal, but in light of what happened across Germany in the first two weeks of November […] this was merely further evidence of their bad faith." (Tooze 2014: 229)

[37] The SPD's allegiance in this polarisation is historically unambiguous. The role of the Freikorps in crushing the 1919 uprising and assassinating Rosa Luxemburg and Karl Liebknecht are well documented. But perhaps the proto-fascist Kapp Putsch of March 1920 offers a more striking example of the relationship. While the leaders of the attempted putsch suffered no consequences for their open disregard towards the democratic government, receiving a full amnesty in August 1920, the workers who went on strike to defeat the coup were met with brutal repression, with hundreds of them executed, often by soldiers who had actively participated in the coup itself. This response was, to a considerable extent, responsible for the communist mistrust towards social democracy and the birth of the characterization of the SPD as 'social-fascists'. See also Rosenhaft 1983.

[38] McElligott (2009) *Short Oxford History of Germany: Weimar Germany*, Introduction.

Consistent and continuous with the SPD's patriotic support of the war,[39] and the official abandonment of its commitment to the class struggle through the call for *Burgfrieden* ('social truce') (Feuchtwanger 1993: 3), the SPD understood the mobilisation of workers within the context of total war and reconstruction as a means of both political recognition and working-class integration. Interpreting this national mobilisation as bringing the labour movement "out of the ghetto" of pre-1914 Bismarkian Germany, SPD strategy focused on the process of integration of the working class "into the machinery of government" (Feuchtwanger 1993: ibid) and on the desire to see the state mechanism reflect the demands for economic democracy (and not revolution) of the workers' movement. If that attempt was interrupted in 1916, through the passing of total control to the annexationist militaristic leadership, the end of the war was seen as an opportunity to revive the same project under a banner of peace. In this context and within that vision, a workers' insurgency fuelled by the revolutionary slogans and program of the USPD and the Spartacists made it imperative for the Weimar government to lure workers away from radical paths by implementing a wide range of reforms such as job creation and support schemes, payments for returning and handicapped soldiers, unemployment benefits, increased wages for public employees and food subsidies. In short, "something like counter-cyclical policy' *(Konjunkturpolitik)* or 'welfare economics'."[40] *(*Witt, quoted in Ferguson 1995: 271)**.**

If, however, one side of the equation concerned the necessity of pro-worker *integrative* reforms, the other side of maintaining social peace was forged through a pro-private capital policy, producing a collaboration with industrial and administrative elites. At one level, this expressed itself through the governments' reluctance to increase taxation. As James notes, "[w]eak coalition governments found raising taxes noticeably politically unappealing; and there was increasingly militant opposition from business interests to the idea of paying taxes." (James 1999: 18; 2009: 110). Alongside, Weimar economic policy consisted of an "integrated, economic, social and financial policy with the explicit goal of securing [. . .] democracy through subsidies to industry"[41] and a monetary policy attempting to facilitate domestic private capital's management of issues such as debt, credit, investment and exports.

Such an approach represented both a continuation *and* a reconfiguration of the historical role of the state, as it "[…] required the state to play an active role in the distribution of wealth, on the one hand, [by] protecting wage demands and standards of living through social programmes in welfare and

[39] Despite initiating anti-war demonstrations before its outbreak, a strong majority of parliamentary representatives of the SPD, then the largest party in Germany, voted in approval of war credits and loans. Eventually, the number of SPD representatives opposing the war effort would grow, culminating in the split of the party in 1917, with the anti-war constituency adopting the name USPD (*Unabhängige Sozialdemokratische Partei Deutschlands*), a formation which the Spartacus group of Liebknecht and Luxembourg initially joined, before abandoning it in 1920 to create the KPD and, quickly after, the KAPD.

[40] The devastating conditions of the period were an obvious material reason for welfare and public spending expansion. The social-democratic ideology of the SPD another. But a third reason, related to the Zentrum party also deserves attention. As Manow has explained, "The pro-welfare stance originated in the Catholic social doctrine, but also from three more pressing political considerations: the wish to support many Catholic charitable organizations, hospitals, kindergartens, asylums, and of course the Christian unions. Secondly, the need to keep Catholic workers as members and voters of the Centre party; and thirdly, the ministry's simple desire to protect and possibly to expand its domain of administrative responsibility." (Manow 1999: 3)

[41] Witt, 'Staatliche Wirtschaftspolitik in Deutschland 1918-1923: Entwicklung und Zerstörung einer modernen wirtschaftspolitischen Strategic', in Feldman et al. (eds.), *Zwischenbilanz*, pp. 151-79.

housing, and, on the other hand, helping industrialists and business to maintain their profits. (McElligott 2009: 20)[42]. For this reason, McElligott continues, "the fate of the Weimar Republic depended upon the ability of its politicians to successfully maintain a consensus between the traditionally hostile camps of capital and labour" (McElligott 2009: 20).

The political economy that framed these pressing and somewhat contradictory goals was, to a certain extent, a continuation of the policies that had begun before and during the war.[43] Ideologically convinced that the war would be swift and victorious,[44] the Reich had opted for using the printing presses and issuing war bonds as the veritable means of financing the war rejecting, "like other governments in continental Europe, the possibility of financing military costs through increased taxation" (James 1999: 18).[45] To achieve that, "…the gold convertibility obligations of the Reichsbank Act were suspended, as were the limits on the discounting of treasury bills […] The result of the monetary expansion was that, by the end of 1918, there was five times as much cash in circulation as there had been at the end of 1913." (James 1999: 17).

This monetary growth that coincided with a collapse of government income and a shift of production targets towards the war economy proved highly inflationary. But this was not, as is occasionally claimed, the reflection of either incompetence or miscalculation. What emerges from historical accounts is that the SPD/Zentrum coalition believed that in following such a strategy, a compounded effect would result: not only would the revolutionary wave be avoided through full employment and wage increases, but the actual wage cost increase would be effectively neutralized as it lagged (however slightly) behind inflation. Moreover, inflationary pressures greatly reduced business costs and lowered Mark-denominated *domestic* debt, while diminishing interest payments and any potential tax burdens that could arise in the future. By the same token, investments were boosted through cheap credits, forcing a run into "real values" as opposed to savings, while the (targeted) increase of the money supply could be utilized to subsidize the asset losses that firms and industries were calculating as consequential of the reparations' payments and the freezing of foreign assets.

The inflationary preference was further contextualized within the crucial issue of war reparations (and Germany's foreign debt), the magnitude of which was (initially) formalized with the

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[42] This form of governance during Weimar could also be seen as an early experiment into what would later become known as corporatism or social partnership, a "model that was to stabilize Europe in the decades after 1945 […] but which failed to deliver" (McElligott 2009: 20-21)

[43] The first Weimar governments' decision to keep Rudolf Havenstein as President of the Reichsbank was another clear indication of this continuity. Havenstein was a supporter of the 'banking school' (which stood in opposition to the 'currency school') and understood his role as one of safeguarding Germany's gold reserves (vital for the state's military requirements) by withdrawing gold from circulation through issuing new notes and controlling the expansion of commercial banks (which he saw as geared towards speculation) in order to prevent a potential banking collapse. For more on Havenstein see James 1999, pp 15-23.

[44] Karl Helfferich, chairman of the Deutsche Bank and secretary of the Treasury in 1915-17, famously told the Reichstag that "it would be Germany's opponents that would have to pay for the suffering and costs entailed during the fighting" (Mee 2019: 41).

[45] "For the first two years of the war, the government successfully issued war bonds, whose purchase by the public was widely treated as a vote of confidence in the government and its military policy […] After 1916, however, the government could not place all bonds with the public. At this stage, the public debt had to be financed increasingly by the banking system, and this meant in practice through the Reichsbank's discounts." (James 1999: 18)

Versailles Treaty of 1919. Here again, a clear reluctance to push for any tax increases prevailed.[46] In light of the simultaneous policy choice of subsidising labour *and* capital, the inflationary path was exacerbated, leading to the consequent depreciation of the currency.

Whether an alternative economic policy was available to the Weimar Republic at the time, given the decision/pressure to satisfy all sides of the social equation, remains a contested issue (see, for example: Ferguson 1995; James 1990; Geary 1990; Feldman 1977). What is quite evident however is that this seemingly counter-intuitive policy of allowing for currency depreciation also represented a deliberate strategy for indirectly undermining the economic terms of the Versailles Treaty that Germany had formally acquiesced to. Concurrently with an attempt to exploit the "force-field of imperial rivalries" (Tooze 2014: 141), that strategy was based on the persistent hope that the depreciating the currency would eventually demonstrate the impossibility of repaying forcing a revision of the Versailles terms.[47]

The official narrative was that depreciating the currency would boost foreign exports by rendering them more competitive, a development that would allow Germany to increase its foreign currency reserves and (supposedly) conform to the reparations' payments. This was, in fact, an approach shared and promoted by the Allied forces themselves, who considered a trade surplus as a valuable instrument through which Germany could repay its debts. From the German perspective, however, the underlying belief was that the very success of such a policy would essentially impair the process of repayments, a strategy that came to be known as the "fulfilment strategy". As Carl Melchior, Hamburg banker and representative of the German government in Versailles, put it: "By the end of that time foreign nations will have realised that these large payments can only be made by huge German exports and these exports will ruin the trade in England and America so that creditors themselves will come to us to request modification."[48]

Conventional wisdom held that the production of a trade surplus necessitated a synchronous suppression of domestic demand and the raising of taxes. Nonetheless, recognizing the danger of how deflationary austerity could threaten the fragile victory over workers' radicalism, while also seeing how taxes were fiercely opposed by "bourgeois parties in the Reichstag, the Reichsbank and economic interest groups, and […] 'sabotaged' by business tax evasion" (Ferguson 1995: 271), the Weimar Republic opted to simply allow the currency to depreciate without any significant cuts in spending.

Providing subsidies, refusing to contemplate tax increases and the inability to improve existing tax collection were, however, not the only contradictions. Not only was the necessary level of exports'

[46] "For the period from 1914 to October 1923 the total results are as follows: taxes, 21.2 milliards; loans, 52.6 milliards; Treasury bills, 59.1 milliards. These statistics clearly display the financial policy followed by the German Government for ten years, which resulted in scarcely 15 per cent of the expenses being covered by means of taxes!" (Bresciani-Turroni 1931: 57)
[47] As Schacht describes in one of his autobiographies, "I still considered the payment of reparations absolutely impracticable from an economic point of view, even under the Young Plan, and I expressed this conviction clearly when the Conference met in full session for the signing of the Agreement. If, nevertheless, I did sign, it was because I was convinced that this economic impracticability would very quickly become apparent and compel the reopening of negotiations." Schacht 1956: 226
[48] Quoted by Lord D'Abernon, *An Ambassador of Peace*, Vol. I, Hodder & Stoughton (1929), p. 194

increase to meet repayment targets impossibly high – Keynes own calculations claimed that a minimum of 40 per cent increase in the value of exports was necessary to meet requirements (Keynes 1929: 5), but it was in fact self-defeating: the drastic reduction of imports (another consequence of depreciation, meant to contribute to the creation of a trade surplus) simultaneously undermined the export industry for the simple reason that "radically curtailing imports was inconsistent with the maintenance of exports given the economy's reliance on inputs from abroad such as copper, cotton, and wool, a dependence that had been heightened by wartime losses of territory and stockpiles." (Eichengreen 1996: 133).

At the end of the day, the so-called 'fulfilment strategy' failed to materialize due to another set of unpredictable circumstances. To begin with, the worldwide deflationary slump that followed the end of the war, pushed down import prices (US prices fell by 40-45 per cent, whereas UK ones by 50 per cent), something that undermined the trade surplus *despite* the depreciation of the *Papiermark* and slightly increased exports. Secondly, speculative purchases guided by a sustained belief that the German economy would – sooner or later – bounce back, caused an increase in foreign capital inflow which contributed to an *unexpected* stabilization of the Mark, essentially neutralizing the benefits that devaluation could have had for the export sector (Ferguson 1995: pp. 247-248).

By 1923, and despite the fact that government subsidies and price controls had thus far kept domestic price inflation lagging behind the (depreciated) exchange value of the mark, the consequences of the chosen strategy exploded. Triggered by the collapse of foreign capital confidence in the German economy,[49] German capital's attempt to locate a more stable environment for its profits, and the tremendous costs of the Ruhr occupation by the French military – to which the German government responded by accelerating money printing in order to subsidise *both* striking workers *and* capital losses (James 1999: 22ff) – the German economy became hyperinflated, with the currency virtually collapsing[50] and the financial and monetary authorities proving themselves incapable of understanding or managing the downfall[51].

As Mee (2019) recounts, public and governmental opinion was calling for the dismissal of Reichsbank President Rudolf Havenstein, seen by most as directly responsible for the hyperinflation

[49] Rudolf Havenstein, the president of the Reichsbank, appears to have begged the Governor of the Bank of England, Montagu Norman, for a 550 million Gold Marks loan from London's capital markets, a plea that was swiftly rejected. As a result, Havenstein returned swiftly to what Feldman has called his "fearsome pride in the ever-increasing money-producing capacities of the Reich printing office" (Feldman 1997: 6).

[50] "[…] in October 1923 an extraordinary phenomenon in the history of the public finance appeared, the complete atrophy of the fiscal system. In the last decade of that month the ordinary receipts covered about o.8 per cent of the expenses; the State now obtained money exclusively through the discount of Treasury bills […] Here are some figures: on June 30th, 1922, the value of the commercial bills in the portfolio of the Reichsbank amounted to 4.8 milliard marks, while its holding of Treasury bills amounted to 186.1 milliard marks. On December 30th of the same year the total of commercial bills had risen to 422.2 milliards, representing about a third of the amount of the Treasury bills (1,184.5 milliards). On February 15th, 1923, the amount of commercial bills (1,345 milliards) had reached almost 60 per cent of the holding of the Treasury bills (2,301). Hence, besides the governmental inflation, there had developed a very great banking inflation. On November 15th, 1923, the value of the commercial bills in the portfolio of the Reichsbank amounted to 39.5 trillion marks (a trillion = 1.ooo.ooo^3)." (Bresciani-Turroni 1931: 57, 76-77)

[51] "In the last months of the [1923] German inflation, the central bank believed that it needed to respond to the real fall in the value of the currency by producing more currency at faster rates. The Reichsbank boasted of the efficiency of its 30 paper factories and 29 plate factories producing 400,000 printing plates to be employed by the 7,500 workers in the Reichsbank's own printing works, as well as by 132 printing firms temporarily working to satisfy the need for currency." (James 1999: 17)

due to his refusal to stop the printing presses. The immediate problem was, however, that the Reichsbank was legally independent from the government and thus could not force him to resign. This independence was granted in May 1922 with a law that would continue to leave its prints for decades to come. Most accounts gloss over the central bank's independence as a direct requirement of the Allies but, though this is formally true, it leaves aside a wider framework that played an equally important role and which will be pivotal for issues of central bank independence in the future and within the ordoliberal framework. As Reinhardt (2000) explains, three key reasons resulted in the Reichsbank independence: the Allied requirement was, naturally, the first but equally important was the overall promotion of central bank independence, visible in the Brussels Conference of 1920, the Geneva Conference of 1922 and the newly established League of Nations that had central bank independence as a prerequisite for providing postwar financial assistance and loans.[52] Lastly but directly connected with the second reason, Reinhardt adds, the collapse of the gold standard had transformed central banks from passive to active institutions.

Within this context, Havenstein would actually make use of the Reichsbank independence to ignore calls for his resignation, pointing at the provisions of the Autonomy Law to inform that he would remain in charge until 1924.[53] Continuing to employ the printing presses, Havenstein's policy and the political decision to provide government subsidies during the Ruhr occupation, brought the complete collapse of the currency.[54] In the end, Havenstein's sudden death would resolve the gridlock.

Initially appointed Currency Commissar, and then, after the death of Havenstein, president of the Reichsbank, Schacht would reign in on hyperinflation through a currency reform, accompanied by the creation of two new banks: the *Rentenbank* (October 1923) which issued the new currency, the Rentenmark, equal in value to the Goldmark, and the *Golddiskontbank* (April 1924). Contrary to the Reichsbank, a "juridical person under public law", the Rentenbank raised its capital by creating collateral on private industrial and real estate debentures (and not gold), thus becoming a "juridical person under private law". The Gold Discount Bank, however, designed by Schacht to complement the activities of the Rentenmark was created with the purpose of raising foreign credit. Through his strong personal connections to the Bank of England and Montagu Norman, Schacht secured loans towards the

[52] The League of Nations had already imposed independent central banks in exchange for financial aid to Austria, Hungary and Greece. In the last two cases, the process was overseen by Jacques Rueff, a figure that will be crucial in relation to the international network of ordoliberalism. For the role of the League of Nations in Austria, see Nathan Marcus (ref). For Rueff's role in Hungary and Greece, see Chivvis (2010).

[53] This attitude prompted chancellor Stresemann to accuse the Reichsbank of acting as a "state within a state" (Reinhardt 2000: 158-9). This phrase would remain within the German central banking universe and would be repeated by Adenauer in 1956 during the "Gürzenich Affair", when the Bundesbank Law was being negotiated. More recently, Jens Weidmann would make use of the phrase to explain that "[central bank] independence is not an end in itself – the central bank should not become a "state within a state" (Weidmann 2014).

[54] "On June 30th, 1922, the value of the commercial bills in the portfolio of the Reichsbank amounted to 4.8 milliard marks, while its holding of Treasury bills amounted to 186.1 milliard marks. On December 30th of the same year the total of commercial bills had risen to 422.2 milliards, representing about a third of the amount of the Treasury bills (1,184.5 milliards). On February 15th, 1923, the amount of commercial bills (1,345 milliards) had reached almost 60 per cent of the holding of the Treasury bills (2,301). Hence, besides the governmental inflation, there had developed a very great banking inflation. On November 15th, 1923, the value of the commercial bills in the portfolio of the Reichsbank amounted to 39.5 trillion marks (a trillion = $1.000.000^3$)." (Bresciani-Turroni 1931: 76-77)

Reichsbank, which ensured half of the Gold Discount Bank's capital, the other half provided by private banks. The central aim of the Gold Discount Bank was to continue providing loans to German business.

Schacht's changes became legally enshrined in the Bank Act of 1924, a legislation which put a strict credit limit on the central bank's ability to monetize government debt, making sure that government spending would be drastically curtailed. At the same time, through the Gold Discount Bank, Schacht could continue to provide credit to private capital – on terms chosen by him. With this simple monetary transformation, Schacht was able to overcome the framework of monetary policy of early Weimar that sought, in the name of maintaining a balancing act, to subsidise both private capital and the working class. For alongside the monetary changes, Schacht embarked on a mission to balance the budget through a dynamic tilting towards austerity, fiscal discipline and price stability. Re-aligning Germany to the gold standard, since "the stabilization policy required the fixed exchange rate in order to provide an anchor for the currency" (James 1999: 25), Schacht also increased interest rates in order to defend the now pegged exchange rate.

Schacht was a fierce opponent of "fiscal laxity, pointing to the government's inability to raise taxes during the world war as one of the main reasons for the 1923 inflation, [insisting] that the only way to financial salvation was through balanced budgets." (Marsh 1992: 105) For this reason, and alongside the conviction that internal deflation would cut public spending, Schacht also proposed a parallel strategy of a thorough tax reform, meant to finally break the habit of rejecting taxation as a veritable source of state income. Along the same context, Schacht was also concerned with placing limits on private banks, attempting to impose a credit rationing (limiting discounting to banks by linking its ratio to their cash reserves), a policy choice that was also meant to deter foreign capital flows and their inflationary pressure. Finally, an intensification of cartelization took place, promoted by the *protectionist* tendencies of industry towards instability and uncertainty (Nicholls 1994: 24).

None of these measures, however, met with particular success. The reconsideration of tax policy was fiercely fought back from German private capital leading to its *de facto* abandonment. Moreover, to the extent that the stability and health of the overall banking sector remained a priority, the Reichsbank was caught in the contradictory position of being both the lender of last resort while trying to impose some discipline on private banks. This had the essentially unintended but inescapable effect of convincing private banks that they did not have to expand their cash reserves, "confident that either they could obtain credit on the foreign market if needed, or that in an emergency, the Reichsbank would not allow a major banking crisis to occur." (James 1999: 28). This predicament would prove detrimental with the outbreak of the 1929 global crisis. Before that devastating event however, the stabilization process and Schacht's opting for higher interest rates (to quell credit expansion) attracted enough foreign capital inflows to effectively sabotage the deflationary wishes of the economic authorities, a consequence that in later years would become known as 'imported inflation'.[55]

[55] The consequences of this economic policy and the seeking of possible counter-balances would not only significantly determine the framework of Bundesbank economic policy, but it would also contribute to the ordoliberal conceptualization of

Eventually, and if the fragile consensus of the Weimar Republic had been threatened by workers' radicalism in its early years, by 1928 that threat had been replaced, from the point of view of private capital, by another one: failing productivity (Ritschl 2002). Thus, despite the stabilization that followed the hyperinflation of 1923 and the renegotiation of reparations in 1924 and 1928, the eventual combination of labour cost increases which Hilferding had positively called a "political wage",[56] the squeeze on profits and the consequences of the world crisis led significant parts of the capitalist class to reach out for an authoritarian solution.

Contemporary commentators have maintained that balancing the budget and reducing state expenditure was the only alternative to restoring economic stability, an approach most notably found in the writings of Ferguson (1995). But such an analysis presupposes something that neither the SPD/Zentrum government (nor Schacht for that matter) were prepared to impose: a full-frontal attack on the working-class gains of the previous period and a form of austerity that could have easily re-ignited the very revolutionary wave that the government had spent so much (in political and economic capital) to undermine. Nonetheless, before the limits of such a direction were tested, the restructuring was postponed. Gustav Stresemann, Foreign Minister of Germany (1923-1929), led a successful campaign to convince the United States to direct massive loans towards Germany (attracted, beyond doubt, by higher interest rates). The result was an economic stabilization that led the Weimar Republic out of the woods of economic hardship, producing the material circumstances for what would later be called the Weimar's "glorious years". Until, that is, the 1929 crash and the subsequent Great Depression.

The 'golden years' and the 1929 crash

> It is one of the many ironies of interwar history that Europe, having emerged from the Ruhr crisis with the help of American commercial lending, should then have faced destabilization from American economic expansion.
>
> Boyce (2009: 178)

Most accounts that describe the Weimar Republic as a "doomed experiment" from its inception tend to neglect its period of stabilization (1924-1929). However "elusive" (Eichengreen 1990) this stability was eventually, it represented a veritable calm after the storms of 1918-1923 as the Weimar Republic entered its "postrevolutionary" phase (Feuchtwanger 1993). The combined efforts of Schacht and the passing

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the necessity of price stability *through the instrument* of money supply control. As James notes, "For the first time in 1927, the Annual Report of the Reichsbank clearly set out an argument about the relationship between the quantity of money and price stability: 'a substantial increase in the circulation of money, even if fully backed by gold, must have harmful price effects'. Reichsbank, *Verwaltungsbericht für das Jahr 1927*, p. 7, in James 1999, p. 26

[56] At a Kiel party congress of the SPD in 1927, Hilferding proclaimed: "We must hammer it into the brain of every worker that his weekly wage is a political wage, that it depends on the parliamentary representation of the working class, on the strength of its organization and the social balance of power, what the pay at the end of the week is." Quoted in Feuchtwanger 1993: 154

of the Dawes Plan in January 1924 set the stage for the second round of Weimar's Republic, creating a cycle of international payments under which the US provided loans to Germany helping them make repayments to the recipient countries (a process supervised by a US agent, Parker Gilbert), thus ensuring that they could, in turn, repay their debts to the US. In the process, US would accumulate profits from both the interest rates on the loans and the repayments from UK, France and Belgium.

This stabilisation allowed unemployment to fall[57], while productivity increases (especially in the coal industry) by one third in between 1925-1929, led to the reprisal of pre-war level production by 1927. By 1929, German GNP had surpassed pre-war levels, ahead of both Britain and France (Feuchtwanger 1993: 151). This process of stabilization, however, gave the impetus to large industrial interests (especially in the Ruhr area) to start openly complaining against working class gains. As they argued, "too much of the national cake was taken up by wages and by social payments and not enough by investment" (ibid: 152). Side-lining the effects of Schact's credit restrictions as a cause of reduced investment, industrial capital started preparing for a proper conflict to reverse the working-class gains that previous struggles and accommodating coalition governments had made. This approach may also have been inspired by the massive drop in union membership[58], though this did not translate into demands for similar cuts across welfare transfers.

At the same time, high concentration of capital was rampant, with *IG Farben* (formed in 1925) and *Vereinigte Stahlwerke* (built on the ruins of the Stinnes concern) clear examples of the tendency, while no effective legislation had been passed to limit cartelisation which, according to the governments' estimates, consisted of more than 3000 cartels across various sectors affecting, in the coal and steel industry, more than 90 per cent of products (Feuchtwanger 1993: 158).

It was in these crucial years of relative stabilization (rather than the turbulent years before) that the ground for the eventual demise of the Weimar Republic was set, led by a cohort of business interests, small/medium farmers, petty bourgeois elements and white-collar workers: the very composition, that is, which was politically moving further to the right and ended up being an important backbone of the Nazi regime. If big business had recognised in the stabilization years an opportunity for reversing the gains of the working class that the SPD had brought about in its integration policy, the remaining composition represented essentially all those who felt excluded from the primary compromise at the epicentre of the Weimar Republic, that of capital and labour.

More specifically, a worldwide depression in agricultural production that had plummeted prices directly affected the (less marketable) products of German farmers, a predicament that was translated by a significant part of this traditionally conservative social formation as indicating abandonment by the state, creating the ground for their embrace of nationalist 'blood and soil' politics. At a similar level,

[57] Schacht's and Luther's stabilisation plans included a balancing of the budget, resulting in the firing of 1/6 of upper level civil servants, 1/3 of public sector manual workers and ½ of public white collar workers. Feuchtwanger 1993: 145
[58] Looking at the ADGB, which represented 85 per cent of all workers, the drop was from 7.7 million in 1923 to less than 4 million by the end of 1924. Feuchtwanger 1993: 152

so-called *Mittelstand* shop owners, traditionally hostile to the labour movement and socialism, regrouped around their frustration against competition by large department stores (most of which were seen as belonging to Jews), translating their grievances into anti-Semitic and anti-democratic positions. If single issue/lobby-style political parties had, thus far, attempted to gain political clout by representing such interests, their ineffectiveness gradually drew more and more small shop owners into the orbit of the far right and, eventually, the Nazis. Finally, white collar workers who also perceived their declining standards and proletarianization as a consequence of their unjust exclusion from Weimar's compromise (*Zentralarbeitsgemeinschaft*), started to flock around nationalist and reactionary political formations. Within this context, the conservative moral indignation against emancipatory advances in the realm of culture and gender relations also played an important role – the depiction of Berlin as the site of "Sodom and Gomorrah" indicative of the mood. With the support of big capital, which was also making a shift towards more authoritarian solutions to counteract their frustration against rising wages and social transfers, the dark clouds over Weimar were getting dangerously massed together. Meanwhile, Carl Schmitt was feverishly publishing harsh critiques of the Weimar constitution and its "fragile multi-party system", openly advocating an authoritarian presidential power take-over.

It was this context that blew the sails of the conservative, nationalist and fiscally disciplinarian government of Heinrich Brüning, who took over after the collapse of the SPD government in 1928. A harsh winter between 1928-9 and rising unemployment had pushed deficit spending and the various attempts by the SPD to govern in a disciplinary manner while not disappointing its (dwindling) working-class vote culminated in a seemingly inconsequential disagreement in the Reichstag over decimal points of increase or decrease of unemployment payments which led to the collapse of the SPD/DVP coalition. And although new negotiations with the Allies, formalized in the Young Plan, further reduced the yearly payments and significantly extended the repayment period, the die was cast. On March 1930, Heinrich Brüning, an MP from the right wing of the Zentrum party was appointed Chancellor. Within less than a year he would earn the nickname that would follow him throughout history: "hunger Chancellor".

Before the full effects of the US 1929 stock market crash expanded internationally, German economic policy had already taken a turn towards a deflationary/austerity path, a choice that led to a massive increase in unemployment and growing socio-economic debilitation. As Tooze (2014) notes, the ousting of the SPD government and the eventual appointment of Brüning's fiscal conservative "shock therapy" in early 1930 set the stage for a series of public spending cuts and a re-orientation of policy towards the reduction of the deficit in a clear attempt to re-boost the economy through the reversal of the concessions made to the working class (see also: Straumann 2019).[59]

[59] Reflecting, as Abelshauser (2004: 56) put it, Brüning's "momentous decision to fight the world economic crisis in Germany with the unpopular means of budget cuts and state-imposed deflation."

The strategy was straight-forward: massive cuts in public expenditure at all levels, the first sector affected being construction, where a drastic reduction of the public funds that had managed to increase the housing stock between 1925 and 1930 to pre-war levels (Feuchtwanger 1993: 155) led more than one million construction workers unemployed. And that was just the beginning. As Weitz puts it, "[Brüning] sharply curtailed government spending by significantly reducing social welfare benefits and firing and cutting the salaries of civil service workers. Such policies only increased the disaffection of large segments of the population and did nothing to revive the economy. If anything, they worsened the economic situation." (Weitz 2009: 123)

Brüning was of the opinion that the pluralist democracy that had reigned until that moment was bringing disaster to the German nation[60] and that the only way to regain its "dignity" and undermine (or even abolish) the humiliating reparations, was to impose fiscal discipline and induce an internal recession. As Weitz summarizes, Brüning's political economy consisted of a set of deliberate deflationary policies. "The state had to slash public expenditures of all sorts, business had to cut labour costs, and prices had to fall. Once things had bottomed out in this fashion, business would again have incentives to invest, and the economy, now on a sounder basis, would revive. Although all sorts of proposals were raised, especially in the popular media, for work-creation programs and what would later be dubbed Keynesian pump-priming policies, none could pass through Brüning's opposition or the like-minded conservatism of most of the German elite." (Weitz 2009: 123-4). As Mommsen adds,

> "These views, to which Brüning clung with quasi-doctrinaire rigidity, coincided with a profoundly nationalist temperament, unconcealed monarchist sympathies, and a deeply conservative philosophy of the state shaped by traditional Prussian virtues and prejudices. Just as Brüning considered the revolution of 1918-19 a misfortune that could have been avoided, so he saw the Weimar Constitution as a political form that had been forced upon Germany from abroad and that was incompatible with the traditions of the German state. Along with many opponents of the republic, he harboured a deep-seated antipathy toward the alleged arrogance of the German party system. In his view, a sound and functional administration was more important than viable parliamentary institutions." (Mommsen 1989: 294)

An authoritarian transformation of the form of governance was thus seen as imperative for waging this counterattack against the working class and its democratic allies[61].

When the global crisis initiated by the stock market crash of 1929 arrived in Germany, it caused a bank run. By May 1930 deposits had radically contracted and one year later the Austrian *Creditanstalt*, in which German capital was heavily invested, collapsed. Though it became (retrospectively) clear that this was a result of foreign capital flight (James 1999), at the time this was falsely identified as German

[60] "[…] it was expected of [Brüning] that he would reorient German politics towards the right and that he would use the crisis to pull the country out of the parliamentary and financial morass." (Feuchtwanger 1993: 221)

[61] Schieder (2011) claims that Brüning was, among most German political Catholics at the times, an admirer of Mussolini. "Reich Chancellor Brüning, himself a protagonist of the Catholic Right, also seems to have been affected by the 'Mussolini-craze' in the Catholic camp. When writing his memoirs in the 1940s, he still counted his state visit to Italy in August 1931 among 'the few pleasant recollections of these hard times'. (Schieder 2011: 45)

capital flight, causing foreign creditors to refuse assistance to Germany without assurances that measures would be taken to stop this flight. Meanwhile, the attempts to deal with the bank run seriously restricted the Reichsbank's reserves.

In July 1931 a bank holiday was called to stop the draining of banks' capital. Combined with the stress brought to the economy by Brüning' fiscal consolidation, there were renewed fears that Germany would be forced to abandon the gold standard, a self-fulfilling prophecy that took hold as soon as exchange controls were put in place (Eichengreen 1996). The eventual response to the banking crisis was to impose a strict regulatory regime (one which would be further consolidated during the Nazi dictatorship). In this context, echoing an approach similar to the one ordoliberals would later repeat, "market signals were suppressed". (James 1999: 31)

The argument has been made (see, for example, Mommsen 1989: 293ff) that Brüning's opting for deflationary policies and balanced budgets was not a consequence of the experience of hyperinflation but a consequence of his approach to the issue of the reparations[62]. But another goal can be reasonably added: a deflationary recession would not only, according to Brüning's estimates, force the Allies to drastically revise the reparations' payments, but it would also undermine and reverse working-class gains.

Brüning's government was the first during the Weimar years to consistently make use of the (constitutionally granted) presidential decrees in order to bypass parliamentary procedures and to effect what was essentially an authoritarian turn. It was with such tools that Brüning implemented his austerity measures, a development that even the SPD failed to resist, as some of its members were also leaning towards a "bracketing out" of democratic procedures[63]. Translating the experience of Weimar's administrative gridlock as caused by "mass democracy", Brüning's use of presidential decrees was even seen as "cathartic". But behind this "technocratic" approach, lay a tendency present even within the SPD that felt frustrated from the administrative gridlock failed to realize in time: the difficulty of obtaining a necessary majority in parliament also reflected the political unfeasibility of agreeing to

[62] "The deflationary policy that Brüning pursued from the very outset of his chancellorship was driven to a far greater extent by the primacy of reparations policy than by the lingering trauma of the hyperinflation. Nor was Brüning influenced by the argument to be found in contemporary economic theory that a balanced budget constituted the only way in which an economic crisis could be overcome. Brüning's own view of Germany's fiscal and economic development since 1926 had transformed him into an outspoken opponent of government programs for the creation of credit and of public works projects aimed at combating unemployment. In his opinion, the countercyclical policy that Germany had employed to get out of the stabilization crisis of 1926 was to be rejected primarily on account of its implications for Germany's reparations policy. […] For it was precisely after the adoption of the Young Plan laws, Brüning insisted, that the need was greatest for a fiscal policy that would establish "certain guarantees for the future" and make it impossible for Germany's international creditors to blame difficulties in transferring the annual reparations payments on a policy of calculated default by the German government." Mommsen 1989: 293-4

[63] "[…] even those forces that were loyal to the republican form of government began to put some distance between themselves and the existing constitutional system. Left-liberal constitutional scholars as well as Social Democratic theorists began to consider ways of limiting the sovereignty of parliament and strengthening the authority of the Reich president. The criticism of "party squabbling" *(Parteigezank)* and the charge that the Reichstag had become a clearinghouse for special economic interests met with a positive response even among certain elements of the Social Democratic working class." (Mommsen 1989: 303)

curtail wages, benefits and welfare. When "President Hindenburg invoked article 48 of the Weimar Constitution, [allowing Brüning] to govern by decree" (Weitz 2009: 122), this obstacle was surpassed. The austerity that followed, and which gave Brüning the nickname "Hunger Chancellor", was devastating. But what followed also demonstrated the way in which Brüning failed to understand what was at stake.

In the midst of the Great Depression, and after all the massive spending cuts that his government implemented, Brüning called for an election. As Weitz succinctly puts it, this was based on the "fairyland belief … that he, a sitting chancellor in the midst of a depression, would win widespread popular support."[64] His government had not only worsened the effects of the economic crisis and the global trade collapse (within one year, Germany's unemployment reached over six million), but his consistent by-passing of the parliamentary route (without meeting significant resistance) further undermined any hopes that the Weimar Republic would consolidate democratic procedures. Within a year, Adolph Hitler and his death machine *in preparatio* would be in power, pushed in government by a combination of capitalist, aristocratic and authoritarian liberal interests.[65]

The Nazi regime

Whether in its period of obscurity or its return to the mainstream, Hitler's NSDAP party had clearly exemplified who its enemies were: the communist insurgents, the SPD traitorous pacifists, parliamentary democracy, the Allies with their unbearable reparations and, behind all these, the Jews. Within the domestic sphere, the goal of ending parliamentary democracy, dependence on unions and the left-wing parties was widely shared by business interests, authoritarian liberals and conservative critics of Weimar. Dissatisfied with the terms of the post-1923 stabilization which continued to balance out labour and capital, and despite the significant economic growth that took place between 1924 and 1928, business interests and liberals were increasingly drawn to an authoritarian resolution of the class compromise, rallying behind the deflationary policies of Brüning. With an eye to the international context and the aim of easing the terms of Germany's repayment obligations, these actors were more than willing to forcefully undermine any domestic conditions that reduced their economic power.

This "pronounced distaste for parliamentary politics, high taxes, welfare spending and trade unions" (Tooze 2014: 103), alongside the overall "common ground of opposition to the Weimar

[64] "It was a political blunder of the first order, which led to the surge of the Nazi Party." Weitz 2009: 123

[65] Retrospective narratives see the final years before the *appointment* of Hitler as Chancellor as a last attempt to revive the "liberal order" which had suffered tremendously during Weimar, only to be given a final blow by the Nazis. While it already becomes clear that the concept of 'liberal order' does not refer to democratic institutions but the institution of the free market, proponents of that 'liberal order' were finding it increasingly difficult to defend a system so thoroughly associated with "laissez-faire" and the 1929 collapse. As Sally, a consistently pro-liberal/ordoliberal voice, notes, "the Depression had seemingly discredited the prevailing liberal orthodoxy, on whose cross Chancellor Brüning's government was crucified" (Sally 1996: 234). As I will discuss in the next part, driven by these circumstances, ordoliberals ended up abandoning and thoroughly critiquing the 'laissez-faire' aspects of the capitalist economy, a differentiation that led them to (initially) utilize the term 'neoliberals' to describe themselves. But this did not stop them from supporting either Brüning or subsequent authoritarian governments.

Constitution and hostility towards the parties of the left" (Ibid: 105) made business and liberal proponents susceptible to the Hitler option. Combined with Hitler's early but repeatedly pronounced adherence to a stable currency and balanced budgets, and the appointment of Schacht as Reichsbank president (and, soon after, Acting Minister of Economic Affairs), big business and a significant amount of conservative liberals became "willing partners in the destruction of political pluralism in Germany" (Ibid: 101). The promise to defend the gold value of the RM and the declaration that "future monetary policy will adhere with unchanging steadfastness to the task of maintaining the value of the Mark" (Marsh 1992: 110) only added to the attractiveness.[66] If figures such as von Papen or Hindenburg expressed any disagreements with the Nazi regime, these were confined to what they saw as its "plebeian degeneration" (Tooze 2014: 67).[67]

It was within this context that Marcuse would argue that the National Socialist regime essentially "restored to power those forces and interests which had been threatened or even frustrated by the Weimar republic". In Marcuse's view, "the army [had] again become a state within the state, the authority of the entrepreneur within the enterprise [had] been freed from numerous limitations, and the working class [was] brought under totalitarian control." (Marcuse 1942: 69). And it was because of this that many opponents of Weimar found themselves attracted to Nazism as a kind of *deus ex machina* that came to complete the counter-offensive against the parliamentary gridlock and the destabilizing influence of organized working-class interests on the economy.

There were, however, limits. For if in the domestic level an authoritarian resolution of class antagonism and pluralist political representation was favoured, the international outlook of both business and liberals remained at odds with the increasingly obvious direction of Hitler's economic plans. There, instead of free capital movements, multilateralism in trade and policies that could enhance Germany's export industry, the clouds of protectionism, autarky and hostility towards key trading partners were quickly apparent. If Brüning (and to a certain extent Papen and Schleicher) had tried to reconcile the differences of the domestic and international outlook, Hitler's and Schacht's policies abroad moved in the opposite direction.

As Tooze (2014) notes, Schacht's embrace of Nazism was driven more by the international agenda than domestic policy. Convinced of his ability to be creative with monetary policy, Schacht's characterisation as a "wizard" owes more to his various monetary plans geared towards Germany's rearmament and nationalist expansion than to his *post facto* portrayal as an adherent to balanced budgets and currency stabilization.

The rapid expansion of government intervention in the economy and the massive stimulus towards military expansion (and less so work creation schemes – see Tooze 2014, pp. 40-42) could not have taken place without Reichsbank or, for that matter, business support. It is worth remembering, for

[66] The tolerance of the Nazis towards cartelization was, of course, a point of divergence with ordoliberals, though big business had no issue with cartels.
[67] For a similar liberal support of authoritarian or fascist austerity, see Mattei 2022.

example, that Schacht's infamous "Mefo bills" which financed Germany's extraordinary re-armament could not have functioned without the backing of the creditworthiness of industrial giants like Siemens, Krupp and the *Vereinigte Stahlwerke*.[68] Geared towards the rearmament process and with clear signs that an expansionary war was in the works, it became clear that "the expansion of the state-directed economy was not just an attempt at pump-priming a depressed market economy, but that it was developing a logic and dynamic on its own." (James 1999: 37). In this context, when examining Schacht's trajectory, from his early moves to bring business under the wing of the Nazis[69] all the way to his full commitment to strengthening the Nazi war machine, it remains somewhat surprising that Schacht survived the postwar denazification essentially unscathed.[70]

In any case, and however imaginative, the Mefo bills' scheme could not eradicate creeping inflation which, by 1936, had become a serious issue. To keep it under tabs, what would later be described (by ordoliberals among others) as an artificial measure but which was nonetheless an attempt at a directly *political* intervention to control economic consequences, strict price and wage controls were put in place, forcefully freezing wage and price levels. As Hitler would boast, "I had to show Schacht that the first cause of stability of our currency is the concentration camp: the currency stays stable, when anyone who asks higher prices is arrested." (James 1999: 35).

As the Nazi total grip over state institutions was deepened in the next few years, Schacht and the Reichsbank played along, extending their full support of the Nazi regime through the direct participation in the expropriation of Jewish property (James 2001). But the contradictions were mounting.

By 1936, and with Germany's balance of payments deteriorating, an expert report by former Reich price commissioner Carl Goerdeler (later leading figure in the conservative opposition to Hitler and co-conspirator in his assassination attempt of 1944) criticised Schacht's policies. Goerdeler's frank report on the dismal state of Germany's economic situation came with a suggestion of diplomatic rapprochement with Britain and America, urging a "German return to the world economy [that] would herald the beginning of a new era of international cooperation" (Tooze 2014: 216). For this to be achieved, a devaluation of the RM had become inevitable, accompanied by fiscal consolidation *a-la*

[68] Devised in 1934, armament contractors were paid in IOUs issued in the name of the front company Mefo GmbH. This shadowy company, Tooze (2014: 54) "was formed with a capital of 1 million Reichsmarks, provided by the Vereinigte Stahlwerke, Krupp, Siemens, Deutsche Industrie Werke and Gutehoffnungsguette (GHH)".

[69] In 1932, Schacht and Wilhelm Keppler, Hitler's link to pro-Nazi businessmen, handed a petition of business signatories to Reich President Hindenburg demanding the appointment of Hitler as Chancellor. Kershaw 2002: 243

[70] Schacht was, of course, not the only one to escape denazification (see next Chapter). But his role in the Nazi regime continued to be whitewashed by key officials well into the postwar period. In 1952, when Schacht applied for a license to open a private bank, his request was denied by the Hamburg state senate, which utilized the Mefo bills affair to justify its rejection. Testifying in his defence, Bundesbank president Wilhelm Vocke shielded Schacht and the Mefo bills scheme by declaring: "We had six million unemployed and were faced with the necessity of expanding the money supply for the purposes of job creation […] Any central bank facing a similar scenario would not just sit there with hands in its lap." 'Vocke: Mefo-Wechsel zuläßig', Frankfurter Allgemeine Zeitung, 22 Nov. 1952 quoted in Mee 2019: 160. The fact that Schacht's elaborate monetary schemes were directed towards re-armament and *not* work creation schemes seems to have escaped the Bundesbank president.

Brüning. Such proposals were, clearly, moving in the opposite direction of Schacht's aggressiveness and refusal of devaluation.[71]

Schacht had, however, also changed his tunes. Focused more comprehensively on exchange and trade controls (i.e. the international outlook of the German economy), he had become increasingly intolerant of the strain caused by the rearmament funding extravaganza. By 1937, his insistence on promoting German exports *at the expense of rearmament* made him, as much as Goerdeler, open to Goering's manipulations and attacks. In the end, Hitler's decision to ignore the "defeatist" arguments of "bourgeois economists" and to prepare the German economy for war stopped any further discussion. Though Schacht's resignation in 1937 was not accepted by Hitler, his ability to influence economic policy was radically diminished with Goering taking the lead.

In 1938, in a last attempt to restore some fiscal discipline, Schacht agreed with Finance Minister to stop issuing Mefo bills, forcing a reliance on conventional funding methods such as taxes. Goering stepped in, however, declaring that army financing "was a question of political leadership" (in Tooze 2014: 253) and side-stepped the ending of Mefo bill issuing by utilising short-term Treasury bills. Schacht tried to counteract by organising a meeting with Wehrmacht officials and economics professors that would decrease the rearmament frenzy. In autumn of 1938, the Reichsbank produced an internal memorandum in which the dire economic situation of Germany was outlined. Warning against the inflationary effects of continued monetary expansion, the memo advised for a "smooth landing" from a war to a peacetime economy. Any illusions that Schacht might have had about the ability to convince Hitler to change course were immediately shattered. Rather than restrain, the response was a further acceleration of the armament race with Germany, now well poised for a war in both Western and Eastern fronts. Responding to these indications, the Reichsbank produced another memorandum, in January 1939, delivered directly to Hitler's hands by Schacht. Emphasizing that the Fuhrer himself had always "rejected inflation as stupid and senseless", the letter stressed that "Reichsbank gold and foreign exchange reserves were 'no longer available'", that the trade deficit was "rising sharply" and that "price and wage controls were no longer working effectively". With the volume of notes in circulation accelerating, state finances were bluntly described as "close to collapse". (Marsh 1992: 119; Mee 2019). A few days later, all members of the Reichsbank who had signed this letter were fired, their views described as 'mutiny'.[72] Schacht's advice was swiftly ignored and he was replaced by Walther Funk. Nazi Germany morphed, surely and steadily, into what many had already warned it would become from its very beginning: a brutal dictatorship that would govern through terror, military expansion and unspeakable inhumanity.

[71] Goerdeler's report also included a proposal for concessions on the "Jewish question, freemasonry question, question of the rule of law, Church question". MA VJP 700 1/2, 82, Goerdeler to Staatsrat Neumann, 2 September 1936, 12 in Tooze 2014: 716

[72] The 1939 Reichsbank memorandum would play a crucial role as a postwar foundational myth of the Bundesbank's independence (Mee 2019).

The birth of ordoliberalism

It is a central thesis of this research that the fundamental characteristics of the ordoliberal project, the foundational ordoliberal *framework*, were laid out in the exact historical period described in the previous sections and as a response to the events that have been highlighted. But this was not, of course, an automatic or pre-determined outcome. Initial attitudes towards the Weimar Republic by what would become key proponents of ordoliberalism were much more diverse than the confident rejection that can be detected in later years. This makes a brief account of their personal trajectories useful in understanding the ordoliberal framework.

Ordoliberals in Weimar

In the early years of the Weimar Republic, Wilhelm Röpke would participate in an armed students' militia that was set up with the aim of defending the Republic from both left and right insurgencies (Röpke 1946: 68-69),[73] an event that coincides with Röpke's adoption of "mildly socialist views" (Gregg 2010: 43) after his experiences in the first world war.[74] Translating the war as a consequence of a crisis "of the larger relationship between countries" and adopting an outlook geared towards the sphere of international relations ("in other words: free trade", Röpke 1959: 229), Röpke nonetheless abandoned any socialist tendencies after engaging with the "socialist calculation debate" and, especially, Ludwig von Mise's work (Callison 2022). Eventually convinced that "there is only one socialism, the national" (Röpke 1959: 229), he concluded that his double rejection of (laissez-faire) capitalism and (national) socialism actually "amount to a positive" (Ibid: 231), i.e., liberalism. Joining forces with Rüstow and Eucken from the mid-1920s, Röpke would develop into a central figure of the ordoliberal project.

[73] Johnson (1989: 42) provides an account of this episode: "In 1920, during the so-called Communist insurrection in Thuringia, numerous Marburg students - Röpke among them – armed themselves and set out to help suppress it. In fact there was no real fighting, but Röpke and others discovered to their horror that some students [*sic*] had killed fifteen innocent workers". Though there is a direct reference to Röpke's text, it appears that Johnson omits (for ideological reasons, perhaps) certain key elements that are pertinent in understanding Röpke's view. To start with, his militia was formed by "Democratic, Socialist, and Catholic students, together with leading professors of theology (Martin Rade, Rudolf Otto, Heinrich Hermelinck) *to grapple with the menace arising from the reactionary students' associations*" (Röpke 1946: 68; my emphasis), not to suppress a communist uprising. Secondly, and following from this, their armament was an act of *defence of the Weimar Republic* against the fascist Kapp Putsch. Thirdly, it was only after boarding a train to Kassel, *provided to them by striking workers,* that Röpke and his comrades were informed of the supposed "communist uprising" by a General of the Reichswehr whose reactionary outlook was, Röpke describes, "typical of the attitude of army circles". Loyal to the Weimar Republic, the student/professor militia offered to assist in the fight against what the General described as "Red hordes […] marching through the country, murdering and setting fire to everything", only to discover that not only where the communists "perfectly orderly" but that in fact what had happened was that "on the previous day the reactionary corps of students, under an ex-naval officer who belonged to a Prussian Junker family, had kidnapped fifteen workmen from a neighbouring village and murdered them while under transport— "shot while attempting to escape," as the cynical formula already ran".

[74] "If I was typical of those who went through the War in my wish to make that it should not happen again, I think was also typical in the analysis I made of it. We who were under a common obligation to kill one another had a great deal more in common too, and, since all of us on either side were roughly trained along the same lines, our revulsion with war brought us pretty much to a single conclusion. Our personal experience told us that a society capable of such monstrous depravity must be thoroughly rotten. We had been educated just enough to call this society "capitalism". Dumping everything into this concept that seemed to us rightly damnable, we became socialists." Röpke 1959: 229

Alexander Rüstow was also an early supporter of the Weimar Republic who, like Röpke, "returned from World War I a convinced socialist" (Gregg 2010: 37).[75] Employed from 1919 in the Economics Ministry and dealing with questions of planning and nationalization (Gregg 2010: 37; Commun 2016: 25), Rüstow played nonetheless an important role in the first German law against cartels (*Kartelverordnung*) in November 1923. Disillusioned by his inability to effectively influence policy, Rüstow would leave the Ministry in 1924 "in order to become chief of personnel of the Confederation of German Machine Manufacturers (*Verein deutscher Maschinenbananstalten*-VDMA); the same year saw him speak, still in a somewhat socialist vein, at the conference of the *Verein für Sozialpolitik*".[76] According to Johnson, by 1926 Rüstow's speeches at the *Verein* would move further and further away from his early "ethical socialism […] urging Germany to seize the opportunity to participate in the world boom, regardless of reparations, through a liberal trade policy." (Johnson 1989: 43).

By 1932 Rüstow's ordoliberal views were fully formed and he would proclaim himself a "rabid liberal" (*rabiater Liberaler*). Speaking at the *Verein*, he put forward the argument that the main causes of the crisis in Germany lay "far beyond the realm of economic policy conditions and economic policy insights", but should instead be primarily seen as "a question of will formation [*Willensbildung*],[77] of political and state policy issues." (Rüstow 1932: 62; here and henceforth my translation). Presenting the two alternatives of interventionism and laissez-faire and their contradictions, Rüstow developed his version of the "third way" in between these inadequate responses. To those who believed that laissez-faire was a preferable solution as equilibrium would be reached "naturally", Rüstow proclaimed that should such an equilibrium be at all possible, it would be preferable to "bring about this state of affairs immediately and only to shorten to zero, so to speak, the interim period that would otherwise elapse until the new, intrinsically sustainable state of affairs is reached, this period of hopeless struggle, decline and misery." (Ibid, 64). "This", he asserts, would not be an intervention "against the laws of the market, but in the direction of the laws of the market". (Ibid).

Similarly, against those who would advise the continuation of the type of state interventionism already existing, Rüstow warned against assuming that they are speaking of the same kind of

[75] As Rüstow wrote: "No one aware of the basic military facts – including those who, like this author, were themselves assigned to the Marne sector in 1918 – will credit the propagandistic slogan that German imperial troops were undefeated in the field, or the infamous legend later spread by German nationalists that the collapse of 1918 had been due to a 'stab in the back'- that is, rebellion at home. Revolutionary sentiment first spread when the military situation had already become desperate; it was not a cause but a consequence of the sensational strategic defeat. That the collapse, long overdue, of the Wilhelminian regime was not greeted as liberation by the majority of the German people was an ominous indication of the same "militant servility" that fourteen years later made possible the seizure of power by national socialism." Rüstow 1981 [1950]: 613.

[76] Johnson 1989: 40. The *Verein für Sozialpolitik* was created in 1873, shortly after the birth of the German nation. Its founders were economists who represented the German 'historical school', with the expressed aim of providing vocational training of public and government officials in the direction of social reforms. During the Weimar Republic the *Verein* moved closer to ordoliberal ideas, with many Ordoliberals and fellow travellers (such as Eucken, Rüstow, Röpke, Von Mises and Hayek) taking an active part in the organization. It was dissolved by the Nazis in 1936 and was re-instated (after an initiative by Rüstow) in 1948.

[77] The concept of *Willensbildung* (will formation) would be a recurring one in the writings of many ordoliberals of the time. Eucken, for example, would utilize the concept to describe how the transformation of the liberal state into an "economic state", i.e. the collapse of the distinction between state and economy, "undermines its *Willensbildung* on which its existence is based" (Eucken 1932: 307, *my translation*].

intervention. Most importantly, he argued, the type of interventions he called for were not just different in their details but presupposed "a completely different state than the one that has been customary up to now" (ibid: 66). A state that had not fallen "prey" to competing interests ("der Staat als Beute"), as Carl Schmitt described it, but a *strong state*.

Such positions led both Rüstow and Röpke towards a certain affinity with the conservative governments of either Brüning or that of von Papen, both governments crucially responsible for making the first steps for the abolition of parliamentary democracy and the rise of the Nazis. Despite von Papen's later disagreements with (and persecution by) the Nazis, his was an authoritarian government by decree, whose main support came from business interests. Von Papen's policies were, naturally, geared towards handing them benefits. While it is true that ordoliberals would retrospectively criticize aspects of both Brüning and von Papen, the perspective of the critique is important to add.

In his 1936 *Crisis and Cycles,* for example, Röpke criticized Von Papen's policy of providing tax credits and investment incentives to entrepreneurs, evaluating this legislation as "rather complicated". In his view, it would have had "much greater [success] if the government had had the courage to abolish the taxes in question […] In this case a prompt expansion of credit would have been ensured, regardless of the uncertain behaviour of the entrepreneurs." (Röpke 1936: 201).[78]

Similarly, writing in 1948 on his role in the Brauns Commission, Röpke would argue that "we realised that we had to deal with an emergency with which it would no longer be possible to cope on the familiar orthodox lines of the accepted business-cycle policy and that an 'active business cycle policy' would have to be embarked upon." Nonetheless, while admitting that liberal circles "in different countries were unanimous that the marasmus must be overcome through the shock of public investment", he ended his argumentation by admitting that such a policy was "godfather to Roosevelt's 'New Deal', as well as for the employment measures that begun under von Papen's government and drastically continued by National Socialism." (Röpke 1948: 207) Thus, while supporting a certain level of government intervention, there was clear opposition to the use of such an instrument in the direction of employment schemes. In other words, in both cases, the main criticisms levelled against Brüning and von Papen were focused on the disagreements over economic policy – not its authoritarian use of the state mechanism.

Similarly, Eucken was equally critical and dismissive of the job creation proposals, concluding that the employment expansionary policies of Papen's (and Schleicher's) governments led the way towards the planned economy of the Nazi regime.

> In 1932–3 the full-employment policy began with public works, expansion of credit, a cheap money policy, and a pegging of the exchange rate. As this policy threatened to bring

[78] Writing after the war, Röpke would claim: "what happened in Germany was simply that such men as the execrable von Papen and his backers, who can never do adequate penance for their stupidity and perversity, opened up the sewers of the German community, a process which some of them, by unpardonable stupidity, even mistook for the freshwater supply." Röpke 1946: 60. Such disavowal after the fact, however, does not eradicate both Röpke's and Rüstow's contemporaneous support for von Papen's authoritarian solution.

> a sharp rise in prices, a general price-freeze was ordered in 1936…. Prices ceased to give expression to the scarcity of goods and services on the markets. This state of affairs gave rise to the creation of a central administrative apparatus to direct the economy. (Eucken 1948, p. 79)

Being the older of the group and coming from a background of strict Lutheran, anti-socialist and Husserlian upbringing, Eucken was perhaps also the one closer to liberal positions from the very beginning compared to most ordoliberals. Employed as an assistant to his supervisor in Berlin, Eucken would also be employed, between 1920 and 1924, for an association of the textile industry, the *Fachgruppe Textilindustrie*. In 1925, Eucken was offered a full professorship at the University of Tübingen, a position he would hold until moving, in 1927, to the University of Freiburg as Economic professor. But already by 1922 a deep disillusionment over the situation in Germany had set in.

Rejecting the predominant Historical School approach that emphasized *contingency* as the underlying character of social, economic and political developments, Eucken was from early on concerned with conceptualizing "the meaningful bringing together of diversity to a whole" (Gregg 2010: 30), an approach initially developed by medieval Christian scholastic thought also known as "ordo".

Appalled by the 1923 hyperinflation, Eucken would engage thoroughly with monetary policy issues and examine the problem of German inflation through a critique of Reichsbank's policies (Rahtz 2017: 45-48). Rejecting the 'balance of payments' theory, Eucken focused instead on the money supply, low interest rates and budget deficits as responsible for inflation (and, eventually, hyper-inflation). In searching for a remedy, Eucken put forward the necessity of raising interest rates and balancing the budget, a direction that could be achieved by returning to the gold standard. Introducing debates that had so far being confined inside the *Verein*, Eucken (and other ordoliberals) expressed their fundamental disagreement with the dominant view of the Historical School (represented in this case by Georg Friedrich Knapp), which saw money as lacking a 'particular economic reality' (Commun 2016: 34), seeing it instead as the 'creation of a juridical order'. It was, in Eucken's view, such a mistaken approach that had led Reichsbank President Havenstein (and Banking School follower) to place money at the disposal of the political authorities. Putting all emphasis on preserving the gold reserves of Germany, the Reichsbank had "refused to commit its own gold reserves to support a programme of stabilization" (Nicholls 1994: 23), opting for a process of money printing disconnected from its gold parity.

Led by such a perspective, Weimar financial and state authorities saw no discernible connection between money-printing and inflation. Rather, the dominant narrative looked at trade balances and projected the reparation payments as the fundamental source of economic imbalance. For ordoliberals this was unacceptable. At a conference of the *Verein für Sozialpolitik* in Stuttgart in 1924, where the topic of inflation was discussed, Walter Eucken (joined by von Mises) "spoke against the fashionable balance-of-payments explanation and stressed the importance of domestic control over credit and the money supply.” (Nicholls 1994: 34). This exchange indicated that ordoliberals not only rejected the dominant narrative about economic decline but also presented what they saw as its solution: controlling the domestic supply of money to correspond to actual production. What is interesting to note, however, is that by introducing monetary growth control, ordoliberals were not only aiming at halting inflation. They were also suggesting a way to undermine the *political* reasons behind inflation, i.e., the decision of the SPD/Zentrum government to implement pro-working-class measures in order to avoid further radicalization. That a sharp contraction of the monetary supply and of credit would lead to deflation and mass unemployment was seen as necessary to restore price and monetary stability. As Eucken would later explain, currency policy was a key constitutive principle and a necessary path for establishing the primacy of price stability.[79]

Moreover, Eucken admitted that the decision to return to the gold standard could only be achieved “*wenn der Staat mit starker Hand die Papiergeldmenge beschränkt*” (“when the State reduces the money supply with a strong hand”; Eucken 1923: 80, my translation). This vision of a strong state was, at the time, unequivocally tied to a critique of mass democracy. For the capacity of the state to act in this way was undermined by democracy itself. As he wrote at the time,

> In Germany the state does not have that power. In the first instance, the enormous expense of the peace treaty and the Ruhr invasion forced it to increase the money supply. But despite this predicament, the German Reich would have had to reduce its deficit by restricting internal spending and through clever tax and borrowing policies. It nevertheless succumbed to the temptation to cover its deficit by creating new money. Interested parties also succeeded in forcing a lower interest rate and thus private inflation, citing the needs of commerce. Even considering the plight of the Reich, enduring strong external pressure, it must be acknowledged that this degree of money creation was not necessary. There is only one way to prevent the abuse of money creation: as soon as external commitments allow, the state must use all its power to determine the quantity of money. This goal can only be achieved through the introduction of the gold standard. (Ibid: 80, my translation).

As Becher (2021: 75) explained, “according to Eucken, Imperial Germany (1871–1918) had been characterized by the strict separation of the economy/society and the state, which formed the bedrock for capitalism to prosper. In the course of the formation of the Weimar Republic (1919–1933), however, this strict separation was weakened, which led to the “emergence of the economic state” (Eucken 1932: 302). Through the democratisation of the world, Eucken argued, “the peoples and their passions, the interest groups and chaotic forces of the masses gained decisive influence on foreign policy […] As the internal structure of the states primarily under the pressure of masses, and so the present economic state was created” (Eucken 1932: 311-312, my translation)

[79] Closely associated with the teachings of the Currency School, Eucken had already criticized the Reichsbank’s monetary policy and its complicity in the 1923 hyperinflation. A similar position of rejecting the influence of the Banking School was echoed by early Chicago School Henry Simmons, who also attacked the Federal Reserve for deepening the Depression after 1929 (Dyson 2021: 84).

Alongside Franz Böhm, a postdoctoral student of Law in Freiburg who was also employed in the Ministry of Economic in the department dealing with cartels, Eucken would further develop his critique of the pluralist and 'torn' Weimar state as well as his analysis of the central ordoliberal concern around coercive "private power", denoting as much cartels and monopolies, as it did trade unions. At the same time, "Eucken focused upon the study of economic systems in concrete historical situations, but underscored that he thought there was an order of things that transcended immediate historical circumstances" (Gregg 2010: 30). This transcendence was expressed with the concept of *ordo* which was, at the time, taking the form of the necessity of the rule of law or a constitutional order that would allow the state to be strong enough to refrain from *both* directly intervening in the market *and* disallowing particular, private interests to overtake it.

Most ordoliberals joined the *Verein für Sozialpolitik* and by 1924 they united in the aim of transforming the organization from within, bringing it closer to ordoliberal ideas and away from the influence of the German 'historical school' and its preference for 'social reformism' which they started to identify as one of the key defects of the Weimar Republic[80]. Alongside, ordoliberals would also share the conservative belief of a loss of a moral compass and would remain highly critical of the social welfare policies that developed in that time. Given that the Weimar Republic existed within the historical space of a wider process of (late) industrialisation, many ordoliberals would equally adopt the conservative chorus which "[…] hated the speed and impersonality of urban life and rejected as alien the new shapes and forms in the built environment, loathed and feared working-class politics, and looked beyond the growing social and economic centrality of the city to the central state as the proper caretaker and administrator of the German nation." (McElligott 2009: 19)

Ordoliberals and the 1929 Depression

> "There is something profoundly artificial in the entire value system underpinning our lives. Not solely in political economy, where the stresses are visible and the evil easy to locate. Financial instability is the most obvious, though not the most acute, crisis of the old world. There are breakdowns that are even more serious, and even sadder agonies. We will understand nothing about the economic crisis we are studying if we get bogged down in technical details. These are secondary. Absolutely secondary. It's not a financial system that is collapsing today, but a historical system. A structure is being razed, not a handful of forms, facts and details. A crisis of concepts of value in economics and finance is not an isolated fact, as it partakes of a general crisis on all levels of modern life. We live with too many abstractions, too many illusions. We've lost the ground beneath our feet. It's not only the gold standard that has been lost, but any fixed relationship between our symbols and ourselves. There's a gulf between man and his context. These expressions that you see have become dehumanized. Or, perhaps more accurately, they have become inhuman."
>
> Mihail Sebastian, *For Two Thousand Years*

[80] The German 'historical school', led by thinkers such as Gustav Schmoller, was heavily influenced by the successive economic crises of the end of the 19th century. In that period, the 'historical school' was torn between those who adopted the Schumpeterian line that crises were an indication of an inevitable evolution of capitalism towards socialism, and those (such as Schmoller or Adolf Wagner) who thought that the infusion of moral ideas and social reforms could prevent such an outcome. For more, see Commun (2016), pp. 21-24

If ordoliberals were positively predisposed towards an authoritarian supersession of Weimar's democracy, this should not be confused with an ordoliberal agreement with the nationalist surge that was becoming increasingly hegemonic at the time, even amongst liberals (Nicholls 1994: 26). Rather than seeing the economic problems of the Weimar Republic through the distorting lens of nationalism and blaming the Versailles' 'national humiliation' and reparations for the economic decline, ordoliberals insisted that it was the distortion of the market mechanism at a domestic *and* international level that lay at the root of all economic problems. Unequivocally in favour of a world market, ordoliberals understood that any nationalist anatomy of the crisis would by definition bolster tendencies of protectionism, tariffs and other such measures of trade disruption. For this reason, their confessed preference for an authoritarian solution to the problems caused by Weimar pluralism has to be qualified: it was not a strong state *per se* that ordoliberals supported, but one that was specifically geared towards facilitating the global market economy (Slobodian 2018).

This approach allows one to situate ordoliberals among other members of the bourgeois class, whose numerous disagreements to Weimar and the endorsement of an authoritarian solution never translated into supporting various nationalist plans or military coups, especially ones led by what they saw as "renegade" and nationalist members of the military apparatus[81]. This distance did not only express their fear that foreign trade and capital inflows would be negatively impacted by such a militarization; it also resulted from another ordoliberal reading which translated many of the economic problems as resulting from a regrettable *politicization* of economic processes, a characteristics of both the social-democratic *and* the nationalist orders.

Writing about the world crisis in 1933, Röpke lamented the tendency to bury "the results of 150 years of economic thought" under the rubble of the crisis and urged his readers to resist the lures of autarky and economic planning (Röpke 1933: 46). He also criticised the visible tendency to revive mercantilist explanations of the crisis, for which "concern with the balance of trade and payments has to be the alpha and omega of economic policy". Proudly displaying his conservative elitist views against any "mass opinion and mass sentiments", and adding that "nothing spells greater danger to our entire social system than the 'revolt of the masses' (Ortega y Gasset) emancipating themselves from the leadership of an intellectual elite" (Ibid: 75), Röpke sought to engage with positions "acceptable to the intellect". Admitting that "'liberalism' has never had any appeal for the masses", he nonetheless concluded that any notion that the crisis represented a (final) crisis of capitalism was a "neurotic flight of imagination" (Ibid: 56).

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[81] Another member of that bourgeois constituency, Carl Melchior (banker, vice-president of the Bank of International Settlements and representative of Germany in the Finance Committee of the League of Nations) made a similar assessment, pointing at how a militaristic solution would jeopardize the already strained relations with foreign countries and Germany's access to much needed foreign funds: "Any overthrow of the democratic system, any move to an absolutist, dictatorial form of government, whether through a communist revolution or a reactionary restoration, would greatly reduce the possibilities of reaching an understanding with those nations which are currently dominant." (quoted in Ferguson 1995: 259)

Insisting that “nothing has happened to make the system of equilibrium theory irrelevant or even needful of revision”, as well as that “the present crisis with all its severity […] caused by some inner defect of the capitalist system as such (Ibid: 73), the only notion that Röpke found intellectually interesting was the acknowledgment that “the world crisis cannot simply be regarded as the slump of a normal business cycle.” Rather, “the present world crisis has ceased to be a mere cyclical phase and has increasingly assumed the character of structural change, or perhaps better, of a whole set of structural changes. (Ibid: 51). After criticising various views that circulated at the time about the crisis, Röpke made his own proposal: “the catastrophe that overtook the world economy came […] from the disruption of the network of international short-term credit.” (Ibid: 68). More specifically, “what caused the crisis was a cyclical reaction to the preceding phase of credit expansion and overinvestment”, which occurred at a time of a severe agricultural crisis, excessive government intervention and monopoly formation, an unjustified credit expansion, a global liquidity crisis and, eventually, the transformation of the original crisis into “a process of ‘self-deflation’” which constitutes a “secondary, cumulative decline” (Ibid: 72).

Already from 1931 at a conference of the Friedrich List Gesellschaft (Borchardt and Schotz 1991; Grudev 2018), Röpke had explained in detail what this first text meant. Though starting with a typical business cycle theory, according to which periods of economic boom are often followed by moments of re-adjustment and ‘cleansing’, Röpke proposed that there are exceptional cases when the process of readjustment (which he called “primary depression”) fails to correct imbalances and degenerates into a “secondary depression”, under which readjustment cannot take place and which, therefore, requires exceptional measures.

Having become famous as a business cycle economist, Röpke had already written extensively on cycles, booms and busts. His overall trajectory on the topic, alongside his emphasis on the secondary depression and the necessary interventions that would bring its end, could be seen as a move from more Austrian School explanations (focusing on the natural and money interest rates, Röpke 1925; 1929) towards a more Keynesian (*Tract of Monetary Reform*) period, where emphasis is placed on savings and investments, reaching a position that sought to move beyond both approaches – towards what some (Grudev 2018: 138) have suggested was a position developed at the time by Haberler.

In any case, Röpke’s view was that the phase of the secondary depression was characterized by a complete disequilibrium between the savings and investment rates, something he tried to demonstrate by making use of Keynes’ ‘liquidity preference’ principle. According to Röpke (1936a) this gridlock could only be overcome by either reducing savings to the investment rate, or increasing investments to reach the savings rate. Sensitive to the political implications of a sharp reduction of the savings rate (a euphemism for a drastic collapse of purchasing power), and the immediate danger of revolution that this entailed,[82] government intervention was pertinent. Likewise, given that corporate and individual behavior during such a secondary depression is volatile, government intervention could increase the investment rate was through a beneficial credit expansion and a restoration of the very incentive to invest, i.e., restoring higher returns on capital. It is within this understanding that Röpke (and other ordoliberals) promoted the significant reduction of wages and social payments, as we saw in his engagement with the Brauns Commission.

Having concluded on the necessity of state intervention, Röpke was eager to show that the type of state intervention he was talking about was not some form of state planning or a socialist experiment, like the ones he identified as taking place during the Weimar Republic.[83] In the ordoliberal view, "the economic system is merely part of the whole social system, and […] one cannot make experiments with the social system without destroying the roots of the economic system." (Röpke 1933 [1969]: 74).

As asserted, the ordoliberal vision was international from its early steps. From this perspective, it is also worth elaborating on the wider international requirements for overcoming the crisis that ordoliberals put forward, beyond the recognition of the need for domestic state intervention. In this respect, and as Slobodian (2018) outlines, one of the key challenges to which ordoliberals (and fellow neoliberals) felt the need to respond to at the time was concerned how the dissolution of the world market following the 1929 crash and the Great depression affected overall global capitalist relations.[84]

In this context, the disintegration of the world market and the subsequent abandonment of the gold standard (for Germany officially in 1931), convinced ordoliberals that, in the absence of an external constraint, the stage was set for inflationary policies. In the ordoliberal approach, then,

> [the] end of the gold standard meant that one could no longer assume that today's investment, even denominated in the storied world currency of the pound, would be worth the same amount in gold tomorrow. In the minds of liberals, this was an attack on not just the sanctity of money but the sanctity of contract. One German liberal claimed that this act, more than any other, had "broken the economic unity of the world". (Slobodian 2018: 55)

This transformation of the essential features of the global economic order had not only broken down world market relations, but it had also allowed for the emergence of "national solutions" that were tantamount to the destruction of the goals of currency and price stability. As Röpke had claimed, "In the course of the centuries, no wager has been more of a certainty than that a piece of gold, inaccessible

[82] Röpke described this quite graphically in his *Crisis and Cycles* (1936: 129): "…several thousands more having recourse to the gas-hose, several hundreds more being killed in civil warfare, and (consequent on the general destitution and exasperation) with the hysteria of the masses and their leaders increasing to such a degree as to shake State and society to their foundations".

[83] The details of the ordoliberal form of intervention, coined *liberal interventionism* by its friends and *ordo-interventionism* by von Mises. are discussed in the *Liberal Interventionism* section below.

[84] In another sense, the Great Depression had also motivated ordoliberals to start conceptualizing their visions at a global, rather than national, level. As von Mises put it in a meeting of the ICC in 1931, "The development of the world crisis has clearly demonstrated the economic and financial interdependence of all nations", von Mises, "Urge World Effort to End Depression," *New York Times,* July 31, 1931, quoted in Slobodian 2018: pp. 87-88)

to the inflationary policies of governments, would keep its purchasing power better than a bank note." (Röpke 1957b: 195) But there was another development that also heavily influenced the ordoliberal framework.

It is crucial to remember that the Great Depression unfolded after a period when the belief that the economic world could be properly measured and statistically defined was getting stronger, convinced that this calculating methodology could curb the turbulences of the business cycles. However, the possibilities that were born out of the attempt to connect the dots of the endless influx of information, statistical bulletins and papers into a global survey of the economy, which ordoliberals themselves had also promoted, had eventually inspired a series of thinkers whose conclusions and visions were diametrically opposed to the ordoliberal positions of the time. The newly expanded knowledge of the economic world had, in effect, given a significant boost to the necessity of central planning.

This positive view on the gold standard was one more indication that ordoliberals were willing to break with a part of German history and adapt to the modern situation. The Bismarkian era of rapid industrialization of the late 19th century was not a story of linear success. In its efforts to quickly adapt to a new situation, Germany underwent a series of booms and busts, expansion and recession. Faced with an underdeveloped and (comparatively small) domestic capital market, German expansion was heavily dependent on a steady stream of bank credits. In this context, attachment to the gold standard, which effectively meant "dependence on the British bullion market" (Marsh 2009: 27), presupposed that each time the Bank of England raised interest rates to stave off capital outflow, Germany would be forced to follow suit, undermining the capacity of bank credit and, therefore, new investment for economic expansion.

Ordoliberals and the Nazi regime

If the pluralist democracy of Weimar Republic was responsible for the development of ordoliberal authoritarian tendencies exemplified in the concept of the strong state, the 1929 crash and depression can be seen as furthering their already strong aversion against laissez-faire capitalism. The establishment of the Nazi regime however would, at least initially, put this "third way" dialectic to a test: as I will show, there is good reason to believe that those same ordoliberal authoritarian tendencies allowed many to be tolerant (if not fully supportive) of Nazi political repression; at the same time, however, Nazi endorsement of state planning and implementation of full control of the economy contradicted the ordoliberal embrace of the free market economy, alienating them from the regime. This much would hardly be controversial. Yet, considering that a key foundational myth of the postwar ordoliberal trajectory rests on their portrayal as "anti-Nazis", it is pertinent to take a closer look at their trajectory through Nazi land.

The relationship between Nazism and ordoliberals is far from straight-forward. Part of the literature (uncoincidentally, sympathetic to ordoliberalism) has presented the intellectual tradition itself as emerging in response or as a reaction, to Nazism (e.g. Peacock & Willdgerodt 1989; Rieter and Schmolz 1993). Kolev has argued that, though officially participating in the Nazi regime, ordoliberals (such as Eucken and his colleagues) "developed a liberal answer to the challenges of Nazi economics and its foreseeable aftermath […] in manifold underground circles" (Kolev 2010: 3), a position similar to Sally (1996: 233) who has claimed that ordoliberalism was secretly 'nurtured' by both 'internal exiles' and those who left Germany. Others have claimed that it was the "trauma of Nazism" that urged ordoliberals to conceptualize the move from a strong state to a "constitutional order" (Young & Berghahn 2012). Critics of ordoliberalism, however, question this narrative. Keith Tribe has made the argument that the essence of the ordoliberal rejection of Nazism had a religious base and was not indicative of disagreement on all other issues (Tribe 2014), whereas Ptak contends that key ordoliberal concepts and analytical tools (such as the strong state) were "prefigured by the experience of the Weimar Republic and the Nazi period" (Ptak 2009). Bonefeld (2013b) on the other hand has emphasized Weimar as a main constituent. "Not Nazism, but the crisis of the Weimar Republic, 1919 to 1933, is the founding experience of the ordoliberal idea of the strong state as the political form of free economy." (Bonefeld 2013b: 779)

Similar to the initially different individual responses to Weimar that I have described, there are observable differences in relation to the Nazi regime. Röpke was clearly the most critical, choosing to leave the country in protest in 1933, settling first in Istanbul and then Switzerland, a highly dignified stance especially considering that in "in the early months of the new regime, Hitler's grip on power was not yet complete [with] Hitler and Goering still struggling to assert themselves against the nationalist conservatives led by Hugenberg" (Tooze 2001: 178). Rüstow, whose own experiences of the atrocities of the First World War had equipped him with a veritable hatred of militarism (Rüstow 1981: 613; Commun 2016: 25) also left the country for Istanbul where he remained until the 1950s.

But apart from these two, most other prominent members stayed in Nazi Germany and in fact in rather significant positions. Walter Eucken, for example, was an advisor for the war economy in the Ministry of Economics and a member of the "Academy for German Law" (*Akademie für Deutsches Recht*)[85], publishing an important and well-received treatise about political economy in 1940. In this context, Eucken participated in a team of academics who were charged with providing a report on how to finance the war. The result was the publication of a *Kriegsfinanzierung* report published 3 months

[85] The *Akademie* was created by Hans Frank for the purpose of embedding the Nazi ideology in German Law. Frank was Hitler's personal lawyer and "chief jurist" in occupied Poland, where he got directly involved in the mass extermination of the Jewish population. He was promptly executed for his role after the Nuremberg trial. Other members of the *Akademie* included Göring, Goebbels and Carl Schmitt.

after the Nazi invasion of Poland, in which the ordoliberal insistence on sound monetary policy and tight budgets (as opposed to money printing) was presented as a rational way of conducting the war. [86]

Franz Böhm objected to the antisemitic policies of the Nazis but did declare his relief that the Nazi seizure of power had eliminated the possibility of a Marxist government (Böhm 1936: 5, in Bonefeld 2017: 11). His stance against anti-Semitism possibly contributed to him not receiving a professorship, but he nonetheless found himself in various advisory positions (such as for the Economics Ministry). On the other hand, Hans Großmann-Doerth joined the Wehrmacht in 1939 and proceeded to the position of *Oberstleutnant und Regimentskommandeur* until his death in the Eastern Front (Königsberg) in 1944. During those years, he appears to have moved deep into anti-Semitic positions, causing Eucken to sever relations with him (Dyson 2021: 64).

Leonard Miksch became a member of the NSDAP in 1923. He left the party in 1925 in what he himself described as a disagreement with his regional group – though Dathe (2015: 13) and others allege that it was the influence of Eucken that led him away. In the early Weimar years, in any case, he was a supporter of Hitler even when the NSDAP was forbidden, a fervent anti-Semite and committed to "confront the Jews in the field of open struggle" (Dathe 2015: 12). According to Dyson, while no longer a member of the NSDAP, Miksch only appears to have broken with the regime in 1943 after a visit to the Warsaw ghetto (Dyson 2021: 428).

Alfred Müller-Armack, the ordoliberal thinker who would coin the term 'social market economy' in 1947, joined the NSDAP in 1933. Openly sympathetic to Italian fascism (Müller-Armack 1932: 126-127 quoted in Manow 2000: 9), Müller-Armack write a book in 1933 called "*Staatsidee und Wirtschaftsordnung im neuen Reich*" in which he declared his allegiance to National Socialism, something that most likely contributed to him gaining a position of being in charge of researching the possibility of textile production in occupied territories[87]. But the most open Nazi sympathiser of the ordoliberals, Heinrich Von Stackelberg[88], not only became a NSDAP member in 1931, but he proceeded to become an SS *Scharführer* (sergeant) in 1933. In 1934, he gave a programmatic speech at the University of Cologne outlining his vision of a National Socialist science, a speech that was reprinted in the official organ of the NSDAP *Völksicher Beobachter* [4 (1): 4-5]. Describing "the conduct of science as an office (*Amt*) and a service to the state (*Dienst*)" (Düppe 2015: 26), Stackelberg distinguished knowledge of the "outer experience", which is underpinned by mathematics and logic, from knowledge of the "inner experience", which depends on race, ethnicity, character, and education. Only within the latter can "spirit" (*Gesinnung*) manifest itself." (Ibid.) Posthumous accounts claim that he grew disillusioned with the Nazis and refused to join the *Waffen SS,* opting for an interpreting

86 'Professoren-Kriegzfinanzierunggutacthen', 9.12.1939, reproduced in Möller (1961) „Zur Vorgeschichte der DM: die Währungsreformpläne 1945-1948", Kyklos Verlag, Basel. Apart from Walter Eucken, other ordoliberals who participated in producing this report were Adolf Lampe, a colleague of Eucken in Freiburg, and Heinrich von Stackelberg.

87 Interview with Joachim Zewynert from the Hamburg Institute of International Political Economy (HWWI) in *Jungle World*, August 2008 (https://jungle.world)

88 Stackelberg's PhD supervisor, Erwin von Beckerath, was also a close associate of Walter Eucken in the *Akademie für Deutsche Recht*.

position (Ban 2013: 140). In any case, he remained a member of the SS until at least 1944, after which time he left Germany to take up a visiting professorship in Franco's Spain where he spread the ordoliberal gospel.[89]

Another prominent figure in the ordoliberal-influenced post-war trajectory is Ludwig Erhard, Economics Minister in Adenauers' first post-war government and, later on, Chancellor of West Germany. Early on, Erhard had pursued a career in marketing research and consumption issues, a position that allowed him a close observation of consumer goods issues and which was crucial for embedding his embrace of the concept of consumer sovereignty in the post war period (Olsen 2019: 65-104). Erhard began working for Wilhelm Vershofen, member of the constituent assembly behind the Weimar Constitution and leading figure behind consumer research, he was the founder of the *Society for Consumer Research (Gesellschaft für Konsumforschung)* and of the equivalent journal *The Finished Good Market (Der Markt der Fertigwaren)*.

Seeing the consequences of the 1929 Crash, Erhard had concluded that economic activity can only be restarted by mobilizing demand in the consumer goods sector. Conceptualizing the break between production and consumption equilibrium as one generated by *particular* and short-sighter capital accumulation motives, he had called for a strong state to "intervene, demand consumption incomes, fight capital-multiplying profits and level the contradiction between production and consumption" (Roth 1999). But Erhard was, in contrast to his employer and semi-mentor Vershofen, an advocate of free markets and an opponent of cartels (Mierzejewski 2004: 11-12).[90] It was such an approach that brought him close to the work of Röpke and the Freiburg School, though a crucial detour would take place first. But Erhard would also attempt to reconcile these views with his insistence on the centrality of consumers as a way out of the economic crisis precipitated by Brüning's deflationary policies.[91]

Co-founder of the "Gesellschaft für Konsumforschung" (Society for Consumer Research) in 1935, Erhard would participate in the promotion of the new Nazi state and economy through the pages of the "Der Markt der Fertigwaren" journal (which was renamed into "Die Deutsche Fertigware" in 1933), founded in 1929 and published by Vershofen's "Institut fur die Wirtschaftsbeobacthung der Deutschen Fertigware", where Erhard worked since 1925. Vershofen himself, it is argued, also saw the Nazi regime in favourable terms, accommodating his positions to ideas prevailing in Nazi Germany (Mierzejewski 2004: 12).

[89] A penetrating exposition of von Sackelberg and his pivotal role in promoting Ordoliberal positions in Spain can be found in Ban (2012).

[90] In contrast, Erhard's *Habilitationschrift* which was started in 1931, located the problem of unemployment in the excessive concentration of capital in heavy industry. Eventually, the dissertation was not accepted, allegedly because of the Nazi takeover. Mierzejewski (2004: 13-14) claims that this was because Erhard refused to join the Nazi party but this seems hard to reconcile with his promotion of Nazi policies and collaboration with the authorities (Roth 1999).

[91] Developing a plan for short term credits and subsidies towards the consumer goods' industry, Erhard's position would attract the accusation of proto-Keynesianism (Mierzejewski 2004: 14).

Through his acquaintance with Carl Goerdeler, lord Mayor of Leipzig and appointed by the Nazis as commissioner for price controls, Erhard deepened his networks, while his close friendship with his sister's husband, Karl Guth, brought him into the Nazified *Reichsgruppeindustrie*. There, while drafting various papers and policy advice for businesses, he was introduced to prominent ordoliberal figures (such as Alexander Rüstow and, through him, the work of Wilhelm Röpke) and to future Bundesbank president Karl Blessing. At the same time, Vershofen's connections also brought him in contact with a number of influential contacts key to the Nazi rearmament process, as well as Wilhelm Rudolf Mann of IG Farben (Mierzejewski 2004: 16). In this period, and while delivering a paper on sales problems in Austria (*after* the Anschluss), he "made a favourable impression on the region's Nazi leader, Josef Bürckel[92] […] who convinced Erhard to become his informal adviser on consumer goods matters" (Mierzejewski 2004: 18) as well as the "rationalization of the process of annexation" (Roth 1999: 59). The connection with Bürckel proved useful for Erhard. After leaving the Vershofen Institute due to conflict with its management and a lack of career prospects, Erhard continued working for Bürckel, who rewarded him with a war service cross second class. In his advisory role, Erhard produced a series of papers and proposals for increasing production in the province of Rhineland-Palatinate.

Erhard's 1942 departure from Vershofen's Institute left him temporarily without a steady income but this temporary mishap was resolved through the creation of the Institute for Industrial Research (*Institute für Industrieforschung*), an organization funded by Reichsgruppe Industrie (Mierzejewski 2004: 19; Roth 1999: 60). In this capacity, Erhard wrote in favour of the total concentration of economic forces in a context of total war,[93] in support of price and wage controls as an instrument against inflationary tendencies,[94] and in relation to solving problems of occupied and annexed Eastern Europe[95]. One particular report, written in 1943, addressed the "problem" of the "surplus" population of Polish farmers, described as "the highest number in the whole of Europe", suggesting that they be moved to industrial activities.

Within this context, it is reasonable to agree with Manow (2000) who claimed that many ordoliberals were (at least initially) attracted to National Socialism, in the hope that it could embody what they considered a necessity of the times, i.e. an authoritarian solution geared to steer the free

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[92] Josef Bürckel oversaw the reintegration of the Saarland into the German economy in 1935. For his services, he was appointed *Reichkommissar für Wiedervereinigung Österreichs*, responsible for bringing to life Görings' 4-year plan which sought to prepare Germany for war. His assistant in this, Dr. Walter Emmerich, was later appointed Director of Economic Administration in occupied Poland. Needless to say that all these 'technocrats' were directly involved in drawing up plans for the most effective utilization of slave labour, the expropriation of Jewish property, the resettling of 'ethnic Germans' in the East and the (early) management of the Polish ghetto economies. For more, see Tribe 1995, Chapter 9, pp. 241-262

[93] Erhard Ludwig, *Beiträge zur Kriegswirtschaft,* December 1939/Januar 1940 (Auszüge). Sonderarchiv Moskau, Bestand Reichswirtschaftsministerium, 1458-43-153, reproduced in Roth 1999.

[94] Schreiben Ludwig Erhards an die Südosteuropa-Gesellschaft, zu Händen des Hauptgeschäftsführers August Heinrichsbauer, March 1941, Bundesarchiv Koblenz, R 63/180, Bl. 126ff, reproduced in Roth 1999.

[95] Schreiben Ludwig Erhards an Heinrichsbauer, September 29th 1941. In this specific letter, Erhard quotes from the praise he received from the Commissioner responsible for the 4 year economic plan in relation to the "new East Germany" ("Neue deutsche Ostraume") and about his "highly suitable" suggestions for the "use of labour, for production and for sales", adding that their plan was more difficult "than the one in Poland".

market order[96]. Consistent with the view of many conservatives and critics of Weimar, the attraction followed the conviction that the failure to combat socialism and communism rendered the Nazis a necessary solution.[97] Many of the personal trajectories of ordoliberals in that time also betray a certain tendency to accommodate themselves within a regime, even when certain positions (mostly on the economic level) could be construed as oppositional. But the leap from such a perspective into claiming that ordoliberalism was devised as an "anti-Nazi" theoretical framework is unjustified.

Writing after the Nazi horror, Rüstow would continue to believe that part of the blame for Hitler fell on the Weimar Republic's misunderstanding of what democracy really entailed, causing "the leaders of 1918 to "[sacrifice] the integrative symbol of the monarchy without any consciousness of the need to replace it with alternative symbols of integration" (Rüstow 1981 [1950]: 218). From this perspective, and since Weimar democracy malfunctioned and "partisan coalitions had long since set aside the central and indivisible needs of the state in favour of selfish partisan interests", Rüstow would still admit that "there even was a certain relief felt when a single-party egotism was substituted for that of the pluralism of shifting coalitions." (Ibid: 219).

As Tooze notes, "at least as far as the Reich's economic administration was concerned, the early years of the Nazi regime can be understood as an authoritarian extension of earlier trends." (Tooze 2001: 177) The narrative that liberals denounced with equal vigour both left *and* right-wing threats to liberalism is effectively undermined (as it often is today) by the practice of supporting *right* wing authoritarianism *against* left wing tendencies, an attitude visible in as many German ordoliberals as in non-German fellow ordoliberals such as Louis Rougier (Rahtz 2017: 83; Dyson 2021) or in liberals in Italy (Mattei 2022). As Burgin (2012: 71) put it, "the world [was] caught in a destructive cycle in which democrats believed their last defence to be socialism, and capitalists believed their only recourse to be fascism."

We have already seen that many ordoliberals were positively inclined towards the ultra-conservative governments of both Brüning and immediately after von Papen (especially Rüstow; see

[96] This view might be supported by Tooze's explanation that in the early months of the Nazi regime, with the power struggle between the Nazis and their nationalist conservative allies, there were indications that the nationalist conservatives could well influence economic policy towards a rejection of economic planning. This was, in any case, how the dismissal of Ernst Wagemann from the *Konjunkturforschung* in March 1933, a removal that was heralded in the conservative press as "a clear indication that Hitler's government rejected economic planning" (Tooze 2001: 179). Nonetheless, it should remain clear that even if this illusion was held, it could not have survived for a long period. Wagemann was quickly reinstated by Hitler as head of the Institute für Konjunkturforschung reinforcing the direction of economic policy towards greater state intervention. See Tooze 2001, pp. 178-181

[97] Despite the postwar reconstruction of the myth of consistent anti-Nazi beliefs, there was nothing particularly controversial in such a position at the time. As von Mises also wrote, "It cannot be denied that Fascism and similar movements aiming at the establishment of dictatorships are full of the best intentions and that their intervention has, for the moment, saved European civilization. The merit that Fascism has thereby won for itself will live on eternally in history. But though its policy has brought salvation for the moment, it is not of the kind which could promise continued success. Fascism was an emergency makeshift. To view it as something more would be a fatal error." (Von Mises *The Foundations of Liberal Policy*). A similar position was also expressed by Gerhard Wittrock, a historian responsible for a monograph on the history of the *Verein für Sozialpolitik* in 1939, where he praised key early figures of the *Verein* for combatting the "jüdisch-manchersterlichen Wirtschaftsliberalismus" (Jewish-Manchesterite economic liberalism). As McLellan put it, "despite having preserved social conservatism, Wittrock concludes, it was their failure to defeat socialism that necessitated the need for the Nazi party to solve Germany's social questions." McLellan 2017: 3

Haselbach 1991: 205), which consisted of practical critiques of parliamentarism by ruling through emergency decrees[98], indicating that ordoliberals did not seem particularly concerned with maintaining "an overall democratic framework" (Manow 2000: 9). As Tooze adds, many civil servants "experienced the early years of National Socialism as an era of liberation from the fetters of parliamentary politics and class conflict. The idealized image of government by a strong state seemed within reach." (Tooze 2001: 184)[99].

As this expose has tried to show, the "disintegration" of the Weimar Republic was not an accidental, pre-determined event beyond the control of Weimar's multiple actors. It was, instead

> consciously set in motion in 1929–30, before the collapse of the 'great coalition' and the breakthrough of the NSDAP as a mass movement, and was energetically pursued from 1930 onwards. The express object of its authors was to deprive Parliament of power and exclude the Social Democrats from politics, so as to transform the parliamentary democracy into an authoritarian state governed by the political right. (Kolb 2004: 116)

And ordoliberals played a non-negligible role in this discourse. Nonetheless, this exposition is not meant to convey some kind of inherent connection or continuity between ordoliberalism and the Nazi regime nor to claim that ordoliberals were hidden Nazis. As explained, the accommodation with the Nazi regime followed both a conviction about its immediate necessity to combat socialism/communism, an element of fear towards resisting a dictatorial and murderous regime and a belief in the capacity to alter its most disturbing dimensions from within.

The above account serves the aim of countering the quite dominant narrative that either portrays ordoliberals as active "anti-Nazis"[100] or one that tries to mystify the authoritarian elements of the ordoliberal framework by pointing out at their (eventual) dismissal of Nazism (e.g. Young & Berghahn 2013). Relations of friendship or even the occasional collaboration with some of the protagonists of the 1944 assassination attempt at Hitler do not, in themselves, corroborate consistent anti-Nazi credentials, especially when considering that a majority of those who plotted to kill Hitler did so driven from ultra-conservative and reactionary beliefs, and whose anti-Semitism could go hand in hand with disappointment at the visible military defeat. A last attempt to salvage the "honour" of the German nation and its military, while at the same time hoping that a regime change might favourably predispose

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[98] It is worth noting that especially von Papen's government was, at the time, "backed only by *Reichspräsident Hindenburg* and tolerated – at least in the beginning – only by the Nazis and the other parties of the extreme right" (Manow 2000: 9)

[99] Though it is crucial to keep in mind that, as Tooze himself adds, the notion of a conservative strong state that limits the effects of parliamentary democracy went into the direction of gradual handing over of control of the economy, a direction to which Ordoliberals would have objected to. As he puts it, the early Nazi period "[…] was a direct extension of the effort to build a national apparatus of economic government which we have traced back to the final stages of World War I. Shielded from the party, unfettered by parliament, released from the need to find tripartite agreement with both industry and labour, the Reich's economic administration experienced a period of unwonted freedom." (Tooze 2001: 184)

[100] Visible in assertions such as the one found in the introduction of the authoritative but openly pro-ordoliberal study of Peacock & Willgerodt (1989), that Ordoliberals were "a group of German liberal economic and legal thinkers who began their activities as opponents of the Nazi regime." (Peacock & Willdgerodt 1989: xvii) This sentiment is repeated across the literature, the latest example being Feld, Koehler & Nientiedt (2020: 2) who write that ordoliberals were "a group of economists and lawyers who developed their theoretical and policy stance in opposition to National Socialism."

the Western allies to engage in a common anti-Soviet/anti-communist struggle are not, by any historical perspective, qualities of committed anti-Nazis.

Most ordoliberals were not Nazis, but they had supported the emergence of an authoritarian state, *to the extent* that this state would perform the necessary functions for the establishment and promotion of the market economy. With the exceptions of von Stackelberg (who stayed a member of the SS until the end) and Großmann-Doerth, if ordoliberal positions on Nazism were ambiguous in the beginning, this can be explained by the fact that certain key pillars of their vision of a properly functioning market economy were (until 1936) somewhat promoted: promises of low inflation, economic growth, high productivity without trade union hindrances, and a relatively stable balance of payments. It was mostly after 1936 that the inflationary expansion of state debt became more obvious, leading in the context of the post-1929 dominant residues of protectionism and economic autarky, towards military expansion and imperialist looting as preferred "solutions". Unfortunately, many ordoliberals believed that they still could play an advisory role that would re-direct Nazi economics towards a market-based framework. As Ptak (2009) argues "[by] developing policy advisory roles, they saw a chance to fill the economic theory vacuum in Nazi Germany with an *authoritarian* competitive order." (Ptak 2009: 118) And in maintaining these positions throughout the Nazi regime they became direct *witnesses* of a horror not confined to the war but extended to the daily life of all those living in Germany – unless they were collaborators.[101]

That ordoliberals came to reject Nazism because of its murderous racialized policies and the total war it unleashed in Europe and Northern Africa is a reasonable assumption, but one is confronted with a lack of any published evidence in the postwar environment that can demonstrate that *this* was the main reason for their rejection of Nazism. What one can find in abundance, however, is criticism of the transformation of the German economy into a *planned* economy, as well as the consequences that stemmed from that. As late as 1952, Eucken would describe the Nazi war economy as a "disturbance", in which "…though all factors are engaged, human activities are not properly coordinated and investments are not in line with one another, with the result that bottlenecks form." (Eucken 1952: 80). As Bofinger (2016) notes, it is hard to imagine a more "awkward" way of describing the Nazi economy.

With the exception of Röpke (1946: 63) it remains rather awkwardly hard to find an ordoliberal rejection of Nazism which is not primarily (if not exclusively) framed within the context of a denunciation of the planned economy (e.g. Röpke 1942: 221; 1963: 103-4, 146; Peacock & Willdgerodt 1989: 8); of unnecessary and inflationary state intervention (e.g. Beck & Kotz 2017: 13), of a ruinous support for the welfare state (e.g. Röpke 1960: 182); or of the concept of "full employment" (e.g. Röpke 1942: 208). This observation can also be made by the constant charge by ordoliberals in the immediate

[101]Following the assassination attempt against Hitler, the regime went into frenzy. Taking into account the overall context in which Germans were already subject to brutal repression for something as simple as listening to the wrong radio station, and the enhanced paranoia that the assassination attempt generated within the Nazi apparatus, Eucken's arrest and interrogation by the Gestapo in connection to the *Attentat* and his immediate release without further investigation does not appear to be, despite such pretense, an argument in favour of his supposed close links with the conspirators.

postwar period that actual "denazification" meant abolishing price and wage controls (Fèvre 2022: 188).[102]

Given that ordoliberalism consistently presented itself as an *interdisciplinary* approach that encompasses, alongside political economy and legal theory, a moral and philosophical dimension, it is hard to understand why in the case of Nazism a purely "economistic" critique is chosen. And although Röpke claimed that the economy was of "second rank," the first rank being the imposition of a moral authority, such an attitude is hard to trace in relation to Nazism. In the best of cases, a competitive order governed by the rule of law and strict institutional/constitutional arrangements to guide its economic outlook was seen as a prerequisite for safeguarding the "inviolability of the human person". But the very idea that a competitive order is a prerequisite for human dignity seems to be in contradiction with an understanding of the "second rank" positioning of the economic.

And while it is undeniable that ordoliberals became the most vocal opponents of the fiscal expansionism of the Nazi state and the Reichsbank, focusing on this element of the Nazi regime is hardly constitutive of what can (even loosely) be described as "anti-Nazism". Harold James himself, who could otherwise be described as sympathetic to the ordoliberal framework, remarked as much in a rather phlegmatic way: "of National Socialist policies deserving criticism in the late 1930s, fiscal performance is really not the most obvious candidate" (James 1999: 49).

What makes this *particular* opposition to Nazism even more problematic, however, is the fact that its formulation co-exists, in ordoliberal writings, with a very peculiar historical inversion concerning the *origins* of the Nazi regime. Here, in a rather unequivocal manner, the blame for the emergence of the Nazi regime is placed squarely upon the Weimar Republic, the pluralist democracy supported by the SPD and the Catholic Zentrum Party and, more importantly, the excessive "concessions" they made to the working class. And although there is no denying that the historical process which allowed the Nazis to gain power remains a matter of considerable (and possibly unresolvable) controversy among historians and political economists, some of whom would also trace the Nazi emergence back to the contradictions of the Weimar Republic, the ordoliberal adoption of such an approach remains exceptionally problematic *precisely* due to the unquestioned participation of many ordoliberals in the Nazi regime (as well as their positively inclined attitude towards Brüning and von Papen). And the clear reason is that, from this perspective, the unavoidable conclusion of ordoliberals blaming the Weimar Republic for Nazism amounts to asserting that the direct and most immediate victims of Nazi terror (SPD members, trade unionists, working class militants) were in fact more *responsible* about the regime than those who *actively participated in it*, like many ordoliberals did.

[102] In his 1947 text appropriately titled "Economic Disease in Germany", Röpke would claim that "very few people seem to realize that in all this the Allies are continuing the Nazi tradition [and] drawing on the Nazi model […] up to the present it does not seem to have occurred to anybody that, in the sphere of economic policy in Germany, 'denazification' is just as urgent as in any other sphere" (Röpke 1947b: 129-30).

The claim that "the evil of National Socialism should be laid at the door of anti-liberal policies of a state – Weimar – that had been grievously weakened by concessions granted to trade unions and other vested interests' (Lemke 1997, 242 in Bonefeld 2017: 8)[103] betrays as much. If anything, it leaves a large conceptual gap in any attempts to explain ordoliberal support (like Rüstow's) for the von Papen government or his short-listing as a potential Economics Minister for von Schleicher's short-lived authoritarian experiment.[104] The ordoliberal *authoritarian* critique of Weimar, coupled with their ambiguous conduct during the Nazi regime, radically undermines the assertion that ordoliberalism is a "liberal critique of Nazism" (Rieter and Schmolz 1993; Gerber 1994; Kolev 2010), unless "liberal" here is dramatically reduced to adherence to fiscal orthodoxy.

There are numerous examples of contemporaries of the ordoliberals who had quickly recognized that in the case of the Nazi regime, "[…] the beginning already contained the end." (Marcuse 1998: 266). Ordoliberals never developed such a clear position, not even in retrospect. For this reason, it remains rather hard to sustain the narrative that those ordoliberals who remained in Nazi Germany and continued, uninterrupted, their work and research; those who joined the NSDAP or the SS; or those tasked with producing economic plans about what Europe could look like after a Nazi victory were in fact committed anti-Nazis or that their theories stemmed from such a position. The ordoliberal rejection of Nazism remained tightly framed within a critique of its protectionist, isolationist and central planning features, all of which were rejected from the perspective of a free market economy[105]. As Ptak succinctly puts it, "ordoliberals were neither Nazis nor resistance fighters […] with the exception of the emigrants Rüstow and Röpke, the ordoliberals who remained in Germany were involved in National Socialist economic policy through consultation and journalism, either because the NSDAP was initially interpreted as a lesser evil from an authoritarian-liberal-conservative perspective, or because of individual adaptation and opportunism." (Ptak *forthcoming*). The ordoliberal critique of Nazism never zeroed in either on its *authoritarian* elements or its racial outlook. It remained steadily focused on their opposition to national economic planning and vision of autarky which, they argued, brought about international economic disintegration (Oliver 1960: 120). And their trajectories in the early period of

[103] Despite his dislike for the Nazi regime, even Rüstow would abide to the narrative that Weimar's anti-liberal policies explain (among other reasons) to ascension of Hitler. Writing in 1950, he explained as much: "But the [early Weimar] leaders' ignorance of the principles of public finance and their inability to stand up to blackmailing profiteers converted [the economic crisis] into a galloping inflation, which in turn led to the de facto expropriation of the savings of the entire middle class-that is, of that stratum who for centuries had been the very bearers of the German cultural tradition. The result was widespread resentment against the Weimar Republic, which had been responsible for the disaster, a crowding of the universities with sons of impoverished middle-class families eager to recoup their fortunes, massive academic unemployment, and hence a vast reservoir of new converts to Nazi propaganda." Rüstow 1981 [1950]: 620-621.

[104] It is interesting to note, in this context, how the Ordoliberal rejection of the Nazi regime on economic grounds would also determine their later rejection of Keynesian policies, asserting that the difference between the two was minimal. Foucault mentions an allegation that Röpke said that the Beveridge Plan, which essentially created the UK welfare state was "quite simply Nazism" (Röpke 1948: 80).

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the Nazi regime indicate quite clearly that they shared the hope that their orientation could break through Nazi economic policy and re-direct it towards a market economy.

Mapping the ordoliberal framework

The strong state

An oft-repeated aspect of the political economy of the Weimar Republic was the sense of disorientation and compounded disorganisation of the executive powers, especially so in the area of economic and social policy where "decision making was not coordinated by in a single office but rather was divided among several jurisdictions"[106] (Barclay 1978: 58). This may well appear as one of the key reasons that led ordoliberals to conclude that the state was being "torn apart" by conflicting interests. More importantly for their considerations was, however, a conceptualization of the increased *politicisation* of economic decisions, a predicament where economic policy was not shaped through the price signals of a regulated market but through political pressures (James 1989: 233).

We have seen how the essential reason why this prevailed was the balancing act that Weimar coalitions were trying to achieve: the attempt to simultaneously obstruct the radicalization of the working class through a collaboration with military/para-military structures and the implementation of pro-worker integrative reforms; the need to facilitate private capital and industry in order to restart the economy; and the decision to become the representative pole of the national narrative that, although translating Germany's dire situation as a result of Allied irrationality and humiliation, retained a vision of international cooperation and trade that necessitated a qualified submission to Allied demands. The co-existence and co-application of such diverse strategies was bound to create veritable bottlenecks in many areas, economic policy being a central one. But what was described by the SPD and other officials as mere "interagency squabbling" (Barclay 1978: 64), ordoliberals chose to interpret in much harsher terms, translating the creation of such gridlocks as *essential features* of mass democracy.

Rather than accepting the social terrain as one in which conflicting parts struggle for increased influence on the basis of their *particular* interests, ordoliberals saw the economic order as one of *interdependence* of the various parts, their conflicts balanced out through *Ordnungspolitik*. The process of acknowledging the 'interdependence of orders' upon which the overall 'economic constitution' (see last section of this chapter) would be based meant recognising that each specific sector or "power group" (*Machtgruppen*) needed to be disempowered and subsumed in a regulatory framework with the facilitation and promotion of the overall competitive order as its aim. Writing for the first issue of *ORDO* in 1948, Eucken would add:

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[106] "The Office for Economic Demobilization, especially created to supervise the economic transition period; the Reich Food Office; the new Labor Office; the Reich Treasury Office, supervised by Eugen Schiffer, a committed economic liberal and firm opponent of most forms of economic compulsion; and the Reich Economics Office, where on November 14 August Müller, former Under State Secretary, replaced Baron von Stein a permanent State Secretary." (Barclay 1978: 58-59) It is crucial to note, however, that the only moments when this dysfunctional set up managed to pass legislation, it was in the direction of socialization measures (ibid: 67).

> "The actual economic policy of many countries is dominated today by an *ad hoc* treatment of economic problems. It is probably this *ad hoc* way of thinking that mainly obscures the problem of the economic system. The interrelationships of all economic activities as a whole is not recognized. Monetary policy, policy on cartels, trade policy, policy toward small businesses et cetera, are all seen as separate specialized areas to be dealt with discretely" (Eucken 1948d: 9)

The failure to identify this interdependence between different aspects and actors of the economic order meant, during the Weimar Republic, that the distinction between state and economy collapsed. This transformed the liberal state into an "economic state", a process that undermined the state's "*Willensbildung* on which its existence is based" (Eucken 1932: 307].[107]

In the same text, Eucken had compared the weakness of the state to its increasing 'dependence' on different interest groups, remarking that "the state 50 years ago was reluctant to use its power, but its decision-making was independent; conversely, the contemporary state tends to use its power in many places and rigorously, but the real independence of its will is lacking" (Eucken 1932: 307-8; see also Wegner 2020: 42). Two years earlier, in a letter addressed to Alexander Rüstow, Eucken had explained:

> All democracies are pursuing an incoherent protective tariff policy. The implementation of free trade requires a sense of coherent economic policy, but this sense of coherence is lacking in all areas of democratic economic policy. Monarchies or aristocrats are systematically pushing either protectionist or free trade policies – democracies are unsystematic in both strategies … Free trade was never carried out by democracies: In Germany it was [implemented] by the Prussian Kings … in France by Napoleon III against Parliament, [and] in England by the bourgeoisie. Democratic countries are always unsystematic protectionists… We are now sliding into this miserable protectionist policy and we will have it as long as we have democracies, which will certainly be the case for several decades to come.[108]

As Becher et al (2021: 75) note, a central problem "was that the . . . process of democratization lent the parties, and the masses and interest groups that they organized, much greater influence over the management of the state, and so upon economic policy" (ibid.: 59). In the ordoliberal framework, this type of state was a weak state that could not protect itself against rent-seeking interest groups (Röpke 1948a: 93; 1950: 192) and was in danger of being torn apart by particular interests (Rüstow 2017: 147)."

From this perspective, ordoliberals developed a framework in accordance to which economic decisions should be free from political and democratic pressure, and insulated from the distorting influence of both organized working class interests and specific private capital interests (which had, in the case of Weimar, benefited from and supported the inflationary policies of government and Reichsbank)[109]. In other words, ordoliberals saw the resolution of the gridlock created by the 'economic

[107] For ordoliberals like Rüstow, the state's ability at *Willensbildung* (will formation) required a strong state beyond the influence of particular interests (Rüstow 1932). Similarly, in his 1933 *Wettbewerb und Monopolkampf,* Franz Böhm had criticized the ability to influence the "will formation" of the state through democracy and the class struggle (Böhm 1933: xii).
[108] Unpublished letter to Alexander Rüstow from March 21, 1930, Eucken- Archive, Jena. Quoted in Wegner 2020: 49
[109] As Bresciani-Turroni explained in his criticism of the central bank's policies, "[the Reichsbank] did not realize that the extension of bank credits, like the issue of notes on account of the State, profited some classes and imposed loss on others."

state' in the strengthening of the state's power so as to obstruct influence by particular interests and to ascertain its role in creating the framework within which the market, competitive order could flourish. In the postwar period, this conceptualisation would be discursively portrayed through the image of the state as a 'gardener' tending to the 'market' and thus allowing its natural growing process to take place.[110]

There is enough evidence to ascertain that a significant source of inspiration for the early ordoliberal preference for a strong state came from Carl Schmitt[111]. The (in)famous jurist was as much a conservative enemy of the Weimar Republic as the ordoliberals were, and a prominent voice repeatedly calling for the establishment of a strong state that would overcome the contradictions created by parliamentary pluralism. Tribe (1995) notes that Eucken's affinity to Schmitt originates from the fact that "both advocated the strong, conservative rule which, they hoped, would restore political stability in Germany" (Tribe 1995: 212), This is an approach shared by Manow who added that

> [the] pronounced criticism of the Weimar *Parteienstaat* was not only formulated by young radical conservatives like Carl Schmitt, Hans Freyer, or the chief political adviser of von Papen, Walther Schotte (1932), but was also in essence shared by the group of thinkers who were to become known after WW II as the founders of German Ordoliberalism or Soziale Marktwirtschaft (social market economy): Alexander Rüstow, Alfred Müller-Armack, Walter Eucken, Leonard Miksch to name but a few. Two central papers that are perceived until today to be the founding manifestos of this new school of German economic thinking were written when the depression reached its peak in 1932: Walter Eucken's "Staatliche Strukturwandlungen und die Krisis des Kapitalismus" and Alexander Rüstow's short and very pointed statement "lnteressenpolitik oder Staatspolitik?
>
> Manow 1999: 4

Without contradicting this affinity, however, one could also approach the influence as working in the other direction too. As Cristi (1998) has argued, Schmitt's suspicion of liberalism in his early writings appears to have been mitigated following the realization, promoted at time by ordoliberals, that economic liberalism was not synonymous to parliamentary democracy. Rather than describing a

(Bresciani-Turroni 1931: 75). More forcefully, "[…] such a method favoured a privileged class, to whom the Reichsbank presented enormous sums of money, to the detriment of classes to whom the depreciation of the mark was disadvantageous. People who enjoyed the favour of the Reichsbank could make sure of purchasing goods and foreign exchange." (Bresciani-Turroni 1931: 77)

[110] As Vanberg (2001: 46) notes, "Creating and maintaining an appropriate framework of "rules of the game of Leistungswettbewerb" (Eucken 1942:38) is, in their view, a genuine and indispensable political task for *Wirtschaftsverfassungspolitik* or *Ordnungspolitik* (Eucken: 1990: 266f). This task they likened to the activities of a gardener who does not construct things, like an engineer, but provides for conditions that are conducive to the natural growth of what is considered desirable while holding back the growth of what is not desired. As Böhm (1980:200) put it, to maintain a well-functioning market economy requires a continuous nursing and gardening, similar to creating and maintaining a highly cultivated park."

[111] In his text "Staatliche Strukturwandlungen und die Krisis des Kapitalismus" (1932) Eucken has a direct reference to Carl Schmitt's *Hüter der Verfassung* (1931) where the concept of the "total state" was first developed. For ordoliberals (Röpke 1931) as for Schmitt, the "total" state was one that tries to appease all, integrating (fundamentally) conflicting interests within its policymaking.

political *form*, liberalism was the *content* of the market economy, a formation which (as ordoliberals would also argue) needed a strong, authoritarian state to defend it.

As Tribe explains, "[the] principal target of Schmitt's criticisms was formed by those legal doctrines which, in embracing the concept of the rule of law, treated this as a regime in which political neutrality prevailed. The rule of law was conceived in this way as a rational order in which legal negotiation replaced political struggle" (Tribe 1995: 175) Contrary to this approach of a perceived neutrality, Schmitt proposed a definition of legal order which was seen as the direct result of a *political event:*

> There is no norm which could be applied to a situation of chaos. *Order must be produced, so that the legal order has meaning*. A normal situation must be created, and sovereign is he who definitively decides whether this normal condition actually prevails ... In this there lies the essence of state sovereignty, which can be legally defined not as a monopoly of compulsion or of domination, but rather as a monopoly of decision."
>
> (Schmitt 1934: 13, translated in Tribe 1995: 176, my emphasis)

In this context, the argument put forward by Gerber (1994: 27) that "during the Weimar Republic law increasingly came to be viewed as a tool of power rather than a reliable social institution" appears to ignore Schmitt's clear assertion, which ordoliberals shared, that law becomes a 'reliable social institution' precisely when it is a *power-yielding mechanism* capable of producing the necessary *Ordnung* for the market economy. It was the rejection of the supposed *neutrality* of the state or legal order that both Schmitt and ordoliberals strongly opposed. In fact, their position that the (Weimar) state apparatus was incapable of performing this decision-making process became the *de facto* definition of a weak state, one governed by pluralism. A "totality of parties" (Schmitt 1934) that sought the promotion of their own 'private' interests (workers' organizations as much as industrial monopolies) and not those of a functioning market economy which prioritises the price mechanism and enhances the competitive sphere. The result was nothing but a distortion of not merely the economic sphere, but also of the positive effects that the free market can have on society and its social, economic, moral and legal relations. Both Rüstow (1963: 255) and Röpke (1942: 107) would later speak of the "state as suitable prey" and would deplore the misuse of an institution which was for them chiefly responsible for creating the conditions of a market economy, standing over and above particular interests, parliamentary pluralism and an unnecessary plethora of associations[112].

Contrary to what Sally (1996) argues[113], Schmitt's diagnosis of the problematic nature of the Weimar Republic (especially after 1923; see Cristi 1998: 79-85) was not an expression of his desire to

[112] In some ways, Ordoliberal positions echoed a right-wing Hegelian reading which saw in the state the expression of the 'whole'. For more, see Geoff Man (2017), esp. pp. 119-182.

[113] "The conceptual and constitutional distinction between state and society is central in Böhm's liberal thought and goes against the grain of one influential strand of German legal thought, from Hegel through to Carl Schmitt, that seeks to dissolve the state-society distinction." (Sally 1996: 243*)*

see the distinction between state and civil society collapse[114]. His critique was in fact precisely centred on the fact that in the 1920s, "the self-organising capacity of the institutions of society had been displaced by the state as the organising instance of society, blurring the distinction between the state as the realm of the political and society as the realm of the non-political. Social and economic problems thus became state problems; the antitheses of politics and economy, of state and culture, of state and law, ceased to exist" (Tribe 1995: 179). The fact that the state had taken control of functions that should be left to non-state agencies was a clear demonstration of the state's weakness. "It was this condition", continues Tribe, "that the term 'total state' was minted to define. The 'total' nature of this state rested therefore not in its capacity of ubiquitous command and obedience; the total state was rather a weak state, its powers subsumed in the social and political struggles of the groups whose interests it served. Its ubiquity was instead labile and insecure, penetrating and directing society for want of any other governing force." (Tribe 1995: 179). As Schmitt had clearly explained in 1932, "a pluralist party state will become 'total' not from strength and force but out of weakness: it intervenes in all sectors of life, Because it feels it has to fulfil the demands of all interested parties." (Schmitt 1932: 89). As Manow adds,

> The [ordoliberal] program of liberal interventionism was thus in broad agreement with Schmitt's plea for a transformation from the 'quantitatively total', weak, pluralist state of Weimar to the 'qualitatively total', strong, authoritarian state of the future, which Schmitt had proposed in the very same year, 1932, in his famous speech before the *Langnamverein*." (Manow 1999: 4)

In this exposition, thus, the answer to Hermann Heller's question "Against whom or what, then, does the idea of the 'authoritarian state' polemicize?" (Heller 1933: 295) can be clarified. It was the pluralist democracy of Weimar and its inability to eradicate the obstructions to competition and the market economy that Schmitt and the ordoliberals rallied against. As Böhm explained, "Where the rules of competition are called into question, law is the master, not the servant of economic interests." (Böhm 1933: 323 in Nicholls 1994: 46). Mobilizing in the wake of the world economic crisis unfolding between 1929 and 1932, [ordoliberals] sought "to grant the visibly strong state a much more prominent role in establishing and securing the capitalist market economy." (Ptak 2009: 101). The state, in other words, had to "find the strength to free itself from the influence of the masses" (Eucken 1932: 318).

For ordoliberals such as Rüstow, the state's ability at *Willensbildung* (will formation) required a strong state beyond the influence of particular interests. Similarly, in his 1933 *Wettbewerb und Monopolkampf,* Franz Böhm had criticized the ability to influence the "will formation" of the state through democracy and the class struggle (Böhm 1933: xii). It is not coincidental that Schmitt, already

[114] "Schmitt proposed that there was not one world but two. One was the world partitioned into bounded territorial states were governments rule over human beings. This he called the world of imperium, using the Roman legal term. The other was the world of property, where people owned things, money, and land scattered across the earth. This was the world of dominium." (Slobodian 2018: 10).

in his 1923 *Crisis of Parliamentary Democracy*, had put forward the argument that it is precisely around the question of "will formation" that democracy "annuls itself" (Schmitt 1923: 37, *my translation*). Overall, with very few exceptions,[115] ordoliberals remained strong critics of the mass democracy of Weimar, convinced proponents of the necessity of a strong, authoritarian state that subsumes social conflict. This is not only verified by their writings (at the time and retrospectively) but also by their engagement with the authoritarian governments of late Weimar and the relative tolerance some of them showed in the early days of the Nazi regime.

Abandoning laissez-faire to save the free market

Ordoliberals were privy to the debates around 'socialist calculation'. From a certain perspective, they agreed wholeheartedly that the fundamental problem of a socialist economy was its inability to rationally allocate resources since it lacked a competitive price mechanism that functioned under a system of private ownership. It was only within such a frame that economic rationality existed. But the question of a technical re-organization of the economy on the basis of expanded knowledge and gathering information about its business cycles for the purpose of undermining its crisis potentials was not as easily dismissed.

On the one hand, the direct participation of a string of liberals in attempts to create accurate statistical depictions of economic capacity and output placed them in a rather ambiguous position. As Slobodian notes,

> in the 1920s and 1930s, [they] were all involved with projects of either creating statistical portraits of the national and world economies or seeking to understand their cyclical rise and fall. In 1927 Mises and Hayek expanded their cooperation with the ICC to find a Business Cycle Research Institute in the offices on the Stubenring in Vienna. This job led Hayek to the centre of global economic research in Geneva. The League hired Gottfried Haberler, a colleague of Mises and Hayek's, for a major study of the world economy beginning in 1934. In 1937 Wilhelm Röpke, a central figure in the neoliberal movement, also moved to Geneva, recruited for a global study of the effects of changes in world trade and production."
>
> Slobodian 2018: 57

For a number of theorists (with Oskar Lange at the top of the list, who offered an analysis based on observations about the Soviet Union) it was precisely such research that allowed for socialism to replace capitalism. In fact, central coordination of state-owned enterprises could maximize output, optimally allocating the fruits of production, without allowing the shallow and self-centred conflicts of private

[115] As Weimar was plunging deeper into crisis, certain ordoliberal figures began to distance themselves from the Schmittian critique of democracy. Alexander Rüstow, for example, one of the few who would leave Nazi Germany after the appointment of Hitler, wrote to Schmitt in 1930: "It seems to me that the idea of a democratic state based on the concept of humanity represents not only a possible, but in a certain way an unavoidable utopia". Rüstow, Letter to Schmitt, dated July 4, 1930, Carl Schmitt Papers, Federal State Archive of North Rhine-Westphalia, Duisburg, RW 265–11879/3, in Schulz-Forberg 2020: 173. While Schulz-Forberg argues that Röpke reached similar conclusions around that time, this is less corroborated. Until his death in 1966, Röpke maintained a very critical stance towards democratic procedures.

capital disrupt the process. As Merchant puts it, "If the citizenry could collectively own the means of production, and thus the bulk of society's wealth, through the state, then the only relevant question becomes a technical one of how best to coordinate supply with demand for a given national economy. The political and economic horizon of socialism shifts from a moral plane, as the early socialists saw it, to an essentially technical one, as a solution offered by the very laws of economics that classical liberals took to invalidate socialist planning." (Merchant 2018). Moreover, as Mattei (2022) forcefully argues in her study of similar transformations in the UK and Italy but applicable more widely, the very consequences of the war economy had created the conditions where the 'natural laws' of the market could in fact be put under direct state control, pointing at the possibility of subordinating the prerogatives of private property "to a political and national interest and even to people's basic needs" (Mattei 2022: 35).

In response to the potential that such drastic changes could turn their own work against the market economy and the price mechanism, ordoliberals were swiftly forced to call out "the futility of restoring the lost unity of the world economy through academic research and the coordination of international statistical experts" (Slobodian 2018: 17). But making that choice did not indicate agreement with von Mises (and the early Hayek). The ordoliberal preference for a strong state did not, as is sometimes inferred, render them supporters of an unfettered market. Their proposed authoritarian solutions towards domestic political problems did not, as it did for von Mises, reflect a lopsided preference for unfettered markets and the disappearance of the role of the state.

As is already well documented, the prefix *neo-* for their version of liberalism was first utilized by Rüstow (and embraced by others during the Walter Lippmann Colloque in Paris 1938) and it was meant to designate the distance between their understanding of liberalism and those described as *paleo*-liberals, represented by Ludwig von Mises and intellectually more committed to laissez-faire capitalism (Megay 1970; Sally 1996; Bonefeld 2013; Kolev 2018; Nedergaard 2019; Olsen 2020; Dyson 2021). Alongside the rejection of the idea that the economy can be grasped and re-organized through vigorous and central calculation, ordoliberals also admitted – however reluctantly – that the era of laissez-faire was over, a formulation already advanced by Walter Lippman in the *Good Society* (1938: 184-192) and repeated by Hayek in *The Road to Serfdom*[116]. This distancing from what was widely understood as "laissez-faire" became a further critical component of the ordoliberal framework.

There is no doubt that ordoliberals did try (as did Hayek) to reiterate that classical liberalism (from which they continued to draw a lot of inspiration) was never *against* the state, nor was "laissez-faire" exactly as portrayed, abhorred as they were from the potential conclusions that could be drawn

[116] "Probably nothing has done so much harm to the liberal cause as the wooden insistence of some liberals on certain rough rules of thumb, above all the principle of laissez faire . . . The question whether the state should or should not "act" or "interfere" poses an altogether false alternative, and the term "laissez faire" is a highly ambiguous and misleading description of the principles on which a liberal policy is based." (Hayek 1944: 71, 118). In Oliver (1960) one reads: "Nineteenth-century liberal capitalism, they say, was a logical prelude to the interventionism and socialism that followed; it did not prevent the growth of monopoly, it was too unstable, and it embodied too much injustice." (Oliver 1960: 118).

from the abandonment of laissez-faire such as protectionism and the planned economy[117]. In this context, while rejecting the notion that "laissez-faire" accurately described the liberal order that prevailed before the First World War, ordoliberals sought to convince that that this was nothing more than a contemporaneous (mis)understanding promoted by thinkers like von Mises that had, in fact, little to do with classical liberalism or the pre-war economic order. Similarly to thinkers like Henry Simons and Lionel Robbins, ordoliberals "did not go as far in voicing full-throated criticism of the nineteenth-century legacy" (Jackson 2010: 135). They insisted instead that nineteenth-century liberalism should *not* be understood 'as a merely do-nothing policy', but rather as a doctrine sanctioning a considerable role for the state in maintaining the legal and institutional order necessary for competitive markets. Robbins explained as much in a private letter to Lippmann about the latter's *Good Society* when he wrote 'I am entirely at one with you in rejecting *laissez-faire*', though he was quick to add that most nineteenth-century liberals would have also agreed. (Ibid.) As Bonefeld (2013; 2016) has shown, ordoliberals were also influenced in their understanding of the role of the state by Adam Smith who also purported a necessary "administration of justice" to provide the framework and protect the market economy.

Within this context, instead of opting for a promotion of the free market as the rightful and sufficient opposition to threats of socialism or central planning, ordoliberals consistently present their framework as one well-placed as a *third way* between 'laissez-faire' capitalism and collectivism/socialism[118]. As Röpke would exclaim in 1942,

> "We conclude our observations with the clear-cut statement that we – indignant at such an attempt to dupe us – refuse to be presented with the choice between laissez-faire and planned economy as the only alternatives. There are not two, but three possibilities, namely: laissez-faire, compatible state intervention and incompatible state intervention (planned economy)."
>
> Röpke 1942b: 163

An identical proposition, most likely written by Lous Rougier in summary of the Walter Lippmann Colloquium reads:

[117] As Oliver notes: "The state, they argue, must create and maintain a "social market economy" in which competitive prices govern the allocation of resources and the pretax [*sic*] distribution of income, in which monetary policy allows the price system to function properly, and in which a few special market interventions- and moderate fiscal redistribution perform tasks which competition cannot." (Oliver 1960: 118)

[118] One of the ways this is approached is by promoting the argument that "laissez-faire" was a logical prelude to interventionism and central planning. "The charge which they press most vigorously is that of monopoly, which they condemn for several reasons, including its effects on allocation and income distribution and its roles as a source of economic instability and of the interventions which followed laissez-faire. Tariffs and other market interferences greatly aided monopoly, they say, but the manifest advantages of combining to exploit the public will lead to mergers, cartels and other market associations except when laws prevent such combinations. Once widespread monopoly and oligopoly exist, some of the major evils of an interventionist system appear. Market power curtails consumer sovereignty; "monopoly war" (destructive competition) replaces "productivity competition" and thus creates grave disequilibria as well as more directly wasting resources; market rigidities intensify recessions and postpone recoveries. Moreover, when a private enterprise economy is not highly competitive, major intervention almost inevitably follows, partly because of the evils just mentioned, partly because groups exploited by monopolists demand special protections, partly because market power confers political strength, and the monopolists use this strength to push through special-interest legislation." Oliver 1960: 132.

> Walter Lippmann establishes that the ills of our time stem from two mistaken ideas: the fallacious opposition between socialism and fascism, which are actually two varieties of the totalitarian State and economic planning; and the identification, no less wrong, of liberalism with the Manchesterian theory of laissez-faire, laissez-passer. Mr. Walter Lippmann shows how the liberal economy, based on private property, free competition and the pricing mechanism, is not only the result of a natural order, but also of a legal framework, created by the legislator, that one has to continuously adapt to the ever-changing circumstances of economic technique based on the division of labour. (Reinhoudt & Audier 2018: 10)

A powerful trigger for the open attack on laissez-faire lay with the 1929 crisis and its consequences. Röpke had already explained in 1932 that the "laissez-faire case can be discarded as impracticable since it is obvious that something has to be done to overcome this depression and to prevent the recurrence of another." (Röpke 1932: 195). Such observations would appear consistently in Röpke's work. In his 1937 *Die Lehre von der Wirtschaft*, he would repeat:

> Business' is a product of civilization and it cannot exist for long in the absence of a specific constellation of conditions, chiefly moral, which support our civilization. The economic ingredient in the constellation is, as we shall see, free competition. But free competition cannot function unless there is general acceptance of such norms of conduct as willingness to abide by the rules of the game and to respect the rights of others, to maintain professional integrity and professional pride, and to avoid deceit, corruption and manipulation of the power of the state for personal and selfish ends. The big question of our time is whether we have been so heedless and unsparing in the use of our moral reserves that it is no longer possible to renew these vital props of our economic system and whether it is yet possible to discover new sources of moral strength"
>
> Röpke 1937: 24–25

As Masala & Kama (2019: 21) noted, "Röpke insist[ed] that free markets require mutual trust, legal stability, ethical behaviour, and "moral reserves" in order to work properly, and that these elements are not produced by the market itself".

Inspired by the shock of 1929, and its varied consequences, a reorientation around certain core economic values and themes became a constant reference. Thus, for example, in an appendix to Wilhelm Röpke's 1942 book, Rüstow insisted that the lesson to learn from 1929 was not confined to the role of the state but on the limits contained in the market economy itself. Writing fifteen years after the crash, he noted: "It had been expected that the spread of the free economy would bring about positive ethical and sociological results as well as an improvement in moral standards, a humanization, and an integration of society. But competition as such, appealing as it does solely to selfishness as a motivating force, can neither improve the morals of individuals nor assist social integration; it is for this reason all the more dependent upon other ethical and sociological forces of coherence." (Rüstow 1942: 272). In the same book, Röpke, expressed similar concerns:

> One refused to see that a market economy needs a firm moral, political and institutional framework (a minimum standard of business ethics, a strong state, a sensible 'market police', and well weighed laws appropriate to the economic system), if it was not to fail and at the same time destroy society as a whole by permitting the unbridled rule of vested interests. Historical liberalism (particularly the nineteenth century brand) never understood that competition is a dispensation, by no means harmless from a moral and sociological point of view."
>
> Röpke 1942: 51-52

So strong was the rejection of laissez-faire that Rüstow went as far as describing it as having a "theological-metaphysical origin […] so powerful that it was regarded as self-evident and beyond all discussion". (Rüstow 1942: 272). Röpke seconded by arguing that as the market "[…] is miraculously directed by the 'invisible hand' mentioned by Adam Smith, which in reality is nothing but the "divine reason" of deistic philosophy, men have only a negative duty towards it, namely, to remove all obstacles from its path –laissez-faire, laissez-passer. Thus, the market economy was endowed with sociological autonomy and the non-economic prerequisites and conditions which must be fulfilled if it is to function properly, were ignored." (Röpke 1942: 51-52).[119]

The distinction between a purely economic realm and an all-encompassing *Weltanschauung* became a key theme. "Competition as such", continued Rüstow, "appealing as it does solely to selfishness as a motivating force, can neither improve the morals of individuals nor assist social integration; it is for this reason all the more dependent upon other ethical and sociological forces of coherence", concluding that "since competition 'appeals . . . solely to selfishness' the civility of a competitive society is 'dependent upon ethical and social forces of coherence'. One has therefore to look 'outside the market for that integration which was lacking within it' (Rüstow 1942, 272).

But one should not forget that the call for looking 'outside the market' for the necessary social integration was also a reiteration of the ordoliberal emphasis on the state mechanism, not merely as facilitating the existence and maintenance of the market economy, but as an institutional order tasked with establishing and promoting a cultural and ethical reality that would make the market more functional and dispense with the (internal) tendencies that threatened its whole construction. As I have already shown, however, with the looming influence of the socialist calculation debate in the background, it was equally pertinent for ordoliberals to remark that the fine tuning of their views on both the state and the market did not, in any case, result in a taking up of the cause of avoiding business cycle disruptions and crises through *economic planning*. The exact formulation of the ordoliberal positions was as much concerned with rejecting the laissez-faire understanding of capitalism, as the pretentions of central planning or trade protectionist policies. Röpke explained the stakes quite openly:

[119] In most recent literature, Dold & Krieger (2020) make a similar point in their introduction: "By emphasizing an economic order that implemented and maintained by the state, ordoliberalism stands in contrast to laissez-faire liberalism, which sees only a minimal role for the government in economic affairs." (Dold & Krieger 2020: 1)

> [It] is just as wrong to rely on the natural respiration of economic life resuming automatically as it is wrong to club it to death and then to make attempts at replacing the natural organism by an artificial one made of tin and wire. Both the uncompromising Liberal and the Planner—each is wrong where the other is right, and right where the other is wrong. The uncompromising Liberal is right in his recommendation to stick to the essential principles of our competitive market system, but he may be wrong in relying on the automatic mechanism of this system for overcoming the secondary depression; the Planner is right in demanding an active policy against depression, but irremediably wrong in suggesting Planning as the right method.
>
> Röpke 1932: 198

Contrary to what would later be identified as the neoliberal (or libertarian) position for the retreating or minimal state, the ordoliberal position was above all developed to express the fine essence of a strong state that does not directly intervene in the process of the market but is nonetheless not against all intervention. For ordoliberals, the absence of the state mechanism was in fact a clear sign of its weakness. As Siems & Schnyder rightly point out, "State intervention […] very much constitutes one of the core claims of ordoliberalism. […] The goal was not to weaken the state but to direct its intervention into the "right," that is, market-conforming direction." (Siems & Schnyder 2014: 380). As Bonefeld explains, in the ordoliberal universe "market regulation by the invisible hand amounts fundamentally to a political practice of government. In ordoliberalism the state is the primary and predominant institution of the free economy". (Bonefeld 2017: 3)

This approach is perhaps what best defines ordoliberalism as a distinct theory and intellectual project, and it remained such throughout ordoliberalism's historical trajectory. When Louis Rougier took the stage in the opening session of the Walter Lippmann Colloquium of 1938, he repeated as much: "[The] liberal regime is not only the result of a natural spontaneous order as numerous authors of the *Codes of Nature* in the eighteenth century proclaimed; […] it is also the result of a legal order that presupposes a legal interventionism of the State" (Rougier 1938: 98). More than 20 years later, Rüstow would re-iterate: "What really distinguishes our neoliberalism from the long-vanquished paleo-liberalism of … laissez-faire? The distinction is this: we do not expel the state from the economy only for such a much weakened state to come back through the backdoors of interventionism, economic subsidies, and protectionism. Right from the start, we assign to the strong and independent state the foundational task of market-police to secure economic freedom and complete competition." (Rüstow 1954: 221)

In conclusion, one can summarize the ordoliberal rejection of laissez-faire on two, separate but solid, grounds: the first, concerns a certain sensitivity towards the dissatisfaction with the liberal paradigm that emerged as a result of both the First World War (an evet of unspeakable horror which the expansion of liberal global trade was meant to render obsolete) and the 1929 crash (a catastrophic economic event that could not be explained by conventional theories). This approach was somewhat muted by the simultaneous attempt of ordoliberals to salvage their liberal heritage and the positive contributions of classical liberalism.

At a second and perhaps more important level, the abandonment of laissez-faire grew out of the rejection of a conceptualization of the market economy as a self-regulating mechanism bound to reach equilibrium if unobstructed. Whether ordoliberals believed that there was once a historical period where that was true or not is somewhat irrelevant. What matters most is that in the interwar period (and in subsequent years), this notion of a self-regulating market would be severely criticised and presented as antithetical to the liberal credo. As we have just seen, the necessity of a strong state that *depoliticises* the economic realm and keeps particular interests at bay was a central constitutive principle of ordoliberalism. But the question about this formulation arose as quickly as it was posed: what exactly does a strong state do?

Liberal interventionism

> "I begin with the problem of economic power"
> Eucken 1951: 31

Having established the significance of the concept of the strong state in the interwar ordoliberal imaginary, the difficult question of defining the tasks, duties and scope of such a state remained. At this point, the ordoliberal approach – marked by a mixture of conviction and pragmatism – became somewhat contradictory. Within the context of both a conservative critique of Weimar democracy, the need for clear constitutive and regulatory principles, the strong state and the economic crisis, ordoliberals intervened in contemporaneous discussions and policy debates by introducing the concept of liberal interventionism.

Coined by Alexander Rüstow during the crucial meeting for the *Verein für Sozialpolitik* in Dresden in 1932, the term 'liberal interventionism' was meant as a concept that would justify a certain level of discretion/intervention on behalf of the state in times of crisis, but would retain a clear focus on interventions *in the direction* of market laws, not *against them*. The aim, Rüstow would explain, was to restore market equilibrium, not to move away from it.[120] As he put it,

> A strong and independent state is the prime condition in every case, but state intervention must be restricted to the indispensable minimum; it must not be in opposition to the functioning of the market mechanism or disturb the structure of the market; it must, on the contrary, maintain them.
> Rüstow 1942, 281

But Rüstow's intervention did not appear in a vacuum. Wilhelm Röpke had already tried to develop this concept in 1929, in a text appropriately called "*Staatsinterventionismus*",[121] without however establishing a general model for interventions. It was only later, acting as a member of the Brauns Commission set up to examine the question of unemployment and, more generally, the "possibilities

[120] Interesting to note is Leonhard Miksch's approach to the question of the strong state which is, in his case, also responsible for not merely safeguarding but *organizing* competition ('Der Wettbewerb – eine Staatliche Veranstaltung' Miksch 1947).
[121] Röpke (1929) „Staatsinterventionismus", Artikel im „Handwörterbuch der Staatswissenschaften", 4. Aufl., Ergänzungsband, S. 861 ff.

and limits of state intervention in a period of crisis and depression"[122], that Röpke found enough ammunition to develop what would soon become fundamental positions of the ordoliberal framework. The results of this engagement would be later presented his 1937 *Der Lehre von Wirtschaft*.

Invited by Heinrich Brauns, Labour Minister from the Zentrum Party between 1920 and 1928, Röpke played a crucial role in putting forward legislative proposals for transforming (and essentially cutting) unemployment insurance. Rejecting the notion that the crisis was either a "crisis of capitalism" or a "crisis of under-consumption", Röpke developed his approach on the basis that the crisis was initially caused by over-investment (a position he shared with Luigi Einaudi) which had then transformed into a crisis of over-saving (Dyson 2021: 339). While recognizing that the crisis was "the inevitable reaction of credit expansion and accumulation of capital in the leading countries" (Röpke 1933: 434), Röpke crucially added that "had it not been for an unfortunate coincidence of various accidental factors there would have been nothing to prevent the emergence in due course of a new equilibrium" (ibid.). These factors, he goes on to explain, are what allow him to distinguish between "a primary and a secondary phase of the crisis" (ibid.), the second and most important of which Röpke would later call a "secondary depression" (Dyson 2021: 351), a concept he claimed had become "more prominent during the course of the present depression" thanks to the "outstanding" work of Mr. John Maynard Keynes.

For the reasons described above, an active policy towards stabilization through "confidence-building measures" by the state was advocated. Distancing himself from understandings of a self-correcting market mechanism or a remote and invisible state mechanism, Röpke went as far as identifying himself with a "school of thought" that included W. Lautenbach, H. Neisser and G. Haberler (Röpke 1933: 434 note), whose positions on an expansionary policy Röpke claims to have developed and defended during his participation in the Brauns Commission.[123] What were these? A clear support of a (temporary) fiscal and monetary stimulus,[124] part of which included a job creation programme and the eventual endorsement of the "proto-Keynesian stimulus" Lautenbach Plan of 1931 (Feld 2016: 46; Feld et al 2017:43; Feld et al 2021: 550)[125]. Interviewed by a New York Times journalist in May 1931, Röpke re-iterated his support for a "comprehensive road-building program", one made possible through "ample credits" provided by the state (Kendam 1931).

[122] Röpke's interventions and positions during the Braun Commission were published in an article called 'Praktisches Konjunkturpolitik. Die Arbeit des Brauns Kommission', *Weltwirtschaftliches Archiv*, *Zeitschrift für Allgemeine und Spezielle Weltwirtschaftslehre*, 1931. I have consulted Commun's (2017; 2018) exposition of the article, given to her by the Wilhelm Röpke Foundation.

[123] "The report of this committee clearly reflects its conviction that something could be done to shorten the road to recovery by arousing the national economy from the torpor into which it seemed to have fallen through the degeneration of the crisis. But in this the committee was much ahead of the development of common and even academic opinion so that its recommendations unfortunately went unheard at that time." Röpke 1936, *Crisis and Cycles*, p. 133.

[124] Interesting here to note that the Reichsbank had, at the time, rejected the Lautenbach Plan as inflationary and responsible for debasing the currency. The same view was held by many inside the SPD. See Notermans 2007: 118-119, 261 ff. 63

[125] Feld, Köhler & Nientiedt (2020) 'The "Dark Ages of German macroeconomics" and other alleged shortfalls in German economic thought', in Beck & Kotz (eds) 2017 '*Ordoliberalism: A German Oddity*'; Feld, Köhler & Nientiedt (2021) 'The German Anti-Keynes? On Walter Eucken's Macroeconomics', *Journal of the History of Economic Thought*, Journal of the History of Economic Thought, Vol 43, Issue 4, pp. 548-563.

It is important to note here that the essence for understanding Röpke's support for expansionary policy is firmly grounded on, and would not exist without, his analysis of a secondary depression. Given that the approach was one where the primary depression was caused by over-investment, Röpke joined the ranks of Austrians (like Mises or Hayek) who advocated against any intervention at this level. Not only was the 'cleansing' process of liquidation necessary to reduce the excessive level of capital stock, but any intervention at this level would undermine labour market in the long run (Klausinger 1999: 383).

It is only in the stage of the secondary depression that "the deflationary process becomes self-feeding and independent of the causes of the primary depression" (Klausinger 1999: 383). At this level, intervention is necessary not because the secondary depression would not, eventually, wither away on its own but because it is a process that has no 'cleansing' utility of clearing excessive capital.[126] From this perspective then, as we see, Röpke *only* considered an expansionary stimulus as justified under condition of secondary depression. In fact, his view was that "what is considered a desirable policy in a secondary depression would be harmful when applied to the primary depression" (Klausinger 1999: 384) In all, both secondary depressions and the hereto justified expansionary responses were exceptions to the rule. As Eucken would write retrospectively, "there are millions of unemployed, any government will have to pursue a policy of full employment . . . social conscience forbids us to tolerate mass unemployment, and so does reason of state." (Eucken 1951: 59).[127]

Having said that, Röpke's main task in the Brauns Commission was to examine the question of unemployment and here the divergence from other liberal expansionist/interventionist traditions or tendencies became clearer. As noted, the stage of the primary depression was seen, by Röpke and others, as necessary and indispensable. In some cases, in fact, wide wage cuts and even unemployment were also necessary. Given that the crisis was not the result of a generalized inability of capitalism to overcome its crisis, it was more prudent to detect unemployment as the result of a distortion and/or disequilibrium of the labour market, more often than not caused by "excessively high wages" in specific sectors (Commun 2016: 50).

The secondary stage of the depression, however, "is not the right time for cutting wages, as this would just accelerate the ongoing cumulative downward process" (Klausinger 1999: 391). Taking into account the questions of unemployment, labour market flexibility and wage settings, Röpke would argue that at this stage, market functions cannot be taken for granted. Contrary to those who saw the stabilization process after 1923 as an actual economic recovery, Röpke asserted that it was an "illusory

[126] As Klausinger explained, in the view of these authors "the secondary depression fulfils no cleansing function as it becomes increasingly difficult to distinguish between profitable and unprofitable projects as this distinction presupposes the evaluation at equilibrium prices, from which prices may diverge widely during the secondary depression." Klausinger 1999: 397, n. 24.
[127] Interestingly, an almost identical justification can be found in future *Bank Deutscher Länder* president Wilhelm Vocke's defence of Hjalmar Schacht's Mefo Bills in the postwar period. See Vocke's defence witness testimony on Schacht's trial in Nuremberg.

recovery", whose actual effect was the establishment of a mentality of "generalized lack of discipline", with negative effects on the productivity of workers. Any suggestions put forward at that time, such as reducing working time or forbidding the possibility of having two jobs, were firmly rejected by Röpke, who saw in them an attempt to institutionalize this lack of discipline and to further undermine productivity[128].

Röpke approached the topic again in his 1932 book *Crises and Cycles*, this time clarifying that there was also a *political* reason for justifying interventionism: avoiding the generalized tendency of *collectivism*. Again, the central question is to allow for a form of intervention that remains *conformist* to market mechanisms, a formulation that we find repeated in key writings of Rüstow, Müller-Armack and Eucken himself.[129]

> "The dangerous hesitation which central banks often betray in stamping out the fire of the banking crisis has perhaps much to do with the general failure to realize cold-bloodedly that this crisis is at bottom nothing but the sudden preference on the part of the public for one sort of money (cash) instead of another (bank money). This momentary metamorphosis, which amounts to an atavistic recession, can, if given free play, have disastrous consequences, but the widespread belief that it involves an inflation of some kind is really unfounded. There is therefore no reason why the central bank should not apply its extinguisher instantaneously and liberally.
>
> The more quickly this " bold generosity " is declared, the less— as Anglo-American banking literature is never tired of recommending from first-hand experience—it will require to be used, the more quickly will the credit crisis be overcome and the less marked will its repercussions be on the circulation and production of goods. Again and again experience teaches that at such times of panic the public only wants the money it cannot get, while it does not want the money which it can get. The longer one hesitates, however, the more fatal will these repercussions be, the more difficult it will be to overcome the crisis, and the greater sacrifices it will cost when one is eventually forced to do what one should have done in the very beginning, viz., keep the banks open to satisfy the claims of everyone desiring payment. This old truth was forgotten in Germany in the summer of 1931."
>
> Röpke 1932: 37

Although Röpke would later be accused of moving closer to "proto-Keynesian"[130], counter-cyclical, interventionist policies, Commun (2016: 46 f. 14) is right to draw attention to the fact that the type of

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[128] What is of special interest in the context of the Brauns Commission was not only the structure of Röpke's responses and how they build an alternative *Weltanschauung,* but also how his frustration at its specific format betrayed something about the ordoliberal mistrust of democratic processes. The Brauns Commission was set up in such a way so as to include the *demos* through publicizing the commissions' suggestions and inviting interventions from the public. Röpke found this method "inconvenient" and complained about how such a format undermines "serious scientific theories" (quoted in Commun 2016: 49).

[129] " In his paper „Zwischen Kapitalismus und Kommunismus" (1949) Rüstow explicitly refers to his remarks made in 1932 and says that even then he had called for "conformist adjustment interventions" (p. 132). In his *Grundsätzen der Wirtschaftspolitik*, Walter Eucken called for a conformist trade policy as an essential means of realizing the competitive order (p. 268). Müller-Armack also pleaded for conformist economic policy measures in order to exploit the social possibilities of a market economy." (Dörge 1954: 727)

[130] Feld, Köhler and Nientiedt (2017) argue that Eucken "did not discuss Keynes or Keynesian thinking in detail", something they attribute to the international isolation of Germany at the time. But the protocols of the discussions held in the *Arbeitsgemeinschaft* of Erwin von Beckerath show that Eucken was not only aware of Keynes' proposals, but that he showed a reserved yet positive inclination towards them. In 1943, for example, Eucken proposed organising a serious discussion over Keynes' proposal for an International Clearing Union, i.e. a global bank that would be responsible for controlling the trade balance between countries, lending capital when deficits were rising while also imposing fines where surpluses were

state intervention advocated by Röpke was "exceptional" and temporary, and only tolerated due to the gravity of the crisis[131]. This diagnosis seems to contradict, however, Röpke's further support for "some type" of state interventionism during his time at the University of Istanbul (1933-1937), though this could be assigned to a different conceptualisation of the needs of the Turkish economy. As Masala and Kama (2018) put it, "in his works during the Turkish years Röpke was not against interventionism in the case of a country in the situation of Turkey, and how he supported some actions of the government.")[132] The overall aim of state intervention was, after all, to "unfold towards budgetary orthodoxy, with the aim of restoring the market economy back on track." (Commun 2016: 46, my translation).

> "In a newly established country like Turkey, it is obvious that without intervention the government cannot achieve important aims and promote economic development, but it is notable that it should intervene in an appropriate way, especially respecting the logic of the market."
>
> Röpke (1935) in Masala & Kama (2018)

Writing in 1948, Röpke would try to explain in more detail his approach. As he argued, the policy of state intervention in a time of crisis only

> applied to the quite exceptional circumstances of the crisis which had degenerated into a "secondary depression." It held that in certain circumstances it might be deemed suitable, nay, urgently necessary in the "critical lower point" of the business cycle to introduce active measures to combat the disproportion between savings and investment and in this way hasten the resuscitation of the equilibrium already set in motion by the crisis. But it does not maintain that a policy of the kind should be embarked upon already during the "primary crisis" which immediately follows the boom, and it implies even less that it should be misemployed for the neck-breaking attempt to keep the boom inflated for ever. An" active business-cycle policy" of this nature, of which idea the author more than a decade ago in conjunction with others was a pioneer in face of strong opposition from people who today exaggerate radicalism as formerly they did orthodoxy, bears a wholly exceptional character and

accumulating, a task that would eventually form the International Monetary Fund. Eucken agreed with Keynes' assertion on the necessity of fixed exchange rates, as well as the Bancor currency proposal, but took his distance from what he saw a monopolistic (and therefore planned) tendency. "While in the area of the balance of payments and international currency policy Keynes' Plan represents a serious effort to liberate equilibrating tendencies, the entire organisation of world commodity markets is lacking in equilibrium … Insofar as the currency plan is part of a comprehensive monopolistic, centrally administered plan, it should be decisively rejected." Though his rejection of any form of planning is to be expected, it is interesting that Eucken had little to say about the fact that Keynes' clearing union was premised on, and demanded the, abandonment fo the gold standard. (W. Eucken: 'Bemerkungen zum Wahrungsplan von Keynes' (November 1943), in Blumenberg-Lampe 1986: 273.

[131] As Röpke himself explained, "as soon as the State has performed its duty, I am personally ready to reposition unrestricted liberalism in the spotlight but, for the time being, I firmly believe that State action is imperative [Otherwise] Liberalism -or the remnants of it which still exist- will disappear into the museum." (Röpke, *Praktische Konjunkturpolitik*, p. 450; 458, quoted in Commun 2016: 59). See also Nicholls 1994: pp. 51-56.

[132] In a paper presented in a conference in Istanbul in 1934 Röpke expands on his notion of interventionism as a necessary instrument to avoid radicalization and the overall critique of market society. As Malala & Kama (2018: 22) argue, "Röpke clearly expounds his idea that if citizens are not satisfied with the distribution of income in their societies, the solution is not to change (or abolish) the market mechanism but rather to tax affluent citizens more in order to assist the less fortunate." For interventionism to make sense, a 'strong state' is necessary. Thus Röpke ends his article "with the problems of monopolies as barriers to competition and the necessity to fight them. Here Röpke, similar to Rüstow, speaks out in favor of a "strong state", since only a strong state can prevent the formation of monopolies." (Masala & Kama 2018: ibid.)

> is applicable to a doubtful situation. It is a particularly dangerous method which can be justified only by the very grave danger of a situation of the sort. (Röpke 1948: 208).

Following Eucken's analysis which saw the instability of the economy as a result of an inflexibility of wages and an insufficient monetary order (hinting to the *de facto* abandonment of the gold standard), Röpke praised the attempt to follow budgetary orthodoxy (i.e. balanced budgets), considering this a *sine qua non* condition for the restoration of market confidence. And if the concept of "budgetary balance" has acquired an almost "religious fixation" (Bofinger 2016) in contemporary German (and beyond) economic thinking, it is perhaps pertinent to point out its historical origins: for Röpke and other ordoliberals, it was an argument against the expansionary policies of the (Weimar) state, its commitment to full employment[133], welfare expenses and social support schemes, none of which were, in their words, "*Marktkonform"* (market-conforming).

As Dörge puts it, Röpke's approach was geared towards taking "the indirect, organic path of influence", making sure to avoid "cancelling out the price-mechanical 'self-control of the market, but to be incorporated into it as new 'data' and assimilated by it" (Dörge 1954: 726).

Röpke, Rüstow and Eucken were among the ordoliberals who would continue to take part in advisory committees and conferences during the rule of "hunger Chancellor" Brüning, always with an eye on protecting private property – from inflationary and other redistributive forces – and promoting the market economy – in opposition to a form of state intervention that tended towards central planning or cancelling our the price mechanism. And although we know from the published protocols of discussions of the time that all three ordoliberals did, at points, distance themselves from the extremely deflationary policies of the government, it is crucial to identify the precise reasons for this dissociation. In this context, what Mommsen (1989) has described as the ulterior motives behind Brüning's deflationary policies, i.e. the undermining of the reparations' payments without any consideration about its effects on the economy[134], could well be a reasonable explanation. And one could perhaps also argue that Röpke's retrospective harsh dismissal of Brüning[135], shared by other ordoliberals, was fuelled by a resentment about the fact that their proposals in the various advisory boards were, for the most part, ignored. But these eventual disagreements should not overshadow the fact that ordoliberals initially saw in Brüning a potential ally, one whose authoritarian rule and deflationary outlook fit quite well with

[133] "Thus the policy of full employment, like the corporative structure of the labour market, resulted in a marked tendency towards central control of the economy. The one, like the other, was conducive to an unstable economic system with a tendency to move in the direction of central control. So there were two strong historical forces impelling German economic policy along the path to central control: firstly, the formation of comprehensive economic and social pressure groups, and secondly, the policy of full employment." (Eucken 1952, p. 60)

[134] Nicholls (1994) mentions that when Brüning was advised by members of his own government that his policies were wrecking the economy, he "sneeringly remarked that the German people always collapsed just before they were about to win a victory." (Nicholls 1994: 57).

[135] In a letter to a colleague, Röpke described Brüning as "a stubborn Westphalian imbued with reserve-officer and front-soldier complexes which sometimes produced comic results. His economic policy at that time [1931-1932] was a copy-book example of how not to try to overcome such a crisis" (quoted in Nicholls 1994: 56).

their own positions. Once again, their opposition was primarily focused on economic policies and not wider political considerations.

According to the ordoliberal outlook, the 1929 Depression had the specific consequences that it did due to a combination of distrust towards the market that was compensated by direct and incompatible interventions, alongside the lack of a strong state capable of insulating itself from the various *particular* interests eager to tear it apart. As Oliver sums it up, according to ordoliberals, "…the post-1929 depression became the crisis of capitalism because market intervention plus a lack of statesman ship so burdened the economy that its powers of adjustment were finally overwhelmed." To make things worse, "post-depression interventions have retarded recovery, intensified inflation and tended to lead cumulatively toward central planning." (Oliver 1960: 126)

Hayek would later describe Röpke as someone who understood "early, probably earlier than most of our contemporaries, that an economist who is only an economist cannot be a good economist" (Hayek 1959: 26). In making this claim, Hayek was making an indirect reference to Röpke's development of the concept of liberal interventionism, grounded on the one side on an economic analysis of the business cycle and the threat of a secondary depression, and on the other side on the realization that a threat of the *economic order*, as was the case with the Great Depression, risked spilling over to the *political order* and upending the whole system of the capitalist society. What Hayek was pointing out with his comment was, in effect, nothing less than an echo of what Eucken would call the "interdependence of orders" (Eucken 1940: 298-299).

Economic Constitution

„The realisation of a price system of complete competition is
the essential criterion for any economic policy measure. This is *the fundamental principle of the economic constitution*."
Eucken 1949, 232, emphasis in original

„Das Wort "Ordnung" würde ich mit "order" übersetzen
und möchte vorschlagen, nicht das Wort "organization" zu wählen."
Walter Eucken to Terence Hutchison, 1948

If *Ordnungspolitik* represents a focus on the type of policies for the competitive order, *Ordnungstheorie* is a system of ideas, developed primarily by Eucken but influenced by the legal scholarship of Böhm, that seeks to ground ordoliberal economic thought within the 'economic constitution' (*Wirtschaftsverfassung*). The close collaboration of economists (such as Eucken, von Stackelberg and Röpke) with legal scholars (such as Franz Böhm or Großmann-Doerth) produced a dialectic between the legal and the competitive order, intertwined in the concept of the *economic constitution*. Its centrality and historical persistence within the ordoliberal framework necessitates a closer look at its main coordinates.

From the ordoliberal side, the term was first utilized by Böhm in his 1932 "Wettbewerb und Monopolkampf" (1932: VIII) and repeated, by Walter Eucken, in 1942 in his work with the *Akademie für deutsche Recht* (Eucken 1942). It consisted of an attempt to ground the prospect of the market economy, the competitive order and the price mechanism in a legal order, furnishing the ordoliberal framework and its *Ordnungspolitik* within a legal concept (Teubner 2014: 735). Yet, while it is the case that the concept of the economic constitution has, throughout the years, come to be identified with the ordoliberal tradition and the process of European integration within an ordoliberal/neoliberal context (Grégoire 2022), the term was in fact first used by SPD member and legal theorist Hugo Sinzheimer,[136] one of the main authors of the Weimar Constitution.

Sinzheimer's conceptualization of the economic constitution was diametrically different from the use that ordoliberals made of the term. To start with, Sinzheimer was heavily influenced by the work of Otto von Gierke and his concept of "Social Law" which represented an attempt to establish a legal space beyond the separation of private and public law. From von Gierke's perspective, the purpose of his Social Law would be to provide a legal space of protection of "the economically weak by ensuring a greater degree of 'balance' in private law transactions through tempering the power of the economically stronger party" (Dukes 2014: 14).

Sinzheimer took inspiration from this and sought to infuse such a perspective in the Weimar Constitution. Central in this approach was the conviction around the need to extend democratic rules and principles into the economic sphere, just as these had become embedded in the political sphere. This conceptualization by Sinzheimer did not merely concern the ability of counteracting the unequal economic power wielded by property owners (capital) within the workplace by establishing, for instance, highly protective labour law regulations of hiring and firing, collective bargaining and conflict resolution. Concomitant with the overall vision of the SPD at the time, the idea behind the extension of democratic principles into the economy was also meant to infuse the legal framework with provisions through which workers could directly participate (or get represented in) key decisions of the whole economic process. This was what Sinzheimer, and many others in the SPD meant with the chosen term 'economic democracy', understood as a process which could and should be facilitated, enhanced and embedded through the economic constitution. It was conceived, as Dukes (2014: 18) notes, as "holding the promise of both *freedom from* abuses of power and *freedom to* participate in the exercise of power".

For Sinzheimer, a key basis for his approach was the conviction that the economy was a *public* rather than *private* issue. From this perspective, the regulation of labour relations through private contractual law was thoroughly insufficient. Not only because it allowed for abuses of power on behalf of structurally advantaged employers but because the *public* character of the economy meant that it had

[136] As many have noted (Nörr 1994; Dukes 2014; Grégoire 2022) the precise historical origin of the concept can be traced to scholastic or physiocratic ideas but in such a sparse way that it is impossible to maintain that a specific continuity exists. The modern use of the concept from Sinzheimer and thereafter presupposed, in any case, the understanding of the economy as a *coherent unity* (something lacking even in 19th century German legal thinking) *and* a formed, modern state apparatus. Nörr 1994: 343 ff.

to be regulated in the interest of the common good (and not just profit). For that concept of the 'common good' to be defined, workers and unemployed needed a place in the table.

Although laced with visible traces of Marx's work in its treatment and understanding of the contractual relations between labour and capital as a clear expression of domination and exploitation, Sinzheimer's invocation of the concept of the economic constitution did not seek the abolition of private property. Concerned with finding a delicate balance between capital and labour, Sinzheimer sought to limit the inherent social power of property and to "temper the employer's power to command" (Sinzheimer 1928 in Dukes 2014: 17). Central to this approach was an understanding that private owners and entrepreneurs "were no longer regarded as isolated economic entities" (Nörr 1994: 346).

In the battleground of the Weimar Republic, Sinzheimer's vision of the economic constitution that embeds economic democracy within a legal framework was never actually implemented. Yet, Sinzheimer's fame, his continuous evocation of the concept in the widely publicized parliamentary discussions and debates around the Weimar Constitution, as well as his numerous writings on the topic, leaves little doubt that ordoliberals would have been familiar with it.[137] But their adoption of the term (most notably by legal theorist Franz Böhm) moved in the exact opposite direction.

If Sinzheimer aimed to extend political democracy into the economic sphere through social law, placing workers councils (and, eventually, trade unions) at the center of this process, "Böhm thought in terms of economics in order to find the starting point for his concept of the economic constitution" (Nörr 1994: 351). Rejecting the idea that the competition was one characterized by chaos, Böhm understood competition as an *order*. Attempting to "translate the teachings of classical economics from the language of economics into the language of legal science" (Nörr 1994: 352), Böhm promoted his understanding of a market economy that was free but framed within a legal *Ordnung*. Drawing from the example of the introduction of freedom of trade (the Trade Ordinance of 1869), Böhm saw in the legal grounding of competition a process of freeing economic activity from power and control (a specific process of *disempowerment*), creating the conditions for the free cooperation of market agents.

Contrary to Sinzheimer, Böhm saw the foundations of the economic constitution as based on private law. In a market economy, he argued,

> […] private law order draws up rules to which the members of society are subjected when they enter into agreements with one another, acquire goods and titles from one another, cooperate with one another or exchange services on the basis of agreements, or else act, plan or are inactive outside all contractual relationships. Over and above all this, it delegates to all persons who move within its jurisdiction, an extremely extensive freedom of movement, a competence for planning and existence in relation to their fellow men, a status within the private law society which is by no means

[137] Defending the Weimar Constitution in a parliamentary plenum, Sinzheimer explained that its economic section was characterized by three main points: the regulation of the individual's economic activity (in terms of economic rights and liberties); the aim of giving labour a special value; and, lastly, "to lay the foundations of an economic constitution" (Nörr 1994: 347).

> simply a gift of nature - a dowry of natural talents and will-power-but a social civic right.
>
> Böhm 1966: 49-50

For ordoliberals however, the economic constitution was not conceived of as a means of establishing rules that could act as remedies against the inherent inequality present in the capital/labour relation. The purpose of the economic constitution was not to limit the discretionary power of employers against their employees, let alone to mediate a legal relationship between employers and labour as a collective subject. The economic constitution is meant to ensure that market functions (among which the inviolable contractual relation of labour and capital) are not *distorted*. In Böhm's and Eucken's writings, the exploitation of labour by capital, of workers by property owners, is not an inherent characteristic of that relation. For them, market distortion was a consequence of particular interests such as monopolies and trade unions taking control of (or else, tearing apart) the state and obstructing the signals of the price mechanism. From their perspective, it was precisely this attempt to extend democratic principles within the workplace and, even worse, towards direct participation in economic decisions that constituted a veritable distortion of the market mechanism. The ordoliberal economic constitution is therefore conceptualized as the implementation of an *Ordnungspolitik* that explicitly forbids the distortion that economic democracy was meant to bring about. Staunchly opposed to 'economic democracy' understood as "equal participation of workers in all the decisions taken by firms, cartels, chambers of commerce or industry" (Böhm 1954: 153; also Rüstow 1951: 171), ordoliberals formulated (and never abandoned) *Ordnungspolitik* in full opposition to any "equality between labour and capital" (Böhm 1954: 156)

It is interesting to note that, in the process of the development of the Weimar Republic, Sinzheimer's vision did not come into fruition. His attempts to democratize the economic sphere by including workers' participation in workplace or overall production decisions, mediated by workers' councils was, in fact, never even considered seriously. Contrary to his idea of workers' councils functioning "as part of a wider system of autonomous regulation of the economy" (Dukes 2014: 21), the only thing that survived from Sinzheimer's proposals was the duty placed upon workers' councils to "act in furtherance of the *Betriebszweck* ('works' objective')" (Ibid), a task that, in the absence of the direct participation of councils' in the formation of decisions, was eventually interpreted by courts as signifying the duty of workers' councils to maximize production and profit.

Furthermore, as Sinzheimer's student and colleague Kahn-Freund would later observe, the granting of a central role to the state as a unifying entity mediating the conflicting interests and commanding their *common* goal of promoting the "general good" ended up being translated as support and furtherance of the interests of the state. If Sinzheimer had envisioned a social democratic state, whose autonomous substance would mean that the state's interests were, in fact, the *interests of all*, the reality of Weimar was far from that. As mentioned, the interests of the state were interpreted, by Weimar courts, as maintaining industrial peace and increasing productivity, i.e., identical with the interests of employers. At a second, more menacing, level increased state involvement in the setting of the terms of the labour/capital relation led to workers' organizations losing their independence, getting absorbed by the state and identifying fully with its own interests. Eventually, this loss of autonomy and the gradual identification of the "common good" as something embodied within the state itself would reach its climactic and catastrophic consequences with Nazism. With Hitler's rise to power, the state took full control of the economy and completely eradicated the German labour movement.

This development that saw a dramatic strengthening of the role of the state *as the expression* of the combined interests of all was a result that neither Sinzheimer (who paid for these developments with his life) nor ordoliberals like Eucken, Rüstow or Röpke would approve. But if Sinzheimer's mistake was to assume that the Weimar state was a *social-democratic* state, ordoliberals would instead lament against the subordination of private enterprise and capital to the command economy of a Nazi state geared towards the furthering of the *existential* needs of the state itself – in other words, a war economy built to support the expansionist requirements of the German nation while abandoning global trade relations through protectionism.

In any case there remained a common element in both Sinzheimer's conceptualization and the ordoliberal vision, and that concerned the *way* the economic constitution would come about. As Eucken, Böhm and Großmann-Doerth would explain in the (later named) *Ordo Manifesto* in 1936, "[…] the economic constitution must be understood as a *general political decision* as to how the economic life of the nation is to be structured" (Ordo Manifesto 1936: 36, my emphasis). Similarly, Sinzheimer saw the creation of the economic constitution as a political decision of extending economic democracy. If Sinzheimer's vision disappeared alongside the transformation of the Weimar Republic however, the grounding of the economic constitution as an act of will, a *decision* made by the state, would remain a central feature of ordoliberal thinking. Here, the construction of a regulatory framework that facilitates the functioning of the market economy would come to represent a *political* choice and moment whose main role would be to thereafter *limit the space* for further (or contradictory) political choices. It would represent, in other words, a vision of a discretionary moment *meant to end all other discretions*, the cornerstone of what, in the aftermath of World War II, can be described as the *political choice of depoliticization*. In 1948, Eucken's student Miksch would proclaim that "uniform and coherent economic constitution" (Miksch 1948: 315) was essential for resolving internal contradictions of economic policy. And as Eucken would explain in his *Grundlagen der Nationalökonomie* "[by] 'economic constitution' we understand the comprehensive decision (*Gesamtentscheidung*) about the order of the economic life of a community" (Eucken 1950: 52, my translation).[138] In 2003, Joachim

[138] In the same book, Eucken would add: "Economists [*Nationalökonomie*] to-day are working on the practical controlling organizing principles by which effective economic constitutions, national and international, can be built up, and which will be fruitful in all fields of economic policy. Here economic thinking and legal thought can work together, whether it is on the treatment of cartels or on general business law, on questions of the international monetary order, or on other questions of economic and legal policy." (Eucken 1950: 242)

Mestmäcker would describe the process of European monetary integration in the same terms: a *Gesamtentscheidung* about the constitution of Europe (Bonefeld 2019).[139]

Conclusion

> This [ordoliberal] attitude is likely to be criticised as dogmatic adherence to rigid principles. This, however, is a reproach which ought not to deter us … because principles are the most important contributions we can make to the question of policy…Especially so far as economic policy is concerned, principles is practically all the we have to contribute.
>
> Hayek 2014: 227

Several conclusions can be drawn from the above exposition for establishing the outline of the ordoliberal framework. At first point, there is little doubt that ordoliberals were suspicious of (when not hostile to) the pluralist democracy of the Weimar Republic and the process of weakening a state mechanism "held hostage" by strong interest groups. And although the beneficial treatment of certain sectors of private capital by both governments and Reichsbank was certainly criticized by ordoliberals in the context of conceptualizing *Ordnungspolitik* as a process of disempowerment (Eucken), it is equally crucial to maintain that central to their conceptualization of *Machtgruppen* was the unacceptable influence of socialist or social-democratic parties, trade unions and/or any concessions made towards labour on the basis of its militancy. Though ordoliberals, in contrast to Schmitt, fell short from translating their call for a strong state into full support for the Nazi totalitarian apparatus[140] due to the danger of moving towards a planned economy, it remained an existential point of their understanding of the state's *Willensbildung* that it has the power to insulate itself from pressure groups and a wide range of authoritarian measures were thoroughly embraced for this purpose.

In an eclectic relation to classical liberalism, ordoliberals projected an appeal to fundamentals ideas of freedom, liberty, property and the market economy, while also updating their contemporaneous relevance. As we saw, and contrary to a popular reading, ordoliberals did not understand Smith's 'invisible hand' as a single-handedly framework-creating mechanism. Rather, the 'invisible hand' represented an internal dynamic of the market which, when left to itself, was seen as incapable of integrating and maintaining (i.e., *ordering*) the social world. For that order to exist, an "exact administration of justice" (Smith 1776: 915) needed to be in place, a certain "practice of government" (Bonefeld 2019). For Smith as much as for the ordoliberals, "economy is *political economy*" (Bonefeld 2014: 169). If Adam Smith pronounced that indispensability by introducing the concept of an "administration of justice", ordoliberals (and neoliberals like Hayek) would further develop this within

[139] As Dyson also notes, "in the early years of the European Commission, competition policy became a German domain. Mestmäcker's presence as special advisor to the German commissioner, von der Groeben, offered Ordo-liberals some reassurance that rules could prevail over political discretion in European competition policy" (Dyson 2021: 374).
[140] Ordoliberals were among those liberals who conceptualized *totalitarianism* as a form of state power that appealed to the so-called "two extremes": fascism/Nazism and communism. This accentuated their self-portrayal as a 'third way' in between. See Röpke 1959

the historically contingent context of different types of threats and alternate between a 'strong state' and a 'constitutional order'.

Despite their ostensible distancing from classical liberalism (primarily centred around the realisation of its tainting through the "laissez-faire" ideology), ordoliberals were always aware that in their formulation of an indispensable legal order as a means to encase a competitive market they were essentially repeating Smith's argument (Sally 1999; Bonefeld 2013)[141]. At the same time, it is crucial to note that ordoliberalism also relates to classical liberalism via the *neoclassical* route. That means that many of the critiques/advances made by neoclassical liberalism against their predecessors re-appear forcefully within ordoliberal thought. This is apparent, for example, in the disappearance of social classes from the theoretical core that classical liberalism brought forward (Jäger et al 2016: 104), focusing instead on a treatment of civil society as encompassing a wider whole that conceptually integrates as much opposing classes as it does representations of individual (*particular*) capital.[142] Purporting that the market economy could be examined *per se*, and economic questions could be reduced to the relation between state and economy, without any need to refer to social classes or structures, later[143] strands of ordoliberalism (represented in the work of Viktor Vanberg) adopt a *methodological individualism*[144], focusing on utility maximization and the primacy of individual agency,[145] an outlook also borrowed from neoclassical thinking and in close relation to Buchanan's 'constitutional economics' (Vanberg 2013, 2015; Dold & Krieger 2020). But it takes the gigantic transformations brought about by the Second World War to solidify such a perspective.

[141] In the specific case of Röpke, the reference to Adam Smith extends beyond his view on the inter-dependence of state and economy, moving to the field of ethical/moral questions. As he wrote in the *Humane Economy* (1960: 92), "Let us beware of that caricature of an economist who, watching people cheerfully disporting themselves in their suburban allotments, thinks he has said everything there is to say when he observes that this is not a rational way of producing vegetables—forgetting that it may be an eminently rational way of producing happiness, which alone matters in the last resort. Adam Smith, whose fame rests not only on his *Wealth of Nations* but also on his *Theory of Moral Sentiments*, would have known better."

[142] The insistence of categorizing competitive capitals as *particular* should not lead to confusion in relation to the ordoliberal view of monopolies or cartel formations. From a specific perspective cartels/monopolies are expressions of the distorting *concentration* of *particularity*, incapable of reflecting a general/universal market reality.

[143] Earlier German ordoliberal thinkers were not influenced by methodological individualism. According to Rieter & Schmolz, that was because "its best-known exponent during the Third Reich, Wilhelm Vleugels, increasingly turned away from it" (Rieter & Schmolz 1993: 94). Their conflict with "paleo-liberal" Ludwig von Mises, who had in fact embraced methodological individualism might also explain this.

[144] That was, however, not the case for all ordoliberals. As Tumlir (1989: 125) shows, Franz Böhm understood choice as a political-legal decision rather than an individual consequence. In any case, originating in late-nineteenth and early-twentieth-century Vienna with the work of Carl Menger, Eugen Böhm von Bawerk, neoclassical & Austrian economics, as well as ordoliberal thought primarily in the post war period, all utilised methodological individualism according to which "|knowledge is assumed to be perfect or complete, and individuals (or agents, as economists say) are assumed to behave rational on the basis hereof (Lawson 2013, 949; Blaug 2001, 147; Fourcade 2006, 160). For the relation of methodological individualism to critical realist methods, see Blyth (2009). For its relation to Austrian economics, see Olsen (2019).

[145] "The principle of methodological individualism says that explanations of social phenomena should start from propositions about the behaviour of individual persons." Vanberg 2013: 10. In Vanberg's view, contemporary constitutional economics, of which ordoliberalism sees itself as part of, have updated methodological individualism with 'normative individualism', i.e., the proposal that "evaluations of the individuals involved, as opposed to some external criterion, should be viewed as the measuring rod against which social arrangements are assessed." (Ibid). From a certain perspective, of course, methodological individualism "…never managed to dispense with the spectrum of 'society' altogether; it never managed to dispense with the historical relations that constitute presuppositions of individual action and reproduce themselves in it without individual actors being aware of them." (Psychopedis 2000: 74, in Bonefeld & Psychopedis eds, 2000, *The Politics of Change*). This fact will become more visible in the chapters dealing with the upscaling and embedding of the economic constitution.

What does remain constant throughout the ordoliberal project, however, is the unequivocal rejection of the potential withdrawal/weakening of the state. As Böhm would exclaim, the market (capitalist) economy "cannot function without political authority" (Böhm 2010: 167); it can only be, in fact, the result of an "eminently political practice" (Böhm 1973: 101). In the same spirit, Leonhard Miksch (1947: 9) would describe the existence of the market economy as stemming from a "political event" [*politische Veranstaltung*]. The role of the state, both Rüstow and Röpke inform us, is that of a "market police" (Rüstow, 1942: 289; Röpke, 2009: 52). And the foundation of such a market police lies in the independence of the state from *particular* interests and conceptualized as an exercise in the "independence of political will" (Eucken, 1932: 307-8).

Seen as a *political form of depoliticization* meant to provide the necessary regulatory framework for the functioning of the market economy, ordoliberals conceptualized the state as an institution that stands above or beyond the self-destructive competition of *particular* interests. Behind this conceptualization, as will be shown, an important presupposition is lurking: namely, the further necessity of effecting (without presupposing) the separation of a distinct and autonomous sphere of monetary/economic policy which state/law stand to facilitate and regulate. This perspective will remain constant within the ordoliberal project, visible as much in their interwar period proposals as in the architectural design of the EMU, whose very structure is based on the very separation of the monetary/economic fields and that of political/democratic deliberations.

Alongside this conceptualization, the ordoliberal regulatory framework is not merely tasked with embedding and maintaining that separation; it is also meant to act as a protective mechanism for the fundamental basis of the market economy, i.e. private property. The state, thus, is not only a mechanism for facilitating the function of the market economy (a competitive order structured around the price mechanism) but an apparatus responsible for defending its *presupposition* too. In short, the ordoliberal approach saw "the strength and independence of a state [as] interdependent variables", adding that "only a strong state is powerful enough to preserve its own independence" (Rüstow 1942, p. 276).

The conceptualization of the need for a strong state was further strengthened by the consequences of the 1929 Crash and the ensuing economic depression. Rejecting the vision of the state as a "night watchman", ordoliberals also attacked the "identification […] of liberalism with the Manchesterian theory of laissez-faire, laissez-passer" (Rougier 1938). In their view, the "theological-metaphysical origin" of the laissez-faire dogma had unfortunately become "so powerful that it was regarded as self-evident and beyond all discussion" (Rüstow 1942, p. 272). The result, according to Röpke, was that "the market economy was endowed with sociological autonomy and the non-economic prerequisites and conditions which must be fulfilled if it is to function properly, were ignored." (Röpke 1942, pp. 51-52).

Despite placing effective competition at the centre of the market order, ordoliberals saw it as inherently unable to produce a *social order*, making it a potentially de-stabilizing force. For competition to be truly effective, it had to be legally organized through state action. "Appealing as it does solely to selfishness as a motivating force", Rüstow would point out, "[competition] can neither improve the morals of individuals nor assist social integration" (Rüstow 1942, p. 272). "The fundamental flaw … of laissez-faire politics", Eucken would add, is that "… the 'invisible hand' does not create forms in which individual interest and overall interest are aligned" (Eucken 1952, p. 260). Especially so in periods of crisis, such an approach proved to be "impracticable since it is obvious that something has to be done to overcome this depression and to prevent the recurrence of another" (Röpke 1936, p. 195).

The conceptualisation of liberal interventionism is crucial in signifying the relative divergence between ordoliberalism and other forms of neoliberalism, even if at the time those concepts did not have the clarity or weight they would acquire in the future. Within the context of the attempts to create a transnational epistemic community united under the priorities of the price mechanism, competition and a strong state, ordoliberals went further than other participants of the Walter Lippmann Colloquium by directly engaging a theory of the state that rejected its minimal or limited role. As we shall see in chapters 3 and 4, this significant divergence would generate further conflicts within the neoliberal community, with von Mises going as far as denouncing them as "ordo-interventionists" (Kolev 2018).

Within the frame of such charges, it was crucial for ordoliberals to clarify that the regulative activity of the strong state stood in opposition to state planning. With the looming influence of the 'socialist calculation debate' in the background, it was paramount to ensure that abandoning laissez-faire would not promote the belief that business cycle disruptions and crises could be avoided through *economic planning*. "The uncompromising Liberal is right in his recommendation to stick to the essential principles of our competitive market system", Röpke would exclaim, "but he may be wrong in relying on the automatic mechanism of this system for overcoming the secondary depression". In the same breath, Röpke would add that "the Planner is right in demanding an active policy against depression, but irremediably wrong in suggesting Planning as the right method." (Röpke 1936, pp. 197-8)

Rejecting any tendency towards central planning, whether it appeared in the form of Keynesianism, Stalinism or Nazism, the differences between them receding in the face of the common aim of protecting the market economy and private property, ordoliberals refused to confine economic proposals in national boundaries, a tendency they saw as dislocating the effects of competition and undermining market functions[146]. For ordoliberals, central planning was not only responsible for promoting the distorting intervention of the state in the economy, but was also (and necessarily so) a

[146] Linking the rejection of state planning with liberal interventionism, Röpke would criticise the discourse that saw *any form* that included a plan as a "planned economy". Warning against a critique under which "the term completely loses its meaning", he added the following clarification: "It is therefore not a plan as such which characterizes the planned economy, but a particular method of planning, i.e., that which is opposed to the methods of the market economy. For, while the latter is based on the complicated interplay of spontaneous decisions made by all the parties connected with the market, it is the essence of the planned economy to replace this mechanism by official orders and to transfer the decision of how the production capacity of the national economy is to be used, from the market to the government." In the end, Röpke suggests abandoning the term "planned economy" altogether, proposing the use of either 'bureaucrat economy' or 'command economy'. Röpke 1942: 162

path for thinking the economy in national terms, creating obstacles for the global market through protectionism, tariffs and tight (commercial) borders. Alongside these external issues, state intervention was a vehicle for the internal implementation of full employment targets, welfare expansionism and other similar policies that contradicted any reliance on the price mechanism and the promotion of competition, distorting their signals. Needless to say, such a policy-making set up was bound to exacerbate inflationary pressures (especially as the framework precluded the disciplinary function of institutions such as the gold standard), a development that radically undermined the goal of price and currency stability, thereby debilitating the relation that stood at the core of the market economy, i.e. private property.

In contrast to state planning and intervention in the economic process, the regulative function of the state is only meant to create the conditions under which the true capacity of competition can be unleashed. When institutionally regulated, competition could then act as "a mechanism that leads to the equilibrium of the economic process and, therefore, also brings stability to the economic order" (Eucken 1952, p. 198). In his diagnosis of the central contradictions plaguing the Weimar Republic, Eucken would point out that it was the absence of competition that led to the "formation of autonomous power-blocs in industry, agriculture and labour", which, together with "the particularly dangerous instability of the monetary order", undermined "the rationality of the economic processes, leading to depression, unemployment and undersupplied markets." (Eucken 1952, p. 224). A properly functioning competitive order, however, could reduce the concentration of *particular*, private power and undermine both crises and the demand for planning that they generate, as complete (*vollständigen*) competition "submits one to the control of the market [and] largely disempowers him" (Eucken 1952, p. 237; see also Böhm 1937: 105-7).

The dual concept of 'disempowerment' and of the 'interdependence of orders' builds a specific framework of the market economy. As is the case for all liberal tendencies, it is with the clear aim of protecting the world of private property that the ordoliberal framework is designed. What distinguishes ordoliberalism is the way specific elements of the market society as described as bound together. As Röpke explained, "[…] everything is interlocked: competition as a regulator of the economy presupposes free market prices; free market prices are impossible without genuine independence of economic units, and their independence stands and falls by private ownership and freedom of decision, unimpaired and undisturbed by government planning." (Röpke 1957: 96-97). The role of the state is not to intrude into the mechanism of prices or competition, nor is it allowed to curtail the privileges of private property. Rather, it is clearly tasked with organizing and regulating, in strong legal and constitutional terms, the framework within which these activities take place.

Alongside the defence of property rights and the freedom of contract, ordoliberals considered price and monetary stability as equally central constitutive principles of a competitive order. "Contained within the framework of regulating and controlling measures", Böhm would explain, "is the provision for a stable currency, which is indeed of central importance because price stability determines the aptitude of market prices to guide the production process in an economically correct way and to secure prices against speculative disturbances." (Böhm 1966, p. 56). For the price system to act as an effective signalling mechanism and for wealth and property accumulation to be protected, sound money and anti-inflationary policies were indispensable. For the world of private property to flourish undisturbed, it is paramount to ensure the soundness of money and to actively seek and defend the stability of prices. And though it proved useful as a reference in the postwar construction of mythologies, it was not the exceptional moment of hyper-inflation that led ordoliberals towards these conclusions. It was inflation *in general* that was seen as eroding the essence of private property, wealth and profit-making[147]. The state should thus not only ensure that the value of money is protected at all costs, but that the *causes* of inflation are kept under check and undermined. When one seeks an ordoliberal explanation about the nature of these causes, one finds little more than democratic politics, mass working class organizations, the class struggle and the overall "politicization" of economic processes. At the same time, the market economy was not conceived as a system whose purpose was to enrich *specific* fractions of capital at the expense of the whole: even "perfect" competition needs a legal framework that undermines its excesses, and ordoliberals understood quite well that "survival of the fittest" often means survival of the *biggest*, a recipe for monopoly that ordoliberals rejected as strongly[148]. The interdependence of all the above elements is contextualized in the "assumption that the economy forms an integrated system, that the market and the state can exist in a complementary relation" (White 2017). In the ordoliberal vision, these regulative and constitutive concepts come together under the conceptual umbrella of an 'economic constitution' (*Wirtschaftsverfassung*) which ensures the supremacy of the 'competitive order' (*Wettbewerbsordnung*).

[147] Röpke's celebrated *Humane Economy* (1957) opens up with a description of how public expenditures, rent control, high taxation, welfare or even the existence of trade unions themselves contribute to inflation. (Röpke 1957: pp. 26-35) It is true that ordoliberals were also somewhat critical of *deflation* but, as Röpke himself points out, "[…] over the course of centuries there has always been more danger of inflation than of deflation. Inflation is always a lurking temptation and at all times the way of least political and social resistance. Both inflation and deflation are monetary diseases, but, unlike deflation, inflation has an initial pleasant stage for wide circles of the population, and above all for the politically most influential, because it begins with the euphoria of increased economic activity and other boom symptoms […] of the two diseases, inflation is the rule and deflation the exception." (Röpke 1957: 194-195)

[148] As Friedrich Lutz (1956) wrote, "…as soon as the economy is seen in dynamic terms, the permanent maintenance of perfect competition, even if it is assumed to exist in the first place, is unthinkable. In the course of its dynamic development, competition itself will throw up monopoly situations from time to time which, like soap bubbles, will rise to the surface, last for a while and then burst under pressure from subsequent competition." Lutz 1956: 152 (1956) 'Observations on the Problem of Monopolies', quoted in Peacock & Willdgerodt (1989a), p. 152

CHAPTER 3: BUILDING THE ECONOMIC CONSTITUTION

Ordoliberalism in the postwar era

Summary

Chapter two follows up on the path elaborated in the previous chapter. Picking up at the end of the Nazi dictatorship and focusing on the historical developments that led to the creation of West Germany, this chapter engages with the specific contributions and interventions of ordoliberals or ordoliberal-influenced actors in the context of post-war (West) Germany. If the previous chapter had, despite its focus in Weimar, hinted at the transnational character of the ordoliberal framework (visible in the Walter Lippmann Colloquium and the international cohort of adherents to its framework), this chapter focuses on the unique situation of West Germany for the simple reason that it was here, contrary to any other Western or European country, that proponents of ordoliberalism found themselves in a critical junction of enjoying specific positions of power and influence on policymaking. It was in West Germany that a specific attempt was made to operationalize the ordoliberal framework, an experiment facilitated (as will be explained) by the affinity to the type of fiscal and monetary orthodoxy that was shared by the US occupation authorities (OMGUS), personified in the cases of both Lucius Clay and Joseph Dodge. It is in this context that the attempts to build an economic constitution, as laid out by key ordoliberals of the interwar period, take place. Moving through the key events of the 1948 currency reform, the inauguration of the Bank deutscher Länder as an independent central bank responsible for overseeing these monetary transformations, and price liberalizations, the chapter will also examine the wider characteristics of the social market economy and, especially, its welfare aspects. Given that the first decades after the war saw significant economic growth in West Germany, the so-called Wirtschaftswunder has often been described and recorded in memory as a successful implementation of market-oriented, ordoliberal, ideas. While evaluating this post facto interpretation, the chapter will also point to the fact that ordoliberals themselves saw such proclamations with a significant level of scepticism. Rather than enthusiastically adopting this narrative and claiming the 'economic miracle' as a consequence of their ideas, ordoliberals had mixed views about the post-war period, culminating in the gradual realization that the national terrain, despite the favourable conditions enjoyed in West Germany, remained a terrain of inevitable compromises. Such an approach was crucial in promoting, as Chapter 4 will argue, the conceptualization of a necessary upscaling of the economic constitution to a supra-national level.

Ordoliberals in power

Historical and theoretical accounts of the influence of ordoliberalism in the reconstruction of the West German economy after World War II have the tendency to oscillate between two positions: on the one hand, there is a repetitive claim that the success of the *Wirtschaftswunder* was a direct consequence of the policies established through the social market economy, a framework led politically by Ludwig Erhard and supported theoretically, analytically and practically by a variety of ordoliberal figures.

The identification between the ordoliberal framework and West Germany's economic performance was promoted even before the effects of the policies enacted had made themselves felt. Jacques Rueff, for example, wrote in 1949 that "People and things have not changed after the currency reform. What has changed and brought about success was the turning away from interventionism and controls towards the rules of the market and the operation of the price mechanism…" (Rueff 1949 in Zweig 1980: 17). In 1955, an influential publication by Henry C. Wallich, *Mainsprings of the German Revival*, also claimed to see a direct link between the "Adenauer-Erhard" policies and the "economic miracle. Wilhelm Röpke himself, in his 1960 "Reappraisal after fifteen years" would exclaim: "The really decisive victory in the critical European economic situation was won by Germany in the summer of 1948. Again it was a professor who switched from theory to practice. Ludwig Erhard and his group, stepping into a situation of so-called repressed inflation which was really nothing less than the stark and complete bankruptcy of inflationary collectivism, countered with a resolute return to the market economy and monetary discipline." (Röpke 1960: 23).

Later, in his 1980 long overview of "The Origins of the Social Market Economy", Zweig argued that it was "the application of the [ordoliberal] programme [that] led to outstanding success of German economic performance" (Zweig 1980: 7), while Nicholls' 1994 *Freedom with Responsibility* also contributed significantly to the identification of the combined currency reform and price liberalization as key catalysts for economic growth. More recently, in his own account of the usefulness of ordoliberalism for the EU, Wolf Schäfer claims that "there is no denying the fact that the splendid postwar economic recovery in Germany in the 1950s and early 1960s was proof that [Erhard's] ordoliberal approach was highly successful" (Schäfer 2020: 126). In the same volume, Landmann wonders whether Germany would "have written its success story of the *Wirtschaftswunder* if Ludwig Erhard had delayed the liberalization of prices until he had convinced sceptical Germans of the case for free markets?" (Landmann 2020: 163). S

On the other side of the debate, these claims are regularly challenged. The most pronounced criticism of the notion that it was the liberal reforms of Erhard and the ordoliberals that allowed the West German economy to perform so well came from German historian Abelshauser. In his 1987 book *Die Langen Fünfziger Jahren* ('The Long Fifty Years'), Abelshauser pointed out that the key ingredients that allowed for West German economic recovery lay in the Marshall Plan and the 1953 Debt Agreement, both of which contributed to boosting public finance and allowing high levels of investment (Dyson 2020: 100).

Looking more closely at the issue, we see that the precise way through which the economic performance of West Germany has been linked to ordoliberal influence takes many forms. Most prominent, of course, remains the assertion that it was the dual decision over the new DM currency and the price liberalizations that embedded a market orientation (as opposed to state planning) and that it was Erhard's "avowed ordoliberalism" that stands responsible for both. Secondly, it has been asserted that the institutional set up of the BdL, instrumental in overseeing the currency reform and establishing a tradition of anti-inflationary invariance is concomitant with the ordoliberal framework. Thirdly, the Cartel Law of 1957 is attributed to ordoliberal design, setting a legal framework for a central concern of ordoliberals, competition.

Each of these positions has been further challenged from various standpoints. Firstly, it is often claimed (even by ordoliberal-friendly accounts) that the *actual* influence of the ordoliberal community is exaggerated, a position often argued on the basis that the currency reform, its design, announcement, and implementation owed more to the US occupying authority than to Erhard (Meardon 2014; Glossner 2010: 135; Dyson 2020). At a second level, the very identification of Erhard with ordoliberalism has been challenged, pointing at Erhard's fluctuations, compromises or focus on politics rather than principles. A third point of contestation concerns the assertion that ordoliberals had no influence whatsoever in the design and creation of the *BdL*, a viewpoint brought forward through either pointing at the minimal direct participation of ordoliberal actors in the process of the creation of the central bank or else via the assertion that ordoliberals were in fact critical of central bank independence, the fundamental institutional set up of the BdL (Bibow 2009; Feld 2012, 2015; Dyson 2020). Finally, questions over the extent of ordoliberal influential success arise in relation to the final form of the Cartel Law of 1957, as well as in relation to the Pension Reform of the same year. For these reasons, a closer examination of the details of the social market economy, its meaning and theoretical background and its actual development are in order.

Building the Social Market Economy

A collapsing economic order

The defeat and capitulation of the Nazi regime initiated tense debates about future foreign and domestic policy on behalf of the victorious Allied forces. Separating Germany into four (American, British, French and Soviet sections) occupation zones, the Allies were soon confronted with the practical difficulties of dealing with the collapse of the Nazi regime and the future of Germany on the basis of visions produced at the very end of the war. With the immediate aim being to drastically reduce Germany's ability to wage war through a machine of terror and inhumanity that had been, correctly though insufficiently, diagnosed as stemming from its industrial capacity, the obvious choice would be to de-industrialize the country. This was, in short, the gist of the US State Secretary of the Treasury Henry Morgenthau's plan for both Germany and Japan (Jarausch 2006: 73) as expressed in his 1944 Memorandum *Suggested Post-Surrender Program for Germany*. A second aim would be de-Nazification, the rooting out of any Nazi elements from the state and private sectors. Thirdly, and quite interestingly set out as a separate category, was de-militarization.[149] Lastly, and facing the question of the centralization of the Nazi regime and its support from industrial conglomerates, the issue of de-cartelization also appeared – though it appears quite hard to pin down why cartels were by themselves responsible for Nazism given that cartels existed in Germany since 1897 and they continued to exist in many European countries.

But Morgenthau's proposal to transform Germany into a 'pastoral' state, with agricultural production as its main economic activity, was eventually abandoned.[150] Shortly after Nazi total defeat and capitulation were secured, the priorities of the post war era shifted gear and direction. Not only was the new Cold war environment and the hostility towards former ally Soviet Russia gaining the upper hand, but it also become clear quite soon that any plans to seriously deindustrialize Germany were in fact unfeasible. The flip side of the country's position as a highly developed industrial nation signified its dependence on food and other agricultural imports.[151] Destroying its industrial/export capacity, and therefore Germany's ability to pay for imports, would have meant that (for a least a few years) the Allies would be responsible for subsidising them. Even more, Eastern European countries that had just been liberated from the Nazis would have to continue providing food/agricultural products to defeated Germany *at the expense of the Allies*. Despite paying lip service to Morgenthau's plan, none of the Allies were prepared to support or justify politically such a development. As Mehrling explains, "there was essentially no prospect that Germany could ever be self-sufficient in food. So unless the Allies were prepared indefinitely to subsidize German food imports, economic recovery and reconstruction were essential in order for Germany to be able to produce sufficient exports to cover its necessary food imports." (Mehrling 2022: 85). All in all, from the above-mentioned aims of Morgenthau's plan, the only one that came the closest to actual implementation was de-militarisation. Denazification was handed over to the German authorities (which effectively meant that it was pushed aside) after less than a year, mainly due to the realisation that the continuation of the state mechanism *as a whole* could not take place if it effectively deprived official roles to any former NSDAP member or state officials. Given

[149] It was clear at the time that Allies saw militarization and Nazification as complimentary, but separate, categories of the German propensity towards war. In the postwar attempts of decoupling the responsibility and complicity of the Wehrmacht in Nazi horror, de-militarization was eventually undermined as a separate category, leading to its conceptual identification with Nazism. Ever since, a consistent campaign of absolving the Wehrmacht from its collaboration in the brutality of the war and the Holocaust has remained a central post-war foundational myth. For more details, see Jan Tattenberg (*forthcoming*).

[150] Though the plan was practically abandoned, its official status remained until 1947. The famous Joint Chiefs of Staff directive (JCS) 1067, issued in April 1945 and reflecting the vision of Morgenthau, decisively ordered against taking "steps (a) looking toward the economic rehabilitation of Germany or (b) designed to maintain or strengthen the German economy". This directive was not replaced until July 1947, by the "more enlightened and vastly less punitive JCS 1779." (Steil 2013: 272). In fact, the only thing that did survive in the postwar reconstruction of Western Germany from JCS 1067 was the insistence on the decartelization of the German economy, reflecting both US fears of German militarism/rearmament and their domestic anti-monopoly laws, something also shared by the ordoliberals.

[151] The western part of Germany, a location of more than 57 per cent of total German industrial output, produced less than 45 per cent of basic foodstuffs. See Grietsch et al (1992) and Taylor (2011) esp. Chapters 6, 7 and 8.

the structure and composition of the Nazi state, there would have hardly been anyone eligible for a state/civil service position. Deindustrialization was also abandoned.[152]

At the same time, deciding on the exact nature of the Nazi regime became a crucial factor too: if Soviet views were straight-forward (Nazism was the highest form of imperialist monopoly capitalism so its eradication required a radical transformation of the socio-economic system of Germany), Western Allies (with the assistance of German experts, as we shall see) came to interpret Nazism as an instance of state planning *against* private-based free markets. Given that the free market was to be preserved, the key aim was to reconfigure the state mechanism as one *supportive* of the market and not one that subsumed the (legally existing) private sector (Eucken 1948). In this approach, the Nazi "contradictory mixture of state compulsion and private initiative" (Jarausch 2006: 72) disappeared. It was the private sector that had to be maintained and protected against state planning – whether this was Soviet-, SPD- or Keynesian-influenced. In this approach, the pro-market positions of Lucius Clay, chief of the OMGUS, and the various advisors he surrounded himself with,[153] found extremely helpful and willing allies within Germany. The ordoliberals.

The immediate post-war period in Germany and the growing realisation that the next level of geopolitical conflict would be centred around the Cold War, effectively proved Stresemann's position of the 1920s that the "German economy was so integral to the wider economy of Europe that it would be to the interest of none of the victor powers to see it permanently crippled" (Tooze 2006: 674). The only change of focus would prove to be that this realisation could just as well proceed with Germany cut in half. A new West German state, stripped of its military capacity and simultaneously renewed through a postwar market-based democratic rule, quickly became a historical reality.

As has often been observed (e.g. Griesch et al 1992), the years after German capitulation were the ones when Germans experienced real hardship to a level not even comparable to the years during the war.[154] The devastation caused by the advance of Allied armies inside Germany, the tremendous bombing campaigns (especially of the British Bomber Command – see indicatively, Graham-Dixon 2013), the mass internal displacement of Germans driven both by the advancing Red Army, the border changes with territories passing to the Soviet Union, Poland and Czechoslovakia, and the eventual split of Germany into two states, caused great upheaval. The result was a chaotic situation where housing, food and transportation infrastructure were at a dismal state. The collapse of the tight grip of the Nazi regime, the uncertainty and ambiguity of Allied policy in Germany and the breakdown of functioning production and distribution systems created a further predicament of dismay, with most Germans

[152] Speaking of his own personal role but reflecting a wider change of policy, Kindleberger put the shift quite succinctly: "From 1942 to 1945 I was engaged in helping to take the German economy apart; from 1945 to 1947 I was busy helping put it back together again". Kindleberger 1987: 162

[153] According to Mehrling (2022: 85), "by October 1945 Clay had managed to outmanoeuvre Bernstein and his men [known as 'Morgenthau boys'], and to install his friend Joseph Dodge as his chief financial advisor." Dodge was a fiscal conservative banker and a fierce supporter of balanced budgets. See also Savage (2002).

[154] In 1947, food rations per day were down at approximately 800 calories per person, compared to the pre-war consumption of 3000 and the level of an average of 1900 calories per day from 1942 to 1945 (McNab 2009: *Third Reich 1933-1945 World War II Data Book: The Essential Facts and Figures in Hitler's Germany,* Amber Books).

engaging in black market exchanges and the theft of basic necessities.[155] With organised economic activity at below than 30 per cent of capacity and more than 50 per cent of housing (especially in targeted urban areas) uninhabitable, the situation looked grim.

Nonetheless, there was a significant silver lining. Damage to existing capital stock was fairly limited. Similarly, the industrial base had survived in quite good shape (Zatlin 2007: 39),[156] and when not, access to financial aid helped renew productive capacity with cutting edge machinery.[157] In fact, most infrastructural problems were located in the disruption of communications', transportation and housing issues. With the *de facto* separation of Germany into four zones, and the most crucial division being between the Russian and French/UK/US zones, more than 8 million Germans moved to the West,[158] increasing the population in the western occupied zones by 12 per cent and providing an eager workforce.

In West Germany,[159] the economic situation was predominantly characterised by the residues of the Nazi system of price and wage controls, in place since 1936. This resulted in the fact that neither prices nor wages reflected existing scarcity, itself a result of disrupted industrial activity and the lack of incentives (i.e., profitable returns) to produce and export. Given that the Allied forces took immediate control of all "internal and cross-border transactions, including even private business contacts with foreigners" (Griesch et al 1992: 24). Under allied control, exports were either entirely prohibited or directed solely to the needs of the occupying powers and their respective countries.

Yet, one of the most crucial elements that created a veritable gridlock in the economic situation was the lack of a reliable monetary arrangement. Companies and workers were uninterested in exporting or working only to get paid in a worthless Reichsmark. Whatever Reichsmarks were still circulating, they had been rendered useless as they corresponded to neither the price level nor existing scarcity of goods. This created a circular predicament: companies would either hoard their goods (in expectation of a potential currency reform) or would redirect productive capacity towards goods that could be bartered in the flourishing black market. Similarly, workers would prefer to be paid in kind than in

[155] As Griesch et al (1992: 16) note, "even the Catholic Archbishop of Cologne publicly encouraged his flock to go on stealing the food and coal they needed to survive the winter".
[156] The decision to avoid dismantling of the industrial base as a form of war reparation would prove crucial for the future, especially in relation to the GDR. As Zatlin notes, "only 3 per cent of industrial capacity of the FRG was dismantled, compared to nearly 30 per cent of the GDR's fixed capital" (Zatlin 2007: 39; see also Karslch 1993: 46, 233).
[157] "Demolitions and dismantlings fostered an urge to build anew, and what is more, it afforded an opportunity to introduce the most up-to-date machines and tools." Erhard (1957): ix.
[158] "The countless refugees who during the first post-war years exacerbated the terrible plight of our people, now in a time of full employment have become an asset." Erhard (1957): ix.
[159] The Soviet reconstruction took a different form but its intricacies remain outside the scope of this research. Suffice to say that all post-war plans in the GDR, from the currency reform to the dismantling of the productive structure, and from reparations to de-Nazification, were centred around the Soviet vision of the origins of Nazism as an advanced form of monopoly capitalism and were therefore, in line with Stalinist thinking, focused on a fundamental socio-economic transformation of East German society. That was geared towards central state planning and, to a large extent, on building a heavy industrial base. This led to a chronic shortage of consumer goods and to a constant intensification of work. While the Soviet leadership recognised the threat of revolt and commanded the SED leadership to relax or abandon repressive measures against farmers, private entrepreneurs and the Church, no rescinding of the increased work quotas was made. In June 17th 1953, East German workers revolted but they did so not from a perspective of restoring a market economy but from the perspective of 'real socialism', i.e. one which takes workers' interests and desires directly into consideration. With the SED losing control of the situation, the uprising was crushed by Soviet tanks. See Brendel 1953; Millington 2014)

Reichsmarks and would in fact often skip work in order to roam around Berlin and the countryside to barter food. Amongst this situation, there was a circulation of goods whose prices were not fixed to the 1936 levels for the simple reason that they were not available before. These were exchanged for an actual market price but were also considered luxurious or semi-luxurious, with companies often resorting (as mentioned) to redirect their manufacturing capacities towards producing these goods, for which comparatively decent profits could be recorded. At the same time, fears of harsh reparations (even a cursory idea about the unprecedented barbarity of the Nazi war machine had most convinced that the Versailles Treaty would be a walk in the park compared to what was coming) in the form of industrial dismantling had companies extremely reluctant to make any investments that could easily go up in smoke (Griesch et al 1992: 22). And even though caught in a gridlock, neither companies or workers had any reason to move in the direction of restoring market conditions. But the underlying issue, that grew explosive by 1947, was that this system created a tremendous balance of payments disequilibrium which, as mentioned, forced Allied forces to subsidise massive imports of food. With German exports at less than 50 per cent of imports, and even then, given an entirely new commodity structure of trade[160], mass starvation could only be avoided through Allied subsidies.

This economic reality coincided with the changing geopolitical considerations, resulting in the clear decision of the Allies (with the US in the lead) to set forth and implement a reconstruction of Western Germany that could become a practical and ideological counterexample to the Soviet Union. The immediate decisions had to be focused on the need to channel the workforce into productive (repair and otherwise) activities, to further expand industrial production and especially export capacity and, lastly, the need to import capital that could lubricate this reconstruction. None of these conditions, however, offered any clarification or pre-determined course for the exact direction that the economic reconstruction could follow, and the various sides of the Allied occupation forces (as well German participants) had different priorities and political economies.[161]

The political economy of reconstruction

In 1946, the Allies decided that certain economic policies inherited from the Nazis – such as the freezing of prices and wages at 1936 levels – were to remain in place for at least two years (Tribe 1995: 233). As Sauermann argued in that period,

> "[The Nazi] planning system was functioning with a high degree of efficiency. In spite of bombing and other war damages the strength of the German economy remained

[160] "Traditionally, Germany exported finished manufactured goods in exchange for raw materials, food and some manufactures. In 1947, external sales of finished manufactures were almost negligible, amounting to 11 per cent of all exports compared to 77 per cent in 1936. Instead, raw materials (mainly coal and timber) made up 64 per cent of the exports." Griesch et al 1992: 25.

[161] The British side, for example, was less interested in a revival of German exports, fearing competition with their own exports, while they also saw central planning with more positive eyes. The French were primarily interested in a rehabilitation of export sectors beneficial to France and indifferent towards local consumption needs and seemed rather uninterested in the political economy of the issue. Needless to say that these positions could be sustained because the supply of food was essentially provided by the US.

> practically unchanged until the end of the war. The production output could be forced and the distribution could be regulated by means of the rationing system. As long as the central planning organizations existed, a distribution economy was likely to continue for a long time. In such a system an increasing inflation was not too harmful and did not make for too many difficulties, because the impact of inflationary tendencies was eliminated. And this characterized the special type of inflation, the hidden inflation.
>
> Sauermann 1950: 176

Retaining price and wage controls, as well as rationing as a means of overcoming reduced industrial output, were economic policies supported in wide circles of the SPD, a party that enjoyed, like the communists, a political clean slate in relation to Nazi collaboration. But this was not the only option that the social-democratic party was considering. A middle road between a planned and a market economy was also prominently expressed in the internal debates of the SPD, especially in consideration of the need for the SPD to steer itself clear from any accusation of pro-Soviet sympathies, while also keeping an eye on the pulse of working class demands.

As many members of the SPD had been, during the Nazi years, exiled in the UK or the US they had had first had experiences of the Keynesian Beveridge Plan or the US New Deal and were committed to replicating those experiences in Germany, against both Soviet communism and the liberal market economy which they identified as “laissez-faire”. At the same time, SPD members did not want a repetition of Weimar (Nicholls 1994: 249). Geared towards a “mixed economy” that combined elements of socialist solidarity, full employment and the breaking down of industrial cartel power, while also allowing space for private enterprise and market relations, the postwar SPD was gradually but steadily moving towards a modification that would see the eradication of Marxist elements and the slow embrace of market socialist ideas. But in the early years after the Nazi defeat, this modified vision did not extend as far as rejecting economic planning or wide nationalisations of industry.

The SPD, however, also included a number of influential figures who positioned themselves further to the left. Chief among them was its leader, Kurt Schumacher, a militant anti-Nazi who had spent more than 10 years in Nazi prisons and concentration camps and alongside him the trade union-oriented Viktor Agartz and Erik Nölting. Although Nölting was appointed Economic Minister in the North Rhine-Westphalia Land (by CDU premier and adherent of social Catholicism, Karl Arnold), Agartz was the head of the central economic office (*Zentralamt für Wirtschaft*) in the British occupied zone – in other words, the ministry of the economy in the British sector. Anchored in the labour movement, they all supported a vision of a centrally directed economy with planning and control bodies at its core (Nicholls 1994: 258; Scholle 2016: 301).

Influenced by the visible discontent and with an eye to electoral results, even the conservative CDU/CSU advocated the nationalisation of specific industries and the acceptance of economic planning for a transitional period. Developing these themes in the 1947 Ahlen programme, produced in the British occupied zone, the party openly criticised the capitalist economic system as serving “neither the state’s nor the German people’s vital interests” (Ahlen Programme, 1947). The new political and economic system had to be built "from the ground up", and with the "welfare of the people" (not "the capitalistic pursuit of power and profit") as its content. Visible in these assertions was the influence of social Catholicism (and especially the papal encyclical *Quadragesimo anno* of 1931)[162], a historically significant contingent of Catholic Germany which was, in contrast to Protestantism and due to the partition of the country, finding itself in a majority position.

In fact, Catholic politicians within the CDU (like Jakob Kaiser, Karl Arnold[163] or Johannes Albert who defined themselves as a Christian Socialist) were trying to convince Allies in the British and American zones to accept the nationalisation of specific industries, the socialization of certain parts of the economy and for a humane, "conscious" socialism that would create the foundations of a classless society, while facilitating individual freedom.[164] Similarly, the social Catholic factions within the CDU called for strengthening trade unions and for allowing a smooth transition of power back to German hands. It was not until 1949, and after fierce battles within the party, that the CDU/CSU would release their new programmatic Dusseldorf principles in which the ordoliberal vision would be adopted and the party would embrace Erhard's social market economy.

Ludwig Erhard was the first one to be directly appointed by the US military authorities in a crucial position in October 1945, becoming Minister of Economics in Bavaria. Almost one year later, he was promoted to the Administrative Council for Economics in the U.S. zone, created by the head of the OMGUS, L. Clay (Mierzejewski 2004: 52).[165] In these positions, Erhard started pushing for ordoliberal positions and policies that were meant to represent 'a clean break from the past'.[166] The aim was "the development of a specifically German path of economic policy that could overcome the weaknesses of economic liberalism in the period before the Great Depression as well as the manifold threats emanating from the Nazi command economy. Although the actors were largely united in these goals, in the light of the economic order debate of the first post-war period, the impression arose that there were two camps fiendishly opposed to each other: here a planned economy - and there a market economy." (Abelshauser 2004: 89).

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162 The *Quadragesimo anno* was a good indication of the conflictual relationship between Catholicism and ordoliberalism. Published as the official Catholic response to the 1930s, the encyclical called for a more corporatist state and generous social transfers. From this perspective, it was not enough to establish equal opportunity; redistributive measures were also needed. In his 1933 foreword to *Wettbewerb und Monopolkampf,* Böhm refers critically to the papal encyclical as promoting a corporatist state, though he still recognizes that this did not mean an embrace of cartelization. (Böhm 1933: xi).

163 In his years as Minister president of North Rhine Westphalia (1946-1950), Arnold presided over a coalition of CDU, Centre Party, SPD and (briefly) the Communist party. The only party he did not accept in the various coalitions was the *Freie Demokratische Partei* (FDP), which he saw as too nationalist. (Patch 2018)

164 A 1946 electoral poster of the CDU read: "We stand in the beginning of a change of times! The bourgeois-capitalist old times are over! The future belongs to socialism! But real socialism is not collectivism, and conscious socialism does not mean massification! It is also plausible to assume that this „third way" was a reflection of the desire to keep open a bridge between East and West Germany (Mierzejewski 2004).

165 It was in this capacity that Erhard would plead to the US authorities not to dismantle the BMW company, despite its breakdown being a key aspect of the Allied economic plans for West Germany that included dismantling big industrial giants. Erhard argued that BMW was a privately controlled company, not one controlled by the Reich, and convinced the US to instead give BMW contracts so that it can be revived (Mierzejewski 2004: 52).

166 Ludwig Erhard, "Lodern wie die Fackeln [Rede beim 2. Bundesparteitag der CDU, Karlsruhe, 20. Oktober 1951]," Ludwig Erhard, *Gedanken aus fünf Jahrzehnten. Reden und Schriften. Herausgegeben von Karl Hohmann* (Düsseldorf: ECON Verlag, 1988), 296.

The “clean break” that ordoliberals suggested was not, as we have seen, simply a rejection of Nazi state planning. It was based on a strict rejection of *all forms of* state planning, a conceptualization that allowed ordoliberals to present SPD positions as signifying some sort of continuity of Nazi economics, characterizing their liberal approach of reform and liberalization as crucial policies of “denazification” (Fèvre 2022).[167] At the same time, and following up on plans that were created during the Nazi period, ordoliberals believed that the return to a market economy could only come about by immediately abolishing price controls, allowing prices to be set by competition and productive capacity.

A first glimpse into the positions of ordoliberals at the time is offered in the transcripts of the founding meeting of the Mont Pèlerin society in 1947, where Röpke and Eucken presented the situation of Germany and proceeded to suggest a way through which this would bring about a market economy. After briefly describing the situation with the predominance of barter, the fact that workers are being paid in kind and that trade has totally collapsed, both Röpke and Eucken insist on the immediate necessity of monetary reform, with Eucken stating that “The first need is a decision on the reform of the currency [as] there can be no division of labour without a functioning currency system.” (Eucken 1947: 115) and Röpke adding that “drastic monetary reform, in the form of drastic deflation, is needed” (Röpke 1947c: 114).

As Rahtz spells out, the main focus of ordoliberals like Eucken, Lampe, Erhard and Müller-Armack was to provide a theoretical formulation for a postwar market-oriented German political economy. As their preoccupations already during the war show, the central aim was the restoration of the price mechanism, a development that rested on the precondition of “a functioning money […] required to make the price system effective”. In this, they were not far from the concerns of the Allies. In fact, there was not a single country in Europe at the moment where monetary reform (primarily in the form of reducing excessive purchasing power) was not at the top of the agenda. Two main things however distinguish the ordoliberal outlook: the first was the dismissal (or else, indifference) towards attempts to mitigate the consequences of a drastic reduction of the money supply with egalitarian measures and/or social policies; and the second was what Tribe (1995: 235) describes as a “conspicuously parochial” set of preoccupations which paid “little serious attention to the larger picture within which German recovery would occur”.

Monetary reforms

All across the European continent, the primary and expressed aims of monetary reform concerned the threat of inflationary pressures, an expectation related to either the debasement of most currencies due to occupation and war and/or the inevitable fluctuations that follow such a disequilibrium. But one has

[167] As Eucken put it in the first meeting of the Mont Pèlerin society in 1947, “It was very surprising that occupation did not mean the end of the Nazi system. Their price and distribution system was preserved in all detail and with only little change in personnel” (Caldwell 2022).

to note, as Gurley (1953) very skilfully did, that this anti-inflationary strategy was not the only aim, nor was its suppression pursued through the same means and goals.

In reality, the implementation of anti-inflationary programs meant different things for different countries and this was directly related to the situation they found themselves in and the political considerations this situation forced. Three main aims were shared by all: (a) the reduction of aggregate demand and private spending, (b) the expunging of hoarding and (c) the creation of incentives for workers to return to work. In his review of European monetary reforms, and alongside the need to restrain the public's spending capacity and forcing workers back to employment, Klopstock (an economist at the New York Fed) also added the aim of depriving "the public of funds with which to purchase in black markets." (Klopstock 1946: 578)[168].

At the same time, many countries pursued reforms aimed at providing a survey of liquid assets, their distribution and their origins (to be used for tax purposes primarily), while others utilised the reform to promote wealth redistribution and other "social goals" (Gurley 1953), such as an equalisation of the burden of the war/occupation consequences. Thus, in the USSR or other Eastern European countries under its direct control for example, monetary reform was used to squeeze private holdings and enterprises, the punish collaborators of the Nazi occupation and to increase the income of the newly established state authorities.

Other considerations were also central. Most European countries needed dollar and gold reserves to import food. These reserves, however, had been used to finance war and resistance. Together with major disruptions in international trade and an almost complete collapse of borrowing from abroad, the capacity of funding such imports was severely limited (Eichengreen 2008: 59-60).[169] This tremendous balance of payments problem was exposed in 1947, following a particularly bad harvest year, when overall GDP for Europe had a 5 per cent current-account deficit (Ibid.). Almost all postwar European governments understood the situation as offering two potential paths: either a drastic

[168] For a detailed treatment of black-market operations and scope, as well as the grey zone that separated black-market from barter exchanges, in Germany, see Mendershausen (1949). His conclusion was somewhat different from the prevailing view. According to him, the quantitative importance of the black market was exaggerated: "The black market was one of the balance wheels of post-war Germany's disequilibrium system.8 Its existence could hardly surprise; but *its limitation and its stability did* (my emphasis). There is no evidence of its spreading during the three years' period, nor is there evidence of general cumulative price movements. The German black market before currency reform may be empirically defined as the purchases and sales for money (or for such money substitutes as cigarettes or coffee) at prices many times as high as the legal level. It comprised a certain section of economic transactions, probably less than 10 per cent of the total by volume." And he continues that "informed guesses" of Military Government officials allowed to them not more than 5 per cent of imported grains, industrial materials or Army supplies; not more than 10 per cent of German industrial and agricultural production; up to 20 per cent of the imported goods coming into the hands of Allied personnel as their private property (after private importation of cigarettes had been banned); probably 90 per cent of the turnover of existing luxury goods (jewellery, cameras, China, rugs, furniture)." In any case, however, "At that price level, even a small turnover of goods would absorb a large volume of purchasing power." In fact, "the volume of money engaged in the black-market transactions would be about five times as great as that engaged in transactions at legal prices.". Surprisingly though, black market prices remained stable throughout the 3 year period between the end of the war and the currency reform. (Mendershausen 1946: 652-4). In relation to barter exchanges, Mendershausen notes that "it provided a market mechanism [that] helped avoid a complete breakdown of industrial activity under the weight of scarcities and trade prohibitions". Ibid: 656.

[169] As Eichengreen notes, at the time "Europe's imports of goods and services exceeded exports by 65 percent." (Eichengreen 2008: 60).

curtailment of the demand for imports (a path to social unrest) or a sharp reduction in investment (a path for undermining necessary growth).

In any case, and while differing in detail from country to country, "these reform programs […] generally provided for the withdrawal of most, if not all, of the outstanding notes and for their conversion into new currency." In this context, and with such a "simple" task at hand, most of the currency/monetary reforms that took place in postwar Europe sought inspiration from similar policies implemented after the end of the First World War. In this context, the monetary reform in Czechoslovakia in 1919 was "cited as an example for what has been attempted in Europe in 1944-45" (Klopstock 1946: 579), whereas the Greek monetary reform of 1922 (following the disaster in Minor Asia and the debasement of the currency after 1919), was also seen as serving as a model for the reforms in Finland of 1945.

Nonetheless, Klopstock continues, there was a key difference between the monetary reforms after the end of the 1st WW and those at the end of the 2nd and that was that attributable to "the much milder nature of present-day monetary maladies» (Klopstock 1946: 579). A main component of that divergence was that inflation, the main target of the reforms, had not reached extreme levels in 1946-1946, making most measures *prophylactic* in nature.

> In most cases, monetary stabilization schemes after the First World War were put into operation only following a protracted period of currency disturbances and not until inflation had run its course and brought about a depreciation of the established currency units to a small, and in several cases infinitesimal, fraction of their pre-war values.
>
> Klopstock 1946: 579

This pre-emptive approach essentially meant that the process of the monetary reform would be different, particularly in relation to the fact that during the exchange of the withdrawn currency, a significant remainder was blocked in bank accounts from which withdrawals or transfers could, potentially, be made in the future. (Klopstock 1946: 578).

As we shall examine further on, this pre-emptive set of anti-inflationary measures corresponded to an understanding of the inflationary pressures as being "repressed" or "hidden" behind existing price and wage controls. In this sense, the inflation threat was not reflective of a recorded inflation but one that was *to come.* Resembling more a situation of "a spreading reluctance to accept this money as a medium of exchange" (Griesch et al 1992: 21) rather than a disequilibrium between supply and demand, the debasement of money occurring under such circumstances represented a more subtle and sinister threat.

This approach was also developed by ordoliberal thinkers, and especially Wilhelm Röpke,[170] who persistently warned about the dangers of "repressed inflation" as a result of the Nazi fixing of

[170] See Röpke 1947a; 1947b.

prices, wages and rents which led, among other things, to a rising deposit overhang that would, once the economy was freed from such controls, to tremendous inflationary pressure. The main idea behind this notion of "repressed inflation", which Röpke clarified was not equivalent to "suppressed" or "frustrated" inflation for the simple reason that it was merely "stifled or smothered without being effectually suppressed" (Röpke 1947b: 242), required strong anti-inflationary (if not, *deflationary*, as we shall see) measures.

The collapse on the trust of existing currency was bound to give birth to a flourishing black market, as well as pushing producers to hoard their products and to engage in what has been described as a "flight to reliable stores of value" (*Flucht in die Sachwerte*). All together the situation created by repressed inflation undermined central features of the market economy: not only black-market and barter exchange forms but also, crucially, an "unreliability of a complex division of labour." Echoing Röpke's comments at the Mont Pèlerin first meeting in 1948, Mendershausen (1949: 646) would exclaim with some pride: "It was as if money and markets had been invented afresh as reliable media of the division of labour."

One can identify two crucial differences between the economic problems faced by the formerly German-occupied European countries and Germany itself. The first concerns the state of industrial capacity in Germany which, in contrast to most other European countries was largely intact. As Jarausch (2006) notes "the bulk of industry had survived the bombing far better than private homes […] The expansion of the war economy had created new productive capacity […] many factories and plants had been repaired […] so that a remarkable number of machines found in the bombed-out factories still functioned" (Jarausch 2006: 82; see also Tribe 1995). At the same time, a highly skilled *variable capital* (labour power) was, in the Western part of Germany, in abundance. Again from Jarausch, we read that "the country continued to dispose of the technical skills of engineers, the marketing knowledge of management, and, above all, the manpower of soldiers returning home from captivity […] the large number of refugees and expellees […] added many people willing to work as well as possessing much needed technical skills" (Jarausch 2006: 82).

The second difference concerned the fact that in German-occupied countries a conversion of the currency was imposed by the Nazi occupiers (which automatically reduced circulation and cut down the money supply). As Klopstock rightly observes, while "the expansion of currency and deposits in German-controlled Europe was on a huge scale", this expansion was "largely of external origin" (Klopstock 1946: 580). For countries occupied by the Nazis and their allies, the expansion of the monetary supply served the purpose of providing the Nazi war machine with funds, not that of maintaining a domestic war economy. With the exception of the US and Canada, only Germany saw civilian consumption increase during the war period, while in other European countries the opposite was the case, something that can be explained not only because of "German acquisitions of civilian goods" (Klopstock1946: 581) but also due to "physical destruction and the disruptive impact of the war on the civilian economy”.[171] An added factor to this increased inflationary threat resulted from the “exhaustion of inventories”. Since “rationing and other quantitative controls […] were applied with considerable efficacy, a large part of [credit expanded] incomes remained unspendable [*sic*] and were diverted into idle balances” (Klopstock 1946: 581). This meant that the inflationary threat that came in the postwar period was “correspondingly greater” in the formerly occupied countries, reflecting as it was the fact that “the gap between the income stream and the flow of goods and services available for consumption was substantially larger” (Ibid: 581).

As we have seen, Germany was confronted with a currency failure similar to that of other European countries: Nazi price controls *and* lax wage policies meant that there was a veritable overhang of money and savings at a time when production was either halted or (most often) *hoarded* in order for the situation to clear and profit margins and returns to make it worth flooding the market with goods. The absence of a stable currency meant that producers refrained from un-hoarding their goods, while workers had no incentive to go to work in exchange for payment in a useless currency. As Mendershausen (1946: 655) noted, “to most people, money did not lose value by way of depreciation but it lost significance through an increasing limitation of its usefulness.” The background to this predicament was, as we have noted, a ten-fold increase in the money supply (see Figure 1), whose inflationary impact was “prevented by the system of stopped, fixed or controlled prices. As a result, the face value of money remained unchanged while the purchasing power of money was partly reduced.” (Sauermann 1950: 175-76)

[171] Klopstock summarises quite nicely the mechanism and significance of Nazi exactions: “German occupation levies and purchasing of goods and services via the clearing mechanism or by payment in blocked reichsmarks have been at the root of all monetary developments of occupied Europe. The fact that in France, Belgium, Holland and Denmark as much as 52 per cent of total official outlay during the three and a half war years up to the end of 1943 was for German account, and that in 1943 the ratio had risen to two-thirds,14 illustrates the degree of German exploitation of the economic resources of the continent. The administrations of these and other countries where German exactions were of similar, if not larger, proportions were unable to raise the funds demanded by the nazi Reich through taxation or loans from the public, and most of Germany's acquisitions of goods and services, whether by German importers or by occupation armies, were, therefore, financed by credit expansion, chiefly on the part of central banks.” (Klopstock 1946: 581).

2. Price and Monetary Indices, Germany 1932-44[44]

	Wholesale Price Index	Adjusted Money Stock	Real Cash Balances (col. [2]/col. [3])	National Income (bn. RM)	Income Velocity (NI/ Money Stock)
1932	100	100	100	45.2	1.35
1933	96.7	96.2	99.5	46.5	1.44
1934	102	99.6	97.6	52.7	1.58
1935	105.5	106.2	100.7	58.6	1.65
1936	107.9	114	105.7	65.8	1.73
1937	109.7	124	113	73.8	1.78
1938	109.5	139.4	127.3	82.1	1.76
1939	110.8	160.6	144.9	89.8	1.67
1940	114	196.9	172.7	92.5	1.41
1941	116.4	257.4	221.1	97.8	1.14
1942	118.5	333.4	281.4	98	.88
1943	120.4	424.9	352.9	99	.7
1944	121.9	536.6	440.2	90	.5

[Klein in Friedman (1956), p. 122]

But what would really differentiate the currency reform of Germany to that of other European countries was essentially a political choice related to the questions of who would be punished for Nazi collaboration/war profiteering, and who would be protected from the drastic consequences that the reform would bring about. In this pivotal moment and on this crucial framework, the intervention of ordoliberals would prove to be decisive.

The 1948 currency reform in Germany

„Für ehrliche Arbeit wieder ehrliches Geld!“[172]
Rheinische Post, June 19th, 1948

“Drastic monetary reform, in the form of a drastic deflation, is needed.”
(Röpke 1947c: 113)

Given the similarities between the economic and currency problems faced by all European countries after the war, the various monetary reforms that took place in the postwar era were designed to deal

[172] “For honest work, honest money once again!”

with similar issues, most of whom inflationary in nature. But the German example offers an opportunity to discern a certain divergence from the overall reform plans and implementations that shed light to the influence of ordoliberals. The best way to clarify this and to properly evaluate the influence of ordoliberals in the design and implementation of the currency reform of 1948 is thus to cross-examine ordoliberal suggestions (both during the Nazi regime and post-war) for monetary reform with those of the Allied occupation authorities (and, specifically, the Colm-Dodge-Goldsmith plan) and to analyse their differences in relation to what actually took place in June 1948. From this perspective, it is worth keeping in mind that the central features and aims of the Colm-Dodge-Goldsmith (*thereafter* CDG) plan consisted of:

- a recognition of the monetary overhang causing a "monetary illusion" (Colm et al 1946: 1946) itself the result of a discrepancy between productive capacity and monetary circulation;[173]
- the need for balancing Germany's budget;
- the need to create an incentive for returning to work;
- ensure equitable share of losses on the basis that wealthy Germans (especially those who had become rich between 1933 and 1946) would contribute more;
- impose a progressive capital levy on individuals' net worth;
- establish a "steady relationship between wages, cost and prices" (Ibid": 220)

In outlining the importance of the reform, the CDG plan made explicit reference to the need for gaining public trust on the reform, despite the potential for making unpopular decisions. One of the arguments is that unless public trust is earned, the situation will quickly deteriorate and resemble the "unfortunate handling of the inflation of 1919-1923 [which] jeopardised the Weimar democracy" (Ibid: 220).

We know that the CDG plan was drawn up in collaboration with German experts and economists. As Sauermann puts it, "[…] although the legal basis was provided by the military governments, they could not do without German cooperation." (Sauermann 1979: 312), among whom we find Horst Mendershausen and Heinz Sauermann. Writing in 1979, Heinz Sauermann, acting also as one of the German economic advisors to the Office of Military Government of the US from 1945 to 1948, explained that to the extent that the overall agreement among Americans and Germans was the pressing problem of the monetary overhang, removing it was not a matter "requiring long discussions" as "on this point the views of the Americans were more or less the same as those of most of the German documents […] Studying the American plan, we find that it aimed at the immediate functioning of the price mechanism, i.e. the functioning of a market system." (Sauermann 1979: 309).[174]

German plans for a postwar economic reconstruction had already been formulated during the war, most of which argued that economic reconstruction "could be achieved only by the reinstatement of a market economy fostering individual freedom and entrepreneurship." (Glossner 2010: 33). This was at the same time contrary to the official order against postwar planning but also a consequence of

[173] It is interesting to note at this point that this monetary illusion that Colm et al speak of had created a situation under which existing "liquid assets make it look as if Germany had won the war" (Colm et al 1946: 215)
[174] This stands in contrast with ordoliberal narratives which argued that the Allies were only concerned with monetary reform while being indifferent towards liberalism. (Fèvre 2022: 189)

internal dissatisfaction with Nazi policies on behalf of large industrial complexes. As Eichengreen & Ritschl forcefully put it,

> […] the centralization of economic planning provoked sharp criticism and, eventually, a reaction. The turnaround came in 1941, when Goering and the bureaucracies under his control lost influence. As a consequence, the German war economy was reprivatized. The large state agencies associated with Goering's industrial empire were partly reorganized and partly dismantled. Responsibility for economic war planning was divided between a new armament ministry and the umbrella organizations of German business created in the early years of the Third Reich. Prominent economists lobbied for relying more heavily on the market mechanism for guiding the allocation of resources. Not without success: in 1943, the Commerce Ministry established a task force to plan for postwar economic and currency reform. Upon the recommendation of and with financial support from the top industry association, a lobbyist was found who was willing to take the job—no small risk, as it violated orders against any sort of postwar planning. The successful candidate was a certain Ludwig Erhard.
>
> Eichengreen & Ritschl 2008: 207-208[175]

Starting in March 1943, for example, Adolf Lampe (Eucken's colleague at the *Akademie für deutsche Recht*) had authored a study called "Reconstruction of Peacetime Economy – Reconstruction of the Market Economy" [176], which focused on the problems created from massive state indebtedness, proposing forcing the private saver to accumulate capital through taxation and a budget surplus as a solution. The aim was, of course, the elimination of excessive purchasing power but it understood that as a result of raising taxation levels for high incomes and not as a consequence of price liberalisation – which Lampe believed would inevitably lead to wage increases and, therefore, more inflationary pressures.

Two months later, in July 1943, Eucken would make his own contribution[177], also focused on the task of restoring the price mechanism as the most efficient instrument for adjusting production capacity to existing potential and shortages. Even though the reconstruction plan presupposed that the central administration would remain intact and active, Eucken did propose a two-stage development of reconstruction: in the first stage, which he called "preparatory", certain key elements of the war economy would remain in place, most interestingly price controls. Nonetheless, and with the aim of eliminating excess purchasing power and restoring production of consumer goods, the budget would have to be balanced, a currency revaluation would have to take place, and only a very limited increase in prices could be allowed. It was, for Eucken, *only after* excess purchasing power had been eliminated

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[175] This account is corroborated by other studies of the Nazi economy (see Tooze 2006). Most interestingly, Germà Bel's (2006) account which traces the very origin of the word "*Reprivatisierung*" to policies undertaken during the Nazi regime, reports of which in English journals translated and introduced the term in the English language.

[176] Available as 'Wiederaufbau der Friedenwirtschaft = Wiederaufbau der Marktwirtschaft' in Blumenberg-Lampe (ed.), *Der Weg in die Soziale Marktwirtschaft*, pp. 40-52.

[177] Eucken (1943) 'Beseitigung des Kaufkraftüberhangs in der Übergangswirtschaft', in Blumenberg-Lampe (ed.), *Der Weg in die Soziale Marktwirtschaft*, pp. 182-6.

and the budget had been balanced that a price liberalization could take place, rationing could be abolished, and investment control dismantled.[178]

There was no doubt in Eucken's mind that prices would have to be liberalized. As he wrote in a memorandum sent to the OMGUS in April 1946, for a successful "conversion from a planned system which no longer functions it is necessary that the economy follows a reliable economic calculation, by which the scarcity of all goods is clearly expressed […] The present economic calculation is built on prices which were established mainly in 1936 [so] the factual scarcity of resources is not expressed in the cost calculations of today […] This fundamental difficulty can only be surmounted, if prices again reflect and measure the factual scarcity of goods. This means that, for this reason, the central direction of the economic process, with its control of prices, must also vanish." (Eucken, quoted in Bernholz 1989b: 192).

Although Eucken saw the currency reform as a necessary precondition for the market economy, it did not follow that the opposite was the same. For this reason, alongside the currency reform, and after the first stage of the process had been achieved, provisions had to be made to restore foreign trade. As Bernholz notes, foreign credits would have to be supplied "to allow a 'restoration of the international (economic) relations of Germany together with the currency reform ... which means especially that one dispenses with the plans to keep exchange rates fixed for years and to rule out a free foreign exchange market'. Besides this, the following preconditions were mentioned: a certain degree of German central governmental authority had to be re-established, a central bank had to be founded, public budgets must be balanced and, in time, income tax rates must be reduced since they are an impediment to economic activity and not only for entrepreneurs." (Bernholz 1989b: 193).

Ludwig Erhard's own 1944 contribution called "War Finance and Consolidation of Debt"[179] was also focused on dealing with existing shortages, combatting inflation and countering the detrimental administration of the occupying forces, all of which contributed to obstructing the price mechanism. Written for the *Reichsgruppe Industrie*, Erhard argued that the war economy had created excess money supply and inflation which was, however, hidden by the rigidly imposed price and wage controls. Once the war was over, this hidden inflation would re-appear and wreak havoc on the economy. For this reason, a key component of any postwar plan would have to start with a "drastic reduction in the volume of currency in circulation" (Mierzejewski 2004: 20) by issuing government bonds which Germans could purchase in an extended period. Again, his main aim was the resumption of the consumer goods industry first and foremost, a potential assisted by the employment of demobilized soldiers.

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[178] It is also interesting to note here that Eucken discusses quite thoroughly Keynes' proposal for an International Clearing Union. Here, while agreeing that exchange rates would need to be stabilized and without raising any objections for the Bancor currency, Eucken remains critical of the specific apparatus meant to coordinate and oversee the clearing process. For Eucken, the lack of consideration of question of power accumulation, monopoly control and the tendencies towards central administration of the economy were among the negative aspects of the project. See also Tribe 1995, pp. 228-9.
[179] In Herbst 1977, pp. 317-21.

Later, Erhard would get more directly involved in the drawing up of plans, especially as a member of the Advisory Board. Most famous remains the so-called Homburg Draft, presented and discussed in the secret meetings with the Allies in Rothwesten, Kassel, where the drastic reduction of (excess) purchasing power was meant to be effected through a plan that would transform 80 per cent of liquid assets into liquidation shares, 15 percent into frozen bank accounts, and 5 percent into new currency. According to the Homburg Draft, each German would get 50 new Marks while property owners would see half of their pre-1940 assets put in a balancing account to be used to equalize burdens." According to Mierzejewski, "the Allies rejected this plan, particularly its equalization provisions, for which Erhard later criticized them." (Mierzejewski 2004: 59) By the time the currency reform was implemented and the equalization burden was discarded, this criticism had vanished.

Another important figure of the ordoliberal universe, Alfred Müller-Armack, had also made his own contribution.[180] While also calling for an immediate currency reform that would reduce existing money supply to 10 per cent of its existing circulation (calculations showed that since 1936, the money supply had increased ten-fold, see Figure 1), Müller-Armack point of divergence was to add a number of necessary social measures to accompany any reconstruction plan – thus distancing himself, at least theoretically, from the previous ordoliberal plans which appeared largely indifferent to the social consequences of their deflationary suggestions. For Müller-Armack, however, the restoration of a competitive order (which he called a "regulated competitive order") and the creation of anti-monopoly laws would have to go hand in hand with an extension of social insurance provisions and the establishment of a minimum wage.

Müller-Armack's social provisions were meant, however, to be based on a similar reconstruction of a market economy. His ideas, developed already in 1946, involved the establishment of a "dual" or "split-market" system, under which important elements of fixed prices and rationing of selected goods would remain in place (Nicholls 1994: 140). This would meant to undermine the black market but would also encourage an increase in production "by offering the incentive of real profits" (Ibid: 140). Müller-Armack believed, and hoped, that this proposal would equally satisfy divergent (ideological and social) positions within Germany, combining as it did different aspects of the opposing proposals and finding a "middle ground".

At the time, the first to criticize such a proposal was Wilhelm Röpke from inside the ordoliberal camp. Proclaiming that such a system would "need a good deal of policing in practice and would almost inevitably lead to corruption" (Ibid: 141), Röpke's background fear was that any such concessions would establish a permanent system of price controls and rationing that would be impossible to replace in the future. Müller-Armack attempted to convince his ordoliberal critics that the emphasis of his proposal lay in the re-introduction, however gradual, of a market system, adding that the stabilization

[180] Müller-Armack (1948) 'Die Wirtschaftsordnungen sozial gesehen', *ORDO*, Bd. I (1948), pp. 124-54

of 1924 had in fact worked.[181] Moreover, his plan dedicated a lot of attention to the question of re-igniting workers' interest in returning to work, as well as providing a solution to a central problem at the time, i.e. housing.[182] In the end, what seems to have won the day within the ordoliberal community was the promotion of a market economy, and all the necessary steps to get there, as well as a certain compromise that would take social considerations into account. But what seems to have become the common ground could be summarized in Erhard's later assertion that "the freer the economy, the more social it is".[183]

Plans in this direction were submitted to the occupation authorities. We know, for example, that "the Freiburg economists Lampe, von Beckerath, and Eucken were able to convene to formulate their monetary report entitled *Währungssanierung durch Kaufkraftabschöpfung mit anschliessender Geldumlaufsauffüllung* in Freiburg on 3 and 11 August 1945 respectively" (Glossner 2010: 34), passing it along to the occupying authorities upon completion. At the same time, Ludwig Erhard, working in Munich with a group of economists under the name Economic Working Committee of Bavaria, also submitted a draft law for the "Reorganization of German Finance" to OMGUS in July 1945. Establishing the *Sonderstelle Geld und Kredit* in October 1947, with a board "sympathetic to free markets" (Mierzejewski 2004: 55) as per American wishes, was yet another forum where ordoliberal positions were dominant and from which Allied and German economic policy direction could be influenced.

At an early stage, proper collaboration was hindered by a variety of reasons. On the one hand, and still committed to a form of denazification, any Allied collaboration with Germans had to be thoroughly assessed to uncover any connections with the Nazi regime. It was this situation, for example, that abruptly ended the collaboration between the French occupation authorities and Adolf Lampe, who was arrested in 1945 in suspicion of Nazi sympathies, an accusation based on his 1938 book *Allgemeine Wehrwirtschaftslehre*. Historical archives at the IfZ also show that the Americans also saw Erhard with suspicion, not only because it was known that he had been the personal adviser of the Nazi Gauleiter Bürckel and "chief of the Hitlerite Institute for Industrial Research", but also due to the fact that as Minister of Economics in Bavaria "he filled virtually all the key posts with known Nazis"[184].

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[181] It is within the context of these deliberations, published eventually in his *Wirtschaftslenkung und Martkwirtschaft* (1946) that Müller-Armack would first develop what would later be called the "social market economy". See also Nicholls 1994: 142.
[182] "In Germany, 20 percent of residential buildings—50 percent in the major cities— was severely damaged." Eichengreen 2008: 54
[183] Erhard, November 1953 Speech at the *Aktionsgemeinschaft Soziale Marktwirtschaft*, quoted in Mierzejewski (2004), p. 59
[184] National Archives of the United States, RG 260/OMGUS, Institut für Zeitgeschichte [IfZ], 7/23-1/29, Page 2, Münich. Controversies in relation to Erhard did not seize. In December 1948, for example, A.C Hall, Deputy Chief of the Bipartite Control Office send a telegram to the Decartelization Office explaining that Erhard's attempt to reorganize the Fachstelle Stahl und Eisen and to turn order steering and accompanying statistics over to the trade associations constituted a breach of the Office's memorandum, which "prohibited such action inasmuch as order steering was considered a governmental functions and as such was an improper function for private administration". RG 260/OMGUS, 11/10-3/20, December 1948.

But potential Nazi affiliation or collaboration was not the only concern of the Allies. As we have seen, the CDG report was very explicit in attempting to counteract the inevitably alienating effects of a currency reform with egalitarian distribution of the burden, punishment of those who had enriched themselves during the Nazi period, and specific measures (such as the capital levy) that had a progressive direction. In contrast, however, and despite the eventual promotion of ordoliberal positions within the framework of a *social* market economy (i.e., a socially conscious market economy), those ordoliberals who got involved in drawing up and submitting plans for economic reconstruction after 1945 indicated no focus on mitigating the negative effects. As Rieter/Schmolz (1993) point out, ordoliberals shared common ground when noting that re-introducing a market economy would require specific sacrifices, as it represented a "*Sprung ins Kalte Wasser"* ('leap into cold water'), a phrase that Leonard Miksch seems to have coined in the post-war period (see Nicholls 1994: 184). As Lampe is accredited with saying, "a resolute reconstruction policy calls for the courage to endure impoverishment" (*Mut zur Armut*) (in Blumenberg/Lampe 1986: 88).

Preferentially concentrated on questions of sound money and reinstating the market economy, these approaches brushed aside much of the reality on the ground. The disproportionality between purchasing power and available goods, for example, was never linked to the fact that firms were extensively hoarding produced goods, guided by the transparent expectation of an approaching currency reform, a development that would allow them to sell with higher returns[185]. Moreover, questions of severe malnutrition or the lack of access to necessary goods (also linked to the hoarding practices of business) were ignored as reasonable determinants of the 'lack of incentives' for increasing productivity[186]. The clear proclivity of reinstalling a market economy took precedence, despite clear signs that its deflationary and austere consequences would only further devastate the working or unemployed population.

An identical pattern developed in relation to the second major economic policy decision that was implemented simultaneously, namely that of abolishing price controls and 'liberating' the market, a decision firmly propagated by a cohort of ordoliberal voices such as Eucken and Röpke and strongly reflected in the executive powers of Erhard. Identifying price controls and rationing as the ultimate cause for what Röpke called 'repressed inflation', i.e. an existing inflation that was only artificially kept hidden, ordoliberals were wholeheartedly convinced of the necessity of 'liberating prices', in defiance of the undisputed fact that the implementation of such a policy would, to put it mildly, "obviously involve painful adjustments" (Nicholls 1994: 129)[187]. Eliminating fixed prices and rationing (heralded

[185] "Most businesses were simply vegetating, with no incentive to increase production, because money was less valuable to them then the piles of materials and half-finished goods they held in their extraordinarily well-stocked inventories." (Nicholls 1994: 167)

[186] As Buchheim notes, the 'incentive' that was missing in that period was the profit motive, "the principal incentive which normally motivates capitalist entrepreneurs to make every effort to produce goods and services and to sell them." (Buchheim 1999: 61)

[187] "Industry would shed labour instead of hoarding it, prices would be likely -at least initially- to rise sharply, and the poor might find themselves facing starvation." (Nicholls 1994: 129). A painful adjustment, one is forced to conclude, is much easier to promote if you are not the one who has to "adjust".

as examples of the 'social injustice of the planned economy') was the highest priority, and although it was compared to a "jump into the cold water" (*Sprung ins Kalte Wasser*),[188] it was a policy that enjoyed a "widespread academic consensus", as Müller-Armack informed the readers of a July 1946 article, pointing at the work of key ordoliberal figures such as Eucken, Franz Böhm, Adolf Lampe, Hans Grossman-Doerth, and Röpke (Nicholls 1994: 141).

It was in this direction that the question of liberalising prices at the same time as the currency reform started to get formulated. In fact, it seems that within a process of two years (1946-1948), ordoliberals became more convinced about the need for this transformation to be simultaneous, despite the fact that earlier accounts show them (and especially Eucken) reluctant to promote both at the same time. Thus, in April 1948, two months before the currency reform, the Advisory Board of the Economic Administration of the Bizone that included ordoliberals like Erhard, Eucken, Böhm, Müller-Armack and Miksch,[189] came out with a report about the need to abolish price controls and rationing together with the currency reform. As they wrote,

> The Advisory Board is of the opinion that the role of prices in steering economic activity should be allowed to have the widest scope possible. This attitude precludes rationing measures unless there are compelling reasons, in particular those of a social nature.[190]

Retaining some of the earlier reluctance, the Advisory Board noted however that whatever "special regulations" were required for a "transitional period", they had to be "within the framework of the price mechanism" (Ibid). What ordoliberals at that time considered to be the greatest danger was the fact that both the conditions on the ground (with a heavy stream of refugees from the East) and the undertones of the CDG plan might give rise to a program of inflationary investments. This approach helps to explain the insistence on structuring the currency reform and the price liberalisations along a deflationary direction, a fact that is often obscured by ordoliberal-friendly accounts who tend to emphasize the deflationary aspects of the CDG plan but refrain from recognizing them in ordoliberal positions. As an example, Nicholls' ordoliberal-friendly account of the period makes the claim that the CDG plan was too 'deflationary', and for that reason rejected by the British side,[191] but there is little mention of the fact that ordoliberals themselves (such as Röpke, as we have seen, and Erhard as head of the *Sonderstelle Geld und Kredit*) had not only suggested deflationary plans, but they ensured that they were implemented. As Mierzejewski puts it, it was a time when "advocating for anything other than a

[188] In the days leading up to the currency reform, SPD economics spokesman Dr. Kreyßig, responded to this metaphor by arguing: "I feel it quite questionable to throw a dying man into cold water". In Erhard 1957: 128 (my translation).
[189] The Advisory Board included as well as the future first President of the European Commission, Walter Hallstein.
[190] Quoted in Richter 1979: 449
[191] This is corroborated by Buchheim who notes that the initial proposal for a currency reform was rejected by the British authorities who felt that "it could prevent prices and wages from being maintained at reasonable levels, possibly triggering off a deflationary spiral." (Buchheim 1999: 86) Tribe (1998) also takes a similar view: "The Treasury was concerned at the prospect of a wage-price spiral in the German economy, but generally supported a moderate inflationary approach to the excess money supply, rather than the deflationary approach implicit in a sharp reduction in the money supply." (Tribe 1998: 9)

"social" agenda was political suicide" (Mierzejewski 2004: 44). But if there was any tendency towards "redistribution" from the ordoliberal perspective, that was clearly exhausted to anti-monopoly measures that should be included in a positive program and not merely rely on removing existing regulations, as these would "leave private concentrations of power in control of large areas of industry" (Eucken 1942: 35,36).

For this reason, the process of their negotiations and discussions about the upcoming reform Erhard and his colleagues sought to ensure that the political cost of their choices would not land on their feet. But this is also somewhat obscured. Reading Nicholls (1994: 157), for example, we learn that between April and May 1948, in some old barracks near Rothwesten, Kassel, "experts involved in Erhard's Special Bureau were among those called to secret discussions with the Americans", but one is left wondering what the content of these "secret" talks was. Thankfully, Fuhrmann's (2016) research has done the work. And it has shown that, apart from technical discussions related to the reform, a key German focus during those talks was on avoiding responsibility for the foreseeable negative consequences that the currency reform would have on the population, by assigning its authorship to the Allies[192]. It appears thus that alongside Erhard's push that "Germans should have greater influence over the currency reform", there was less willingness to claim responsibility for its consequences. This becomes even more obvious in relation to the crucial affair of the equalization burdens. We thus read from Mierzejewski that Erhard "especially asked that the Germans be allowed to shape the equalization of burdens that would accompany the introduction of the new currency. Clay then informed him that the Allies would handle the currency reform alone. The Germans themselves would solve the problem of compensating people for war losses and the disadvantages arising from the currency reform itself. Erhard was greatly relieved by this news. (Mierzejewski 2004: 66).

Within this context, the quite remarkable claim by Peacock & Willdgerodt (1989b: 8) that "the reform was carried out without the blessing of the Allied authorities and their advisers who claimed to have special insight into German problems" can maybe be read from a different perspective, i.e., one in which the key aspect is not the currency reform, the anti-inflationary credentials or the limiting of purchasing power (characteristics of all European monetary reforms) but the extra addition of an immediate freeing of prices and the unequal consequences resulting from the abandonment of the equalization burden features. It is within these crucial conjunctures that the mythology over the exact authorship of the reforms begins.

In any case, in the last months before and after the currency reform, the negotiations and debates with the Allies were primarily carried out by Erhard himself. Insisting that the liberalisation of prices would have to occur at the same time in order for "the free market to get off to a good start so as to show manufacturers and farmers that they had every incentive to produce for it" (Mierzejewski 2004:

[192] "The chairman of the Central Banking Council of the *Bank deutscher Länder*, Karl Bernard, could claim with some justification that the currency reform was "very much an Allied law", something he presumably saw with some relief given the widespread anger about the law's lack of social justice." Fuhrmann 2016: 137 (my translation).

60), Erhard also insisted on price liberalisations as a way of strengthening the consumer goods industry. Here, and in accordance to his past expertise and his developed belief that consumption was the "final purpose of all economic activity", Erhard did not shy away from even arguing that consumer goods would lead the economic revival (Mierzejewski 2004: 63)

Implementing the currency reform

There is little doubt that the situation on the ground was such that the "free market" ideas supported by Erhard and his ordoliberal entourage were particularly unpopular among the population (Mierzejewski 2004: 44; Glossner 2010; Fuhrmann 2016). This distrust had a varied origin: on the one hand, many Germans were used to the benefits provided by the state-run Nazi economic organization which, as noted, was successful in burying inflationary pressures through rigid price controls and wage indexation. On the other hand, those who were happy to see the end of the Nazi regime (again, for a variety of different reasons, not necessarily out of direct opposition to it), had identified certain key economic actors (such as big industrial capital) as directly complicit and preferred to keep a clear distance. For the surviving socialist/social-democratic-inclined and Christian Germans (for many of whom 'capitalism' itself had become morally unacceptable), a move towards state planning and some form of collectivism.

In their struggle against these tendencies, and falling in line with the historical precedents of prioritising deflation and a 'liberated' price mechanism, the currency reform of 1948 and the lifting of price controls had an immediate devastating effect on the already impoverished population (Balogh 1949). Unemployment grew massively, prices hiked and the potential of starvation for the poor became an immediate reality. For ordoliberals, however, this was a small price to pay. Focusing solely on the ominous threat of socialism and central planning, the aim was to restore 'sound money and free prices' in order to ensure a key motivation of the market economy itself: profit making. As Buchheim (1993:71) has observed, the profit motivation was drastically undermined due to the consequences of repressed inflation and a collapsed price mechanism, as real prices "proved irrelevant for the calculation of real profits", while "the desire to secure economic survival replaced profit seeking as the principal motivating force of capitalist enterprise" (ibid.) Combined with the lack of incentives for workers to show up, the predicament was potentially the most obvious threat for a collapse of the capitalist economy as ordoliberals had ever seen. When Röpke visited Germany in 1948 and witnessed the terrible conditions, his advice was indicative: abandon any calls for socialism or planning and prioritize the return to a market economy. This might have meant that prices would rise sharply but they would, at least, be "real prices" (Nicholls 1994: 176).

As workers and unemployed were, however, less pre-occupied with the proper functioning of the price mechanism and more with surviving with some dignity, the immediate consequences of the currency reform and the freeing of prices was widespread social unrest, focused on the recognized class character of the reform[193] and what was perceived by many as a "violent anti-social redistribution of German wealth and consuming power" (Balogh 1949: 22)[194]. An outburst of demonstrations and protests started immediately after the reform in June 1948, gaining momentum in the next months and culminating in a general strike in November of the same year. The intensity of the struggles was such, that the whole path towards a market economy came under threat (Fuhrmann 2016)[195].

Nonetheless, the unshakable conviction that the introduction of a market economy was the only "socially just" path for Germany was shared by the US occupying forces.[196] Dodge and his financial advisors firmly supported the reforms, adding their own convictions along the way, such as a clause in the conversion law (Article 28) that forbade budget deficits by ensuring that "expenditures of public authorities must be covered by current income" (Giersch et al 1992: 37). Led by an occupying force and administration that was reiterating the ordoliberal position that only a proper functioning market and price mechanism can provide social justice, while speeding up the process of market liberalization against bilateral trade agreements, protectionist tariffs and import/export quotas to allow for the mass import of US goods, the dice was cast. From the German side, this reality provided a useful scapegoat[197].

As we have also seen, a crucial aspect of the so-called success of the currency reform was to put an end to hoarding. But even in this case, we have to take note of the fact that companies keeping their stock out of shop windows was not merely a result of the inability to secure safe and profitable returns. It was also a policy directly supported by Erhard as a means of ensuring that once the currency reform and price liberalisation were under way, the "shock" of witnessing shop windows fill with products would act in favour of the reforms. Knowing that the crucial moment, the currency reform, was approaching, Erhard's administration had consciously used its authority to permit the hoarding of goods that would be available when the new money was introduced and, as Erhard planned, restrictions were removed (Mierzejewski 2004: 65).[198] Given the outrage that was directed towards this practice, Erhard later admitted as such and try to explain his decision:

[193] Lutz (1949), a student of Eucken, admitted as much in his review of the currency reform. "The owners of real assets were favoured as compared with the holders of private claims in the form of loans or securities, and the latter were in turn favoured as compared with the owners of bank deposits, where were reduced to a larger proportion than private claims […] Worst of all fared the holders of claims against the Reich which were completely wiped out." Later on, however, he adds: "The currency reform was admittedly social unjust; […]as it is difficult to see how this injustice could be avoided, there is not much point in criticising the reform too harshly on that account." (Lutz 1949: 127-8).

[194] Fuhrmann also notes that what all the reforms "had in common was the "axiomatic assumption" that existing property rights were not to be touched." (Fuhrmann 2016: 135)

[195] In his excellent diatribe on the currency reform of 1948, Fuhrmann (2016) makes the argument that the eventual switch from a "free market economy" to the notion of the "social market economy" was the direct result of the struggles that emerged after the 1948 reforms.

[196] And not only. US Authorities also shared the conviction that balanced budget were the only way to sustain a viable economy. As Article 28 of the Military Government's Conversion Law, promulgated as Law No. 63 in the US Zone in June 1948, said: "Expenditures of public authorities must be covered by current income. The procurement of funds by means of credit shall be lawful only in anticipation of future revenues. Military Government reserves to itself the right to intervene in budgetary matters if the maintenance of this principle is imperilled." (Mendershausen 1948: 660-661)

[197] Buchheim also notes that German experts tried to avoid criticism for such destructive policies by making them "appear as something forced upon them by the occupying powers. In this way they hoped to be able to divert all criticism and protests to those who were solely responsible - the Allies". (Buchheim 1999: 80-81)

[198] "[An] investigation by the Hessian Statistical Office […] revealed that in 1947 the stock of materials on hand in firms was three times that of 1936 and sufficed for twelve months' production at the then current level" Buchheim 1993: 72

> […] I am accused of being the Patron Saint of hoarders. I remain untouched by such calumnies. Much as I, deplore hoarding, I nevertheless feel obliged to point out that a radical emptying of our storehouses would necessarily have meant that the purchasing power freed by currency reform would have found nothing to buy. Currency reform would then either have been condemned to founder from the first day, or else the country would have had to be constrained by means of State controls and fixed prices. It should be remembered that hoarding regarded as such was simply an unavoidable manifestation of currency reform; it was a phenomenon taken into account when making the reform. It is dishonest to protest, if it is clearly realized that, had this cushion not been available, currency reform might have foundered.
>
> Erhard 1957: 17

Consequences of the currency reform

The immediate consequences of the reform were meticulously recorded at the time. Horst Mendershausen, an economist who served with the OMGUS as Assistant Chief of Price Control would explain, one year after the currency and price reforms, their overall impact: while high income and property taxes were reduced and the corporate tax income became less progressive, "a new high excise tax was imposed on coffee, and local taxes were raised considerably." Most importantly, however, and in contrast to the CDG plan, "no action was taken to settle the vast and thorny issue of the 'equalization of war and postwar burdens'." (Mendershausen 1949: 659-660). As we already saw, the Allied forces had handed over this task to the German authorities who, in the process of introducing the market economy, ignored it. Continuing, Mendershausen becomes even more critical:

> The subsequent deflationary pressure was exercised with a similar lack of economic discrimination. What discrimination can be discovered was in favour of those who were indebted to the banks and against new customers or projects. The experience indicated the familiar difficulties of shaping and stabilizing the economic process by relying chiefly on banking measures of one kind or another. These difficulties were increased by the lack of balance between the regional and industrial components of the German economy on the one hand, and on the other hand by the extensive use of cash in business transactions that were meant to escape taxation under existing or expected laws (equalization of war burdens). (Mendershausen 1949: 661)

In Fuhrmann's eloquent re-examination of the social, economic and political consequences of the currency reform (and the simultaneous liberalization of prices that will be discussed further on), the clear argument is made that they massively increased social antagonism and threatened the continuation of the policies. Despite post-facto appreciations and the elevation of the currency reform into a central founding myth of the West Germany post-war *Wirtschaftswunder* and remarkable economic growth, the verdict at the time was nowhere near such dithyrambic praises. Perhaps most indicatively, the implementation of the two measures by Erhard provoked what has been the last, political and massively widespread general strike that Germany has experience since then.[199]

[199] Interestingly for the wider European context, France was also shaken by wild strikes and riots in the autumn of 1948, signs of workers' immediate post-war militantism that was only recuperated with the arrival of Marshall Plan economic aid. See Jackson (2018) *De Gaulle*, p. 405

It was part of the contradictory portrayal of the "social market economy" to insist on the currency reform and the price liberalisation while at the same time keeping wages frozen at their 1936 level. The decision, in November 1948, to also allow wages to increase was without doubt forced by the general strike which, though unsuccessful in halting the price reforms, showed the capacity of the German working class to mobilise in great numbers – to an extent that worried the Allied authorities too. As Fuhrmann explains, *this* was the main reason behind the addition of the adjective "social" in the social market economy: an attempt to indicate that what is taking place is not a return to some laissez-faire market fundamentalism but the birth of a new system that combines market mechanisms with the presence of a steering committee, the state, responsible for both providing the legal framework for the good functioning of the market *as well as* a space for social policy for protecting those externalized by market processes.

In retrospect, Erhard would claim that the decision to allow wages to follow prices was taken on the basis that the remaining wage freeze "could not be reconciled with a market economy. Therefore it was a natural step that on November 3, 1948, a decree for lifting the wage freeze should be introduced." Adding an ideologically charged evaluation that his decision allowed "trade unions [to] receive back their freedom of movement", which would have been "unthinkable without the accompanying decline of State control of the economy" (Erhard 1957: 22), Erhard's appraisal of this "freedom of movement" was however influenced by what he saw as workers' weakness to effect significant change. As he would add,

> The relative moderation of the trade union wages policy was surely due to the failure of the attempt to stop the new economic policy by the general strike of November 12, 1948. On this-day public opinion made it clear to the leadership of the trade unions that it was following the wrong path in its obdurate battle against the market economy.
>
> Erhard 1957: 22

As Röpke would add in 1963, this weakness was an essential prerequisite for the currency reform and the freeing of prices to succeed. In his view, a lot depended on "the restrained wages policy of the German labour unions, who had the good sense to wait upon the fruits of real prosperity, and a tax system which provided the necessary incentives for entrepreneurs to invest." (Röpke 1964: 249)

In general terms, these were the foundational characteristics of the postwar social market economy: the implementation of the currency reform; its unequal burden and drastic drop of purchasing power; the freeing of prices (discussed in detail further down); and the fact that the workers' movement showed only a limited ability to influence the overall direction but not to change specific policies. Before we set out to examine the emergence of the *Soziale Marktwirtschaft* however, it is pertinent to elaborate on the creation of an institutional form meant to have an overview and organize the implementation of the currency reform: the West German central bank. The history of its emergence does not only shed light into the currency reform and the simultaneous price liberalization, but it spells out the historical trajectory of the Bundesbank itself, whose institutional set up as an *independent* central bank was not only unique at that time but turned to be essential for the future too. And while the importance of the BdL has been widely researched, the role of ordoliberals in its design and inauguration remains under-examined.

Bank deutscher Länder and CBI

Already from the drawing up of the Colm-Dodge-Goldsmith plan it was given that a necessary condition for the successful implementation of the monetary reform was to establish a central bank that would have "control over the volume of money and credit" (Colm et al 1946: 219; see also Müller-Armack 1971; Nicholls 1994: 143). In fact, the CDG report mentions that the urgency of the monetary reform is so great that it is more important to set up a central bank which will implement it than to have a central government or administration (Ibid: 217). Formally established by military law in March 1948, and therefore in existence before the currency reform was even announced, the BdL model followed the pattern of the Federal Reserve System.[200] Composed of independent state central banks integrated through the Central Bank Council the BdL did, nonetheless, retain some continuity from its Reichsbank predecessor. Apart from its personnel[201], this continuity concerned the commitment to monetary stability and anti-inflation[202]. Such an outlook was, as we have seen, forcefully supported by the US authorities, who saw in the *de facto* independent BdL (there was, at the time, no German government to which the central bank could submit to) an institutional ally for market-oriented their policies[203].

After overseeing the implementation of the currency reform, a crucial policy field of the BdL was credit policy. Mendershausen, who paid close attention to the consequences of the reforms, attributed a lot to the credit policy that was initiated by the BdL. Writing in 1949, he noted that

> banking control of the credit volume proved by no means a safeguard against inflation and misdirection of resources. During the first six months of the new system, the commercial banks produced a sufficient amount of short-term credit to sustain a considerable upward movement of commodity prices (see below). Private businesses made extensive use of short-term credits for productive and unproductive purposes, frequently tying up the funds for long periods of time; and whatever power the banks

[200] In 1949, the West German banking system consisted of commercial banks, state (*Länder*) banks and the BdL. "This complicated system had already been introduced by the occupying powers, before the currency reform, in the desire to break up the monopoly of the Reichsbank and to create a kind of Federal Reserve System." (Lutz 1949: 125)

[201] "Thirty-nine per cent of the officials who sat on the executive and governing boards of the Bank deutscher Länder, the *Land* central banks and the Bundesbank between 1948 and 1980 were former members of the Nazi party." (Marsh 1992: 19). See also Buchheim 1999.

[202] "The anti-inflation rhetoric used by successive generations at the Bank deutscher Länder and the Bundesbank shows intriguing similarities with the conventional economic wisdom of the 1930s and 1940s: a sign of how *Stabilitätspolitik* transcends the boundaries between dictatorship and democracy. In spite of an increasingly reckless course of reflation and rearmament, Nazi Germany -with spectacular inconsistency – sought to maintain monetary stability of the type formerly associated with the gold standard. Adolf Hitler came to power promising greater devotion to the cause of currency stability than any other government leader in world history. His insistence, like his failure, was overwhelming." (Marsh 1992: 19-20)

[203] "The agreement on establishing the BdL of 16 February 1948 reads: 'for the purpose of exercising general supervision over the policies of the Bank Deutscher Länder to the end that the objectives of U.S. Military Government Law No. 60 and British Military Government Ordinance No. 129 establishing the Bank shall be carried out'" (Bibow 2009: 159)

> had to influence the use of credit was offset by the wave of cash income that accompanied the liquidation of hoards. In November 1948, the central bank felt compelled to restrict credit. It chose the means of raising reserve requirements by 50 per cent and freezing the aggregate amount of credit outstanding. The rediscount rate was left at 5 per cent.
>
> Mendershausen 1949: 661

A central point for Mendershausen was the way the long-term credit provisions were essentially neglected by the BdL directorate, focusing instead on short-term business loans provided by commercial banks. This meant that the economic reconstruction process was overwhelmingly geared towards pre-existing companies that could refinance themselves through the sale of the hoarded goods, which Erhard's administration had allowed. Newly emerging companies faced a restrictive credit scarcity, a situation particularly visible in the housing construction sector where "scarce and expensive credit delayed the removal of one of the narrowest bottlenecks in the German economy, the immobility of labour caused by the lack of housing." (Ibid). The creation of a public Reconstruction Loan Corporation in October 1948 remained, until April 1949, inactive due to difficulties in raising funds but even when this bottleneck was overcome, "no funds were provided for housing." (Ibid: 662)

The decision to disengage any governmental coordination with the central bank, supported by Erhard and his colleagues in the name of rooting out central planning tendencies, resulted in the clear lack of long-term financing plans (especially in the direction of housing), while also contributing to the "relief of continual (social security) and temporary (unemployment) social needs." (Ibid.) Thus, while increased business profitability was facilitated by the currency reform, a significant part was "dissipated in unessential investments and purchases of luxuries." Concluding, Mendershausen pointed out that "the problem of making austerity popular and of directing the savings that are forthcoming to essential uses is unsolved. What began as a nominally non- inflationary policy ran into all the social equity problems, if not the economic problems, of inflation because of failure to enforce austerity in a socially acceptable manner." (Ibid.)

While Mendershausen tries to argue that this represented a specific failure that could not be attributed to the "lack of determination on the part of the man who carried the chief executive responsibility for economic policy during the period following monetary reform, Professor Ludwig Erhard", he also recognises that the policy chosen by the director of the bizonal Office of Economic Administration and advocated by his colleagues was one of reliance "on market forces to enforce greater productivity and savings", a policy that was meant to counteract the impact of grown social inequality by transferring any positive results in a future time when increased market profitability would generate a "trickle-down effect" of sorts. Concluding, Mendershausen remarks in clear terms: the economic recovery was not a "social success".

> The increase of economic inequality between employers and workers, between the native population and the refugees, between the owners of property and goods and the

> holders of small cash savings put the stamp of inequity on the recovery process and invited irresponsibility and conflict."
>
> Mendershausen 1949: 662-3

One central point that can be observed by this exposition relates to the practical separation of central bank policy from any meaningful coordination with any fiscal or governmental authority. The institutional form that allowed this to happen was the *de facto* (initially) and *de jure* (eventually) independence of the central bank. In this context, the significance of ordoliberal influence in the direction of this institutional form has been a topic of relative ambiguity. The source of this relates mostly to the fact that particular ordoliberals, such as Eucken, have been portrayed as sceptical of (if not hostile to) central bank independence (Bibow 2009; Feld et al 2015; Young & Berghahn 2012). At the same time, one can also read evaluations admitting that the independence of the West German central bank "is certainly the result of the influence of Ordo-liberals who have been resolutely opposed to inflationary methods of finance. What can be said is that the Ordo-liberals had an influence far beyond the confines of those political groups in Germany most sympathetic to their general position. They had offered to politicians and the public not only incontrovertible evidence from Germany's past of the economic and political dangers of inflation, but had fully demonstrated that economic recovery and advance required a firm grip on the supply of credit." (Peacock & Willdgerodt 1989b: 8-9). How can these two views be reconciled? A closer contextual examination is pertinent.

The BdL, central bank independence and the Bundesbank

Though practical monetary policy was not a strong point for most ordoliberals, we have evidence that indicates that central bank independence (CBI) was not a highly favoured institutional set up for key ordoliberal figures such as Eucken and Röpke. Given the importance of price stability and the control of the money supply, issues that were at the forefront of any stabilization program that ordoliberals concerned themselves with since the interwar period, this might be somewhat surprising. But it is imperative to consider these positions in light of specific historical experiences and context in order to properly understand ordoliberal monetary proposals. Similarly, it is crucial to keep in mind that there is a distinction between theoretical/academic considerations and practical advice on real policymaking. If anything else, ordoliberals themselves were fully aware of this and we have already traced some examples in the case of liberal interventionism and the attempts to carefully conceptualize the actual role of the state within an economic order. In fact, unless we are in a position to understand the difference between active policymaking and wider theoretical approaches, a significant part of the history and development of the ordoliberal paradigm becomes unintelligible.

More prominently than anyone else, Eucken's student Friedrich Lutz (who had left for the US during the Nazi period) was the most prolific writer on the question of money, monetary police and central banking. Already in the mid-1930s, Lutz had engaged with the question of monetary policy and central banking, developing an approach that started off with a (common ordoliberal) precondition for any consideration of central banking: the gold standard.[204] Defining the gold standard as "the monetary system of the free market economy" (Lutz 1935: 237), he argued:

> Only when the world restores the conditions necessary for a gold standard to function, that is to say, only when it makes free competition once again the structural principle of the economic system, is there any point in returning to such a system. Deciding on the general economic system, therefore, also implies deciding on the re-introduction of the gold standard. If the world continues further along the path of nationalist economic policies, a restitution of the gold standard is out of the question. (Ibid: 241).

The non-discretionary character of the gold standard was also crucial. As Lutz noted, "the whole system is automatic in the sense that in principle almost nothing at all is left to the planning initiative of bank managers, who only have to take note of their reserves. The wisdom of the gold standard lies precisely in the fact that its practical workings provide a guide which is inherently reasonable." (Lutz ibid: 226). But the "self-evident" supremacy of the system was not, in itself, enough to convince. As Lutz continued, "In the current situation, however, proving that the gold standard will solve the problem of the money supply has little merit for it does not answer the question whether or not the gold standard should be reintroduced. If this question were simply dependent upon whether the gold standard is sensible 'in itself', then of course it would have to be affirmed without further discussion." (Lutz ibid: 226). In fact, criticism of the effectiveness of the gold standard on the basis of the interwar period "merely shows that the functioning of the gold standard is based on quite specific economic and general political conditions which were not fulfilled in those years" (ibid: 226). Unfortunately, Lutz added, "these conditions do not obtain at present nor can they be restored." (ibid).[205] As Peacock & Willdgerodt (1989b: 8-9) add in their introduction, "for the mechanism to work […] national governments were required to submit themselves to the rules of the game: complete convertibility of domestic currency into gold, no protective trade and payments measures, price flexibility in response to the linking of the supply of currency to the inflows and outflows of gold and what Lutz called 'confidence', that is political stability acting as a brake on disturbances such as large international capital movements. […] Wilhelm Röpke's views were essentially complementary, starting as he did from an analysis of the harmful effects on the international division of labour resulting from exchange controls as well as trade protection which inhibited restoration of the international monetary system represented by the gold standard."

In the context of the postwar predicament, and speaking about the *Bank Deutscher Länder*, Lutz would criticize the "complex" structure and "hypertrophy" of the West German banking system, explaining its emergence as an unnecessary aversion prompted by the desire of the Allies to avoid the

[204] As Röpke's friend and ordoliberal proponent in Italy, Luigi Einaudi, would put it, "the fact that, in the blissful century, the monetary unit was extraneous to human will or power was a blessing for the era". Einaudi quoted in Forte and Marchionatti 2010: 26).

[205] Later in the same text Lutz identifies these preconditions as follows: "(a) renunciation of an independent domestic trade-cycle policy; (b) renunciation of protectionist measures (whereby the restrictions mentioned must be taken into consideration); (c) price flexibility; and (d) 'confidence'." Lutz in Peacock & Willdgerodt 1989a: 235).

type of centralization that had allowed the Nazi system, while also using the decentralized system of the Federal Reserve as a model. Predicting (falsely) that "someday the *Länderbanken* will disappear again" (Lutz 1949: 125) given that centralization is both inevitable and already present in the BdL, Lutz was openly critical of the BdL institutional set up. however, the potential for an actual return to the gold standard was recognised as an impossibility. In that context, Lutz recognised that "if the domestic banking system was not to be tied in its credit arrangements to a gold standard regime, something had to be done about the 'rules' governing central bank control over the domestic monetary system." (Ibid).

Faced with this real possibility of a non-return to the gold standard, ordoliberals like Lutz initially became proponents of a system of flexible exchange rates, openly portrayed as a second-best solution to the gold standard. Not all ordoliberals were, however, on board at the time. Given that the wider monetary constitution of Bretton Woods and its overall direction was compatible with handing out full discretionary powers to different domestic institutions, the conclusion drawn was that flexible exchange rates would not be enough to effect price stability at both domestic and international level.

Another alternative that was thoroughly discussed at the time drew its influence from the so-called "Chicago Plan" (also known as the 100 per cent plan), drawn up Henry Simmons of the 'Old Chicago School' in the US. This included a proposal for a 100 per cent reserve requirement in central bank money for all demand deposits, while also avoiding "reliance on discretionary (dictatorial, arbitrary) action by an independent monetary authority" (Simmons 1936: 5). Providing a rule that is "clear enough and reasonable", the Chicago Plan was meant to be a "good basis for a new 'religion of money'" (Ibid). Lutz, who was in a position to observe the construction of the plan from close, became an open proponent, seeing that it allowed for both a complete control over the money supply (thus mimicking the gold standard conditions), while also securing deposits and cutting off the link between credit allocation and money creation.

Seen as an update of Ricardian economics and within the framework of the Currency School, Eucken would show himself to be favourably disposed towards the Chicago Plan. But he would also raise concerns about the fact that even in the Chicago Plan, central banks would retain some chance of discretionary decision-making, especially in the context of the overall postwar international monetary order. Avoiding reliance, Eucken would imply, still leaves space for the drawing up of monetary policy by central bank management, as well as governmental authorities, pointing at how finance ministries continue to "decide monetary policy in most countries today" (Eucken 1952: 260). Trying to circumscribe this problem, Eucken would suggest its combination with the so-called Graham Plan.

As Eucken explains in some detail, the Graham Plan saw a commodity reserve currency whose convertibility would be not based on a specific commodity or other currency (like gold or the dollar) but on a bundle of commodities whose proportions would be fixed. In this way, Eucken could claim that a currency stabilizer would be created that would not depend on the "changing daily decisions of political authorities" (Ibid: 262). Speaking from the perspective of building a market-based international monetary order, Eucken would insist that certain preconditions were necessary: central bank governors should not be given discretionary powers, given the potential that they change their opinions; central banks should be equipped with a mechanism geared towards the stability of exchange rates; this mechanism should have a strong stabilizer that prevents *both* deflation and inflation "much more strongly than the gold standard"[206]. As he clarified, "experience shows that a monetary order allowing managers of monetary policy a free hand, trusts them more than is generally warranted. Lack of knowledge, weakness against interest groups and public opinion, false theories, all influence these managers, greatly damaging the task entrusted to them". And there is little doubt that in writing these words, Eucken had the specific examples of Havenstein, Schacht and their stints with the Reichsbank in the early 1920s.

Is this evidence enough to support the claim made that ordoliberals, and Eucken in particular, were against central bank independence? We have seen how their experiences with formal independence were coloured by the trajectory of the Reichsbank, a central bank at the epicentre of a number of misguided decisions and governed by a series of tragic personalities which, on top of that, was formally independent at the time of these events. But to draw the conclusion that CBI as an institutional form was outright rejected is going too far. Despite their theoretical formulations around alternative and, in their view, better options, ordoliberals remained grounded and pragmatic enough to understand that the world of monetary policy was not merely a field of theoretical abstractions. This was a time, after all, where ways of reconceptualizing a more active central bank in the aftermath of the collapse (and abandonment) of the gold standard, had become crucial in the field of monetary policy. In the same way that officials of the BdL would accept, half-heartedly, that the gold standard regime was not likely to return and would thus develop their policy on the basis of a realistic alternative (i.e., central bank independence), ordoliberals were also keenly aware that neither the gold standard nor a commodity reserve currency were realistic options.

From this perspective, it makes sense that the theoretical endeavours of ordoliberals such as Eucken were largely irrelevant to those directly involved in designing the institutional form of postwar central banking, its instruments and its relation to the government. As Dyson writes, "the debates and papers of the council of the BdL, and its post-1957 successor the Bundesbank, about post-war monetary theory and policy offer no direct evidence that Eucken's work played a significant role." This approach in fact describes a general issue with many ordoliberal positions which may have offered general principles but had "little practical advice on policy instruments and their use" (Dyson 2021: 388). But, as already mentioned, this distinction between the theoretical endeavours of ordoliberal thinkers and their involvement in practical policymaking or institution-building decisions is a crucial one to maintain. Instead of examining ordoliberal theoretical approaches and comparing them to the reality of what took place, we need to reconsider the question from the perspective of the options that were

[206] Eucken 1952: 169

actually available at the time and to then evaluate which one was closer to ordoliberal thinking. Given that the alternative options *on offer* at the time were between a direct governmental control of monetary policy and central banks and one of CBI, the argument put forward in this thesis is that central bank independence was eventually chosen (and, gradually, fervently defended) as the second-best but also most *realistic* option for imitating the mechanics and monetary order of the gold standard. And it soon became clear that maintaining that independence of the West German central bank was a crucial question (*Schicksalfrage*) which ordoliberals would play a key role in defending.

Among the most articulate exponents of those who refuse an ordoliberal embrace of CBI, Jörg Bibow goes as far as to argue that ordoliberalism "had no impact on the country's emerging monetary order at all" (Bibow 2009: 3). A similar view is expressed by Feld et al (2015), who claim that "ordoliberal proposals for a monetary constitution bear little resemblance to the actual institutional design implemented with the founding of the *Bank deutscher Länder* in 1948 and the subsequent Bundesbank Act of 1957." (Feld et al 2015: 53) Echoing this approach, Young (2017) claims that the ordoliberal monetary outlook was not adopted in the Bundesbank Act of 1957, while the 'rational automatism' promoted by Eucken as a means of monetary regulation in the 1950s was abandoned in favour of the more discretionary power of the Bundesbank. Central bank independence, states Young, was never "a central feature for the monetary concepts of ordoliberalism" (Young 2017: 226). The accuracy of this approach will be critically evaluated in the following section.

Bibow begins his account of the design and inauguration of the West German central bank, the BdL, claiming that its eventual form was a consequence of "a compromise between conflicting British and American ideas" (Bibow 2009: 156). In this context, this conflict consisted of divergent ideas around the potential centralization or de-centralisation of the new central bank, with the British favouring a centralized model (in accordance to the Bank of England – BoE, *and* the Reichsbank), while the US side wanted the new central bank to follow the example of the decentralized Federal Reserve. Bibow makes the extra argument that the US viewed de-centralization and a radical break with the Reichsbank as essential features of their denazification policy (Ibid: 157) but the fact that most members of the BdL came from the Reichsbank and had, to say the least ambiguous connections to the Nazi regime (especially Wilhelm Vocke, who became the BdL's president) challenges this approach. It seems more likely that the Federal Reserve model was a more important inspiration for the BdL than the denazification policy – which had been effectively abandoned by 1947.

Arguing that CBI was practically non-existent at the time (the Fed being under close guidance from the Treasury as a result of the 1951 Accord, while the BoE was nationalised), Bibow finds it "puzzling" (Ibid: 159) that the BdL ended up independent. To explain this, Bibow resorts to claiming that the BdL was in fact "*not* independent at all" (Ibid: 159) but was under the complete control and supervision of the Allies and its monetary authority the Allied Bank Commission (ABC). And while there is no doubt that the ABC was tasked with supervising the BdL, the main concern of the Allies was to ensure that the BdL would not take monetary decisions contrary to their interests. But to claim that the BdL was "*not* independent at all" would have to be accompanied by clear indications that it was in fact the case that BdL monetary policies and Allied interests did in fact come into conflict. There is, however, little evidence pointing in that direction. In fact, ABC direct intervention appears to have been strictly confined to the rejection of specific personnel – in most cases because of their inter-war or Nazi period record (Mee 2019: 102-3). Other research has argued that, in fact, the relationship between the ABC and the BdL in terms of monetary policy itself was fruitful and collaborative (see also Berger 1997; Holtfrerich 2008: 27). As Mee (2019: 111, my emphasis) points out, "On paper, the ABC could issue instructions to the central bank council and veto its decisions. However, leaving aside the bumpy start to their relationship, *this rarely happened*. Instead, a fruitful working relationship developed between the directorate, central bank council and the BdL's oversight body", a fact that was already acknowledged by BdL president Vocke in a letter to Adenauer in October 1949 (Ibid: ff. 96).

We know that the development of the BdL, and the long process through which it morphed into the Bundesbank was characterised by a conflict around the question of its centralized or de-centralized form, with different sides of the debate (both *outside* and *within* the BdL) taking different positions on the issue, as Bibow himself recognises in passing (Bibow 2009: 161).[207] But an equally important, if not more central, debate around the BdL concerned the question of its independence. From this perspective, Bibow's account that places British and US conflict over centralization at the epicentre of the creation of the BdL only tells us part of the story. In the process of the various draft laws that were drawn up to establish the Bundesbank, the question of independence (rather than that of centralization) were much more prominent.

Turning to the question of ordoliberal views on CBI, Bibow starts by arguing that an examination of Eucken's principles for economic policy, as set out in his celebrated *Grundsätze der Wirtschaftspolitik* (1952), indicates against an ordoliberal acceptance for CBI. Curiously, Bibow's central argument is that the key economic instrument that CBI establishes is monetary targeting through interest rate control, a policy option that constitutes "nothing else but ongoing interventions in market processes" (Bibow 2009: 169), something incompatible with the *Ordnungspolitik* envisioned by ordoliberals. Lastly, Bibow explains that such an intervention is incompatible with the ordoliberal *Ordnungspolitik* because, in the ordoliberal view, the determination of interest rates should be "truly left to the self-control of markets" (Ibid: 169).

[207] Within the BdL, Wilhelm Vocke was the most prominent proponent of a centralized structure, a consequence of both his past in the Reichsbank and his personal ambitions. Other members of the BdL, like Karl Bernard, its central bank council president as well as members who presided over *Länder* banks were less inclined to see the influence of their states recede. At a political level, people like Erhard preferred a centralized model, whereas finance minister Schäffer and chancellor Adenauer opted for a decentralized structure. On this question, a particular contradiction appears in Bibow's account: for while we read that members of the *Länder* banks favoured a closer coordination between the federal government and the central bank "partly as a reflection of *Länder* frustration with their own lack of influence over BdL policy in 1948-9" (Bibow 2009: 162), a few pages later we read that "*Länder* governments were highly alert that the federal government's gain in control should not decisively reduce their own powers" (Ibid: 165). Holding both points at the same time is rather difficult. It seems to be the case that the second point is much more realistic, as it is hard to imagine why assigning more control over monetary policy on the federal government would in fact result in relieving *Länder* authorities from this frustration.

Already here, however, a point of contention against this reading can be proposed. For it appears that Bibow's reading relies on a specific translation of what exactly constitutes an "intervention", a concept that ordoliberals themselves never defined with sufficient clarity[208]. In an attempt to provide such clarification in relation to the question of CBI, Bibow argues that in the ordoliberal canon an intervention seizes to be liberal (or, put otherwise, "market-conforming") when it "abolishes the price mechanism and self-control of markets" (Bibow 2009: 169). The first thing one can object to is whether it is in fact accurate to describe interest rate targeting as a process that "abolishes the price mechanism". To the extent that private banks are in the position to create money through their lending activities, an element of control by a central bank over that capacity through a determination of borrowing costs could just as easily be viewed (by ordoliberals themselves) as a 'framework-building' process[209] meant to impose limitations on the quantity of money. And we already know that targeting the money supply was a central feature in Eucken's monetary views already during Weimar. But perhaps a more substantial objection can be raised around Bibow's use of the notion of a "self-control of markets".

As we have already seen (Chapter 2), since the 1920s, and especially after the onset of the 1929 Great Depression, a significant part of the ordoliberal project has revolved around their rejection of "laissez-faire" conceptualizations of the market economy, putting forward a line of thought that denied the self-correcting capacities of the market and the market's own ability to establish an overall equilibrium when left to its own devices[210]. Already in 1932, Röpke had claimed that the "laissez-faire case can be discarded as impracticable" (Röpke 1932: 195), while ten years later Rüstow repeated the argument, alas in a more forceful manner, when he described it as having a "theological-metaphysical origin […] so powerful that it was regarded as self-evident and beyond all discussion". (Rüstow 1942: 272). Writing in 1944, F. A. Hayek, a 'travel companion' of ordoliberalism, added that

> […] probably nothing has done so much harm to the liberal cause as the wooden insistence of some liberals on certain rough rules of thumb, above all the principle of laissez faire […] The question whether the state should or should not "act" or "interfere" poses an altogether false alternative, and the term "laissez faire" is a highly

[208] The frequent controversies around 'interventionism' within ordoliberal circles is, among other things, a good indication of this vagueness, something that Bibow himself seems to acknowledge (Bibow 2009: 169). For a further discussion of this, see Commun (2016) pp. 37-72; Kolev (2018), pp. 65-90.

[209] The conceptualisation of "framework building" is another way to bring home the notion that ordoliberalism was never oriented towards a mere policy-producing apparatus but was more concerned with embedding and institutionalising the necessary conditions, regulations and constitutive principles that would create path dependent outcomes. A good illustration of this can be found in a letter Walter Eucken wrote to Frank Knight in 1948 where he stressed the need to "think in terms of decades, not years" (quoted in Dyson 2021: 32). For a recent elaboration of the *framework concept* see Kolev & Köhler (2013), esp. pp 214-216.

[210] As Eucken himself explained in 1950, "[the] argument today is not at all between *laissez-faire* and economic planning. It is not a matter of conflict about whether the state should interfere only a little or somewhat more. Actually, the defenders of *laissez-faire* have completely disappeared. The conflict is a different one. One side, to which I belong, is of the opinion that the state must influence, or even directly establish, the forms and institutional framework within which the economy must work. It should, however, avoid the attempt to steer directly the everyday business of the economy. Others believe that the state must not just establish the framework, but must influence the day-to-day working of the economy on the basis of central planning." (Eucken to Meinhold, 15 Feb. 1950, quoted in Nicholls 1994: 185)

> ambiguous and misleading description of the principles on which a liberal policy is based. (Hayek 1944: 71, 118)

In this context, Bibow's utilization of a concept such as "market self-control" as a defining feature of ordoliberal monetary policy seems bizarre. In fact, the idea that interest rate targeting by a central bank is akin to an unacceptable intervention into a process characterized by 'self-control' forces ordoliberals into holding two mutually exclusive positions: rejecting the self-correcting capacities of the market, while at the same time expecting from those very capacities the task of ensuring monetary stability.

Central banks have few instruments for implementing their mandate and, as we have already seen, ordoliberals were very keen to ensure that this mandate was reduced to a minimum (price stability). Short-term purchases, government bond sales and reserve requirements are among the few instruments through which such a mandate can (and has been) pursued. Following Bibow's narrow definition of 'intervention' however, all these instruments can be seen as interventionist and, therefore, as distorting market signals. Alternatively, one could well argue that instead of 'market-distorting', interest rate policy can be conceived**,** as Johnson (1998) has claimed**,** as "a manipulation of the *environment*" (my emphasis) of economic conduct. In other words, rather than being read as a market-distorting process, interest rate policy can be seen as a framework-building action.

To further strengthen his argument about the incompatibility between ordoliberalism and CBI, Bibow employs an unpublished text by Walter Eucken from 1946,[211] in which he directly discusses the question of central bank independence.

According to Bibow, Eucken uses two specific examples of legislations to make his argument against *both* central bank independence and dependence: the first points to the German Bank Law of 1924 which made the Reichsbank formally and legally autonomous from the government; and the second at the German Bank Law of 1939 that brought the Reichsbank under the complete control of the state. Eucken rejects both as extremes. Per Bibow, Eucken dismisses the handing over of monetary issues to an independent central bank because such an arrangement "is difficult to fit into the structure of the state [as an independent central bank] will be tempted to position itself in opposition to the general economic policy of the state" (Eucken 1946), while also arguing that lack of independence, as visible in the 1939 Law, "integrates the central bank into the state apparatus" thus inviting inflationary risks (ibid: 171). Instead, Eucken opts for a third alternative under which the central bank is subjected to "precisely specified state control, which would make it impossible for it to conduct its own economic policy against the state" (ibid: 171). Bibow's conclusion is that in the face of this rejection of CBI and the opting for a third alternative, one can discern that the ordoliberal position on CBI was negative. As a further consequence, the creation and institutional form of the BdL (and, later, the Bundesbank)

[211] According to Bibow and Dyson (2021: 388), the text was titled 'On the nationalization of the central bank' and written in 1946. It remains unclear why it was never published.

remains incompatible with ordoliberal thought. In the following section I will try to unpack Eucken's positions and to contextualize his monetary proposals in a way that challenges Bibow's assertion.

To start with, Eucken's rejection of the monetary policy during the Nazi period can be squarely based on the inflationary money-printing that characterised it, despite Reichsbank president Hjalmar Schacht's earlier commitment to anti-inflationary policies, balanced budgets and an explicit focus on price stability – which were, after all, the main reasons why Hitler appointed him in 1933[212]. But it is necessary to add more nuance in Eucken's rejection of the 1924 Bank Act.

Reichsbank independence was, as we have seen, initially established in May 1922 a combined result of Allied pressure *and* a reflection of the prevailing consensus around central banking promoted by contemporaneous conferences (in Brussels, 1920 and Geneva, 1922), as well as the League of Nations, both of which were concerned with imitating/replacing the automatic mechanism of the collapsed gold standard. But a German specific context should also be added here, which is that ever since the Wilhelmine era, the German debate around central banking was split between the conservative/right-wing preference for its nationalisation (as a motor for developing the national, industrial economy) and opposition by liberal, Catholic and left-wing (SPD) circles, who saw its nationalisation as a means of strengthening the already authoritarian Bismarkian state and therefore preferred a more independent central bank (James 1999: 10; Mee 2019: 38). Though these split lines were largely inconsequential under the gold standard regime where central bankers had very a minimal role, and it is unclear whether Eucken's conservative background and his rejection of the SPD played a role in his conceptualisation of central bank independence, it is crucial to note that the conservative/nationalist opposition was, after the 1922 Act, further strengthened by the translation of Reichsbank independence as an externally imposed legislation by foreign powers.[213]

Furthermore, it is worth reminding that if the formally independent Reichsbank was unable (or unwilling) to stop the printing presses, this was as much a result of the ambiguous guidelines that the 1922 Act gave to the central bank, *as well as* the fact that its independence meant that its directorate had significant discretion to translate this unclear mandate. With Havenstein at the steering wheel, this independence allowed the central bank to continue discounting Treasury bills and feeding the printing presses.[214].

Coming to the 1924 Bank Act however, it is possible to assert that Eucken's opposition to independence could have also been inspired by *secondary* features of Schacht's policies rather than

[212] James expressed a similar concern, noting that "the incident demonstrates how even an apparently cast-iron legal autonomy of the central bank is not inevitably a guarantee against political intrusion." (James 1999: 32). Ordoliberals like Eucken were clearly influenced by these events.
[213] "This is not a voluntary act of the German legislation, but rather the implementation of an Allied dictate" was the way Helfferich responded to the May 1922 Act. (quoted in Mee 2019: 46)
[214] It is worth remembering that Havenstein's policy was dictated by the conviction that the key cause of inflation was Germany's balance of payments problems, a consequence according to the Reichsbank President, of the punitive Versailles Treaty and its reparations.

independence itself. Having formalized his transformation of the Reichsbank alongside the new monetary and economic policy of austerity, the Bank Act of 1924 reflected lessons learned from the previous period – many of which Eucken would agree with. One of the changes it brought forward, for example, was the replacement of the old *Kuratorium* (an oversight body that gave the Reich's chancellor influence over the bank) with a *Generalrat* (general council), consisting of seven German officials (appointed by the shareholders) and seven foreign officials. The general council had, for the first time in German central banking history, the power to dismiss the Reichsbank president or, with his agreement, the directorate (Mee 2019: 53). There is little doubt that the inspiration for such an arrangement was to ensure that there could be no repetition of Havenstein's indefensibly prolonged stint, an approach that Eucken would have shared. And while this provision was also accompanied with a formal lack of obligation of the central bank to "support the general economic policy of the government",[215] the key point to notice here is that the specific "general economic policy" that the government of 1924 was pursuing was not one that Eucken endorsed. We have already seen, for example, how Eucken's opposition to Weimar was very much framed within the concept of the emergence of the 'economic state', under which the separation between state and economy had become untenable.

In this context, it is very likely that Eucken's approach in his unpublished manuscript was geared towards making some general observations around the formal potential for a central bank to ignore the general economic policy of the state. For the fact remains that the policies pursued by Schacht and the independent Reichsbank *in that specific period* were fully compatible with Eucken's thought. Not only were Schacht's policies driven by similar considerations and beliefs (Schacht was as much an opponent of the balance of payment's argument as Eucken was), but they were also accompanied by "framework-building" measures that Eucken approved of, such as the return to the gold standard and the push to balance the budget.

There is, of course, enough evidence to show that ordoliberals rejected some of Schacht's policies, especially in relation to central bank credit policy. Peacock & Willdgerodt (1989b: 46) mention that Rüstow "denounced Hjalmar Schacht […] for excluding long-term foreign capital in 1927-9", while Röpke saw in Schacht's policy of credit expansion "the origin of the depression"[216]. Eichengreen (1996: 372) also mentions that Schacht's decision to reduce the discount rate to 5 per cent in 1927, in the hope of discouraging capital inflows, led to Germany losing a significant amount of its gold, a policy

[215] This approach would be reversed in the Bundesbank Law of 1957 and would be transfused into the ECB as a secondary mandate.

[216] "The origin of the depression is to be sought, like that of every former depression, in the over-investment of the preceding boom caused by credit expansion, so that to this extent it can be fitted into the historical rhythm of cyclical movements. The main seat of this unhealthy economic expansion was the United States whose credit expansion has already been described. From here the credit expansion spread over the whole world supported substantially by the monetary policy of the Bank of France and the Bank of England. Germany took part in the international credit expansion mainly via enormous imports of capital. These gave the incentive there also to an investment boom in which there lay a special danger, enhanced by the loan policy of the then Reichsbank President Schacht, by the fact that the foreign credits had the increasing tendency to take short-term form." (Röpke 1932: 136)

that ordoliberals would have also opposed.[217] But criticizing specific measures and policies taken by the Reichsbank President *in a context of central bank independence* does not amount to an outright rejection of CBI. Rather, the argument promoted by this author is that ordoliberals approached CBI with a level of scepticism, coloured by their specific experiences with the institutional form but that translating such scepticism into rejection is misleading[218].

But there is perhaps a stronger point to be made in relation to ordoliberalism and CBI. Eucken died in 1950. That means he never got the chance to involve himself in the intense debates in which various actors reconceptualized German monetary history, weaponised it to defend (or reject) specific political interpretations and, finally, played a role in the eventual institutional set up of the West German central bank that would characterize its existence for decades and would be infused into the European Central Bank. These were years of tremendous significance not only for the Bundesbank but for central banking in general. In this context, it seems particularly partial (if not misleading) to base an ordoliberal perception of CBI on the writings of Eucken – let alone an unpublished manuscript. The previous part has elaborated on various reasons why Eucken's stance on CBI could have been informed by more (or different) considerations and could have been influenced by events and experiences that point beyond CBI itself. But the crucial issue here is that even if we accept that Eucken rejected CBI, this does not get us closer to understanding the historical development of ordoliberal approaches to CBI.

What Bibow's argument fails to account for is that, though sceptical at first, ordoliberals eventually came to *adopt* CBI, led not by a change of hearts about the *past* but through a forced conclusion about their *present*. And even though theoretical considerations had ordoliberals like Eucken discover greater affinity with other alternatives to the gold standard beyond CBI, the practical considerations and pragmatism of ordoliberals forced them to develop more nuanced positions on CBI to the point of eventually fully adopting and promoting this specific institutional form.

Perhaps the most crucial thinker who facilitated this shift of focus was professor Otto Veit, "an 'honorary' member of the Freiburg School" (Dyson 2021: 387) and president of the central bank of Hesse. In a paper presented at a meeting of the *Wissenschaftlicher Beirat* (Academic Advisory Board)[219] already in 1949, a clear call for a strong, independent central bank was unequivocally made (my emphasis):

[217] This accusation was levelled against Schacht in the postwar period too. In his *Magic of Money*, Schacht addressed these charges (promoted mostly by Volkmar Muthesius, an MPS member and collaborator of Röpke), arguing that in reality, during his presidency of the Reichsbank "gold reserves rose considerably" (Schacht 1967: 149).

[218] Bibow makes a similar observation in his text, though he refrains from drawing the same conclusion. "Although the Reichsbank became legally independent from German (albeit not from Allied) political control with the Autonomy law of 26 May 1922 […], this did not prevent catastrophic monetary blunders: first the hyperinflation in 1923, then the banking crises and deflation in the early 1930s. Thus, Giersch and Lehment (1981) correctly observe that Germany's previous experience with CBI was exceptionally poor." (Bibow 2009: 158, footnote 3) A similar conclusion is drawn by Marsh (2009) who argues that "the so-called [*sic*] Autonomy Law of 1922, passed at the request of Britain and France, making the Reichsbank formally independent of the Reich government, had no effect on quelling progressive currency instability." Marsh 2009: 30. As was already argued (see pp. 45-46 of this thesis), the independence of the Reichsbank (whether in 1922 or 1924) is not reducible to Allied desires but reflected a widespread embrace of CBI as a response to the collapse of the gold standard.

[219] The *Wissenschaftlicher Beirat beim Bundesminister für Wirtschaft* was initially established to advice the Bizonal Economic Administration ran by Erhard and was later incorporated into the Ministry of Economics in Bonn.

> The control by the central bank (of all banks) has to be sufficient to limit at any time the expansion and contraction of deposit money… a further condition is that governmental sovereignty concerning money creation is restricted to setting up the central bank by law and to appointing the leading personalities. *The central bank has to fulfil its task independently of governmental directions*. The basic principles of economic policy have, of course, to be decided by the state. Central bank policy has to conform to them as far as this is compatible with the task of securing the currency. Besides this, governmental interventions are always very dangerous, since the state can appear at once as legislator and as having an interest in money creation… *Independence of monetary policy from political influence is as important as the independence of the judiciary*.
>
> Veit (1949)

As Bernholz adds, the Advisory Board accepted the same position:

> Within the framework of this cooperation (of all relevant authorities, necessary because of the unity of economic and monetary order) the central bank has to be independent as far as it bears the responsibility for the currency. This independence has to be secured by law.
>
> (quoted in Bernholz 1989: 209)

In fact, as Bibow himself quotes, the *Wissenschaftlicher Beirat* was aware of the fact that an automatic mechanism like the gold standard (or an equivalent apparatus) was not something to be expected to emerge. As they pointed out,

> whether an automatically working monetary order could be realised might be left on one side. Under existing conditions, the manipulation of the quantity of money will be necessary in any case. It should set itself the aim of allowing the development of production and turnover under avoidance of inflationary or deflationary processes. This is not possible through a one-off institutional change of the current monetary organization, but requires a very particular monetary policy on a continuous basis.
>
> in Bibow 2009: 176-177

This was a unanimous position of a committee that included Eucken, Böhm, Müller-Armack, Miksch, Adolf Lampe and Erwin von Beckerath. And it becomes clear that to the extent that the overall priority lay with price stability, an indispensable precondition for the creation of a market economy[220], the only remaining institutional form that resembled the gold standard was central bank independence. Even if in their theoretical formulations alternative monetary orders were put forward and promoted, in the context of practical policy making and institution building, ordoliberals made a clear choice.[221] In later

[220] "All efforts to realize a competitive order are in vain as long as a certain stability of the monetary value is not assured. Monetary policy therefore has a primacy for the competitive order" (Eucken 1952: 256)

[221] It is perhaps not coincidental that the eventual embrace of CBI by key ordoliberals led them further away from 'paleo liberals' like von Mises who were explicitly against central banking independence or any system of centralized banking. In the context of the socialist calculation debate, for example, von Mises had taken issue with socialist plans to nationalise and "amalgamate" all banks "into a single central bank" (Mises 1935: 123). Recognising that such plans were geared towards undermining the power of private interests within banking, it appears that both von Mises and Hayek rejected both nationalization *and* centralization, claiming that centralization itself means that "the monetary system as we know it to-day disappears of itself" (ibid.), as the central bank is granted the power to "issue credit without limitation" (ibid.). Further down

years, and specifically in the decade during which the Bundesbank Act was heavily debated, this precise connection between CBI and the gold standard was consistently brought up by ordoliberals themselves. And while the process and debates through which the BdL was transformed into the Bundesbank in the years between 1951 and 1957 will be examined in more detail later, it is worth making some preliminary comments of ordoliberal interventions in that direction that show a clear divergence from Bibow's (and others') argumentation.

In 1952, find Otto Veit made a direct link between of the role of central banks in mimicking the effects of the gold standard and CBI, remarking that "once the central bank is under an obligation to secure monetary stability as effectively as the gold standard did, the question of the bank's independence will appear in a new light. It may be compared with the independence of jurisdiction." (Veit 1952: 175). A year earlier, Röpke had expressed an identical point: "[…] after the universal downfall of the gold standard, there has been left in many countries a last strong counterweight against the unlimited power of governments over money. It was the – more or less relative – independence of central banks. Even this last obstacle against the unlimited power of governments over money, however, seems to be doomed in our time because it is regarded as an intolerable infringement of democracy. Independent central banks appear to our modern Jacobins as so many Bastilles which must be razed to the ground." (Röpke 1951a: 39). In 1953, in the midst of the debates around the Bundesbank Act, Röpke repeated that CBI was not only inevitable after the collapse of the gold standard, but that it represented the *last defence* against governmental abuse of the sanctity of the value of money[222], a position he retained for the remaining of his life. As Erich Welter from the ordoliberal-friendly *Frankfurter Allgemeine Zeitung* put it, "in the sensitive area of the monetary system, an authority somewhat removed from the vicissitudes of parliamentary life should be maintained" (Bank 2013: 196).

Summing up the argument of the direct link between *Ordnungspolitik* and CBI, Norbert Kloten, President of the Landeszentralbank in Baden-Württemberg and member of the Central Bank Council *(Zentralbankrat)* of the Bundesbank, would claim:

> Out of all the sub-systems created after 1949, only one still appears able to stand up to Ordo-liberal criteria - the monetary system. Even though the monetary and currency policy pursued by the Deutsche Bundesbank has been criticised time and again and fairly high inflation rates have repeatedly been recorded, the conditions under which

in the same text, the authors identify central banking as an aspect of "central planning", scorning at "the multifarious proposals for the socialization of credit and the nationalization of the banks, which have the object of making it possible to influence production in accordance with some scheme or other of economic planning. Such schemes provide that credit would no longer be granted with regard to capacity and willingness to pay a given rate of interest, but allotted, with regard to considerations of economic productivity, to individual branches of production at artificially high or low rates. The decision would be made by the central banking authority; that is to say, from the consumers' point of view, it would be an *arbitrary decision*." (Ibid: 180).

[222] Röpke dedicates a long passage in his *Gegen die Brandung* (1959) to discuss the question of central bank independence. In that part, he makes the claim that "the conclusion is also inevitable that such a position of money must find institutional expression in the "independence" of the central bank, doubly inevitable since it has become the last dam against the complete governmentalization of money since the end of the gold standard" (Röpke 1959: 284). Further, he also adds that it would be mistaken to consider CBI as a situation that makes the central bank a "state within a state" which does not seek a continued coordination (*fortgesetzte Koordinierung*) with the economic policy of the government." Rather, CBI should be seen as giving the central bank the role of acting as the guardian of the currency (*Wächter der Währung*), of a specific monetary order, that has become a norm for the government itself. (Ibid: 285)

> the Bank has been required to act and, above all, its firm intervention in order to set things right again, have always been acknowledged. There have thus been neither internal nor external conflicts which could have jeopardised the system. All in all, it is still regarded today as an undisputed fact that only an independent central bank can keep events in the monetary sector out of the day-to-day political disputes with the varied interests of parties and social groups. Only in this way can monetary stability be maintained in the face of all possible dangers.[223]
>
> Kloten 1989: 86

A final argument provided by Bibow in relation to the eventual Bundesbank Law of 1957 is the assertion that the "model of CBI that was developed in the mid-1950s by the Economic Advisory Council of Ludwig Erhard [cannot] claim any credit for the eventual legal status of the central bank that became enshrined in the Bundesbank Act of 1957" (Bibow 2009: 155-5),[224] a model that Bibow goes as far as claiming that it was "Keynesian" (Ibid). Bibow bases his argument on the fact that in 1954, a committee attached to Erhard's economics ministry set up to draw up the Bundesbank draft law recommended a formula according to which

> The central bank has to orientate its monetary and credit policy in the interest of steady growth of the economy in such a way as to keep the purchasing power of the DM as far as possible stable, in a way that monetary and credit policy contributes to the employment of all resources, and that the balance of payment may balance on the basis of free international trade. […] In the application of its set of instruments and operations the bank is not subordinated to any instructions from the government. In its decision on the optimal compromise between the [aforementioned] three policy goals the bank has to take the general economic policy of the government into account."
>
> in Bibow 2009: 177, author's own translation

Bibow interprets this model as one suggesting that the central bank would not be goal-independent but instrument-independent to pursue a policy that is created in coordination, or under consideration of, the general economic policy of the government. This "essentially Keynesian structure of monetary policy", argues Bibow, contradicted the Transition Law of 1951.

The first thing to note here is that the term "Keynesian" could be quite misleading as it does not properly reflect transformations in Keynes' thought. If we take the *General Theory* as the most veritable expression of the Keynesian approach, then Bibow's argument is problematic as his comparison of the committee's proposal with Keynes rests on older writings of Keynes, and most particularly his 1923 *Tract on Monetary Reform* and his 1932 *The Monetary Policy of the Labour*

[223] As Röpke would write, "the 'independence' of the central bank [...] has become the last dam against the complete governmentalisation of money since the end of the gold currency" (Röpke 1959: 284)

[224] One is tempted to note here that the comparison of the eventual Bundesbank Law of 1957 with the initial suggestions that came from the Economic Advisory Board is rather misleading, as it entirely ignores all the crucial subsequent developments and the noted changes of both Erhard and other ordoliberals in the process of the almost decade-long negotiation, which were primarily centered around the (centralized or not) structure of the central bank and its degree of independence. See also footnote no. 232.

Party.[225] This already puts a question mark on the assumption that Erhard's proposals were "Keynesian". But even if we accept that the Keynes of the *Tract* was still divergent from ordoliberal positions, the argument remains peculiar. As Bibow himself has shown, Eucken was in favour of a monetary policy that would not be in opposition to the general economic policy of the government (assuming, of course, that this general economic policy was following an *Ordnungspolitik*). But most importantly perhaps, the notion that such a proposal was contradicting the Transition Law of 1951 ignores the fact that what he reads as a surprising "Keynesian" provision was already included in the Transition Law of 1951. As Mee (2019: 146) has shown, this was the result of a "concession to Schäffer", with the BdL agreeing "to become 'obliged to support the general economic policy of the federal government and support it within the remit of the central bank's duties". This phrasing would remain intact in the Bundesbank Law of 1957 and would, in fact, be repeated as a secondary mandate of the ECB.[226]

Later ordoliberal writings support the persistence of this view. In his 1960 *Humane Economy* Röpke dedicated a few pages to clarifying what exactly is at stake in the choice between independence and dependence of the central bank. Openly adopting the need for central bank independence, Röpke unwaveringly links its absence to an undesirable democratic control over monetary and credit policy (Röpke 1960: 222ff), claiming that "a nation can preserve its freedom only with the help of sound money, but […] in a modern mass democracy the monetary system could not remain sound if it was at the mercy of government, parliament, political parties, and powerful pressure groups in the absence of sufficient countervailing forces" (Ibid: 222).

Röpke does not shy away from linking "unsound money" directly to inflation, though he refrains from taking a similar stance with deflation which he terms "a possibly lesser evil" (Ibid: 224). The reason is clear: in contrast to deflation which is seen as "a process of general disadvantage", inflation is not merely rejected for its "destructive powers" hidden behind "mostly pleasant […] initial effects" but is, as he explains in the next page, "*against anything bourgeois, against the creditor, against the rentier, to whom, like Keynes, it wishes at best a painless death*" (ibid: 225, my emphasis). Rejecting mass democracy as based on the "fiction of the sovereign will of the people" (ibid: 226), Röpke shows his utter contempt towards

> the need to put money, the 'democratic means of guiding the economy', into the hands of a government acting at its own discretion and according to a comprehensive plan, so that the government may conduct an economic policy which is called 'progressive',

[225] As contemporary ordoliberals have noted, Keynes' position on the *Tract on Monetary Reform* were in fact very close to the ordoliberal ones. Thus, Feld et al (2021: 552) note that "In *Kritische Betrachtungen zum deutschen Geldproblem*, Eucken argues that budget deficits lead to inflationary pressure and should therefore be avoided (Eucken 1923, pp. 78-80). Keynes draws the same conclusion in *A Tract on Monetary Reform* (1923)."

[226] This conclusion is supported by the research of Mee (2019: 189) who also concludes, contra Bibow, that the eventual Bundesbank Law of 1957 was "Erhardian" as far as both its centralized structure and the relations of the central bank and the government were concerned.

> guarantee 'full employment' and thereby the power of trade-unions, and guide the course of the economy according to the wishes of the 'people'.
>
> Ibid: 226.

Closing, Röpke describes all those who look "with suspicion upon a central bank which has not yet become a pliable tool of centralized state power" as "*eternal Jacobins*", for whom any "manifestation of independence and autonomy is a thorn in the flesh" (Ibid: 226-227).

Bibow closes his argument by quoting Eucken's thesis that "…ignorance, weakness vis-à-vis interest groups and public opinion, flawed theories, all this influences the leaders much to the damage of the task they are entrusted with" (Eucken 1952, quoted in Bibow 2009: 172). In this author's view, this very sentence could *just as well* be read as an endorsement of central bank independence, as it is precisely the control of monetary policies by an independent central bank with a clear and limited mandate which can undermine the influence of 'ignorance', 'interest group pressure' and 'public opinion'. A brief examination of the subsequent Bundesbank Law and the actual trajectory of the Bundesbank in comparison with central ordoliberal sensitivities might further illuminate this.

As shown previously, the BdL remained under the direct control of the Allied Banking Commission, which actively participated in shaping its policy (Bank 2013: 180-181) until 1951. After 1951, however, when the Allied Authorities formally rescinded their control, the Federal Government took the responsibility of drafting and implementing a central bank law. Until that time, a Transition Law had been passed that reflected, in more ways than one, the existing predicament of the bank, in both its independence and centralization structure. The eventual Bundesbank Act would not be passed until 1957, reflecting the fact that a series of conflicts developed in between the various actors involved, from the Federal Government to different Ministries and from BdL officials to scholarly and journalistic interventions. Some of these conflicts revolved around issues such as the location of the central bank, political bickering around authorship over the law or questions regarding the breakdown and structure of the governing bodies of the bank. Due to their content, such disputes cannot be reduced to any specific theoretical affiliation (Bank 2013: 182). But the most important issues that brought those different actors into conflict and which can more easily be linked to ideological positions, where the questions of the bank's independence, its centralized or de-centralized structure and the question of the central bank's mandate.

From the side of those who supported CBI and price stability, the lengthy process of negotiations represented an attempt to transform the BdL's *de facto* into a *de jure* independence, while also securing that the only mandate that would befall the central bank would be maintaining price stability, and not, as the 'interventionist' Keynesian outlook demanded at the time, full employment.[227]

[227] As Röpke put it in 1963 "[…] when the government and the central bank of a country believe themselves obliged to maintain full employment despite wage increases, the choice they then face of accepting some unemployment or some inflation will often be decided in favor of inflation." (Röpke 1963: 105)

These battle lines would bring them into conflict with Chancellor Adenauer and his Finance Minister Fritz Schäffer, a founding member of the CSU from Bavaria who, despite his fiscal conservatism[228], shared Adenauer's conviction that an independent central bank could sabotage governmental policies and drastically undermine its discretionary powers. As Adenauer wrote to him, ''We need to find a solution which provides the government with the option to give instructions to the central bank in case the bank refuses to undertake a measure that is required to support the implementation of government policy"[229].

Adenauer's and Schäffer's attempts were vigorously opposed by BdL prominent members such as Wilhelm Vocke, president of the Directorate, and Karl Bernard, President of the Central Bank Council. Vocke's argumentation in particular, was very much contextualized within the ordoliberal concern of insulating economic policy from parliamentary abuse, warning Adenauer that "the central bank is forced, depending on the circumstances, to take unpopular measures. It must be better for the government, from a political point of view, that these measures do not have to depend on the outcome of parliamentary debates".[230]

The participation of ordoliberal thinkers on the side of CBI had already formed around 1950, when the first attempt by Schäffer to legislate away the bank's independence had taken place (only to be swiftly rejected by the Allied Banking Commission which was formally still in charge). Schäffer's failure would trigger a number of officials and sympathizers to support the cause of CBI. But the relationship went both ways. After criticizing Schäffer's proposal for undermining trust in the central bank, Vocke agreed to a proposal by Volkmar Muthesius, Mont Pèlerin Society (MPS[231]) member and confidant of Röpke, to create a 'joint public relations campaign' (*gemeinsame Öffentlichkeitsarbeit*) to promote CBI (Bank 2013: 198).

Further attempts to legislate in favour of governmental supervision in 1951 and 1952 were also averted, but the intensity of the conflict drew in more support for CBI. Among those who came, however gradually, to the CBI/price stability position was then Economics Minister Erhard (Bibow 2009: 163-164; Bank 2013: 171-239l see also Mee 2019).[232] Although initially less preoccupied with the question of CBI itself than with the question of centralization, and while focusing mainly on the Cartel Act (Bank 2013: 186), Erhard nonetheless joined the chorus that saw CBI as the most appropriate institutional form for operationalizing price stability. There is enough evidence to assume that this re-orientation came also as a result of the influence of his Ministry Councillor, Hans Heckel, who oversaw the

[228] Schäffer was portrayed in CDU election posters as the "guardian of the currency" (*Hüter der Währung*), following on the tradition created by Reichsbank and BdL publicity.
[229] Letter of Adenauer to Schäffer, Bundesarchiv Koblenz, file 102/5706, quoted in Bibow 2009: 163
[230] Letter from Vocke to Adenauer, 31.10.49 – quoted in Marsh 1992: 141
[231] According to the most sophisticated analysis on the subject, the Mont Pèlerin Society represents a "a divining rod in order to define with sufficient precision the thought collective that has created and reproduced a distinctly neoliberal thought style in the era of its genesis." (Mirowski & Plehwe 2009: 4).
[232] Kolev et al (2019) *Debating Liberalism* note that during "the second general Mont Pèlerin Society meeting in July 1949 […] the attendants agreed to approach Ludwig Erhard […] with an invitation to join the Society" (Kolev et al 2019:8). The German members tasked with this included "Böhm, Eucken, Hensel, Ilau, Maier, Miksch, Müller-Armack, Pfister and Otto Veit, then president of the Central bank of Hesse" (ibid.). Hahn, Lutz and Röpke "were present".

negotiations of the central bank law and was an early supporter of CBI. Equally crucial was the role played by Otto Veit, president of the state central bank of Hessen and Erhard's fellow member in the neoliberal Mont Pèlerin Society. And it is safe to add that increasing trade union opposition to CBI was of no less importance to Erhard[233].

Framed within a very similar state of mind and objectives, the relationship between Erhard as Economics Minister with the BdL throughout this time was very close. Speaking about the mid-1950s, Erhard would later remark that "the most remarkable fact of the economic situation of those months was that my close collaboration – or rather agreement – with the Central Bank was by no means generally approved." (Erhard 1957: 77). But the Transition Law of 1951 and the temporal gap until the moment the Bundesbank Act was voted allowed for a different relationship to develop: that with public opinion in West Germany. As Mee (2019) has meticulously shown, BdL officials were sharply aware of the potential benefit of having public opinion on their side, diligently developing an aggressive publicity campaign, encouraging numerous speeches and public interventions and keeping close relations to a series of journalists. Central to this process was the specific use of historical narratives – or, more precisely, *mythologies* consciously created by BdL staff and officials relating to a set re-writing of German monetary history that could be utilized to support their main aim: retaining the bank's independence.

In the six years that lapsed between the Transition and the Bundesbank Act, these narratives did not go unchallenged. Again, as Mee's astute research has shown, claiming and winning the battle for those narratives was a long and arduous affair that would have potentially not been as successful if economic growth and the contradictory and constantly changing attitude of the SPD (especially towards CBI) had not been there. More specifically, the postwar narrative of the importance of central bank independence in maintaining stability *in opposition to government intervention* which, in the words of the BdL officials, had been turned into the chief culprit of Germany's tragic history, should have been harder to reconcile with the fact that both the 1923 hyperinflation and the devastating effects of Brüning's deflationary policies took place under central bank independence.

In fact, we know that in contrast to the contemporary widespread narrative that sees hyperinflation as the central explanatory event for the rise of Hitler in power (Redeker et al 2019), in the 1950s reference to Brüning's disastrous policies was much more pronounced, used explicitly in opposition to CBI. Before his conversion to CBI, even Erhard would also utilize a negative reference to the attitude of the Reichsbank during Brüning's deflation during a meeting of the *Sonderstelle* in 1948[234], while a left wing newspaper in 1949 would lament Vocke for being responsible, among other things, for the deflation, claiming that he "was already involved in the "successful" so-called

[233] As IG Metall declared in its official organ, 'The Trade Unionist' in 1957, "It is high time that employees took care of the neutrality and independence of the central bank from a different point of view than before. It must be ensured, through insight into and influence on central bank policy, that it cannot unilaterally direct itself against the efforts of the workers to achieve and maintain their fair share of the overall result of production." Quoted in Bank 2013: 218, my translation.
[234] 'Der Zentralbankrat vor fünfzig Jahren', *Monatsbericht der Deutschen Bundesbank*', March 1998, p. 25.

'safeguarding of the currency'. That was during 1929/1933 and we ended up with seven million unemployed and Nazism" (quoted in Mee 2019: 114). Similarly, in 1950, an article in the *Frankfurter Allgemeine Zeitung*, which would later become a key proponent of CBI, would inform that

> We have all lived through disruptive circumstances that lead to inflation. But we have also experienced something else. In the year 1931 the deflationary policies of the independent central bank, with their imperative nature and rigidity, led the German economy and society to ruin, resulting in the domination of National Socialism.[235]

Within the BdL, views were also mixed. Otto Pfeiderer, for example, *Land* central bank president of Baden-Württemberg and a critique of the centralization of the bank, would comment that

> One cannot spare the Reichsbank system from the charge that , in the years around 1930, it committed a mistake so disastrous to our fortunes by forgoing a constructive policy of reviving the economy and pushing for Germany's increased involvement in world trade in favor of its deflation policy and holding an unrealistic exchange rate for so long in a world of devaluation. (quoted in Mee 2019: 157).

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The conflicting views of Germany's monetary history were so widespread that even a leading member of the FDP, Hermann Höpker-Aschoff, would intervene with an article for an industry publication, reminding his readers that the "independent Reichsbank, under Luther, refused to help the nation's banks", forcing a deflationary policy that was 'grist to the mill of National Socialism" (quoted in Mee 2019: 131-2). On a similar note, and surely driven by the support that the BdL had given to Erhard in relation to the Cartel Law, BDI president Berg would argue in 1956 that "in the years 1930 to 1933 Germany had experienced all too drastically where a monetary policy detached from reality could lead." (Ibid: 171). Similar statements were also made by other leading industrialists at the time. More understandably, the SPD would also hold Brüning's period as key for rejecting CBI, at least in the early 1950s (ibid: 142), abandoning any reference to the period by 1956 and fully endorsing CBI in an attempt to win electorally against an Adenauer undermined by the Gürzenich Affair (Ibid: 153).

By 1956 such references had faded from view (and memory). The BdL's own re-writing of history had become the dominant interpretation, projecting Germany's contemporaneous monetary arrangement into the past and claiming that if there ever had been any chance to avoid the tragedies in German history, it lay with central bank independence. Making ample use of the 1939 letter to Hitler signed by the whole Reichsbank directorate, which warned of inflationary pressures, the story to take home was one: independent central banks and central bankers were the only safeguard against governmental abuse of the currency and the national economy. And it is crucial to note here that this backward view on Germany's monetary history was, to a wide extent, shared by ordoliberals. The focus on anti-inflation at any cost, the lamenting of pre-1930 governments as chiefly responsible for Nazism,

[235] 'Die Währung geht jeden an', Hand Baumgarten, *Frankfurter Allgemeine Zeitung*, 9 May 1950.

the distorting effects of government interventions; all these have been, as we have seen, consistent talking points of the ordoliberal view.

The final step before the voting of the Bundesbank Act and the maintenance of both the centralized structure and the independence of the bank came in 1956. Sensing inflationary pressures lurking behind the economic boom of that year and, more specifically, behind the attainment of full employment, the BdL's decision to raise the discount rate met with fierce resistance from Adenauer. Accusing the central bank of "detaching itself from the federal government" and undermining (instead of supporting) the economic boom that the government had achieved, Adenauer would argue that the interest rate hikes of the BdL were similar to a "guillotine" hanging over German people's heads. This event, memorised as the famous *Gürzenich affair,* would not only consolidate the eventual embedding of CBI in the Bundesbank's structure but would indicate the importance of the Erhard/BdL relationship. As Mee (2019) notes, part of the reason behind Adenauer's fury at the time was directly related to the fact that Adenauer had sent Erhard and Schäffer to Frankfurt to convince the BdL not to raise interest rates, making use of the veto capacity of the Federal Government to temporarily postpone a central bank policy decision for 8 days. Quite remarkably, however, both Erhard and Schäffer (the latter having, by that time, also converted to a supporter of CBI), "colluded with the central bank council, ensuring that such a veto did not take place" (Mee 2019: 174).

Following this event, and the considerable backlash from public opinion, Adenauer's resistance to CBI was, according to Bank, finally broken after Erhard's intensive preparatory work managed to draw the rest of the government cabinet in favour of CBI (Bank 2013: 230). While re-instating the Reichsbank model of centralization (merging all *Land* banks as regional offices of the central bank), the 1957 Act stated clearly that the Bundesbank "shall be independent of and not subject to instructions from the Federal Government" (Article 12), while also reaffirming that price stability would be "its primary objective" (Article 3).

Norbert Kloten would count the inauguration of the Bundesbank in 1957 as one of the most important policy decisions that "created the historical social market economy", fully in line with "the demands of the liberals" (Kloten 1989: 74). He would also add that "it is still regarded today as an undisputed fact that only an independent central bank can keep events in the monetary sector out of the day-to-day political disputes with the varied interests of parties and social groups" (Ibid: 86). On a similar note, ex-President of the Bundesbank, Otmar Issing, would proclaim that the Bundesbank's setup was based "on two pillars: the goal of price stability and the status of independence" (Issing 2020: 134). Given Eucken's insistence on the primacy of price and monetary stability, as well as that on the stability of policy, in his fundamental constitutive principles for a competitive order, and after the adoption of CBI as the institutional form closest to the mechanism of the gold standard by ordoliberals, the affinity between the German central bank and central coordinates of the ordoliberal framework is undeniable. (Sally 1996: 239) Does that mean, however, that the Bundesbank followed ordoliberal guidelines in conducting its policy?

This is a question that requires a more nuanced answer. From a general point of view, Bundesbank policy was, for decades, framed around a strict insistence on anti-inflationary measures, whether these were understood to come from domestic developments (as, for example, reaching full employment in 1956) or external ones (as in Emminger's conceptualisation of 'imported inflation'). More specifically perhaps, one could frame the Bundesbank's strict commitment to a "non-accommodating monetary policy" (Manow 1999: 8) well within an ordoliberal vision for the role of monetary policy or, even more, as representing "a central domestic institutional embodiment of a distinctive German ordoliberal tradition of economics" (Dyson 2009: 141).

More particularly, as research has shown, the Bundesbank came to be seen as a significant "'invisible player' in the wage negotiation process", responding to inflationary wage settlements by "retaliatory interest rate increases" (Soskice et al 1998: 41). As we shall see in the forthcoming section dealing with the anti-cartel legislation, for example, the Bundesbank's precursor already responded to the 1956 full employment levels by raising interest rates (see also Mee, 2019), echoing Erhard's (Van Hook 2004: 186) and Röpke's[236] conviction that full employment increases workers' bargaining power to the point of being in a position to demand higher then productivity wages. Streeck (1994: 118) and Hall (1994) might have described this system rather anachronistically as one of "institutionalized monetarism", but the overall direction of the perspective remains the same: the Bundesbank displayed an institutional behaviour that intimately corresponds to ordoliberal sensitivities. At the same time, as Manow (1999: 8) adds, the set-up of the Bundesbank also facilitated an overall macroeconomic standpoint that was institutionally prohibitive to depreciation strategies or deficit spending, as well as other forms of macroeconomic adjustment formulas used in other European countries. From a similar lens, one could also add that the central bank's *credit policy* was also geared towards staving off inflationary pressures, demonstrating another affinity with the framework of ordoliberal prescriptions as developed by Eucken and Lutz.

If we trace Bundesbank policy throughout the decades, these observations retain their legitimacy. In accordance with the well-known theorem of the impossible trinity, for example, the simultaneous co-existence of fixed exchange rates, an autonomous monetary policy and the freedom of movement of capital is unfeasible. Within the context of the Bretton Woods regime, which had fixed (but adjustable in case of gross disequilibrium) exchange rates and capital controls, the pursuing of an autonomous monetary policy should have been possible. Yet, as Beyer et al (2009: 11) note, the actual diminishing effectiveness of capital controls reversed that situation. Moreover, the Bundesbank was essentially constrained by its focus on maintaining the exchange rate parity. In fact, as Heinrich Imler would present at the first Konstanz Seminar in 1970, "given a rigid exchange rate, the creation or destruction of central bank money is outside the control of the central bank" (Imler 1972: 153). In its obligation to maintain the parity with the dollar "many millions of Deutsche Mark of central bank

[236] "The blame for inflation must be laid at the door of the whole trend of postwar economic policy in most countries, that mixture of planning, welfare state, cheap-money policy, fiscal socialism and full-employment policy" Röpke 1960: 192.

money had come into being simply because the Bundesbank, or prior to 1958 its predecessor, the Bank Deutscher Länder, was obliged to convert the inflowing dollars into Deutsche Mark at the fixed parity" (Imler 1972: 152).[237]

And while it might be the case that influential academic research that would link central bank independence and price stability was not to appear until the 1980s and 1990s, for the Bundesbank (and for ordoliberals), this was already presupposed since the 1950s (see also Dyson 2009: 140). In fact, as Dyson rightly claims (2009: 142) it was this precise ordoliberal 'principles-based' approach that denied discretionary experimentation that made "the monetarist notion of money supply targeting appealing to the Bundesbank as an apolitical frame of reference".

But a digression has to be added at this point. As Weidmann would note (Dyson 2021: 36), ordoliberalism within the Bundesbank could be seen more as a "compass, offering orientation and a sense of direction" rather than as a blue print for sophisticated monetary policy decisions. This differentiation is crucial to keep in mind, and will become clearer in the context of early European integration. But the central approach for understanding such divergence has to be placed beyond acknowledging the fact that there is a gap between ordoliberalism as an orientation instrument and central banking and monetary day-to-day operations. It is also directly linked to the fact that the Bundesbank, as the central bank institution of the German state, is by definition biased towards supporting German national interests. This, however, is not the case for the ordoliberal framework which is geared towards providing the theoretical justification of the competitive order *as a whole,* not towards favouring specific German interests – however much it appears so at times. Leaving aside the continuous evoking of the ordoliberal tradition by successive Bundesbank presidents and officials – such as Jürgen Stark (Biebricher 2018: 203), Tietmeyer (1999), Otmar Issing (2004) or Jens Weidmann (Dyson 2021: 36)[238], this distinction remains crucial to avoid misleading and superficial characterizations without exploring the significance of the differentiation.

Price Liberalization

Taking some historical steps backwards and returning to the initial period of the inauguration of the social market economy, a central policy that Erhard, his ordoliberal colleagues and the Allies pursued was price liberalisation, widely seen as a necessary measure that could accompany and complete the currency reform, with the stated aim to move forward and "end once and for all the whole complex of state controls of the economy – from production to the final consumer" (Erhard 1957: 12-13).

[237] For the Bundesbank's turn to monetary targeting and the influence of monetarism in this decision, see Chapter 5 of this dissertation.

[238] "Weidmann used ordoliberal terminology in thirty-three of the 106 speeches that he delivered between 1 May 2011 and 1 December 2015, referring to Böhm and Eucken in sixteen of them. In January 2020 he claimed to have probably cited Eucken more than any other economist and to have used one phrase of Eucken's over two dozen times in public speeches: 'Whoever has the gain must bear the losses'. For Weidmann, this phrase captured the essence of the liability principle. Eucken's principles were invaluable as a compass, offering orientation and a sense of direction" Dyson 2021: 36-37. As Hien (2017: 8) notes, Weidmann "was given the Wolfram Engels Award in 2012 by the *Stiftung Marktwirtschaft* for his 'consistent ordoliberal stance during the European debt crisis'.

As explained, prices, wages and rents were fixed by the Nazi regime at their 1936 levels and had survived more or less unchanged since that time. Faced with the tremendous organisational and administrative questions, the Allied authorities had decided to maintain price controls and rationing in place for at least two years.[239] Although at the initial stages even ordoliberals like Eucken were prepared to allow for a transitional stage under which certain controls would remain in place, we saw how both Erhard's insistence[240] and the fear that widespread support for retaining price controls would convince the Allies and win the day, meant that the transitional stages were quickly abandoned. Furthermore, rejecting price controls also served as a convenient opportunity for ordoliberals to theoretical (and practically) distance themselves from any allegations of Nazi collaboration. In their view, for example, the maintenance of price controls was equivalent to Nazism, with Röpke going as far as proclaiming that "We have seen the strange spectacle of the Western Allies trying to rush the German experts into accepting an economic programme which, in the final analysis, reveals itself as that of the Third Reich." (Röpke 1950a, 339)

From a more economic perspective, the approach of ordoliberals (shared by most economists at the time) was that the control system had created a significant deposit overhang, resulting in a situation where relative prices had stopped reflecting actual postwar scarcities (Grietsch et al 1992: 20). The price signalling mechanism, in other words, was significantly distorted. Resources, ordoliberals would consistently argue, could not be directed towards important productive activities, putting a huge strain not only on immediate necessities but on effective allocation altogether. From another perspective that reflected the ordoliberal theoretical aversion towards empowering particular interests *at the expense of a market framework*, the fact that many entrepreneurs were making good profits by trading on so-called "luxurious" or "semi-luxurious" commodities because their previous unavailability had rendered them exempt from existing price controls was another distorting factor.[241] As Rietsch et al (1992: 20) noted

> between mid 1946 and mid 1948, the glass and ceramics industry and the musical instruments and toys industry were by far the most rapidly growing sectors of the West Germany economy, with employment increasing by 113.5 and 108.4 per cent respectively, about five times as fast as overall employment.

[239] "As a rule, on the majority of commodities, prices are to be maintained, for the time being, at the level before occupation. Price increases over the level prevailing on the 9th of May 1945 shall only be permitted as an exception…" Coordinating Committee of ACA, February 7, 1946. This approach remained in place even after the creation of the bizonal economic bodies. In October 1946, for example, the Bipartite Board affirmed that "full expression in prices should not be given to the many temporary and abnormal elements in the present cost structure, especially in the basic commodities, and a limited program of temporary subsidies and stringent control generally is recommended for this purpose." Both found in Mendershausen 1949: 648-9

[240] "In view of the many demands for Government control over prices, I believed it right to speak openly in the Economic Council, and before any currency reform, of my basic beliefs that State controls and lack of freedom in price establishment cannot be separated from each other." Erhard 1957: 84

[241] The terms should not confuse. At the time, "luxurious" commodities included things like ashtrays, hair products and tea. This situation led Röpke to remark that, in the midst of postwar misery, West Germany was turning into a "hair-oil, ash-tray and herb-tea economy" (Röpke 1951: 'Das deutsche Wirtschaftsexperiment – Beispiel und Lehre', in A. Hunold (ed.), *Vollbesschäfttigung, Inflation und Planwirtschaft*, Erlenbach- Zurich: Rentsch, pp. 271.)

This was an argument concomitant to Hayek's position who had argued in the *Road to Serfdom* (1944) that "[s]ince the price mechanism is thought of as the core of competition, any state regulation of prices would obstruct the foundation of a free society" (Hayek 1944: 38) and that "price control amount to nothing less than depriving a free society of its mechanism of economic coordination (Ibid. 134). From this perspective, Erhard was consistent in seeing the liberalization of prices as the other side of the coin of the currency reform. Not only was a stable currency crucial for the proper re-ignition of the economy forces that lay dormant, but a restoration of a market-based price mechanism too. For this reason, in the same period that the currency reform was being negotiated with the OMGUS, Erhard appointed Leonard Miksch, an SPD member but a straightforward follower of ordoliberal positions, to design a law (appropriately named "Guiding Principles Law"*, Leitsätzgesetz*) that would set the legal framework for price liberalization. Miksch completed and submitted his proposal 4 months before the currency reform.

It should be kept in mind, of course, that the question of price liberalisation was not merely an ordoliberal position. Despite the fact that the Allied occupation authorities appeared reluctant to immediate implement them fearing the social consequences of such an abrupt transition, the topic was already present in their discussions about German economic reconstruction since at least 1947. As Weber (2019) notes,

> In 1947, George Humphrey, at the time an economic advisor to the military governor of the American zone, Lucius Clay, pioneered the proposal of a one-stroke price reform. He recommended the drastic measure of liberalizing *almost all* wage and price controls to erase the aggregate excess demand by inflation. Only the prices of bread, potatoes and the rent for pre-war buildings should still be controlled. However, this approach was found too risky by the US administration even under conditions of military occupation (Krieger, 1987, 377-8 in Weber 2019: 5)

This was concomitant with the overall view of the US authorities that, in contrast to the Nazi economy, all measures that created obstacles for trade (whether domestic or international) would have to be abolished. In February 1947, long before Erhard (supposedly single-handedly) abolished price fixing, and in the context of attacking monopolies but clearly not confined to that, the US military government had issued law No. 56 which prohibited "all forms of agreements or joint ventures of people, whose purpose or effect consists of limiting internal or world trade or any other economic activity, of promoting monopolistic control over those areas, or of limiting access to the internal or world market" (Jarausch 2006: 78). It was thus not the question of price liberalisation that needed negotiation but the exact timing of its implementation.

This approach puts a question mark at the often-repeated assertion that Erhard proceeded with price liberalisation *without* the support of Allied authorities.[242] Sauermann, however, who was present at the time and active as an advisor to the Allies, also has a different recollection:

[242] As Kloten argues, for example, "instead of applying to the American and British control agencies for permission to make changes to the existing regulations [Erhard], without hesitation, abolished almost all the regulations four days after the monetary reform of 20 June 1948. This represented the real birth of the market economy in West Germany." Kloten 1989: 73.

> One of the far-spread and often-repeated stories is that it was [Erhard] who insisted on the immediate liberalization of the market against strong opposition of the Allies. According to my opinion, such an assertion cannot be maintained […] we cannot speak of a resistance of the military governments against the immediate opening and reconstruction of markets or against the elimination of price and wage control [as] this would never fit into the picture which General Clay demonstrated to the world exactly at this time"
>
> (Sauermann 1979: 316)

Corroborating the position that the Allies were already predisposed towards price liberalisation, Sauermann explains if there was divergence on this point of divergence, it related to the central question of social justice. As he informs,

> "the opinions in favour or against an immediate liberalization of the market depended largely on the political views of the disputants. Those who favoured the encouragement of individual initiative by free markets were much sooner prepared to vote for an immediate removal of the obstacles than their oppositional colleagues, who believed that social justice could only be established by planning and controlling." (Sauermann 1979: 316)

The chief of the OMGUS also offers an account that questions the assertion that the US authorities were against the price liberalisation reform. If anything, then dissent towards Erhard's policies could have originated from the British and French sectors, given that in their countries price controls still existed. This, in any case, is Clay's own view. As Fuhrmann (2017: 123 ff. 7) notes, "Clay speculated in 1971 that the price liberalisation had been difficult for the British and French military governors to implement because a controlled economy still prevailed in their home countries - but this did not lead them to take action against Erhard's decision: 'While my colleagues did express some unhappiness over the Directors action, a veto would have required unanimous decision and I do not remember any such effort on their part'.[243]

At the political level, moving forward with price liberalisation met with strong resistance from interested parties. As Fuhrmann (2016: 233ff) has shown, even the parliamentary group of the CDU had raised the question of "political justifiability" (*politischen Vetretbarkeit*), worrying about "tremendous unrest" (*schwerste Beunruhigung*). Similarly, while SPD membership was critical of the price liberalisation reform, its parliamentary group voted for it after pushing through certain mild modifications (Glossner 2010). And even when rising prices had led to protests against Erhard, SPD's

A similar account that over-emphasizes Erhard's role appears in a statement by Prof. Dr. Günther Schulz, editor of the *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* (Quarterly Journal of Social and Economic History), who went as far as to argue that "the *Leitsätzegesetz* was a revolutionary act [...] a form of rebellion against the military government", adding that "the Frankfurt Economic Council of the Bizone passed it - after almost conspiratorial preparations by Ludwig Erhard and his confidants in the Administration for the Economy - in a veritable coup against the occupying powers, who were quite hostile". Schulz 1997: 170, quoted in Fuhrmann 2017: 122.

[243] Clay 1972 quoted in Fuhrmann 2017: 123 ff.7

vote of no-confidence failed to get the required majority “due to the absence of eight SPD members” (Glossner 2010: 76).

In any case, the final bill for the liberalization of prices submitted and passed in June 1948, one day before the currency reform. Despite some general SPD objections to its deflationary nature and while it had undergone some modifications,[244] the bill which “bore a marked similarity to Miksch’s proposal of February” (Mierzejewski 2004: 67) and was passed with a majority. What these modifications and compromises included reflected both the bureaucratic difficulties of effecting such a sudden transition, as stopping price controls and allowing the market to set price levels was, after all, easier said than done. But most importantly, the social consequences of such a legislation did force the additions of certain crucial exceptions. As Mendershausen’s account of the implemented decision shows (Figure 2), the liberalisation of prices affected very specific commodities, while retaining non-negligible controls in others. Moreover, as Berger & Ritschl (1994: 7) note, “price deregulations during the reforms of 1948 had been confined to consumer goods and other downstream industries, whereas heavy industry and the energy sector still had to sell their output at regulated pre-war prices.”

[244] As Van Hook (2004) notes, “the SPD demanded that the Economic Council establish a supervisory board and require Erhard to apply for approval to this board to release any goods from controls. But the CDU delegation was only prepared to support a supervisory board that could review Erhard’s decisions after he had made them” Van Hook 2004: 166).

TABLE IV.—EXTENT OF DECONTROL, FALL, 1948*

A. *Remaining under Maximum Prices*
- Basic foodstuffs and agricultural products[a]
- Coal and coal products[b]
- Crude oil, liquid fuels from petroleum[b]
- Crude iron and steel and primary output of rolling mills[b]
- Iron ore and scrap[b]
- Non-ferrous and precious metals[b]
- Fertilizers and insecticides[b]
- Insulin and penicillin[b]
- Tobacco and tobacco products[b]
- Rents and leases
- Film rentals and entrance fees
- Certain professional fees and charges
- Rail rates
- Rates for electricity, gas and water
- Public insurance policies
- Trade margins on foreign trade

B. *Remaining under Fixed Minimum and Maximum Prices*
- Agricultural items: grain and products, potatoes, oilseeds, sugar, butter, yeast, farm prices of milk, sugar beets, slaughter cattle
- Rates for inland waterway and long distance truck transport
- Rates for compulsory motor vehicle insurance
- German medicinal tariff

C. *Free of Price Control*
- Fresh fruits and vegetables, game, hone, coffee, tea, spices, wine, cider
- Restaurant meals[a]
- Virtually all manufactured products
- All chemicals except fertilizers and insecticides
- All timber[b] and all wood products
- All paper products
- Textiles and clothing[c]
- Hides, leather and shoes
- Lubricants, greases, wax, paraffin, industrial benzol
- Pitch and products
- Most pharmaceuticals and cosmetics
- Glass and ceramics
- All building materials
- Output of the metal industries beyond the very early stages
- Potash and salt
- Purchase and sale of land and buildings
- Insurance premiums
- Various other public and private fees

* Source: Price Analysis Section, Bipartite Control Office, Frankfurt, Germany.
[a] Remaining under rationing.
[b] Remaining under some form of allocation.
[c] Under a point system of rationing, at retail level.

[Figure 2 from Mendershausen 1949: 664]

Consequences of price liberalisation

With the onset of the consequences of the simultaneous currency reform and (partial) price liberalisations in 1948, mounting criticism and mobilizations exploded. These took several forms, from the SPD proposing (twice: once in August 10th 1948 and another time in November 10th 1948) a vote of no-confidence against Erhard, to general strikes (the last general strike in Germany), riots and demonstrations (Fuhrmann 2017).[245] For the government and ruling parties the situation became so

[245] Archival documents in the Ifz confirm that the US Allies did not take these developments lightly but proceeded with certain caution, indicative of their desire to avoid full blame for the consequences of the policies. US military police was sent to

volatile that whispers of dissatisfaction with Erhard and his policies started to mount, leading the CSU faction to call for his resignation (Mierzejewski 2004: 73).

Erhard remained invariant and set out on a massive public relations campaign in order to defend his policies (interestingly so: for the argument so far was that these were policies *dictated* by the OMGUS) and to convince people that all their grievances were understandable but would soon go away once the market was allowed to run its proper course, pricing had fulfilled its role and stability returned.

In any case and beyond the protests, the process of implementing the freeing of prices was confusing and contradictory, a fact also reflective of the ways people responded to it. As Mendershausen notes,

> The re-appearance of legal markets and effective prices was a turbulent process. Prices of the decontrolled commodities ceased to be uniform and stable. Buyers spent their new money freely, held back for fear that the money would give out, spent again when they got more money through conversion or the sale of hoards, bought for fear of rising prices, stopped again under the pressure of lagging incomes from work.
>
> Mendershausen 1949: 663

Moreover, the growing inequalities that the freeing of prices brought about forced workers to react. One of the forms that this reaction took was the re-appearance of barter trade. As Mendershausen adds,

> The most significant consumer price increases up to the end of 1948, amounting to a doubling or even greater advance over previous prices, occurred with footwear where they reflected in part increased raw material prices, and with textiles where the prices of imported materials had remained unchanged. In view of the urgent need for shoes and wearing apparel in the population, the great price increases and the weakening of rationing controls over these goods caused much public discontent. The pricing of shoes and textiles out of the reach of industrial workers brought "compensation trade" back on the stage. Toward the end of 1948 there were growing signs of producers making deliveries contingent upon counter-deliveries of wearing apparel, and of their offering the goods to the workers, at reduced prices, in place of wage increases."
>
> Mendershausen 1949: 667

Similar phenomena took place in relation to other commodities, such as basic foodstuff, whose price had been "raised since reform by about as much as the prices of industrial materials." (Ibid: 667) Again, a significant expansion of the black market took place for commodities such as meat and grain. "Supplies were used to feed poultry and cattle", Mendershausen informs us, "whose products can be sold profitably on the black market. Black market foodstuffs [could] be obtained generally and easily from retailers at

several demonstrations but their role seems to have been mostly that of an observant. Gradually, intelligence support and their view of the conflict morphed into a mixed Nazi-remnants/Cold-war narrative with intelligence implying that rioters were either pro-Nazi sympathisers (a smashed window shop was described as reminiscent of the *Kristallnacht*) or pro-Russia communist agitators (profile of the arrested take great pains to find some network of communists behind the events).

prices two to five times the legal levels." (Ibid). It was events such as these that led Müller-Armack to elaborate his suggestion about creating split-markets.

In early 1949, a certain rebalancing caused a price decrease but by that time unemployment had also risen significantly. Despite this recessionary tendencies and increased tax income, the response was a slight change in credit policy, while public expenditure was "characterized by reservation, *as should be normal for an economic system organized in accord with free market principles*." (Sauermann 1979: 317, my emphasis). Committed to an outright refusal to consider a revival of price controls, Erhard responded to growing discontent by a set of measures that would become characteristic of the overall outlook of the social market economy.

On the one hand, legal measures were taken to punish those who charged "obviously excessive prices", though the actual controls of such cases was seriously lacking in enforcement capacity. In addition, the bizonal administration started publishing lists of "normal prices", demanding their display in shop windows.[246] Finally, and after a series of protests and riots, Erhard initiated a program to force manufacturers to produce consumers' goods, especially textiles, at relatively low prices. The so-called *Jedermann-Programm* ("Every Man" program). Based on a study of the British 'utility' program", it actually lacked "the strict rationing and price control features of the latter." (Mendershausen 1949: 670). But none of these measures were sufficient to quell social unrest which exploded into a general strike and a series of riots, which the OMGUS observed with unease.[247]

Erhard's position remained one of welcoming the deflationary aspects, seeing them as a cleansing mechanism for the 'repressed inflation' and as a necessary path for the re-introduction of a market economy and a competitive order. As he had announced in his radio broadcast of June 21st, "the cleansing capabilities of a miner deflation [are] essential in order to force business, along with the enforced dehoarding [*sic*] of their stocks, into ever greater rationalizations".[248] But even when inflation appeared, Erhard and his supporters "developed the new argument that the inflation represented a natural process whereby the West German internal market needed to adjust to world prices" (Van Hook 2004: 167). The deflation that Erhard feared only came about in 1949.

Conclusion from currency reform and price liberalisation

As Eucken wrote to Dr. Meinhold, a colleague of his in the Advisory Board, in 1950, the central questions debated during those times was

> not at all between *laissez-faire* and economic planning […] The conflict is a different one. One side, to which I belong, is of the opinion that the state must influence, or

[246] See for example the report of the OMGUS dated October 28th 1948 with the title "Disturbances after demonstration against the economic policy of Erhard", *Institut für Zeitgeschichte* [IfZ], E.O. 11652 Sec. 3 (E) and 5 (D), # 775052.

[247] As Mendershausen notes, the demand to display such lists may in fact have contributed to price increases as it made merchants publicly display the official "normal" prices which could have been, on occasion, higher than the ones previously demanded. (Mendershausen 1949: 669-70).

[248] Erhard, "Der neue Kurs", Radio Speech, June 21st 1948, in Erhard *Gedanken, Reden, und Schriften*, pp. 63-76.

even directly establish, the forms and institutional framework within which the economy must work. It should, however, avoid the attempt to steer directly the everyday business of the economy. Others believe that the state must not just establish the framework, but must influence the day-to-day working of the economy on the basis of central planning"

Eucken to Meinhold, 15 Feb. 1950, in Nicholls 1994: 185.

It has already been noted that the degree of ordoliberal influence in these key moments of German history has been widely debated. Moreover, challenges to the notion of a distinct ordoliberal affinity with the reforms have taken different forms. Most notably, the currency reform of 1948 has often been described as a unilateral move designed and implemented by the Allies who remained indifferent towards German expert advice. From a different perspective, the liberalisation of prices has been described as not only the cornerstone of the social market economy but also a legislation undertaken by Erhard himself *in defiance* of the Allies.

As I have tried to show, none of these accounts are convincing. If we take Eucken's description into account, then the conflict between a market economy based on competition and that of central planning was clearly won by the advocates of the first. From this perspective, the direct engagement of ordoliberal figures in the discussions and proposals of the currency reform was significant. More concretely, as we have seen, its importance lies less with the design of a monetary reform that had anti-inflation as its main goal – that was a goal shared by the US authorities and, in fact, by all European governments and monetary authorities in the aftermath of the Second World War.[249] If ordoliberal influence is visible in this episode, it relates to the only *divergence* with Allied plans that led to the abandonment of the equalization burden and other measures that would mitigate the social consequences of the currency reform. Thus, contrary to the CDG report and other Allied input, the creation of the new DM took place without any burden equalization, without any direct taxation of higher incomes or those that had been acquired during the Nazi period and without any inclination for alleviating the consequences of the reform for those in the lower classes – with the exception of Erhard's insistence that their patience and endurance would be rewarded in a future when the market economy had been re-instated and its benefits "trickled-down". As Germann notes, in a secret working paper prepared for the *Reichsgruppe Industrie* in 1943-4, Erhard had already anticipated that the currency reform would wipe out "the enormous public and private debt of the Nazi era, sparing property owners and employers at the expense of workers and savers" (Germann 2021: 69)

With regards the price liberalisation, a similar approach can be advanced. As we saw, the Allies were as much on board on the question of freeing prices from their Nazi freeze, showing reluctance only in terms of the exact timing of the reform and on the social consequences it might bring about.

[249] In 1982, Wolfgang Frickhöffer would claim that he was often told by Erhard that "he would have never been able to push through our parliament a reform as far-reaching and radical as the one he carried out in 1948. He seized the 'opportunity of the century' in 1948, knowing that consent for his reform could be obtained from the military governor, General Lucius D. Clay". Frickhöffer 1982: 90

Moreover, despite initial reluctance, all the political forces on the ground also showed their adherence to the reform, with the SPD voting in favour after a few minor modifications of the original draft. That the Allies were not opposed to the reform was argued on the basis of testimonies from German advisers to the OMGUS (and particularly Mendershausen who was directly involved). In the end, it was the consistent pressure from the protests, general strike and riots that forced a certain mitigation of the reforms, visible in the exception of certain goods from the price liberalisation legislation and, most importantly, in the adoption of the "social" addition to the market economy as a discursive compromise to quell protests. The role of the SPD and trade unions in accepting this reality (whether driven by internal disunity or fear of reprisals by the Allied forces) proved to be crucial for the "success" of the reforms. And perhaps most importantly, the arrival of significant financial aid through the Marshall Plan and the GARIOA funding scheme, as well as the economic recovery that gradually picked up after 1949, managed to balanced things out.[250] When prices began to recede in early 1949, Erhard and his supporters felt vindicated but it remains questionable whether the stabilisation of the economic situation was a result of the reforms or the overall improvement of economic conditions in Europe, as Abelshauser would claim. As Eichengreen & Ritschl (2008: 211; see also Nicholls 1994: 272) argue, at the time of the implementation of the reforms,

> The government felt the pressure so strongly that it contemplated a Keynesian job creation program, which was rejected only when recovery gained sufficient momentum to pacify union demands.
>
> (Berger and Ritschl 1995; Berger 1997)

Eichengreen & Ritschl also challenge the consensus around labour passivity in the first decade of the social market economy. As they argue, instead of a trickle-down effect brought about by increasing economic output, it was perhaps the reinstating of workers' unions with significant bargaining power that ensured low unemployment figures. As they argue,

> Germany […] entered the 1950s with unemployment close to 10%. Only toward the end of the decade had German unemployment rates attained British levels. The persistence of high unemployment during the first years was itself a consequence of a very high influx of refugees after World War II. Therefore, it is not an indication of failing labour market institutions. However, the initially high level of unemployment and its subsequent decline may have contributed to an initially low but increasing bargaining power of trade unions.

From such a perspective, one could put forward the suggestion that without the currency reform, which re-instated money to its key functions as a universal exchange mediation and a store of value, the

[250] It is hardly negligible to note that Erhard himself, in his announcement of the reform on the radio, added that the Marshall Plan would "fund the capital market" and mitigate the worst, but inevitable, consequences of the reforms. Later on, he would also argue that the deflationary tendencies that appeared in 1949 were "extraordinary" and could be dealt with "counterparts from the Marshall Plan". Van Hook 2004: 167, 170.

consequences of all other developments (be it the absorption of the Marshall/GARIOA funds, the 'catching up' to long-term growth or the increased productivity would have been delayed – if not impossible. But at this stage we can point out that the monetary reform of the German currency (with an anti-inflationary perspective) has already been established as a clear aim of the Allied forces and a consistent policy for all European countries. What Erhard and the administration he worked for achieved was the elimination of the equalization of losses *after* the reform. This was, one may be tempted to say, the kind of ordoliberal market freedom that rejuvenated the economy (Röpke 1950).

The realization of the Social Market Economy

> The leap to a free economy is not a leap into the dark and into chaos, but instead the right step to escape chaos and to return to the natural order.
>
> Müller-Armack 1974: 102

Following the implementation of both the currency reform and the liberalisation of (most) prices, the German economy underwent a period of significant growth – earning the name *Wirtschaftswunder* ('economic miracle'). As the numbers show, between 1950 and 1959, German GDP grew at an annual rate of 8 per cent, doubling living standards, a performance in stark contrast to post World War I economic developments and, it is argued, much faster than other European countries (Eichengreen & Ritschl 2008: 191).

A significant amount of existing historiography has placed this economic growth on the specific reforms, while also purporting (as we have seen) that Erhard and his colleagues achieved them at the behest of the Allied forces. While these assertions have been dealt with in earlier parts of this research, what is of specific interest here is to present accounts that contradict this, not by focusing on the authorship of the reforms or the supposed conflictual relation between Erhard and the Allies but, instead, on the grounding of the West German economic performance on factors originating beyond specific economic policies in Germany.

The main coordinates of the dissenting views on this can be separated into three main categories: one the one hand, scholars have re-interpreted German economic growth as resulting from the funds provided by the US in the form of the Marshall Plan (MP), a position that has been somewhat further qualified by emphasizing the greater significance of the GARIOA program. One the other hand, economic historians such as Abelshauser (1971, 1981) have argued that the roots of Germany's postwar performance have to be seen in light of Germany's capacity to benefit from, and "catch up" with, a more generalized postwar growth engine that remained irrespective of specific economic policies. A slightly more nuanced position tries to embed the so-called *Wirtschaftswunder* on the provision of both US funds, and the crucial restructuring of German debt that resulted from the London Debt Agreement of 1953. Moving through these accounts one can also find the role played by the Korean War in boosting German exports.

Marshall Plan

The first account that sees in the Marshall Plan the key to understanding West German postwar growth centres on the wider political implications that are visible in the decision behind the inauguration of the plan, concomitant with the new Cold War policy that placed Germany at the epicentre of anti-Soviet economic reconstruction. Contrary to ordoliberal accounts that tried to link the success of the MP to the emergence of liberal economies (Röpke 1947; Eucken 1948b: 901; Lutz 1948; Fèvre 2022: 211), most commentators reverse this argumentation and maintain the exact opposite: that it was the MP itself that allowed for the sustainability of the liberal reforms and the subsequent reconstruction. Defenders of the suggestion that the MP was instrumental in the postwar recovery of West Germany claim that, from its very purpose, the aim of the funding was to supply West Germany with enough funds so as to generate a sufficient European capital goods market supply to the rest of Europe, thus making further US assistance unnecessary and, at the same time, boosting US exports.[251]

This view of the MP as an "initial pump" is further elaborated by Berger & Ritschl (1994)'s "re-revisionist" account. In their view, the Plan represented a "political managed reconstruction of the intra-European division of labour with West Germany as its locational and industrial center" (Berger & Ritschl 1994: 2), an approach that can also help explain the almost uniform growth across Europe after the war.

In this account, the liberal reforms of Erhard might not have been the *key* driving force behind economic reconstruction, but they played a significant role in creating the framework that could absorb the MP successfully. In fact, Berger & Ritschl go as far as to argue that the key significance of the MP lay less in the actual funds transferred but in its "effects on policy credibility" (Ibid: 8). "Viewed in a broader context", they add forcefully, "the Marshall Plan [was] indispensable for Germany's reconstruction, and would have remained so even if effective transfers had been zero" (Ibid).

The key aspects of this argument relate to the notion that "the main idea behind the Plan lay in utilizing German rather than US capacities to provide for Europe's reconstruction" (Berger & Ritschl 1994: 30), a statement that reiterates the conceptualization of the MP as an "initial pump". Apart from assisting in overcoming specific bottlenecks in German economic activity (as was the hope expressed by Erhard), the MP "enabled Germany to commit itself to free trade" (Ibid: 30). In their conclusion, the authors mention that viewed from this perspective, the true significance of the MP becomes obvious

[251] This view corresponds to the fact that initial drafts of US financial aid, drawn up under orders of Truman as foreign aid programs with a view to American interests and against "communist infiltration" were essentially sketched out as an "export promotion program" along Keynesian/New Deal lines. It was only after the realization of a severe dollar shortage in Europe, pronounced by Under Secretary of State Acheson, that the final Marshall Plan took the form it did. See Berger & Ritschl 1994: 10.

after 1951. Buchheim (1993) who takes a slightly different view, concedes however that the significance of the MP predated its actual dispersion as just the fact of its expectation convinced firms to sell their accumulated stocks, only to be rewarded by the first arrival of EPR funds. This fact, argues Buchheim (1993: 76) "played a crucial role in securing the success of the liberal economic policy that had been adopted". As Eichengreen put it more succinctly, "Erhard's decontrol of prices raised the cost of living and provoked a rash of strikes in late 1948 […] the arrival of the Marshall Plan funds gave the government leeway to offer concessions and avoid having to roll back its earlier liberalization measures" (Eichengreen 2007: 66).

GARIOA

A somewhat different interpretation has also been offered that, while changing focus in relation to the funds received, concludes along similar lines. Here, the main driver of economic aid is not to be found in the MP funds (officially called ERP) but in a slightly under-examined side of US aid under the name of GARIOA. In fact, analysis of the amount of US aid to West Germany reveals that the GARIOA funds did not only start arriving earlier (1945) than the MP funds (1948) but their magnitude was significantly higher in total (see Figure 4).

From this perspective, the focus is on the fact that the GARIOA funds, although initially designed to provide foodstuff to the West German population, already from 1946 and the unification of the American and British zones, a significant amount of GARIOA funds were directed towards "raw materials for industrial recover" (Hardach 1987: 436)

Though not identical in any way, this approach could be corelated to the position that most MP funds were not directed towards creating any kind of capital market that would facilitate investments. Rather, as Buchheim writes, out of the 200 million dollars volume of the initial MP funds into the Bizone in March 1949, "about 60 percent consisted of food, 20 percent of cotton, 7 percent of tobacco, and 4 percent of hides and leather" (Buchheim 1993: 75), while after that time MP funds were primarily utilized for resolving bottlenecks in German industry rather than any long term investments.

Table 1
U.S. Aid to West Germany, 1945-52
Mill. U.S. $

	1945/46		1947	1948	1949	1950	1951	1952	total 1945-62
1. Civilian supplies	195							195	
2. GARIOA etc.		75	237	788	503	177.8	11.9	.4	1793
3. ERP etc.				142	420	302.6	415.8	114.1	1678
4. Other	3							206	
I. U.S. aid total	273	237	930	923	480.4	427.7	114.5	3872	
5. UK Contribution	264	363	90	32	1				
II.Foreign aid total	537	600	1020	955	481	428	114	4640	
6. Current account surplus	18	103	60	-262	-323	592	649		
7. Imports (cif)			785	867	2237	2703	3503	3854	
8. Counterpart funds as percentage of aggregate fixed investment				5.8	7.8	4.1	2.1		
9. GNP (billion DM)			37.5*	83.8	89.7	113.6	126.0		

* Second half of 1948 only.

Source: 1,3,4: Deutsche Bundesbank (1976, pp. 323, 341).
2: 1945-1948: adapted from Buchheim (1990, p. 72)
1949-52 and total: Bundesminister für den Marshallplan (1953, pp. 23 f.)
5: Buchheim (1990, p. 72)
6: Buchheim (1990, pp.184 f.)
7: 1947-48: Buchheim (1990, p. 186),
1949-52: Bundesminister für den Marshallplan (1953, p. 24)
8: Baumgart (1961, p. 47).
9: Statistisches Jahrbuch für die Bundesrepublik Deutschland (1950-54).

[Figure 3 from Berger & Ritschl 1994: 6]

Long-term growth patterns

Abelshauser's view, building on Jánossy & Hollo (1969) and strengthened by Dumke's (1990) econometric evidence, argues that the main factor that contributed to the specific economic performance has to be sought in the temporary dislocation of Germany from its long-term growth pattern due to the combined instability of the Weimar Republic and the subsequent war and post-war massive output shock (see Figure 3 for a comparison with British GDP per capita growth). Describing the economic growth patterns of the postwar era as an exogenous process, they claim that both domestic market-oriented reforms *and* Marshall Plan funds were of minor significance.

Part of the argumentation zeroes is on the fact that at the peak of MP funds absorption, economic performance in Germany was substandard. Moreover, part of the argument against prioritising MP funds points at the fact that in monetary terms, the value of the MP to Germany was smaller than the sums provided to either the UK or France, without an equivalent economic reconstruction boom present there.

In 2008, Eichengreen & Ritschl re-iterated this viewpoint, providing further arguments to support its significance.[252]

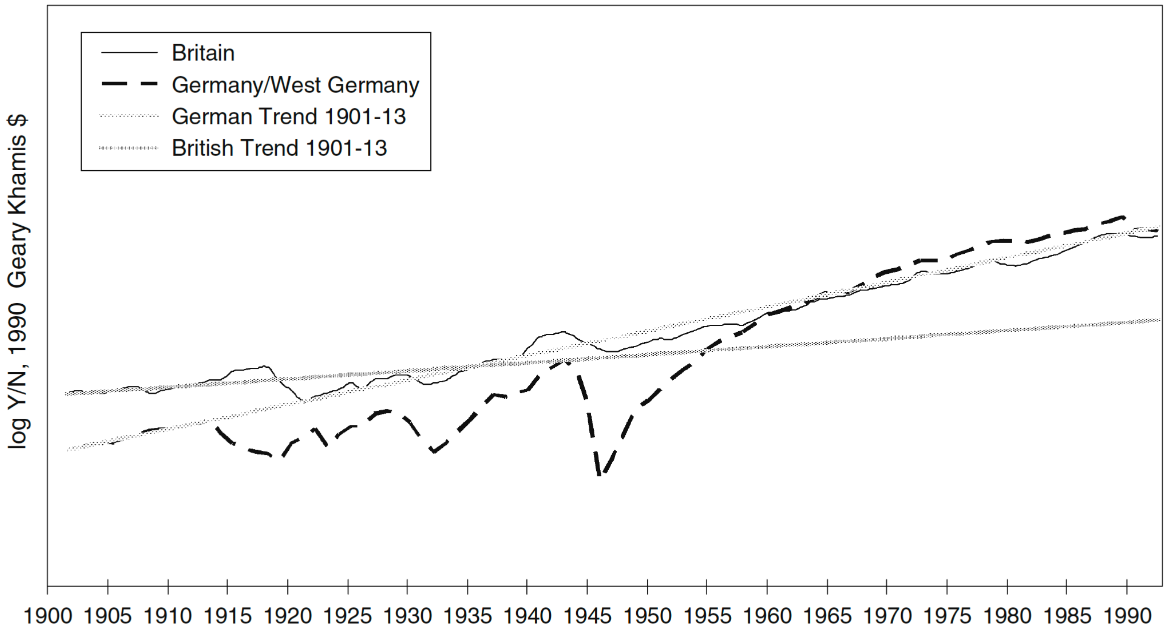

Fig. 1 Growth of GDP per capita in Britain and Germany, 1901–1993

[Figure 4 from Eichengreen & Ritschl 2008: 201]

London Debt Agreement of 1953

Eichengreen & Ritschl (2008) also place important emphasis on the debt regimes that emerged in the 1950s. In their comparison of West German and British economic growth in the postwar decades, they point out that while overall macroeconomic figures were very similar (in terms of private savings, public sector savings and capital exports), a striking divergence emerges when looking at debt/GDP ratios. While West German figures put it at an average of 25 per cent until the 1970s, British ratio "started at 175 per cent and remained higher than Germany's until the 1990s" (Eichengreen & Ritschl 2008: 214). The role played by the London Debt Agreement (LDA) in this respect cannot be under-emphasized.

As Galofré-Villa et al (2018) show, the economic consequences of the debt restructuring were decisive. The main coordinates of the LDA, as agreed in the end, were: a reduction of the total pre-war and post-war West German debts from DM 29.7 billion to DM 14.5 billion (representing to an almost 50 per cent reduction and, as Ritschl argued in 2014, equivalent to four times German GDP of 1950). Remaining debt repayment was then indexed to German growth and export performance, putting a cap

[252] In their account, Eichengreen & Ritschl also challenge the significance of the Erhard/ordoliberal reforms for the *Wirschaftswunder*.

on payments that exceeded 3 per cent of annual exports. According to meticulous reports by the Bundesbank, by 1962 72.2 per cent of the remaining debt obligations had been repaid, a fact that shows both the low level of remaining debt and the extraordinary performance of West German exports with less than a decade. There is little doubt that "the low levels of debt owed by Germany compared to its high indebted neighbors, left Germany in a very favorable position" (Galofré et al 2018: 8).

In fact, when considered in combination with the wiping out of all domestic debt as a result of the currency reform of 1948, and the fact that a presupposition for the dispersal of the MP was to block "claims by creditor countries against Germany until 1953" (Galofré et al 2018: 5), it becomes increasingly difficult to underestimate the role played by these debt policies in West German reconstruction and the so-called *Wirtschaftswunder*. To the extent, furthermore, that foreign debt levels are reflected in the balance of payments, it becomes clear that West Germany's debt restructuring was central in allowing it to accumulate foreign reserves at a much higher rate than other European countries.

Concluding remarks

While no single explanation would appear to suffice for the performance of the West German economy in the decades after the war, the above account has pointed at a wide variety of factors that have made crucial contributions in that direction. Even if Marshall Plan funds are reduced to clearing out industry bottlenecks, and GARIOA funds cannot in themselves be held responsible for creating a *framework* of capital investment, their combined sums are hardly negligible. Moreover, the approach that looks at long-term growth patterns, in conjunction with structural reforms that re-allocated labour away from agriculture and towards industrial capacity, can be seen as important additions to the puzzle. Similarly, the tremendous assistance provided by the incredibly generous terms of the London Debt Agreement of 1953 (alongside the freezing of all debt obligations until the agreement was signed) can hardly be ignored. Under the auspices of the long-term political and geopolitical US postwar goals which, as explained, aimed at restoring West Germany as a key exporter and supplier of capital goods in Europe, the overall picture becomes even more intelligible. Within this context, the 1950 creation of the European Payments Union as a means of facilitating multilateral trade in specific countries of Western Europe, and that of the Coal and Steel Community inaugurated in the same year, could be seen as further framework-building arrangements that allowed West Germany to fulfil the role envisaged for it by the US. The unexpected but nonetheless crucial conjunctural outbreak of the Korean War in the very same year, which significantly increased West German exports and further recalibrated its balance of payments, only comes to fill any remaining conceptual gaps. If anything else, the above exposition poses a serious challenge to the simplistic but yet foundational postwar mythology of seeing Erhard's liberalising reforms as *primary* factors of economic revival.

It could, of course, be argued that the liberal reforms themselves played a crucial role in establishing a framework that, though not directly responsible for the economic recovery, was instrumental in securing its sustainability and in reaping its rewards. The strong commitment to balanced budgets, balance of payments surpluses and low debt could, presumably, be held as responsible for the longevity of West German positive performance. We know, for example, that the German government ran a series of surpluses in the 1950s, the proceeds of which were removed from circulation, stored at the coffers of the BdL and earmarked to a rearmament fund – the so-called *Juliusturm* of finance minister Schäffer (Mee 2019: 163). This approach, however, would be forced to ignore the fact that these funds were eventually used to expand social security and other public spending. Though criticized at the time by BdL president Vocke and Schäffer, it remains a fact that the stereotype of a stabilizing fiscal policy (as a consequence of practical *Ordnungspolitik*) is shattered. Combined with the advances made in welfare funding (discussed in later passages) and similar legislative developments, it appears as more realistic to explain West German economic performance on "the absence of large interest burdens on the public budget that allowed Germany to keep tax rates low and insulated the public budget from balance-of-payments pressures" (Eichengreen & Ritschl 2008: 214-5) than on the tremendous influencing power of the ordoliberal framework. Interestingly, however, and under the prism of regrettable compromises forced by the framework of a national democratic landscape, this is a conclusion that certain ordoliberals themselves shared – leading, as we shall see in the next chapters, to the revival of the international/supra-national aspects of the ordoliberal framework and the redirection of their efforts towards the EU and, eventually, the EMU. But before we reach that point, a closer look at both the criticisms of the social market economy from *within* the neoliberal camp and at the compromises (and some victories) is pertinent.

Looking for the Social Market Economy

In 1949, amidst opposition from the SPD and trade unions, Erhard's decisiveness and the first signs of economic recovery, the CDU overcame its hesitations, reverted its direction and fully endorsed the social market economy. As its programmatic declaration in Dusseldorf proclaimed,

> The 'social market economy' is the socially anchored constitution (*Verfassung*) for the commercial (*Gewerblichen*) economy, in which the achievements (*Leistung*) of free and able individuals are integrated into an order that produces the highest level of economic benefit and social justice for all. This system is created by freedom and responsibility, which find expression in the "social market economy" through genuine performance-based competition and the independent control of monopolies. Genuine performance-based competition exists when the rules of competition ensure that, under conditions of fair competition and equal opportunity, the better performance is rewarded. Market-driven prices regulate the interaction between all market participants.
>
> Düsseldorfer Leitsätze über Wirtschaftspolitik (CDU 1949)

While certain centrifugal forces would still remain and make their appearance in the future, especially during moments of crisis or tension, there is no doubt that Erhard and his ordoliberal mentors would have felt not only vindicated but also relieved to find a political vehicle for their positions. But what exactly was the meaning of this novel term? And where did it originate from? What did the future of West German political economy entail beyond the currency reform, price liberalization and the inauguration of the West German central bank? Answering this question was not that easy at the moment and it most certainly has not become easier with the passage of time.

For one, there are many who have come to adopt the term 'social market economy' as a special characteristic of German political economy *ever since* 1948.[253] Others, with some key ordoliberals among them, would claim that the social market economy established by Erhard and endorsed by the CDU essentially ended in the late 1960s-early 1970s, a finale qualified through either the first electoral victory of the SPD and a transition to a more Keynesian form of economic management or via reference to the monetarist transition and the introduction of a more Anglo-Saxon neoliberal framework. As Tribe notes, the term has since become "widely understood as a code word for a prudent economic centrism" (Tribe 1995: 203), it has been identified with the so-called *Wirtschaftswunder* that saw German economic growth figures rise, it has been described as a veritable "third way" between planning and laissez-faire capitalism that allows for a certain space for "social" or "welfare" policies to co-exist with capitalist accumulation and profits.[254]

These conflicting accounts pose some difficulty in offering a sober evaluation of the concept and its practical political economy. For this reason, the next parts of this research will focus on illuminating the key features of the social market economy as it developed in the first fifteen years since its inauguration, focusing on key legislative events (such as the Cartel Law and the Bundesbank Act), as well as on transformations led by institutional changes (such as the passing of the *Grundgesetz* and the West German welfare state). All these conjunctural moments will be approached with a specific eye on ordoliberal influence or responses to them, allowing for a closing section which will turn the table around and examine the changes that took place *within* the ordoliberal framework in the light of the trajectory of the social market economy.

As it has been shown, it was within a context of highly contested policies and social conflict that the concept of the 'social market economy' made its appearance in the public realm. Though its first use has been traced to Müller-Armack in 1947,[255] Erhard's first public use of the term came in a speech delivered to the Economic Council in August 1948 (Mierzejewski 2004: 72).

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[253] The German Basic Law (*Grundgesetz*) designates the social market economy as the system that should be worked towards. Moreover, Article 127 (1) of the Treaty for the Functioning of the European Union has "a highly competitive social market economy" as one of its objectives.

[254] One is forced to add that the notion that trade liberalization was responsible for the remarkable economic growth of the postwar West German predicament is contradicted by the simple fact that "by 1960 foreign trade was still less liberalized than between 1925 and 1929" (Milward 1992: 130) without that earlier situation leading to similar economic prosperity.

[255] Müller-Armack titled the second chapter of his 1947 *Wirtschaftslenkung und Marktwirtschaft* "Soziale Marktwirschaft". A different version has been brought forward by Karl Günther Weiss, assistant to SS-Gruppenführer Otto Ohlendorf, who claimed that he proposed the concept to Erhard in 1945 after which he responded: "What did you say? *Soziale Marktwirtschaft*—that is a term I like. If you would still have a glass of your fine Burgundy, we shall drink to it: *Soziale Marktwirtschaft* is a good way to connect past and future''. Weiss 1996: 571 quoted in Goldschmidt & Wohlgemouth 2008: 263.

Despite its precise authorship, the theoretical background of the concept has been explained in different ways. In the case of Erhard, for example, the argument is put forward that his main intellectual inspiration for adopting the term was his teacher Franz Oppenheimer (Goldschmidt & Wohlgemouth 2008: 264). Leaving aside Oppenheimer's affinity to certain aspects of Marx's thought, clearly incompatible with Erhard or anything ordoliberal, the proposal is made that Oppenheimer's "liberal socialism", which rested on his recognition of the shortcomings of capitalism as resulting from unequal distribution of power (Ibid: 266), could be connected to Eucken's critique of *Machtgruppen* and the view of a market economy as functional when the state assumes the role of disempowering such interests. Erhard own proclamation that the "the Social Market Economy – perfect or imperfect as it may be – will further testify to the work, to the mental approach of thought, and to the teaching of Frank Oppenheimer" (Erhard 1964: 863) lends some validity to the claim.

What seems to have triggered ordoliberals against Müller-Armack's formulation needs to be sought in the space that the latter leaves open for discretionary, i.e. *political*, deliberation. Defining the social market economy as one that not only needs a legal, regulatory framework that oversees (without intervening in) the market economy, Müller-Armack's assertion that the inequalities that *result* from its functioning require corrections and measures of social compensation invites a "case-by-case 'regulative policies'" (Goldschmidt & Wohlgemouth 2008: 272). Such a position does not only become a justificatory instrument for a welfare state (an institutional arrangement fiercely rejected by ordoliberals like Röpke), but it also allows for a more general political weaponization on behalf of special interests and pressure groups (Ibid). In this scheme, ethical and moral values are external to the market economy and need to be introduced from the outside.

While this depiction of Müller-Armack's position might appear very similar to some of Röpke's own positions, later ordoliberals such as Vanberg (2002) have argued that its fundamental denial of the "implicit ethical background of a competitive order" (Goldschmidt & Wohlgemouth 2008: 273) stands in contrast to Böhm's conceptualization of a "private law society".

Interestingly, even while the term was eventually not even contested by the SPD[256], it remained fiercely debated within ordoliberal and neoliberal circles. Quite clearly, the term that attracted most objections was the use of the concept "social", a choice against which Hayek famously responded by calling it a "weasel word".[257] Even fiercer in his attacks, von Mises is described as refusing to even meet with Erhard and denouncing the ordoliberals who engaged with West German economic policies as "Ordo-

[256] In an interesting anecdote, Nicholls (1994: 296) mentions that in a poll conducted in 1953 that asked people which party supported the social market economy, an incredible 12 per cent responded with the SPD while only 5 per cent identified the concept with the CDU. "The vast majority of those questioned (81 per cent) either did not know which party to choose or admitted they were not informed about the social market economy".

[257] "The noun `society', misleading as it is, is relatively innocuous compared with the adjective `social', which has probably become the most confusing expression in our entire moral and political vocabulary […] it has increasingly been turned into an exhortation, a sort of guide-word for rationalist morals intended to displace traditional morals, and now increasingly supplants the word `good' as a designation of what is morally right […]." Hayek goes on to list more than 160 nouns which have had the adjective "social" attached to them to make his point, adding the "social market economy". Hayek 1988: 114

interventionists". In a lengthy passage that he added to his *Human Action: A Treatise of Economics* (1966), von Mises explained his deep-seated objections to the policies of Erhard and his colleagues:

> [The] supporters of the most recent variety of interventionism, the German "soziale Marktwirtschaft," stress that they consider the market economy to be the best possible and most desirable system of society's economic organization, and that they are opposed to the government omnipotence of socialism. But, of course, all these advocates of a middle-of-the-road policy emphasize with the same vigour that they reject Manchesterism and laissez-faire liberalism. It is necessary, they say, that the state interfere with the market phenomena whenever and wherever the "free play of the economic forces" results in conditions that appear as "socially" undesirable. In making this assertion they take it for granted that it is the government that is called upon to determine in every single case whether or not a definite economic fact is to be considered as reprehensible from the "social" point of view and, consequently whether or not the state of the market requires a special act of government interference.
>
> All these champions of interventionism fail to realize that their program thus implies the establishment of full government supremacy in all economic matters and ultimately brings about a state of affairs that does not differ from what is called the German or the Hindenburg pattern of socialism. If it is in the jurisdiction of the government to decide whether or not definite conditions of the economy justify its intervention, no sphere of operation is left to the market. Then it is no longer the consumers who ultimately determine what should be produced, in what quantity, of what quality, by whom, where, and how—but it is the government. For as soon as the outcome brought about by the operation of the unhampered market differs from what the authorities consider "socially" desirable, the government interferes. That means the market is free as long as it does precisely what the government wants it to do. It is "free" to do what the authorities consider to be the "right" things, but not to do what they consider the "wrong" things; the decision concerning what is right and what is wrong rests with the government. Thus the doctrine and the practice of interventionism ultimately tend to abandon what originally distinguished them from outright socialism and to adopt entirely the principles of totalitarian all-round planning.
>
> Von Mises 1966: 723-4

While this was a re-iteration of the various debates and conflicts that ordoliberals like Eucken, Rüstow and Röpke had been having with von Mises and other 'paleo-liberals' already from the Walter Lippmann Colloquium and the Mont Pèlerin Society, this was the first time that such criticism was levelled at the field of actual policy rather than academic or theoretical discussions.

In a certain way, this long dismissal echoes von Mises' long-standing view that "German economists per se were incapable of economic theorizing, and that they were by default proponents of interventionist statism" (Kolev 2016: 7). On their part, while indebted to von Mises' early contribution around the socialist calculation debate for pushing them away from their early socialist leanings, ordoliberals were convinced already from the 1920s that von Mises was a representative of an "extreme and antiquated" liberalism (ibid). But, as mentioned, the significance of the accusation was different when placed within the context of actual economic policymaking.

Von Mises had already depicted a "moderate interventionism" in the work of the Economic Advisory Board that Erhard had created in Frankfurt, but he was nonetheless willing to admit that in the face of other political forces present in Germany, and especially the British authorities, all of which were seen as irreconcilably interventionist, the Board's opposition could well be celebrated as reflecting "Erhard's uncompromising attitude and the persuasiveness of his exposition of the principles of true liberalism" (Hülsmann 2007: 875). Such positive remarks were, however, short lived. By 1953, and when the social market economy was in full display, von Mises would refuse to even meet the "compromising pseudo-liberal" Erhard (Hennecke 2005: 192).

Though these events shed more light to von Mises' animosity towards ordoliberals and their interventionism, their relevance to a general consideration of the reception of the social market economy lays with the addition of Muthesius, the publicist in close collaboration with the BdL in its promotion of central bank independence, who suddenly emerged (Kolev 2016: 20) as a "German ally" of von Mises and a harsh critique of Erhard. Given Muthesius' friendship with Röpke and their shared positions on the central question of CBI, this appears as a rather strange development.[258] In any case, what this shows is that the friction around the social market economy seems to have been at its most hostile *within* the ordoliberal/neoliberal camp rather than outside.

The hostile tone of this reception of the social market economy might betray irreconcilable differences between the protagonists but the fact that they had shared the same networks, had considered each other as 'mentors' and 'disciples' and had attempted (through the Walter Lippmann Colloquium and the creation of the MPS) to draw a common path in defense of liberalism, makes this split particularly interesting. Because, even though von Mises' comments and attitude appeared to have been generally ignored and to have a minimal impact beyond personal conflict, the in-between position of Hayek and the affinity that remained among them meant that ordoliberals tried really hard to clarify their position, to explain what the "social" in the social market economy meant and to divert accusations of "socialism" or "interventionism". In doing so, however, they offer a valuable insight into what these thinkers actually saw in the social market economy – a view that was significantly different from what was being promoted in the public sphere.

To start with, we can point to a private conversation between Hayek and Erhard that Ptak (2009: 107) mentions, in which Erhard appears to have said to Hayek: "I hope you don't misunderstand me when I speak of a social market economy. I mean by that the market economy as such is social, not that it needs to be made social." As Callison (*forthcoming*) notes, while Erhard appears to have truly meant this, Hayek was not persuaded. Hayek's suspicions aside, Erhard's comment indicates that the conceptualization of the social market economy as discussed *within* ordoliberal/neoliberal circles was mired with undertones than those present in public defences. But the context of these internal debates, though interesting, is not the defining issue. What matters most is what actually took place in the process of building the social market economy and to what extent neoliberal/paleo-liberal objections were taken

[258] Muthesius' role in the conflict between von Mises and German ordoliberals would take an even stranger turn when, as chief editor of the elite journal *Monatsblätter für freiheitliche Wirtschaftspolitik*, he published the infamous text by Heillig which purported to discern affinities between ordoliberalism and national socialism. For more, see "The Muthesius Controversy" by Köhler & Nientiedt 2015.

into account, ignored or re-conceptualized altogether. Ordoliberal writers themselves would, after all, oscillate between different ways of emphasizing what they saw as important in every discussion of the topic, making the search for a consistent theoretical approach potentially misleading. For this reason, a closer examination of the two central themes of the social market economy which delineate both its 'social' and its 'market economy' aspects is suggested here as the most fruitful way of approaching the debate and reaching a more comprehensive conclusion. For among other things, such an expose will allow us to contextualize the gradual shift of ordoliberal positions away from a national-oriented framework towards the field of global markets and supra-national institutions like the EU and the EMU, which will be examined in the next chapters.

What is 'social' about the social market economy?

"The freer the economy, the more social it is."
Erhard 1966: 320

"The spurious "freedom from want" kills all the genuine freedom."
Röpke 1942: 165

Another way to approach the legacy of the social market economy is to try and grasp in more detail what was particularly 'social' about it in practical terms. As we have seen, a lot of discussion and debate took place within ordoliberal/neoliberal circles around the use of the concept and the subsequent justification of it towards critics by prominent figures like Erhard – but these debates remained outside public scrutiny. At the same time, the contemporary account of the social market economy is often linked to the existence of a rather generous welfare state of Germany, creating the impression that this expansion of welfare transfers are somehow part and parcel of the original idea. And while in comparison to other European countries the German welfare state is, in fact, more generous (a position that is in serious need of qualification after the Hartz IV legislation in 2005), a comparative analysis of what took place in the ground and what the original thinkers behind the social market economy had in mind is important. Among other things, it is through such an analysis that the gradual disenchantment of ordoliberals with the specific framework of the German social market economy starts to take shape, a shift that helps explains the conscious moves to *upscale* the vision of the economic constitution at a supra-national level – which will be the topic of the next two chapters.

For reasons that I hope are by now clear, it is useful to start our investigation into the ordoliberal framework of social and welfare policy in the very years that saw the emergence of ordoliberalism as a distinct version of neoliberalism. To fully understand the ordoliberal view in that period, it is crucial to keep the historical and socio-political context in which they were airing their positions. As we have seen, the Weimar Republic's early years, led by a coalition of Catholics and the SPD, had good reasons to support a generous expansion of welfare transfers. Not only was this a precondition imposed by the circumstances of both the end of the war and their electoral victory, but it corresponded well to both parties' general outlook and aspirations.

If the Catholic constituency was interested in public expenditure towards social goals as an attempt to find funding for supporting its institutions (churches, orphanages and similar structures), the SPD always considered a state-led support for those excluded from market processes (whether we refer to the general category of the unemployed or those handicapped by the war) as quintessential. There is also little doubt that the capacity of welfare spending to quell social unrest, demonstrated vividly in the Bismarkian years, played an equally important role for a government facing a revolutionary uprising. But the approach to welfare by the Weimar/SPD government also took another role: it was embedded within the context of a *Sozialstaat*, a concept developed originally by the Austrian social-democrat Julius Ofner in 1894 and signifying not merely the expansion of public expenditure for social transfers but the wider goals of enhancing political participation. Contrary to the English literal translation as "welfare state", the Germanic version of the *Sozialstaat* describes a constitutional determination of the state, rather than the total sum of welfare institutions.[259] It thus corresponded, in the Weimar period, to a constitutional approach towards setting the framework of state action, closely linked to Sinzheimer's vision of an economic constitution. Ranging from labour legislation and welfare provisions all the way to public housing, the Weimar *Sozialstaat* had millions of recipients, especially in times of acute crisis like 1918 or 1923.[260]

This is one of the key reasons why, from its inception, the *Sozialstaat* was treated from conservative critics (like Carl Schmitt) as denoting an abandonment of the *Rechtsstaat* (a constitutional, rule-of-law based apparatus) a highly intriguing and illuminating separation that allows a glimpse into the essential ground of its rejection: welfare provision and its constitutionalization is seen, even nominally, as *oppositional* to the rule of law. In fact, for ordoliberals, the transition to a *Sozialstaat* as promoted by the Weimar Republic was a clear indication of the politicisation of the economy, the creation of an "economic state" (Eucken). In 1934, Röpke had also correlated the rise of the *Sozialstaat* and the expansion of social policy with the "new era of protectionism". While Röpke and other ordoliberals always insisted on the requirement of the state to help protect "the weak", this should not be confused with an endorsement of the welfare state. As he repeated with emphasis in 1942, "we are even more radical than most in thinking social injustice to be one of society's gravest defects [and] we are prepared to advocate equally radical action" (Röpke 1942: 163). But this did not mean, as he swiftly clarified, "an all-embracing public welfare system which aims at protecting each individual from the

[259] As Crew (1998: 11) notes, there is a further crucial distinction that gets lost in translation. The Wilhelmine " poor laws" were described in German as *Wohlfahrtspflege*, a concept closer to the English "welfare state" but one which originated from the term *Wohltätigkeit* which "denoted private charity and emphasized its voluntary nature".

[260] "At the beginning of December 1923, for example, 22 percent of the Munich population was on welfare; in Frankfurt am Main this figure was 39 percent, in Nuremberg 49 percent, in Stettin 56 percent, and in Dortmund, as a consequence of the Ruhr occupation, 80 percent […] In 1927, some 1,571,700 Weimar Germans were on welfare; this figure rose to 1,983,900 in 1930 and to 4,608,200 by the end of 1932 (an increase of 193 percent between 1927 and 1932)". Crew 1998: 11-12

cradle to the grave against the vicissitudes of life" (Ibid: 164). "Social mass welfare", he ends, "is an aberration".

Developing a theory of the relationship between state, society and citizens as one that ought to be characterized by a "sense of responsibility", he explains that

> The more the state takes care of us, the less shall we feel called upon to take care of ourselves and our family, and the less we feel inclined to do so, the less we can expect help from others whose natural duty it would be to assist us when in need, the members of our family, our neighbours, our friends, or our colleagues.
>
> Röpke 1942: 164

In such a world, "all true charity which can only thrive on spontaneity and readiness to hell […] will die out" (Ibid). Instead, the constant demands on the state dilute the budget and increase taxation, undermining the very structure and bonds of a community mediated by the state. But Röpke's objections are not only budgetary. Demands for "receiving an old age pension" might seem logical but "those who should be more far-sighted" should understand that such a realization is what equates social welfare to "collectivism and totalitarianism" (Ibid: 165) A desire for an old age pension can only be tolerated, according to Röpke, when it represents the end journey of an individual's personal responsibility. If the state, through taxation, is tasked with providing it, "the center of life […] is shifted from the natural and obvious mutual aid association of the family and other genuine communal units, to the state." (Ibid). Man, the individual, gets thus reduced to a "completely domesticated creature, to a tail-wagging pet". "True welfare policy", he would conclude in the same book, "is therefore equivalent to eliminating the proletariat" (Ibid: 225) and showing a greater interest towards their transformation into small property owners with family farms through "the support of artisans and small traders, the technical and organizational possibilities of loosening up large-scale enterprises, the diminution of the average size of factories…" (ibid: 224).

In the early years of the post-war period, key ordoliberals like Eucken would repeat the same mantra. Identifying the social question of the time as that of the increasing dependency of workers "on the state machinery and numerous other public bodies" (Eucken 1948: 268), the rejection of welfare policy was re-iterated. As Hien notes, "Eucken saw social policy as something that would, in the long run, kill all individual self-responsibility. He emphasized that it would "foster collectivization, create coercion and dependency that diminish self-responsibility and endanger the unfolding of the powers which strive in the individual human being for fulfilment" (Eucken, 1949, p. 113)." (Hien 2020: 62)

For those ordoliberals, however, who had not sharpened their views through the Weimar years, it was becoming increasingly unsustainable to hold on to such views – at least publicly. For people like Erhard and Müller-Armack, whose positions were as much crafted through rubbing shoulders with ordoliberal theorists as they were through direct policy making and political considerations, a "socially embedded" market order was an inevitability. And it was them, above everyone else, that took over the task of combining a market-oriented understanding of the competitive order with the necessity of making its 'social' aspects attractive to wider segments of the population.

Thus, while it is true that, until the end of the 1950s, Erhard tolerated housing programs (Mierzejewski 2004: 164); Müller-Armack flirted with the concept of a minimum income; Rüstow lamented, in 1959, against how "many of the poorest citizens were still living in a fashion incompatible with human dignity", thereby proclaiming social policy "a moral necessity" (Nicholls 1994: 353); and Böhm was willing to accept "[even] something that resembled the welfare state […] so long as it was restricted by [a] constitutional framework." (Rahtz 2017: 127), they also strongly believed that actual and effective redistribution would invite economic inefficiency, annul the price mechanism and promote the alternative of unemployment benefits to productive work. It became imperative to ensure that social policy was tightly framed within the "project of securing a market order based on competition and entrepreneurship. According to these neoliberals, a non-partisan and transparent market order that allowed and encouraged individuals to compete on equal terms, and thus move up the social ladder, offered the most optimal and fair solution to the redistribution of income and wealth." (Olsen 2019: 73) As Eucken would insist,

> The best social policy cannot lead to satisfactory success if the productivity of human labour is low. The establishment of a functioning system to guide the economy based on the division of labour is therefore the most important prerequisite for the solution of all social problems.
>
> Eucken 1952: 314 (my translation)

Ordoliberals understood, however, that by "[c]onstituting the majority, the working class was to be integrated into the competitive order successfully, or there would be no competitive order at all." (Rahtz 2017: 102). As Berghahn (2020: 78) notes, faced with the devastation visible in postwar Germany, *not* providing some form of social welfare was for Eucken "dangerous in a constitutional system based on the right to vote as part of the universal suffrage". But social policy was not meant to divert from the market economy, as it had during Weimar. For Eucken and other Freiburg School proponents, "the cultivation of economic competition" remained the primary political task, "but to the end of an ultimate depoliticization of working-class consciousness." (Rahtz: 102-3).

As Foucault (2008) argued in his Lectures at the College de France, the *social* aspect of the postwar West German order as promoted by Erhard was not merely a hypocritical discursive choice to hide the reality of private ownership of the means of production or the market economy. It was a signal for the

> adherence to a doctrinal and programmatic whole which is not simply an economic theory on the effectiveness and utility of market freedom: it is adherence to a type of governmentality that was precisely the means by which the German economy served as the basis for the legitimate state.
>
> Foucault 2008: 89

In Foucault's view, this overall new type of governmentality is the key aspect that allows the SPD to move in the direction of the social market economy, to reconfigure its meaning and adopt it as its own and to end up, with the Bad Godesberg congress in 1959 towards the abandonment of its previous commitment to the class struggle and to assign the state the tasks of not only securing private ownership of the means of production and private property but to do so in the name of moving towards an "equitable social order" (Ibid). This was not, as Foucault adds, a "betrayal" but it signaled an "entry into the game of governmentality" (Ibid: 91).[261]

Concomitant with the emergence of the figure of the "sovereign consumer" (discussed in detail at the end of this chapter), social policy became, in the hands of the social market economy innovators, a field where discursive changes could mask material re-alignments. Given, for example, that a central objection of the pre-war ordoliberal position on welfare and the social state concerned the recurring theme of the state "falling prey to organized interests", a key reformulation of social policy in the postwar period consisted of embedding any welfare transfers on a system of market-oriented, labour market connecting, *individual* responsibility and self-reliance. Prefiguring the Blairite/Giddens "third way", the name of which already betrays an uncanny affinity, social policy in a market economy should be geared towards maintaining an individual's link to the labour market, enabling them to "exploit opportunities" and promoting 'self-actualization' to assist them in adapting and solving specific, *individual* problems. Having established that organized interests are illegitimate, power-grabbing social formations, social questions and their policy solutions had to be relegated to the individual level. As noted by Fèvre,

> the ordoliberals refused to endorse the established definition of the social question as poverty and inequality (the old social question), or indeed as insecurity and injustice (the new social question). They reformulated it as the collapse of human autonomy (in a moral, almost existential sense) in the face of rising private (cartels) and public (the economic state) economic powers." (Fèvre 2022: 144)

Having surveyed this theoretical approach to the question of social policy and welfare, how successful were Erhard and his ordoliberal colleagues in operationalizing them in the context of West Germany's

[261] For Foucault, this transformation of German social democracy is completed with the abandonment of Keynesianism which he dates in 1963, when the SPD through Karl Schiller who asserts that even "flexible planning is dangerous to the liberal economy" Foucault 2008: 91.

social market economy? Judging from *post facto* accounts in ordoliberal-friendly literature, the answer tends to the negative. Leaving purist or exaggerated views aside, the reality was, as we shall see, a mixed bag. But the main reasons for that were not related to some theoretical and intellectual flaws that could be found in the development of these positions – as Goldschmidt & Wohlgemouth (2008) imply in their critique of Müller-Armack. Rather, it was closely connected with the social, political and even religious reality on the ground and the realization that, within a national democracy with an existing *demos*, the positions of an "enlightened elite" and legal frameworks are not enough presuppositions for discarding with social conflict.

From this perspective, one of the issues that Erhard and the ordoliberals had to face from *within* the constituency that belonged to the CDU or FDP was the divergence between the Protestant outlook (to which most ordoliberals belonged) and the Catholic side, a significant part of which remained influenced by the *Quadragesimo anno* of 1931 and its version of social Catholicism. Given that "with German partition the denominational balance had shifted to roughly 50% Catholic and 50% Protestant in West Germany" (Hien 2020: 64), ordoliberals/Protestants would have to reach a form of compromise, a task rendered difficult by the conflicting outlooks that these two frameworks had in relation to economic policy, the social question, the discussion on free competition etc.

As Hien (2020) describes, West German social Catholicism was heavily influenced by the papal *Quadragesimo anno* which had postulated that "Catholic social thinking is now no longer limited to social welfare institutions that engage in repair work after capitalism has brought social dislocation and hardship by destroying the old social order. Instead, its plea for corporatism takes a step toward actively shaping capitalism." As we have seen, such positions were visible in the initial formulations of the CDU's short-lived Ahlen program in 1947-8. While strikes and industrial conflict was meant to be avoided, co-determination and a form of corporatism that allowed the state to intervene when negotiations would fail were part and parcel of the proposals. Most importantly in relation to social policy and welfare, the *Quadragesimo* called for "the riches that economic-social developments constantly increase ought to be so distributed among individual persons and classes that the common advantage of all, which Leo XIII had praised, will be safeguarded" (*Quadragesimo anno* 1931: 75). The conflict with the ordoliberal outlook was inevitable but it would have to be very carefully navigated, since even though all Catholics voted the CDU, the protestant camp vote was spread out across all parties. Electoral considerations, which ordoliberals so much detested, could not be avoided.

As Berghahn (2020) recounts, two key figures of the Catholic world played a key role in the discussions and debates between the Protestant wing of the CDU and its social Catholic one. The first was Joseph Höffner, who initially studied theology in Rome but then returned to Germany and received two doctorates: one in theology and another in economics in Freiburg under Walter Eucken that was focused on questions of monopolies in the 15th and 16th century. Though influenced by the *Quadragesimo anno*, his postwar activities were geared towards criticizing the most 'radical' versions of the *co-determination* proposals, ensuring that there would be "no shift in the power balance between the two sides of industry" and property owners could continue "to occupy the dominant position". If there was to be legislation to regulate labour relations, the above all aim should be to preserve "the social peace" and to "encourage self-responsibility" (Berghahn 2020: 80-82).

Nell-Breuning, on the other hand, participated in the actual drawing up of the *Quadragesimo anno* at the invitation of the Vatican and Pius XI (Berghahn 2020: 85). Having also studied theology and economics (Nell-Breuning's 1928 dissertation was titled *Basic Outlines of the Morality of the Stock Market*). In the postwar period he assumed a position at Erhard's Scientific Advisory Council, focusing on questions of housing. In that period, and moving towards rejecting the 'anti-capitalist' elements of social Catholicism, Nell-Breuning appears to have regretted his participation in the *Quadragesimo anno* encyclical (Berghahn 2020: 85) and to gradually move away from the corporatist core of its message. "Totally upset" to find out that Pius XI had called the proto-fascist state of Austria a "*Quadragesimo anno* State", he endorsed the ordoliberal social market economy, while hoping for a collaboration with the SPD to balance out its rough edges. Within this context, "reconciliation" became a central theme, a view that led him closer to the SPD trade unions and specifically Hans Böckler's DGB, promoting positions that sought to advance a "shared responsibility" between capital and labour (Berghahn 2020: 87).

Engaging with the work of Müller-Armack and the central coordinates of the social market economy, Nell-Breuning would come to embrace what he saw as a successful expansion of the welfare state under conditions of market conformity. For him, "prosperity and greater social justice could be pursued, but only for as long as the gains were large enough to also finance social policies" (Berghahn 2020: 87). But keeping both these sides of the equation on equal footing would become hard to reconcile with the ordoliberal approach.

The most obvious point of conflict between these two ideals would explode in the context of the Pension Reform of 1957. Loathed by ordoliberals as an inexcusable compromise, it was seen as "collectivist", set to "entrench the old Bismarckian welfare-state provision" and therefore a "clear defeat" (Dyson 2020: 101). At the same time, it was an "enormous popular success" (Hien 2020: 68), celebrated in a contemporaneous public opinion survey by the Allensbach Institute as the "most popular event in the eight year long history of the Federal Republic" (Ibid). A more detailed examination of the political interplay of different forces, with ordoliberal positions and social Catholic ones at the epicenter, sheds crucial light.

The consequence of a 4 year long debate in Parliament and among different interest groups, the Pension Reform was framed around the need to compensate for the large capital reserves that had been destroyed by World War II *and* the currency reform of 1948 (Patch 2018: 177), leading to a situation where pensions in 1953 corresponded to 30 to 40 per cent of a workers' income before retirement. This development was undeniably at odds with the ordoliberal mantra that economic growth is *in itself* a social policy and its arrival will undermine income inequality and poverty, but this fact never registered in ordoliberal thinking. Skipping such inconvenient truths aside, Finance Minister Schäffer insisted on a system of "means-tested" pensions that would be overseen by an independent commission (and *not* the Labour ministry), his motion was defeated on the grounds that means-testing was demeaning (ibid: 178). With the support of the Catholic-influenced CDU Workers Group, the proposal for an independent commission was indefinitely postponed. As one of its main proponents, CDU's Minister of Labour and former member of the Bizonal Economic Council Catholic Anton Storch proclaimed in the Bundestag in 1954, in defiance of the "self-responsibility" framework of social welfare that ordoliberals were keen to establish,

> it was never the purpose of our pension system to grant pensions that would be the sole source of income, but that self-help and family obligations should continue to provide support. For the little man there is not much chance of self-help after nights of bombing and the currency reform . . . We must acknowledge that the pension must now provide the sole source of support for pensioners in most cases.[262]

Even though Adenauer sought to ignore Storch's proposals and to re-instate an independent commission, the SPD's decision to propose a very generous pension bill forced the hand of the chancellor and the cabinet. Refusing to "subordinate social to fiscal considerations" (Patch 2018: 179), Storch presented a new plan in 1955 that would equalize all pensions to the level enjoyed by *Beamte* (civil servants), i.e., at 70-75 per cent of previous income. Adenauer, with the collaboration of Schäffer and Erhard, fought this with typical ordoliberal arguments against the creation of a *Versorgungstaat* (caretaker state) that eliminates risk, orchestrating a combined attack on further social spending as a threat to the stability of the economy. In this he was joined by Wilhelm Vocke, president of the directorate of the BdL, who argued that indexing pensions to inflation presupposed an *expectation* of inflation which would end up a self-fulfilling prophecy and undermine the stability of the currency (Mierzejewski 2006: 413).

Taking advantage of the social Catholic constituency and the Social Committees that supported his approach, Storch was not only unmovable despite cabinet and Ministry hostility but kept pushing for further concessions. Initiating "the first public discussions of the idea of 'dynamic pensions', adjusted not merely to the cost of living but to match improvements in the living standard of employed workers (a demand that not even the DGB had endorsed until 1956), Adenauer's pre-occupation with foreign policy and another generous bill proposal by the SPD forced the CDU to an "even more generous interim bill of its own, which gained unanimous Bundestag approval" (Patch 2018: 180).

By 1957, Adenauer had been converted. Impressed by a young economist who worked in the League of Catholic Businessmen, Wilfrid Schreiber, the chancellor embraced his notion of the 'dynamic pension' system as a "morally praiseworthy gesture of 'solidarity between the generations' for retirees

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[262] Cabinet meetings of February 19, 1954, Point 4, and April 6, 1954, Point 9, Bundesarchiv, KabinettsprotokolleOnline; "Niederschrift über die Tagung der Arbeitnehmerabgeordneten," February 22, 1954, NL Katzer/310; remarks by Brentano and Storch, CDU, 5. Bundesparteitag der CDU. Köln, 28.-30. Mai 1954 (Bonn, no date), pp. 41, 128–132; Adolf Leweke, "Die alten Leute," Soziale Ordnung, VIII/#7–8 (July–August 1954), pp. 12–13; Hockerts, Sozialpolitische Entscheidungen, pp. 251–260, quoted in Patch 2018: 178.

to be supported by those currently employed" (Patch 2018: 181; see also Mierzejewski 2006: 415-6). Adding an argument that such a transfer of younger generations' current purchasing to pensioners involved no inflationary danger, Adenauer accepted the proposals and tried, without success, to convince Erhard and Schäffer to also endorse them. Especially for Erhard, the danger of inflationary pressures was, contrary to what Schreiber argued, severely facilitated: as he noted in a cabinet meeting, employers had used the argument that wage increases deteriorated the living standards of pensioners as a means of resisting wage demands. Such a dynamic pension system, therefore, would provide "no adequate break to bring movements to raise wages to a halt and would therefore not sufficiently oppose inflationary tendencies"[263]. On top of that, providing pensions that could maintain an individual's standards of living could well deter people from working (Mierzejewski 2006: 416).

While rejecting Erhard's analysis through reference to Schreiber's point that reducing purchasing power could not add to inflation, Storch agreed to compromise and to delink pensions from automatically adjusting to wage increases and to bring down their ratio between 60 and 70 per cent of former income in accordance to years of employment. Renamed "productivity" rather than "dynamic" pensions, the bill was approved by cabinet and presented to the public. At that moment, a concerted attack from banks, insurance companies and business interests ensued against the bill, most of which utilized arguments advanced and consistently repeated in articles and interviews by both Erhard and Schäffer. In response, key figures of the Catholic constituency of the CDU, with Jakob Kaiser in the lead, counter attacked. Kaiser's main argument, presented at the CDU party congress of 1956, consisted of making a striking parallel between Erhard's and businesses' demands and the East German conceptualization of social insurance as a form of labour discipline, repeating the well-known argument that communism could only be defeated if the social market economy was actually framed around a "comprehensive order based on social justice".[264] By that time, Adenauer had fully converted and openly attacked CDU business representatives, who used Erhard's and Schäffer's points about currency stability, by claiming that their "chatter about jeopardizing the currency" meant nothing to a pensioner who had to survive on DM75 per month" (Patch 2018: 183).

In the end, despite an inability to reach consensus between the opposing sides, the conflict would be resolved by means of electoral concerns. Given that Kaiser and Storch had shown that they were more concerned about the substance of the law than the party that would claim credit for it, they hinted towards seeking an alliance with the SPD to ensure that the bill would pass.[265] That allusion to

[263] Ministerausschuss für Sozialreform, meetings of December 13, 1955, and January 18, 1956, Point 1a, Bundesarchiv, Kabinettsprotokolle Online; Hockerts, Sozialpolitische Entscheidungen, pp. 309–330; Hockerts, Der deutsche Sozialstaat, pp. 72–76; Schwarz, Adenauer, II: 283–284. quoted in Patch 2018: 181, ff 70.

[264] CDU, 6. Bundesparteitag der CDU, 26–29 April 1956 in Stuttgart (Hamburg, no date), pp. 59–60 (source of quotations), 98–99, 102–103, 135–136, 143–147, 152–153; see also Jakob Kaiser, "Zehn Jahre Christlich-Demokratische Union Essen," speech of January 22, 1956, NL Kaiser/315/27–31, quoted in Patch 2018: 183.

[265] When confronted with the horrifying, for many CDU members, potential of a parliamentary alliance with the SPD, Kaiser responded with a remarkable statement: "I have never counted among those colleagues who oppose the SPD as a matter of principle, especially when it comes to social policy decisions". CDU Bundesvorstand, November 23, 1956, Vorstandsprotokolle 1953–57, pp. 1105, 1135–1146; Sabel, Arndgen, and Horn to Heinrich Krone, December 14, 1956, Kaiser

such a potential appears to have broken the spell, convincing electorally minded CDU members that such a prospect would be devastating. The final straw, which demonstrated Adenauer's prodigious talent for political manoeuvre, came when he proclaimed that rejecting the bill would identify the CDU as a party catering to "special interests". After some minor final modifications, the Pension Reform was voted in Parliament in January 1957, receiving 398 in favor votes out of a total of 440 (Patch 2018: 186). In a final demonstration of Adenauer's ability to restore balance after conflict, he essentially rewarded Erhard and Schäffer for accepting the compromise by rewriting the history of the conflict and proclaiming that, instead of them, it was in fact Storch's invariance which had delayed the popular reform. A few months later, Storch would be relieved of his duties and fired from the Labour ministry.

The implementation of the Pension Reform of 1957 was a blow to the ordoliberal vision of the social market economy, engineered through the inevitable compromises which, in this specific case, were framed around the different political economies of distinct religious affiliations. But the victory of the social Catholic constituency in this specific outcome did not indicate an overall paradigm shift. As we shall see, the compromise that ordoliberals were forced to swallow would be somewhat compensated by the inauguration, in that same year, of the Bundesbank Law whose structure and institutional form demonstrated a clear victory for the Erhardian/ordoliberal framework, as well as the anti-cartel law – both fields of little concern or influence by social Catholic grass roots or elite representatives. And while the mutual distrust between Catholic and Protestant visions continued well into the 1960s[266], Erhard proved more successful in steering even social Catholic/corporatist demands into the framework of an ordoliberal-oriented market economy. As Hien (2020: 69) notes, for example, the establishment of the *Sachverständigenrat* (German Council of Economic Experts), "a hotbed of ordoliberal economic expertise that counsels the Federal Government on matters of political economy", was initially a corporatist-inspired proposal by social Catholics meant to "guarantee a democratization of the economy by establishing a second forum for representation of capital and labour interests, next to parliament, as foreseen in Quadragesimo anno." (Ibid.).

In more general terms still, the Pension Reform did nothing to effectively derail the overall ordoliberal framework and conceptualization of welfare provisions as framed within what Nachtwey (2016: 12) has called "a productivist dualism" that

> seeks, on the one hand, to attenuate the life risks of wage earners, but on the other hand, to ensure that those able to work actually do so. By health and work protection,

to Sabel, December 14, Sabel to Kaiser, December 17, and Kaiser to Sabel, December 26, 1956, NL Kaiser/41/5–8; Hockerts, Sozialpolitische Entscheidungen, pp. 394–395. quoted in Patch 2018: 185.

[266] "In 1963, the leading figures of German Catholic social teaching (von Nell-Breuning, Gundlach) and ordoliberalism (Röpke and Rüstow) met secretly in a hotel in Augsburg to discuss whether the social Catholics could be won over for the term social market economy that the ordoliberal Müller-Armack had coined. One of the participants later commented that this was a highly delicate meeting (Emunds, 2010, pp. 1–2). It had to be kept secret because of widespread scepticism in both camps toward collaboration. The Catholics were later reported to have rejected the term and concept of a social market economy since it contained too much ordoliberal Protestant thinking." (Hien 2020: 64)

> welfare policy creates a basic precondition for a sufficient supply of healthy labour-power to be available. No one, however, is to lie back and do nothing. Those able to work are to seek it, or else be subject to sanctions.
>
> Nachtwey 2016: 12

Without ever abandoning their struggle against a welfare state "that is no longer sustainable and increasingly tends to contradict both, the notions of social balance and of a workable market economy, under present-day circumstances of hardly hampered rent-seeking and increased global competition" (Goldschmidt & Wohlgemouth 2008: 272), it proved very difficult for ordoliberals to disentangle the image of the social market economy as something synonymous with an extensive social safety net, an identification that is perhaps a direct consequence of the Pension Reform of 1957, i.e., a moment of ordoliberal defeat. The widespread popularity of the legislation, which simultaneously ensured Adenauer's re-election *and* the characterisation of the CDU as Germany's "most socially progressive political party" (Van Hook 2004: 291), was too decisive to ignore without suffering significant political losses. At the time, however, a silver lining could be pointed at: in the fields of exposing German industry to international competition by reducing tariffs, creating a viable capital market or in the case of the investment aid law[267], ordoliberals could feel some vindication of their vision. But there is perhaps no other form of legislation seen as imperative by ordoliberals than competition law and, specifically, the question of cartels.

Cartels and monopolies: details of a competitive order

> It is no exaggeration when I declare that a law against monopoly is an indispensable principle of the "economic constitution". Should the State fail here, there would be an early end to the "social market economy" […] "Prosperity for all" and "Prosperity through Competition" are inseparable. The former marks the aim, the latter the path leading to it.
>
> Erhard 1957, 2– 3

Decartelization regulation was a central feature of the ordoliberal project at least as early as the late 1920s.[268] But the chance of translating ordoliberal thinking into actual legislation only occurred in the postwar period in West Germany, as Erhard's above quotation testifies. At this point, as we have seen, ordoliberal figures are well placed in key administrative and advisory positions. Within this context, significant energy was spent in sketching out how the ordoliberal view on cartels, monopolies and competition could be turned into a political practice and a regulatory framework.

[267] For details, see Van Hook (2004), pp. 293-295.
[268] Most significantly, perhaps, Franz Böhm's 1928 "Das Problem der Privaten Macht" ('The Problem of Private Power'), published in the *Justiz* journal and addressing the distorting effects of monopoly power on the constitutional-legal framework. Franz B hm, "Das Problem der privaten Macht," in Ernst-Joachim Mestmäcker (ed.) Franz Böhm: Reden und Schriften (Karlsruhe: Verlag C.F. Müller, 1960), 25.

A good place to start exploring the eventual legislation that was passed in 1957 is the December 1946 proposal of a draft anti-cartel law by the US occupying authorities, submitted to the Council of States (Länderrat) which they had created in October 1945. At first sight, such a legislation was not only in line with the US historically prevalent anti-monopoly legislation, but also concomitant with Erhard's and the ordoliberals' positions.[269] Especially in relation to the former, Olsen notes that

> already in his Habilitation in the early 1930s, Erhard [had] stated that the contemporary problem of unemployment resulted from an imbalance between production output and consumer demand, which stemmed from concentration of capital and increased technological efficiency in companies, causing overproduction. Erhard's solution was to break up cartels and monopolies that had created overcapitalization."
>
> Olsen 2019: 72

Similar positions had been expressed by other ordoliberal figures who had found themselves involved in advisory positions in different parts of partitioned Germany. As Möschel (1989: 149) writes, "by mandate of the British Occupation Power in 1946, Leonhard Miksch cooperated on a draft of a 'regulation of trade associations and market-influencing enterprises'. In 1947, under the chairmanship of Walter Eucken, the *Comite d'Etudes Economiques*, on behalf of the central agency of commerce for the French occupation zone, made the following recommendations: Cartels, syndicates, et cetera are to be prohibited and declared void. Combines, trusts, and monopolies are to be divested of legality or dissolved unless technical or economic facts make such a divestiture impossible." Presenting similar views to the Allies, Erhard would succeed in getting appointed by the Council of States to create a committee to provide a blueprint for a decartelization process.[270] As Erhard would claim in later years,

> In view of the importance and urgency of this problem I tried to get work going on proposals for a German cartelization law soon after I became Director of Administration of the Economy on March 2, 1948. This aim was first expressed in the 'law governing the main principles for controls and price policy after monetary reform' of June 24, 1948.
>
> Erhard 1957: 117

[269] As he wrote in the aftermath, "in all these endeavours I have never come across orders from the American side, much less bowed to them. Nevertheless it is a very similar kind of thinking and feeling which has led the American economy to such obvious successes, and which, besides considerable detailed research, has strengthened my conviction about the damaging effects of limitations of competition." Erhard 1957: 120

[270] As already noted, Erhard continuous appointments did not come without controversy. Mierzejewski's hagiographic account could only find one such occasion, itself explained as the devious plan of a communist State Secretary who held a grudge against Erhard. What Mierzejewski's research did not reveal to him, however, was that the Allies had already opened two secret investigations against Erhard, in 1946, 1948 and then again in 1949. The first one concerned his relation to Nazis and other nationalist forces; the second one was related to his role in the "reorganization of the Fachstelle Stahl und Eisen" where Erhard was accused of turning order steering and accompanying statistics over to the trade associations which constituted a breach of the Office's memorandum that "prohibited such action inasmuch as order steering was considered a governmental functions and as such was an improper function for private administration"; and the third concerned the question of the suspicious and potentially illegal sale of a large share of a Ruhr-based industry to a French syndicate. The key target of the investigation was the nationalist and reactionary "richest man of Germany" Rudolf Pferdmenges, but Erhard's name was also included. See National Archives of the United States, RG 260/OMGUS, Institut für Zeitgeschichte [IfZ]. For the 1946 case, Shipment 7, Box 23-1, folder 29; for the 1948 case: Shipment 7, Box 23-1, Folder 29; for the 1949 case: Shipment 11, Box 10-3, Folder 20

In similar fashion, presenting the key features of the anti-cartel approach that he was envisaging in a 1950 CDU meeting, Erhard made the unequivocal claim that the future German monopoly law would be "the cornerstone of the social market economy". Taking a line from Eucken's positions, Erhard explained that the aim was

> […] to prevent the private exploitation of positions of power, protected organizationally or juridically, in favour of free competition, and to give the Federal Government an effective instrument for dealing with open and secret price agreements. This monopoly law was to utilize and make effective the best principles of our policy for a social market economy.
>
> Erhard 1957: 119-120

Nonetheless, in practice, Erhard showed a rather ambiguous attitude. In what might initially appear as a curious response, Erhard opposed the 1946 US proposal, submitting a letter to the council in which he

> doubted that large companies by themselves were a problem. He also rejected the argument that German big business was the cause of German aggression in the twentieth century. He pointed out that divesting firms simply because they were large would weaken the incentive to innovate and to accumulate wealth to the detriment of the entire society.
>
> Mierzejewski 2004: 52

A very similar view, however, had already been expressed by Erhard a few months before, when in September 1946 he had "opposed American efforts to dismantle industry in the U.S. zone and in Bavaria in particular", focusing especially on the effort to dismantle the industrial giant of BMW. Evoking BMW's *private* ownership during the Nazi period, he exalted its importance as an employer and source of export earnings (Ibid), eventually convincing the US authorities to draw up army contracts with the company, allowing it to survive. As Nicholls (1994: 282) also notes in passing, Erhard was "very critical of Allied schemes to break up the coal and steel industries and 'deconcentrate' the chemical conglomerate IG Farben." In fact, the more one looks into the early efforts of decartelization, the more one finds Erhard raising objections at every step. As Van Hook writes, in his capacity as director of the Bizonal economy, Erhard

> objected in particular to actions contemplated against the coal sales syndicate, because of its relevance to the entire bizonal coal and steel industries, the governmental tobacco monopoly, because it could not plausibly represent a threat to Allied security, and Bosch, because of the allegedly heavy-handed tactics of the Württemberg-Baden GEDAG [*Länder* decartelization agency] in Stuttgart.
>
> Van Hook 2004: 237

This was quite a contrast with Böhm's approach, who was initially willing to forego "company sizes that are efficient in themselves for the sake of a healthier and more efficient organization of the market economy".[271] In any case, while Erhard was putting the breaks in various de-cartelization/de-concentration attempts in the American section, he did not refrain from complaining that the British were in fact completely ignoring the de-cartelization law (Van Hook 2004: 238). This seemingly contradictory behaviour however could be explained by taking note of a widespread impression at the time, shared by the chief of the decartelization office of OMGUS James Martin, that the British "intended to implement the de-concentration of the Ruhr's heavy industries in such a way as to make public ownership the most attractive option" (Ibid: 239).

It is highly likely that in the process of consolidating his position *within* German elites, Erhard was eager to avoid creating any animosity towards powerful interests such as big industry which had, as we saw, remained largely intact. But if one correlates this with the account of Martin (1950), who was, in 1947, the *third* person to resign in protest after finding himself "marginalized by conservatives in OMGUS' economic division, occupied by men sympathetic to business interests" (Van Hook 2004: 234), perhaps a picture closer to the truth emerges. It could also be the case that Erhard was trying to follow Leonard Miksch's advice from 1947 not "to pursue the struggle against monopoly in a purely negative manner; in a manner that would restrict the competitiveness of the German economy" (Miksch 1947 in Van Hook 2004: 244). At the same time, Erhard's attitude could also be explained as another indication of his tendency to tiptoe around principles in the interest of acquiring and maintaining political power, an accusation that ordoliberals would also throw at him in later years. It is likely that this lay behind his refusal to back the original and infamous "Josten draft" that was co-written by Böhm after strong reactions from the Allies, big industry, Adenauer and even the press.[272] The infamous Josten draft, strongly framed within an ordoliberal framework *and* language with visible footprints of both Eucken's views on competition and Röpke's understanding of an "active competition policy" (Küsters 2022: 78) would be rejected in its totality by both Allied forces, German business, political figures such as Adenauer and German public opinion which understood it as an attempt to undermine the German economy (Böhm 1954; Küsters 2022).

The political cost of the *Josten draft* would prove long-lived, as it took more than two years before another draft proposal was even commissioned. In that case, and after both his initial attempts to derail decartelization plans by the occupying authorities and the Josten controversy, Erhard returned to his ordoliberal roots and secured the appointment of Franz Böhm as the person responsible for drafting what would eventually, and after many years of negotiations, become the official charter of the West German Federal Anti-Cartel Office (*Bundeskartellamt*).

[271] Franz Böhm, Stellungnahme zu den Änderungsvorschlägen des Kartell-Ausschusses der Arbeitsgemeinschaft selbstständiger Unternehmer zum Gesetzentwurf gegen Wettbewerbsbeschränkungen, undated manuscript, p. 9, in: Böhm papers, ACDP, 01-200-006/3, quoted in Küsters 2022: 83

[272] For a detailed account of the *Josten draft* controversy, see Van Hook 2004: 236-250. Suffice to note here that another member of the commission that drew up the Josten draft, Walter Bauer, friend of Eucken from the Freiburg Bonhoeffer circle and MPS member, would eventually become a member of the German delegation to the Schumann Plan negotiations, crucial for the process of European integration. As Küsters (2022: 77) notes, Bauer was "an important channel for the transmission of ordoliberal vocabulary to the European level since the draft of the Josten Committee was based on the ordoliberal understanding of competition".

In his capacity as the author of the draft, Böhm would travel to the US and spend time studying the anti-trust history and legislation there. His overall perspective was that of establishing competition as "the central regulatory instrument of the free enterprise economy"[273] with the underlying aim of reducing any economic power that could circumscribe competitive order. Writing almost 15 years later, Böhm (1961:42) would describe competition as "the most remarkable and ingenious instrument for reducing power known in history", limiting the potential of concentrated or organized interests to obstruct "alternative counterparts for trade [and] alternative sources of supply". It represented "a condition that reduces the dependence of consumers on any particular supplier and, thereby, reduces the power that such dependence would provide to the latter." (Vanberg 2001: 2). While this process of disempowerment has often been seen and described in somewhat egalitarian tones (effecting a drastic reduction in the power of entrenched big business interests), it remains crucial to keep in mind another aspect of this conceptualisation which, as Rahtz notes (2017: 102),

> […] was far more broadly cast than the traditional anti-trust viewpoint of American progressivism, in that it included trade unions – "labour market monopolies" – as a target for dismantlement. It simultaneously understood the working class as the key agent in transforming a disorganized, riven society into a neo-liberal (or renewed liberal) competitive order.

Sketching out an overview of the whole process for a presentation at a conference of the International Economic Association in 1954, Böhm would lay out the central points of the ordoliberal competitive framework. After lamenting the non-existence of free prices in all sectors (Böhm 1954: 143), he embarked on a rigorous criticism of the widely-held public opinion (which Böhm translates as *both* business interests and workers) against free competition, pointing to it as an obstacle for a proper anti-cartel/anti-monopoly law. Throughout the text, Böhm alludes or explicitly refers to the shared conviction among big business *and* socialists against free competition (Ibid, pp. 150-2; 164) and heralds the anti-cartelization laws of the Allies as "the most radical and consistent laws in the world for the prohibition of monopolies and the protection of competition" (Ibid: 151), claiming that it went even further than actual anti-trust legislation in the US. While recognizing that moderate socialists (i.e., forces within the SPD) are open to the market economy if workers have a more direct say over management issues and full employment is guaranteed, Böhm also attacked business interests (i.e., the BDI), complaining in a letter to Erhard that their interventions were a "constitutionally questionable development that must be counteracted", and concluding that "a strategic interaction between you [Erhard] and your parliamentary and extra-parliamentary forces" would be needed in order to "exclude

[273] Franz Böhm, *Stellungnahme zu den Änderungsvorschlägen des Kartell-Ausschusses der Arbeitsgemeinschaft selbstständiger Unternehmer zum Gesetzentwurf gegen Wettbewerbsbeschränkungen*, undated manuscript, p. 1, in: Böhm papers, ACDP, 01-200-006/3. The proposed amendments to which B.hm refers here date from May 17, 1951, so he probably wrote shortly thereafter. (Quoted in Küsters 2022: 83)

the power of interest groups from the political field of forces"[274]. The BDI and other business groups were particularly attacked for trying to reinstate the Weimar 1923 cartel law which only protected against "abuses of economic power", thereby essentially allowing cartels and monopolies.[275] After expanding on the historical reasons why such a positive view on cartels remains prevalent, Böhm emphasized the fact that Germany "lacks men with schooling and experience needed to carry out even a clear and unambiguous law against monopolies" (Ibid: 164).

Turning to a programmatic analysis of what the way forward should be, he stressed that the key approach was not finding the conditions for the fulfillment of perfect competition (which, as he grudgingly noted, the public opinion considers *unrealistic*), but in creating the opportunity for the full use of the competitive energy present in the productive system. Introducing a key perspective found in Eucken's work, which will be further developed in later years, Böhm suggested acting and legislating according to an "*as if*" model, i.e., *as if there was perfect competition*. Even more crucially, after clarifying that "whilst a competitive economy may function automatically, a competitive economy never arises automatically: (Ibid: 159), he explicitly called legislating for free competition a matter of *political will*, requiring in fact a "*greater-than-ordinary* exercise of political will" (Ibid: 159, emphasis on the original), and not one of theoretical, technical or historical speculation. With a free competitive system, Böhm added, proper protection of the individual from "the government, the associations, and those wielding social and economic power" Ibid: 158) would be achieved, as free competition can – and *has to be seen as* – the only system that "can preserve a modern, differentiated society from the fate of sliding into a totalitarian tyranny" (Ibid: 159). In conclusion and expressing a position that underlies the whole ordoliberal framework while also forcefully revealing a central inherent contradiction, Böhm criticized the ability of "interest groups" to derail the process *while at the same time* lamenting the fact that "there is in Germany not a single political party, nor a single social group of widespread public influence" (Ibid: 164) to support free competition and push for appropriate legislation. In other words, he criticized the *absence* of an interest group *in favor* of competition.

An important part of the anti-cartel legislation that Böhm would insert in all draft proposals, included the creation of an independent monopoly agency. As Van Hook (2004: 247) correctly points out, Böhm insisted on that "because the experience of the 1920s demonstrated that an antimonopoly bureau within the Economics Ministry would find itself subject to political pressures." Both Josten (who had worked with Böhm on the original 1947 draft) and Rüstow, had had first-hand experience of such problems during the Weimar years. But, as it was pointed out to Erhard at the time in an argument reminiscent of the critique that ordoliberals received from Hayek and von Mises, there was something

[274] Franz Böhm, Letter to Ludwig Erhard, Frankfurt am Main (22.12.1953), p. 3, in: Böhm papers, ACDP, 01-200-006/3, quoted in Küsters 2022: 73

[275] As he would explain, for Böhm "the danger of cartels and monopolies is not that these entities offensively abuse their power, but that they have power at all.'" Franz Böhm, „Präsident Fritz Berg protestiert gegen Diffamierung der Unternehmer und theoretische Wettbewerbs-Konstruktion". Eine Richtigstellung, manuscript, p. 4, in: Böhm papers, ACDP, 01-200-006/3. Küsters 2022: 81

contradictory in the attempt to establish a competitive order in support of private property while at the same time building a large bureaucratic apparatus that would undermine the freedom of movement of that very property. As Van Hook notes, “as the CDU waged its first Bundestag campaign by associating the Social Democrats with the hated *Zwangswirtschaft* [planned economy], which Erhard worked at that very moment to dismantle, the apparent contradiction between advocating a deregulation of state controls and proposing to construct a new bureaucracy was embarrassing.” (Van Hook 2004: 247). But another perspective can be added here. As Möschel points out, the perspective of establishing an independent, non-government controlled agency to safeguard the anti-cartel law drew inspiration from the independence of the central bank. As he noted,

> Böhm’s final proposal contained an absolute prohibition of cartels, merger control, far-reaching supervision of monopolies and drastic divestiture regulations, the latter because of the economic structure at that time, which derived from the National Socialist era. *Similar to an autonomous central bank, an independent supreme agency, the Monopolies Commission was to have the final jurisdiction.*
>
> Möschel: 149, my emphasis

In any case, faced with mounting pressure and the need to need to clarify the practicality of certain aspects of the draft law,[276] Böhm would end up publicly conceding that the Josten draft had gone too far and, in a peculiar *volte face*, declare that its “extreme” aspects were placed there on purpose and in anticipation of the concessions that would have to be made during parliamentary discussion (Van Hook 2004: 247). Eventually, and after rephrasing the anti-cartel spirit away from the *Verbotprinzip* of Josten and Böhm, another official of the Economics Ministry, Günther, would propose the prohibition of “unreasonable restrictions of trade”, arguing that “not every arrangement that restricts competition is necessarily damaging” (Ibid: 248).

Such a concession was seen as necessary, given that all draft proposals were rejected, not only from the BDI but, as Böhm himself conceded in his 1954 lecture, by other social and political forces. Thus, for example, while a 1952 draft proposal had been accepted by the cabinet and the BDI, as it included a number of crucial exemptions they had requested (chiefly in relation to cartels created in order to achieve the rationalization of companies and the possibility to join international cartels), the secondary parliamentary chamber, the Bundesrat, requested further modifications – in what Van Hook (2004) has explained as a consequence of the prevalence of social Catholics like Karl Arnold in its composition. Opening the door for another round of negotiations, most of which Erhard seemed willing

[276] A proponent of ordoliberal positions, Curt Fischer, would also point at a recurring issue with ordoliberal proposals, i.e., their *political* viability. As he noted in a letter to Eucken, “I am still involved in economic practice and know somewhat the yardstick of what is politically enforceable and what is impossible. I have the gravest reservations about officially disincorporating or splitting up into individual enterprises every group and every individual enterprise that possesses “economic power” according to the authoritarian and no longer reviewable opinion of the monopoly authority. This is economically very
dangerous at the present time, politically unenforceable and not absolutely necessary in view of our common goal of securing the economic order.” Curt Fischer, Letter to Walter Eucken (27.4.1949), in: Eucken papers, Jena, unnumbered box. Quoted in Küsters 2022: 79

to accept (Van Hook 2004: 278), the electoral victory of the CDU in 1953 reversed any ground that had been made. Feeling newly confident that he had public opinion increasingly on his side,[277] Erhard decided to reintroduce the original 1952 draft (that had been rejected).

The BDI would respond angrily, with its president Fritz Berg accusing prominent members of the Freiburg School and the think tank *Aktionsgemeinschaft soziale Marktwirtschaft* as "wooly headed academics who had no understanding of the real world of business" (Van Hook 2004: 281), causing Erhard to break off all negotiations. Nonetheless, in a situation very similar to the predicament we saw in relation to the Pension Reform, the sudden support of the SPD for Erhard's *Verbotprinzip* radically changed the stalemate that had been produced and the balance of forces. Unwilling to accept any collaboration with the SPD even though their votes would have been enough to pass a bill closer to his proposal, Erhard decided to concede to all BDI exemption demands, while the BDI agreed to drop the *Missbrauchprinzip* in favor of the prohibition principle. In an intriguing development, even though other manufacturing interests had, by that time, come out in support of Erhard – claiming that accepting the re-instatement of the 1923 Weimar legislation would open up the way for legitimizing trade union demands for co-determination; even though the achievement of full employment in 1956 had alerted Erhard towards the increased bargaining power of workers and their inflationary potential;[278] and even though with elections coming in 1957, for which Adenauer had no desire to risk giving the "impression that competition policy was dictated by the industrialist interests" which had taken over the CDU; the desire to reject any collaboration with the SPD remained the driving force.

Reflecting Böhm's 1954 fears, the final law that was passed in 1957 was one where "prohibition is the exception, and exemption the rule." (Böhm 1954: 164). Erhard's eventual appraisal would be somewhat contradictory. While accepting that "the draft which was finally passed by the Federal Government contradicted the principles of American law in its basic construction" as it included administrative exceptions "foreign to American law" (Erhard 1957: 121), Erhard would also claim in retrospect that "no one can declare with a good conscience that the just needs of the economy have not been taken into account" (Erhard 1957: 130). Fifteen years later, Müller-Armack would "congratulate Böhm himself on the law and claim that, although it had its faults, the law 'bore, as a whole, the imprint of your hand'" (Nicholls 1994: 336). More nuanced, Van Hook would conclude his analysis of the long process of negotiation by admitting that while "it has been difficult for historians to escape the conclusion that the law, with its many exceptions, represented a failure", he also points out that Erhard

[277] Erhard to Etzel, 15 December 1953, LES, NL Erhard, I.-4)41; Stanley Disney, Bonn dispatch 1568, 27 November 1953, NARA, RG 466, Decartelization and Deconcentration Division, general subject files, box 9. See also Lenz to Adenauer, 4 August 1952, Lenz NL, ACDP, I-172–58/2 K I/2, in Van Hook 2004: 279.

[278] This approach was crucial for a parallel development that saw the BdL, in agreement with Erhard's appraisal of inflationary pressures, raising interest rates in defiance of Adenauer. This policy choice rapidly escalated and brought Adenauer into open conflict with the independent central bank. The result was the famous *Gürzenich affair*, when Adenauer used an opportunity at a BDI annual conference to proclaim that the BdL was "an institution that is responsible to no one, not to parliament, not even to the government" (Adenauer 1956).

“helped to unleash a legitimate and far-reaching debate within Germany concerning the appropriate role of free competition in a modern postwar economy” (Van Hook 2004: 288-9).

Later appraisals by ordoliberal-friendly accounts would be more celebratory. Norbert Kloten, for example, President of the Landeszentralbank in Baden-Württemberg and member of the Central Bank Council *(Zentralbankrat)* of the Bundesbank, would go as far as to argue that the legislation marked “a conceptual breakthrough” and could even be seen as “the ‘Basic Law of the social market economy’”, adding that its influence would be visible in the spirit of the EU competition law (Kloten 1989: 75). More recently, Stefan Kolev would assert that even though the law “might not be the ‘first best’ within the conditions of a globalized economy of open markets, [it] certainly was an improvement given the constraints for the economy of the Federal Republic in the 1950s.” (Kolev 2016: 31)

More detailed accounts would seriously challenge any celebratory assessment, not only in relation to the various compromises present in the final bill but, more crucially, by pointing at the actual continuity between the inter-war and postwar period. Grunenberg (2006), for example, has published research that argues for a clear uninterruptedness of business networks across the war, drawing attention to the fact that, with the exception of a minority of those most openly compromised by Nazi collaboration, the same conglomerates (if not the same *people*) who had “organized the war economy in the early 1940s […] were at the helm of German big business and its associations in the 1950s” ((Eichengreen & Ritschl 2008: 208-9). Even in the case of the break-up of certain monopolies (such as IG Farben in the chemical industry), a closer examination shows how they actually survived in an oligopolistic form that benefited from the re-instated industrial corporatism (see also Berghahn 1986: 181). Even more strongly, Eichengreen & Ritschl (2008: 209-210) would claim that the final bill reflected considerable lenience towards “areas that had been regulated after the Great Depression” concluding that, in reality, a “structural break in German competition policy after World War II is *nowhere in sight*” (my emphasis). Despite “much talk of privatization and competition, little happened outside the chemical industry. Privatization of the huge state-owned conglomerates in iron and steel, machinery or auto industry hardly got off the ground until the 1970s, nor did competition policy. In both countries antitrust laws passed in the 1950s left large loopholes that insulated the respective national economies from competition, a condition that changed only in […] the 1990s in Germany.” (Ibid: 211). The “notorious period of reconcentration in West Germany” (Van Hook 2004: 288) adds a further reason for doubt.

Nonetheless, it would be misleading to ignore that the debates around competition played a significant role in *further* development, especially in the context of European integration – as we shall see in more detail in the next chapters. Moreover, a wider perspective is also crucial: not only did the various compromises that this section has described become central stepping stones for re-orientating a whole generation of ordoliberals towards the need to upscale their vision of a competitive order and an economic constitution towards the European level, but the very debates also allow one to discern the *distinct* elements of the ordoliberal framework in contrast to the ‘paleo-liberal’ or Austrian School perspective. As Köhler & Nientiedt (2017: 1) have pointed out, "this debate also touched upon the question of whether anti-competitive behaviour should be regulated at all. The importance of such a regulation was emphasised by German ordoliberals in the tradition of Walter Eucken; it was rejected, on the other hand, by liberals who argued along the lines of the Austrian school. As monetary economist Friedrich Lutz, a student of Eucken, noted in 1956: "The discussion about cartels has revealed a deep rift among the liberals in Germany" (Lutz, 1956, p. 152).

Conclusion: From Strong State to Constitutional Order

What are the conclusions that can be drawn by this detailed analysis of the conceptualization, inauguration, and implementation of the social market economy in West Germany in relation to ordoliberalism? What kind of differentiations can one observe from the earlier, interwar period and to what extent can the continuity between the two be maintained? A lot of research on ordoliberalism has, rightly, focused on the early interwar period to gain a deeper understanding of the background and fundamental coordinates of the project. Such an approach however has at times led to the misleading notion of evaluating contemporary ordoliberal theory and practice from the perspective of its adherence to the early texts. Others have focused on the social market economy, asserting a sharp break between the two periods often ascribed to the abandonment of ordoliberalism's authoritarian tendencies. Repeated references to ordoliberalism as emerging through opposition to the Nazi regime have tried to embed this approach, though the two views together tend to be rather contradictory: either ordoliberalism was drastically renewed in the postwar period making that the starting point for evaluating its trajectory or the framework that was developed in the interwar period remains the measuring rod for assessing its continued (in)significance.

This research attempts a different approach. By examining both the theoretical and practical engagement of ordoliberals throughout its historical development, the aim is to locate both the invariant elements of the project, the framework that shows continuity and allows one to discern what is distinct about ordoliberalism, while at the same time giving space to the transformations that take place within the tradition when real exogenous and material conditions force a certain re-orientation.

In this last section of chapter 3, the attempt will be made to take stock of what the trajectory can tell us about ordoliberalism so far. Having examined the critical historical junctures within which ordoliberalism developed and progressed, the intention here is to make a critical appraisal of its evolution, pointing at the continuity and the changes that can be observed. This can be approached from several perspectives.

On the one hand, the postwar situation in West Germany was the first time that ordoliberal ideas and ordoliberal thinkers found themselves directly linked with, if not directly creating, policy making. In many important ways this was a pivotal moment for the tradition. Not only was it an occasion to test out its theoretical constructions in the open field of economic, social and political antagonism but it was also, at least from their perspective, a belated recognition and opportunity to do what they had always thought their role to be: to act as technical experts, outside and beyond politics and special interests, in the service of scientific thought. And to be listened.

From another perspective, their direct engagement with policy making, institution and framework building would force them to at least re-orientate some of the positions they had developed during the interwar period and, perhaps, provide a chance to obfuscate their ambiguous trajectories during the Nazi regime. For while in some cases collaboration with the Nazis was not particularly discernible or even non-existent (as in the cases of Eucken, Röpke or Rüstow), others had to work harder to hide their immediate background (as in the cases of Erhard, Müller-Armack or Miksch). Leaving the difficulty of fully assessing individual trajectories and the choices they were perhaps forced to make, this predicament was to play an important role in the theoretical reconceptualization or at least representation of ordoliberal thinking, visible in the formal abandonment of their calls for a strong state, while also trying to establish their anti-Nazi credentials through fierce opposition to any economic policy that was either inherited from the Nazi regime (such as price controls) or could be argued to be its continuation (central planning). This approach was, of course, not merely geared towards separating ordoliberalism from the National Socialist regime; it aimed to reinstate the unwavering belief in the market economy understood as a competitive order embedded in a legal framework that ought to stabilize not just prices and policy but also the world of private property and capitalist profitability. From this perspective the ordoliberal framework would also emerge in opposition to existing or potential alternatives of these aims, with many key proponents showing a clear tendency to lump them all together as indistinguishable from each other. Under such a vision, then, issues such as public ownership, socialization, the welfare state or Keynesian macroeconomic management would be attacked as *totalitarian* features, while any ability of the working class to press for higher wages, better working conditions or having a say in decisions affecting the economic order would be criticized as inherently inflationary and market distorting. Needless to say, any open socialist or communist potential was by definition excluded, occasionally on *civilizational* grounds.

Developing such an approach to the postwar predicament also meant developing the institutional forms that could encase the market economy, as well as the creation of path dependent regulatory frameworks that could preclude alternatives and sustain its continuation. Having formally abandoned the rhetoric around the strong state and the open preference for an authoritarian resolution of crisis and antagonism, ordoliberals would embark on a journey to identify novel instruments for securing the competitive order that could fit into a world which had, as it appeared, unequivocally embraced the postwar democratic ideal, not merely as a political export of US hegemony, but also as a bulwark against the Cold War adversary of Stalinism. It is within this framework that the conceptualization of a *constitutional order* would develop, enveloping the emerging democratic order with the predominance of non-majoritarian institutions insulated from political influence and antagonism, tasked with safeguarding the very same vision of an *economic constitution* for the competitive order.

Already here, traces of the continuity and transformations that took place in between the two periods are visible. While the debate around the proper scope, activity and resistance to influence of the state remained at the top of the agenda, the absence of any crisis of the magnitude of the interwar period (let alone the economic growth recorded) in the period under consideration muted the question of liberal interventionism. But the conflict with laissez-faire versions of liberalism did re-emerge, especially in correlation with the Cartel Law and the internal conflicts between ordoliberals and so-called 'paleo-liberals'. Finally, the combined efforts to intervene at the level of legislation and legal frameworks, as well as public and monetary policy could be described as an attempt to build an economic constitution under the auspices of an interdependence of orders, though not entirely under conditions of their own choosing. But perhaps the most crucial field of contestation regarding the continuity or not of the ordoliberal framework concerns the conceptualisation of the strong state and, correspondingly, its relation to democratic rule.

Revisiting the strong state

> The liberal economy or market economy can also be called economic democracy because it is the needs and tastes of consumers, manifested by the plebiscite of prices, which direct capital investments and production in order to satisfy them. Profit is the consequence and the sign of the ability of producers to serve the needs and tastes of consumers well. It can be proved, moreover, that such an economy corresponds to the maximum social return, that is to say to the optimal management for the greatest satisfaction of the mass of consumers.
>
> Rougier 1947

> Society does not arise from spontaneous forces: it is steered from above and its organization depends on instructions issued by the officials in central agencies.
>
> Eucken 1948: 269

As we have seen, the concept of the strong state was embedded in the vocabulary and vision of ordoliberalism as a response to Weimar's mass democracy and its perceived dysfunctionality. Contrary to a state 'torn apart' from conflicting interest groups, the state needed to free itself from the influence of the masses and strong economic power in order to create the conditions for the functioning of the market economy, competition and the price mechanism. Schmittian or not, the ordoliberal use of the strong state found its expression in the embrace of the authoritarian rule by decree that characterized late Weimar and, at least for some of them, in the embrace of the Nazi violent resolution of social conflict and the necessity to defeat communism.

The reality of Nazi horror (and the Cold War environment) produced, however, a postwar discourse that was immediately suspicious and hostile to concepts such as the strong state, urging ordoliberals to abandon the use of such categories. Whether that indicated a mere tactical choice and a discursive change with minimal content, or an actual political re-orientation does not merit a straightforward answer as it is sometimes claimed. Given the entanglement of the notion of the strong state with a conservative critique of democracy, answering the question means approaching the issue from a dual perspective, assessing both the formal abandonment of the notion of a strong state and the postwar ordoliberal view on democracy.

Starting from the end, it is tempting to purport that the ability to get rid of deeply embedded beliefs, whose origins lay in the aristocratic liberal tradition, and which remained an inspiration for ordoliberals, was not an easy task.[279] The somewhat regular re-appearance of hostility and suspicion towards mass democracy often creates the impression that discarding the concept of a strong state represented a merely discursive change, adapted to contemporaneous sensitivities rather than a veritable "U-turn".[280] Nonetheless, it would also be misleading to reduce the political direction of the ordoliberal project to such utterances. There is also enough evidence that ordoliberals not only accept the democratic order, but promote it too, if only as a defence against totalitarianism (Horn 2019). How can one reconcile the co-existence of a continuity in the critique of democracy and a genuine embrace?

This section suggest exploring an approach that centres on the fact that *democracy* itself underwent dramatic transformations in the post war era, gradually but surely stripping it of those elements that had alerted ordoliberals in the inter-war period. At the time, the novelty of allowing universal suffrage and the subsequent potential that a majority of working-class representatives could take over the government and conduct economic, monetary and social policies with no consideration for market conformity did, in fact, represent a widely shared threat and has remained within the imagination of most liberal varieties.[281] Taking democratic forms at face value ordoliberals had, at the time, little reason to believe that a bureaucratic separation between political representatives and their base could function as a safety valve against radicalisation and more reason to think that the demands of social movements would almost automatically get translated into policy, when their enemies could gain political power. What is more, the gradual (but steady) embrace of market friendly policies by social democratic (or even communist) parties would not become fully visible until maybe the 1970s

[279] Gerhard Wegner has written a very interesting piece that adds further historical nuance to the relation between constitutionalism, parliamentarianism and ordoliberalism. As he claims, ordoliberals saw democracy as part of the problem of the Weimar Republic because judged from the perspective of economic performance, Imperial Germany had done much better. Moreover, "constitutionalism" was seen as synonymous with Imperial Germany (that ordoliberals understood as connected to its economic performance, despite its shortcomings), whereas "parliamentarism" was associated with the instability of the French Third Republic or the British Westminster system. While the French version was dismissed as inferior and unstable, the British was seen as "inapplicable". Wegner 2020.

[280] There are many examples of this but the following quote from Röpke written in 1957 is an adequate example of what I am describing: "Democracy is, in the long run, compatible with freedom only on condition that all, or at least most, voters are agreed that certain supreme norms and principles of public life and economic order must remain outside the sphere of democratic decisions." (Röpke 1957: 69) This is concomitant with the overall suspicion of the effectiveness of democratic pluralism and universal suffrage to protect essential liberal freedoms, such as the right to property. As Peacock (1990) puts it, "As De Tocqueville predicted, introduction of universal suffrage, coupled with large differences in income between few rich and many poor, is a recipe for a large expansion of the public sector, as the majority, the poor, can exploit their power to transfer resources to them from the rich minority." (Peacock 1990: 12)

[281] As Hayek would openly declare, "If democracy is taken to mean government by the unrestricted will of the majority […] I am not a democrat, and even regard such government as pernicious and in the long run unworkable". Hayek 1979: 39

(with the exception of the SPD, perhaps, which adopted a specific variety of the 'social market economy' already in its 1958 party congress), a process accelerated by the reality (or convenient excuse) of expanded globalisation, the liberalisation of capital flows and the ability of the global markets to exert disciplinary control over diverging policy choices.

At an even more profound level, it would have been difficult for ordoliberals in the early 1950s to imagine that one of the consequences of a long period of economic growth would be the actual emergence of a "consumer democracy", a model under which the political domain could be subsumed under an economic one, with every consumer purchase playing the role of a vote. And while von Mises (1922) had already written about this in his book *Socialism*, inspiring Röpke to claim that "market democracy […] surpasses the most perfect political democracy" (1942: 103) and Böhm to reiterate by describing market democracy as "the *most perfect expression of mass democracy*" (Böhm 1947, 127-128, emphasis in original),[282] the postwar period was the first time where such theoretical construction could find a material basis that appeared to be shared by "the masses" themselves.

As with other examples that we have observed in this chapter, where a theoretical continuity gets embedded "in a language of historical *discontinuity*" (Olsen 2019: 67), the postwar era became a field where material developments provided ample opportunities for promoting ideas developed in the interwar period as responses to specific challenges. Thus, in the same way that Rougier's opening quote shows that he tried to recuperate the term 'economic democracy' on behalf of neoliberalism, emptying it of its historical background and context and disassociating it from its relation to social democratic positions, ordoliberals could also point to a new type of democracy in which political conflict was replaced by consumer preference. Equality before the law could not only be recognised as a prerequisite for the market order, but also seen as a cornerstone of the postwar constitutional order. That this would never extend to equality "in the determination of that law" (Amable 2011: 15) is perhaps the key to understanding the transformation.

In any case, and long before public choice theory, ordoliberals had flirted with a vision of the democratic process as one of affirming individual sovereignty through consumer identity. But it was in the postwar experience of the social market economy that such a vision took a real material form and where the rigorous promotion of the sovereign consumer as radicalised by Erhard acted "as a pivot of social market economy and a legitimising figure of the Federal Republic" (Olsen 2019: 66). Drawing his inspiration by his career in marketing research and the work of Wilhelm Vershofen, with whom Erhard worked closely in the interwar period, Erhard proved himself able in the aftermath of the war to transform a field that sought to amplify the "voice of the consumer" and render it relevant to the liberal economy into a new *political* theory of democracy itself.[283]

282 In similar fashion, Lionel Robbins would declare, in his 1934 *Great Depression*, that "every shilling spent is a vote for a particular commodity. The system of prices as a while is the register of such an election" (Robbins 1934: 149)

283 The postwar embrace of democracy, laced as it was with the figure head of the 'sovereign consumer', can also be conceptualized through the prism of a gradual shift towards a methodological individualism which, perceived as more suited to its historical period, smoothed the flirtation of ordoliberalism with public choice theory, constitutional economics and, to a

From such a perspective, the need to protect the market *from* democratic politics and to "discipline democracy" (Dyson 2021) into market conformity, would be reconceptualised (and embraced) by describing democracy as the universe of *free consumers*, thus allowing a reversal of perspective and the promotion of the market as a *defender of democracy*. This shift also demonstrated the evolution of ordoliberal thought in a way that justifies the assertion that their embrace of democratic language in the postwar period signifies more than a tactical decision. As Olsen (2019: 80) points out, "rather than defending consumer interests in the marketplace, and in modern society in general", ordoliberals like Böhm "aimed at upholding consumer sovereignty for reasons of economic effectiveness and to adapt individual consumption to the economic order" (see Böhm 1933). At the time, instead of approaching consumer sovereignty as a guiding principle for market competition (and, eventually, as a principle of democratic rule), thinkers like Böhm saw it as a potentially distorting force when left unchecked, thereby necessitating "political leadership [to] exert influence on the way in which income is spent" (Böhm 1933: 112). Consumer identity was a secondary part of the *Volksgemeinschaft*, not a "postulate for democracy" (Olsen 2019: 81).

In the period of the social market economy, such approaches had disappeared from the ordoliberal lexicon. Presenting free consumption as a key differentiation between a planned economy ("incompatible with the freedom of consumers", as Müller-Armack would argue in his 1947 *Wirtschaftslenkung und Marktwirtschaft*) and the market economy (the "real market democracy", as he would add in 1974), the opposition to any proposal for central planning (skilfully presented, as we have seen, as synonymous to Nazism) would now be embedded within the language of the democratic freedom (of consumers). The "free choice of consumption", Erhard would argue, was one of the "*inviolable freedoms* of human beings" (Erhard 1954: 17, emphasis in original). As an advert pronounced in 1957, "the class struggle is over".

When one combines these views with the inherent elitism present in the ordoliberal project, the relationship to democracy *as deliberation* is further illuminated. For alongside the free and sovereign consumer as the *subject* of the social market economy there remains a deeply embedded belief, concomitant with the protestant system of thought that was central to ordoliberals, about individuals as "saints and sinners at the same time [who] need to be under an institutional order that disciplines the sinner" (Reuter 2010). Implied in this account is an understanding of the majority as incapable of making rational choices *on its own*, a position strengthened by the visible conceptualisation of economic, monetary and social matters as "too complex" to be decided through a participatory deliberation. Röpke's distaste towards the obligation to submit his proposals at the Brauns Commission in 1931 to a public debate has been noted (see footnote 135 of this thesis), but Erhard too shared this conviction about an uneducated public prone to passionate *political* fluctuations as opposed to the

certain extent, monetarism. Such a methodological shift can also be used to animate Prof. Feld's engagement with the Swiss, referendum-based direct democracy as an example of citizen participation, responsibility, and information gathering, framed around market principles. For more, see Feld & Kirchgässner (2000).

presumed "scientific" neutrality that ordoliberalism is meant to offer. As he wrote in 1947 in a newspaper article for the *Neue Zeitung,*

> What makes the attempt to debate the question of an economic constitution [...] complicated is on the one side the electorate's overreliance [...] to accept political doctrines enunciated by single personalities [...]; on the other side the [...] inability to comprehend these complex economic and sociological issues.
>
> Erhard 1947 (1992): 23

For ordoliberals like Erhard, Müller-Armack or Eucken, addressing themselves to a small elite was enough to get the essential features of their programme across and to influence actual policymaking.[284] Conceiving of themselves, from the very beginning, as belonging to an "endangered cultural elite" (Dyson 2021: 26), ordoliberals never opted for what today would be described as "populism"[285], retaining both a clear contempt for the ignorant 'masses' *and* a conviction to ensure that they remained such.[286] It remained central for ordoliberals that the solution to the social and economic questions of the time could be solved through "a combination of enlightened elites and constitutional rules resulting in a limit to democracy" (Amable 2011: 17). The addition of independent, non-majoritarian institutions in key positions of policymaking power, whose legitimacy would be based on the ethical convictions of the elite members that constitute them, would also, as we shall see more concretely, become indispensable.

But this did not mean that ordoliberals turned their back to the masses. Through their self-recognition as experts and scientists, and from a purely pedagogical perspective, *public opinion* remained a crucial field to exploit.[287] But, communicating to a broader public (for some of them, at least, because Eucken seems to have considered it beyond him) was perceived as a different, watered-down, easy to swallow form of sloganeering (Erhard's *Wohlstand für alle* is a perfect example of this), framed within a series of clichés and established (or in the process of being established) mythologies that could facilitate absorption. As Mirowski (2014) has noted for the neoliberal "thought collective" in general, there is a distinct sense of "double truth" moving through its public and private positions. Perhaps there is no better case in point for illustrating this dual language than the term 'social market economy' itself, visible in the different meanings it acquired when discussed internally and when promoted publicly.

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284 Hayek's conviction and struggle to maintain the Mont Pèlerin Society as a somewhat 'private club' for which he had full authority over new member admission was directly related to the desire to both avoid the "indignities" that come with mass participation and those related to maintaining a somewhat secretive structure that could reject accusations of political bias. In any case, this distaste towards *politics* was also extended to politicians, allowing in the 19970s for a smooth transition towards a reconceptualization of anti-democratic sensitivities as originating in the harmful consequences of corrupt, short-term oriented politicians against "the people". In other words, as a pro-democratic justification for an anti-democratic outlook.
285 Which I broadly define as an attempt to unify the popular classes against a perceived "elite" which is more often than not promoted by disgruntled members of that very elite.
286 As Dyson (2021: 159) notes, the shift towards mass higher education was "identified and criticized by Hayek, by Rougier, and even earlier in the 1950s by Röpke".
287 The affinities to Walter Lippmann were clearly animated by such views as well.

Having found a framework within which democratic appeals could be framed within a market orientation, postwar ordoliberalism articulated and came to represent a transformation visible far beyond West Germany, namely the movement away from a previous political economy that "saw proletarians only as *workers*" (Marx 1844: 27) dangerously allowed to influence political processes, into their reconceptualization as *consumers*, a process facilitated by postwar economic growth and commodity abundance.

From such a perspective, it should be clear why it would be misleading to understand this transfiguration as an endorsement of democratic processes *per se*. In fact, as mentioned, the ordoliberal hostility towards the capacity of mass democracy to provide concessions to the working class survives in other forms, such as the neutral-sounding promotion of the *depoliticization* of economic policy[288]. Here, the continuity of seeking the institutional and constitutional forms that can insulate the market process and the competitive order against democratic or working-class influence, which the advent of mass democracy had generated as a real danger, remains visible. Along similar lines, the work of James Buchanan, whose infusion into the ordoliberal project would represent at attempt to revive its significance, was crucially based on the creation of constitutional constraints that could "restrain majoritarian democracy",

> constraints which the majority itself would accept as 'fair rules of the game' governing the decision-making process. The classic liberal dilemma remains that a political dimension to personal freedom can be at odds with the preconditions for economic freedom - a small and economically run public sector with minimum interference in the personal and business affairs of the individual.
>
> Peacock 1993: 12

As Becher et al (2021) have succinctly noted, with reference to the work of Son (2020), the postwar era saw a significant innovation within democratic thinking that inserted, for the first time, an elitist bias against the demos at its core. As they point out,

> With this resignification, anti-democratic tendencies were presented as truly democratic, whereas democratic advances appeared as totalitarian threats. This was especially cunning since "the critique of the masses" had been "a long-standing theme in political theory" but had "remained outside democratic theory in that it justified rejecting or curbing democracy"; now, "a reimagination of the democratic ideal itself" was offered (Son 2020: 43). In a seemingly paradoxical fashion, the confrontation with totalitarianism furthered "a peculiar mutation of the democratic ideal through which elements undermining it from within have become its integral part."

Unwilling to engage with theories of pluralist democracy that see "the play of heterogenous political pressures resulting from social stratification [as that which] permits democracy to be stabilized"

[288] As Peacock (1993) sums it up, "Whereas the concept of economic freedom seemed to suggest political freedom as a necessary complement, there was no guarantee that political freedom, secured through the extension of the franchise, would guarantee votes for free-market principles." (Peacock 1993: 12)

(Amable 2011: 20), ordoliberals continue to give positive content to a democracy that thrives on depoliticizing and disempowering interest groups, whether they be trade unions or big industry. More importantly, it is a content that is fundamentally based on constitutional and institutional limits, whose overall aim is the protection and enabling of the market economy. This is the approach framed within the concept of the *Ordnungspolitik*, i.e., a regulatory and legal framework within which intervention and institution building is permitted. Supported by a constitutional order, *Ordnungspolitik* is meant to both design and maintain a market-conforming field of play, prohibiting direct intervention in economic processes but delegating the space within which these take place. Within the context of the interdependence of orders, questions of competition law, budget limitations, labour market or welfare regulations need to all be inter-connected under the vision of an economic constitution that guarantees conformity to the market economy, the only system according to ordoliberals capable of delivering economic growth, socially acceptable results, and protection of individual freedom.

This perspective allows us to re-examine the continued relevance of the concept of the strong state. As contemporary ordoliberal writings also make clear, the strong state is here in all but name. In line with an adherence to the critique of laissez-faire and the renunciation of a self-correcting market, competition remains *in itself* incapable of creating "the preconditions necessary for it to exist and cannot guarantee its longevity" (Goldschmidt & Wohlgemuth 2008: 13). It is, rather, the result of a "state-run event", of *political will*. This ambivalent function of the state, tasked to both protect and enable the competitive order, can only be operationalized when it is free "from the influence of the masses" (Eucken 1932: 318) and strong enough to resist its politicisation, i.e., fragmentation. As Rahtz (2017: 94-95) points out,

> Eucken's Weimar-era scepticism of parliamentary democratic procedure was now brought into conformity with emerging "democratic" consensus in the Allied occupied zones. Whereas Eucken's 1932 essay *Staatliche Strukturwandlungen und die Krisis des Kapitalismus* had resolved this question by recourse to a Schmittian vitalism and decisionism, now Eucken argued for a constitutional federal state of a highly decentralized character. The "modern state" defined by its "marked federal character" [*mit betont föderalistischem Charakter*] would in this sense displace democratic pressure onto a series of institutional mediations and interrupt the tendency of politicization of economic life through constitutional means.

What changes, therefore, in the postwar period is not the necessity of a strong state but what makes it strong. Instead of relying on the authoritarian framework of executive orders that stretch the limits of democratic process, thereby inviting totalitarian extensions, the postwar ordoliberal state gains its strength by establishing, through *political will*, the necessary rules-based, constitutional limits to discretionary action, adherence to which is guaranteed by independent (from the democratic procedure) non-majoritarian institutions. As Böhm would explain in a 1953 text, "rule of the people within the state, rule of private law within the society and rule of law as link between society and the state – these are the three great political principles which together constitute democracy in the Western sense." (Böhm 1953: 35). The rule of law, Miksch noted, was a "unified pre-condition of competitive order".[289]

Still drawing inspiration from the dangers of 'unlimited democracy' (Alexis de Tocqueville) or 'hyper-democracy' (Ortega y Gasset), a conceptualization pointing as much to the empowerment of 'the masses'[290] as it did to the centralization of state competences and intervention, a "constitutional ordering of the political and economic orders was the best safeguard" (Dyson 2020: 98). This constitutional order was never meant to guarantee collective rights or democratic deliberation, themselves potentially damaging to individual freedom, but the economic system of market exchange. Moreover, it was meant to be an order that would limit the ability of interest groups to impose non-market conforming legislation or interventions.

Looked at from this perspective, the presentation of the various compromises that Erhard and ordoliberals were forced to endure during the social market economy, visible in the Pension Reform or even the Cartel Law, did represent instances where democratic process continued to allow the interference and intervention of interest groups in directions that contradicted the aims and purposes of the market economy. The social market economy state was a crucial step in the direction of building the economic constitution, but it remained a weak state vis-à-vis social and political pressure. The realisation of this was responsible for creating centrifugal tendencies pushing towards the exploration of supra-national formations that could avoid such embedded conflict and antagonism, as the next two chapters will explore. But one should not forget that compromises work both ways. Even beyond the Bundesbank Act, the details of the Pension Reform and the Cartel law show that the *other side* also had to compromise. Thus, just as ordoliberals had to concede to a Pension Reform that could ignite inflationary pressures, the final minute agreement to attach productivity indexes to pension payments should be seen as an ordoliberal victory. Perhaps more indicatively, while the pressure for the creation of the German Council of Economic Experts in charge of macro-economic forecasting could not be ignored, its transformation into an ordoliberal hub represented a loss for the social Catholic, Keynesian-minded initiators of the institution.

From this perspective, the social market economy era can in fact been seen, as Agnoli's work has suggested, as a process of "the modernisation of the political power of the state" (Bonefeld 1992: 70). This involved a contradictory process, characterized by the simultaneous realization of the political power of labour and the advanced need for its integration "into the capital relation through the provision of […] integration costs like welfare and employment guarantees" (Ibid.). This was reflective of two parallel developments: one the one hand that of the immediate dangers of class struggle provided by the historical example of the end of World War I in social unrest and revolution; and on the other hand

[289] Miksch, 'Attempt of a Liberal Program', unpublished manuscript quoted in Rahtz 2017: 98
[290] As Lippmann noted in his *Good Society*, an influential book in the origin story of ordoliberalism, "the rapid enfranchisement of the masses resulted in the belief that popular sovereignty must not be restrained, that the meaning of free government was the dictatorship of the majority". Lippmann 1938: 47

of the absorption of the harmful (or non-market conforming) potentials of that struggle *within* a system of equal rights protected by law. From this perspective, the social market economy can also be seen as reflective of a process of integration aiming at the transformation of democracy through "the integration of a 'market economy' with a policy of social responsibility" (Bonefeld 1992: 80). Provided, as we have seen, that this responsibility towards the *social* remained within market limits, its fully integrative potential was, in time, embedded within the ordoliberal paradigm. In an indicative example noted by Dukes, postwar discourse was not around "labour law" but around the "law of the labour market" (Dukes 2014: 6).

If there is a final observation that can be made, that concerns the aforementioned centrifugal tendency to explore the potential of building the economic constitution beyond the nation state. If the aim was to return to the liberal order of 1914, its international scope had to be emphasized. And the process had to be one where 'economic constitution' would escape its literal or social-democratic residues and come to represent a political decision to establish a *specific economic order*. As Slobodian (2018: 211) notes, the absence of such a framework within the debates and eventual legislation that passed the West German Basic Law (*Grundgesetz*) explains why ordoliberals "have no particular attention to the debates" about the specific provisional constitution.[291]

As it has hopefully become clear, the focus of the ordoliberal framework was always less on markets themselves (their superior effectiveness, when respondent to the price mechanism and competition, being taken for granted) but on the state, the legal framework and the other institutions responsible for protecting and enabling the market. Given that the market is by definition and within the ordoliberal theoretical understanding a global set of relationships, it is only natural that its proper institutional encasing should also be governed by a global outlook. As Petersman (1983: 283), international economic law practitioner and student of Hayek, put it "in any well-functioning market economy the 'invisible hand' of market competition must by necessity be complemented by the 'visible hand' of the law." That a well-functioning economy was a global undertaking was a given. The possibility and potential, however, of ordoliberal or neoliberal thinkers and policymakers to imagine, design and construct such a global structure was limited. Yet, as we have seen from the first two chapters of this dissertation, this vision never escaped their imaginary and consistent attempts were made in that direction, both in relation to the international networks they built and in the various international institutions they tried to engage with (see Slobodian 2018).

As Slobodian's seminal work *Globalists* has illustrated, already from the 1930s and 1940s the question of supranational government was a common theme for ordo/neoliberals. It consisted of "an activist vision of statecraft mobilized to push back against the incipient power of democratically enabled masses and those special interests, including unions and cartels, who sought to obstruct the free

[291] Others have noted that key elements of the ordoliberal framework were glaringly absent from (if not in direct contradiction with) the *Grundgesetz*. See Joerges ...

movement of competition and the international division of labour" (Slobodian 2018: 92-3). Consistent with ordoliberal hostility to economic nationalism and the protectionist aspirations that emerged in the interwar period, as well as the illusion that expansion of international trade and capital flows undermines the propensity for war, the underlying aim was to "federate" away the world of isolated nation-states and to undermine both their capacity to disrupt the world economy (Ibid: 95) and the limitations posed on market economies by national democratic institutions prone to social pressure. As Innset (2020: 132) notes in relation to Hayek's federalist vision, it was seen as "an opportunity to curb economic planning and instigate a rule-based system in which democratically elected national governments could no longer interfere with market mechanisms."

If the interwar period had proven the disastrous effects of protectionist and economic isolation for the liberal order, the social market economy of West Germany came to demonstrate the other side of the equation. Even with ordoliberals and ordoliberal-minded people at the helm of its administrative and regulatory institutions, concessions to interest groups, trade unions and social forces were inevitable. In response to such challenges, Bonefeld argues, "the establishment of a supranational political framework was endorsed as a means that would encourage competitiveness, against a national politics of economic protectionism; support the de-politicization of economic relations, against the power of 'special interests' (i.e., the dependent masses) to subject the national state to a politics of inflationary demand management; and do away with restrictions on the movement of capital, labour and commodities." (Bonefeld 2002: 130). Such a supra-national regulatory and legal framework would, unsurprisingly, require the same characteristics that ordoliberals first set out during the Weimar Republic. As Wolfgang Schäuble would declare,

> a strong state that lays down and enforces sensible rules is indispensable, especially in times of crisis. By 'state' I do not necessarily mean nation states. In a context of globalization and interdependence, we need cross-border cooperation and international solutions if we intend to tackle problems really effectively. Accordingly, the state may equally mean a community of states; it may mean Europe or even the global community. [...] [Ordoliberalism] has proved to be a pragmatic benchmark for state action based on market economics."
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> Schäuble 2020: xvii

CHAPTER 4: UPSCALING THE ECONOMIC CONSTITUTION

Ordoliberalism and the European Economic Community

Summary

The fourth chapter of this research takes a closer look at the attempts to upscale the economic constitution beyond the limits of the (West German) nation state. Though ordoliberalism has had a global outlook from its inception, emerging as the collaborative effort of an international community, the previous chapter examined the historical conjuncture that allowed German ordoliberals to attempt an operationalization of key features of the economic constitution in the case of West Germany. And though a measure of success was visible, the argument advanced here is that the inevitable compromises that were made in the context of the West German democratic and constitutional order, as well as the social composition and antagonism of the competing forces, forced ordoliberals to reconsider the terrain of implementation and to return to a more concretely international framework. In this way, it will be shown, ordoliberals hoped to escape the types of compromises that continue to exist within the national terrain and to pitch their framework within the context of an emerging supra-national order (the European Union) that was seen as in a position to evade such institutional and social constraints. This was not, by any means, a linear process. Ordoliberals found themselves torn between a segment that became openly critical (if not, at times, hostile) to the specific features of this supra-national arrangement, and a group that fully embraced this upscaling and actively worked to design its specific characteristics, despite their acknowledgment of certain limitations. This rift within the ordoliberal camp would, despite the eventual success of the EU, persist throughout the decades and colour the undertones of conflicts that have resurfaced in the contemporary predicament.

Bretton Woods and the postwar liberal embedded order

The context within which the social market economy emerged was, of course, far wider than domestic West German developments. As we have seen, the very existence of the social market economy was predicated on the acquiescence and active support of the American occupying authorities who were, at the time, looking for the best candidates to fulfil their vision of a market-oriented postwar (West) Germany that could accommodate their Cold War aspirations that saw Germany as the productive powerhouse of a Western Europe acting as a bulwark against the Soviet Union. The overall consensus at that time, which Ruggie (1982) described as an "embedded liberal order", was firmly based on a framework of expansion of global trade while also giving enough discretionary space to governments to utilize their spending capacity to support a new social compromise and their legislative authority to dismantle barriers to that trade. From this perspective, the differences between the so-called Keynesian approach, visible in many European countries, and the social market economy in West Germany gets quite blurred. In any case, the international framework that allowed for such developments was itself the consequence of an agreement on the new international monetary and economic order known as the Bretton Woods system.

The Bretton Woods agreement was the result of negotiations between more than 40 countries that took place in the iconic Mount Washington Hotel in New Hampshire, US, in July 1944. While the input and contributions of other countries were not insignificant (though they have largely been side-lined),[292] it is not inaccurate to say that the main debate took place between the US, a rising hegemonic political and geopolitical force and economic power, and the UK, a decaying empire in the process of trying to secure its new place in the emerging world order. The discussions and outcome of the Bretton Woods meeting have been historiographically personified in the figures of Harry Dexter White, representing the US, and John Maynard Keynes, representing the UK. The Soviet Union was also a crucial partner of the negotiations and discussions, especially when considering that White did his best to accommodate and include Soviet participation in the emergent new global monetary arrangement,[293] but it is also retrospectively safe to say that the Soviet side was in fact never really interested in participating and its eventual refusal to sign was hardly a surprise.

[292] For a qualified rejoinder, see Helleiner 2014.

[293] As research has revealed, White was in fact in secret contact with Soviet agents before the Bretton Woods negotiations. This suspicion was eventually investigated by the FBI during the McCarthy era, resulting in White's marginalization. But White was not a Soviet spy. More intriguingly, as Steil (2013: 39-44) has lucidly shown in his essential book, White was perplexed by US hostility towards the Soviet Union and firmly believed that any possibility of lasting peace after the war could only come about through close collaboration between the US and the Soviet Union (as well as the UK and China). In an unpublished and undated manuscript that White wrote his views on the topic were laid out. There, he initially wondered what the cause of US hostility was based on. Dismissing the notion that the Soviet Union was rejected due to its dictatorial regime (the US had uninterrupted "trade and financial relations" with a number of dictatorships like Spain or Brazil), as well as the idea that the economic systems between the two countries were incompatible (public ownership and price controls also existed in the US, along with restrictions in competition), White concluded that the animosity had to do with a misleading idea that capitalism was a superior system to Soviet socialism, a system which White concluded "works!" As Steil nicely shows, White was essentially an idealist who thought it a duty to world peace and cooperation to assist a country that was an ally of the US and who bore the brunt of the war.

White had an already developed vision about the global monetary order, crafted in the early 1930s. Examining the previous "Golden Age of Security", as Stefan Zweig had called it in his *The World of Yesterday*, White was unconvinced that this predicament would return in the future. Writing at the time, he saw the dangers arising out of economic nationalism and protectionism, but his conclusions were far from the ordoliberal ones. Closer to Keynesian ideas, even before they were fully developed, White described his approach in a study he conducted for the Treasury Secretary in 1934 (Steil 2013: 22). His conclusion was that a viable system would have to be geared towards the "promotion of trade and finance" *while also* allowing for "sovereignty in shaping domestic policies" (White 1934: 7-8, quoted in Steil 2013: 23).[294] "What was needed was a system that would 'combine the best features of both the gold standard and a national monetary standard while avoiding the chief disadvantages of each" (Ibid).

White recognized that in the gold standard system of fixed exchange rates, balance of payments adversity could only be confronted through domestic deflation, finding this option undesirable and catastrophic. Instead, the Federal Reserve would have to be given more discretionary powers to respond, adding that other countries should also adopt similar monetary approaches. Roosevelt was, at the time, also pushing for a similar arrangement, even though the conditions of the Great Depression forfeited any attempts to translate that into real policy. Summing up the main coordinates of his vision in an international gathering in London, attended by sixty six nations, Roosevelt would declare that "the sound internal economic system of a nation is a greater factor in its well-being than the price of its currency in changing terms of the currencies of other nations" (Ibid: 26).

Despite the US press' insistence that the Bretton Woods meeting was only putatively intended to stabilize world currencies but rather an attempt to bail out Britain, a conviction strengthened by the belief that the US delegation did not include economists equivalent to the level of Keynes or Lionel Robbins, the reality on the ground was that the UK had little room for manoeuvre.[295] Despite Keynes' impressive skills and oratory capacities, the UK was in a *de facto* subordinate position. The US, as White would explain, was in a "powerful position at this Conference [because they] dominate practically the financial world" (Steil 2013: 208). Moreover, the UK was a huge debtor to the US through the Lend and Lease Agreement set up during the war as a means of financing Allied military and economic capacity. In such a context, White remarked, "creditors set the terms" (Ibid). The British, as two of their cabinet ministers had admitted, was "broke".

[294] Keynes shared the same vision. Nonetheless, it took considerable effort to convince critics of his plan in Britain that what he proposed involved the "least possible interference with internal national policies" (Martin 2022: 225). Martin's book is an excellent account of the dynamic transformations in questions of sovereignty and foreign interference at the level of the emerging global economic governance before and after WW II, critically exposing the different meaning these terms had for strong and weaker economies.

[295] It is worth noting here that the State Department was hostile to the White Plan from the beginning, with an existing conflict between Treasury and State Department visible at the ideological terrain too. The State Department was more in tune with the banking sector, financial interests and free market principles rather than the Keynesian/White mix of control of finance, national sovereignty in labour and income policy and capital controls. This split also explains why the State Department-ran OMGUS showed preference for people like Dodge and the affinity with ordoliberals in the immediate postwar situation in West Germany.

Interestingly, reporting at the time for the Washington Post, Walter Lippmann was aware of the inequality in bargaining positions but warned of the dangers in assuming that this meant the US could dictate their terms. Echoing a disguised threat that Keynes had uttered during a press interview (Steil 2013: 209), Lippmann noted that

> [...] in a world where there is only one great power capable of extending large international credits, the creditor-borrower relationship of normal private affairs does not prevail. The other great powers are in a position to have a very great deal to sat about the terms on which they will accept credit [...] they have an alternative to the system of general international trading which this country desires. The alternative is government controlled trading on a bilateral or barter basis.
>
> Lippmann 1944

But these threats never developed. And while it was true that Britain could disengage from the agreement, doing that would require another source of significant financial assistance which did not exist.

Following White's desire to "making the dollar as good as gold" (Steil 2013: 214), the Bretton Woods discussions were centred around a plan submitted by the US which sought to express the par value of each member country's currency in gold, "or in terms of a gold-convertible currency unit", i.e., the dollar. In contradistinction with Keynes' own attempts to establish an international reserve currency, the *bancor*, which would not be connected to any specific national currency[296], the final agreement unequivocally placed the dollar as the international reserve currency that would be clearing global accounts. White's plan was, naturally, close to Keynes', given the influence that the latter held over the former, but the crucial difference was that White was also concerned with giving the US a stronger position within the new arrangement, something that Keynes tried to avoid. But the overall mechanics of the system corresponded to challenges and faults that both thinkers recognised in relation to the gold standard, the absence of capital controls and issues related to balance of payments, import discriminations and exchange rate manipulation through beggar-thy-neighbour policies. A clear aim for both was the facilitation of global trade by financing the actual needs of commerce. While Keynes had conceived of the bancor system as one that would allow each country to kickstart its economy after the war with existing reserves, the actual consequence of the Bretton Woods negotiations was that the dollar would take that role.

A rather radical idea that Keynes wished to see in the new monetary arrangement but which was dismissed by White, was the proposal to impose fines on creditor countries with trade surpluses in an attempt to encourage them to increase their imports (thus reducing their balance disequilibrium). It is also however noteworthy that Keynes' idea of the bancor was also geared towards his own patriotism

[296] Known as the "Keynes Plan", the idea was to create an international clearing bank (ICB) through which national banks could buy and sell their own currencies in newly created 'bank money' (the bancor), which would have a fixed exchange rate with all members' currencies and gold. National banks could add credit to their account by paying in gold, but they would not be allowed to redeem bancor for gold. Keynes called this the 'one-way convertibility'.

towards the UK and the attempt to solve the problems that afflicted Britain and, only by extension, the world.[297] Aware that the UK's colonial empire was under serious strain and that British debt to the US was debilitating its financial situation, Keynes had every reason to propose a plan whereupon the UK would have access to ample reserves to assist postwar reconstruction that would not come in the form of loans.

The eventual signed draft represented an expected victory for White. And while Keynes as the representative of Britain had not achieved what he set out to do, the Keynes of *General Theory* was far more successful. Contrary to conventional economic wisdom at the time, the embrace of an independent national economic policy in a context of expanding trade liberalisation and cooperation was novel (and highly contested, as we shall see), as was the attempt to include a full employment goal and relatively generous non-wage compensation (in the case of Europe, at least). Notwithstanding, the Bretton Woods system would have the dollar, and *only* the dollar, pegged with gold,[298] allowing the US a free hand to set interest rates and watch the world follow suit, a predicament that Eichengreen would later describe as the dollar's 'exorbitant privilege' (Eichengreen 2011). As Steil (2013: 148) notes, White "had no incentive to yield [the dollar's] power to expand or contract the supply of global money to a supranational structure". That did not mean, however, that beyond its monetary base the new arrangement was not accompanied by such supranational structures: the Bretton Woods agreement included the creation of two crucial institutions to back its function, the International Monetary Fund and the World Bank (originally called the International Bank for Reconstruction and Development – IBRD).

Following Streeck & Thelen (2005: 3), it is helpful to conceive of the postwar Bretton Woods regime as one where "sophisticated international arrangements enabled national governments democratically to respond to popular demands for social protection without upsetting an international free trade regime that made for ever increasing productivity and growing demand for mass-produced consumer goods." One should add, however, Helleiner's (2014) approach which also saw in Bretton Woods a wider global plan to facilitate state-led economic development in under-developed countries in a way that introduced them to the global stage not merely as raw materials producers but as emerging allies and trade partners. Focusing on raising living standards, bringing economic growth and offering a path to industrialization (limited, at times, when countries produced industrial goods that did not compete with the US),[299] US policymakers were as much concerned with creating trade allies as they were in forging political alliances that would act as bulwarks against Soviet lures. Following Roosevelt's "global new deal" vision that saw international peace as resulting from the *reduction of*

[297] "Keynes was more an internationalist Englishman than an English internationalist. Therefore it was not surprising that "Keynes's advice," in the words of his great contemporary Joseph Schumpeter, "was in the first instance always English advice, born of English problems." Steil 2013: 140.

[298] It appears to be the case that the suggestion to maintain some role for gold in the whole scheme was based on White's conviction that such a provision would be essential for maintaining public confidence. Keynes, on the other hand, was more willing to reducing its role immediately and completely. Steil 2013: 149.

[299] See Tsakas 2022 on the refusal of the US to finance the industrialisation of postwar Greece.

poverty through the expansion of trade, the Bretton Woods negotiations also included significant pressure from Latin American countries for including developmental plans into the agreement, visible in the creation of the IBRD.

Actual implementation of one of Bretton Woods' key features, full currency convertibility, took another 12 years. In between, a particularly turbulent period emerged, mired with inflation in Europe (1946-7) and West Germany (1948), followed by recessionary pressures (1948-9) that depressed US import demand, causing a string of devaluations by more than 30 countries in 1949. In that year, IMF directors were forced to admit in 1949 that "dependence on bilateral trade and inconvertible currencies is far greater than before the war" (Steil 2013: 331). A similar conclusion would be drawn by the same people 3 years later, even though European trade had already passed this gridlock and was expanding in an unprecedented manner (Milward 1992). Responding to such fluctuations that could not be accommodated within the Bretton Woods agreement but with the blessing of the US, European states started pushing for their own, however limited, structures that could support growing trade. The creation of the European Payments Union in 1950, while not in line with the expanded worldwide multilateral trade promoted the Bretton Woods, reflected a European limited version which would, in 1958, be replaced by the European Economic Community (the limited character of a trade agreement confined to western countries would, eventually, trigger ordoliberals like Röpke to criticize the EEC).

By the time the essential features of Bretton Woods would come in play, the US had become a deficit country and the resolution of the global dollar scarcity had been replaced by that of gold, as traders and investors withdrew from the US and 'repatriated' capital in European higher interest rates. For these reasons, one could follow Cesarano (2006) and examine the Bretton Woods regime as split into two subperiods: the first ranging from 1946, when the launch of the new arrangements became official, until 1958, when convertibility was declared; and the second, fully operational phase, from 1958 to 1971. Key features of the system, such as capital controls and fixed exchange rates would gradually morph into something new but despite these radical changes, a certain continuity was already latent in a monetary system ostensibly tied to a national currency: a world of fiat money.

Fixed exchange rates, capital controls and ordoliberalism

As Mundell put it in 1972, it is crucial to maintain a conceptual separation between a monetary "system" and a monetary "order". If the first describes the *mechanism* that connects currencies between markets, the latter refers to the *body of rules* within which this system functions. From this perspective, the gold standard was a system that developed into an order, since it evolved through a historical process with no specific authorship and only then generated specific institutional forms to support it. On the contrary, the Bretton Woods regime was the result of an international agreement, despite US hegemony, that was envisioned to be operationalized through institutions from the very beginning. It was a simultaneous system and an order. Its theoretical underpinnings and its practical operationalization are crucial to contextualize the ordoliberal response to it.

Fixed exchange rates

The establishment of fixed exchange rates between the member countries of the Bretton Woods agreement was perhaps one of the elements of the new monetary order that resembled the gold standard more than anything else. This was not, in itself, particularly remarkable as both White and Keynes shared a certain admiration about the fact that the gold standard fixed exchange rate system was able to produce equilibrium.

Following the work of Eichengreen (1996) and Cesarano (2006) on this specific feature of the gold standard, we can trace the reasons for this approach. In their view, the firm and practical commitment of state authorities to maintain parity with gold in order to facilitate trade and capital flows meant that even in cases of temporary disequilibrium there existed an inherent and semi-automatic stabilizing element. When countries, for example, would opt for a currency devaluation to boost their competitiveness, they would convert their currency into gold under a more favourable value, exporting that gold to acquire foreign reserves. In such a scenario, however, investors knew that the country's central bank would react to the loss of their reserves and would have to intervene to stabilize the exchange rate by raising interest rates. They would, in other words, do "whatever it takes" to maintain parity. This anticipation meant that traders and investors would direct capital flows towards the country to reap the profits to be made. The consequences was a stabilization of the exchange rate despite the fluctuations brought about by devaluation and reserves' loss (Eichengreen 1996: 30-31; see also Lutz 1958).

Translating this mechanism as designating the importance of credibility, Eichengreen and Cesarano (2006: 38) conclude that even small deviations from the rule in the short run (when, for example, central banks delayed their stabilizing interest rate hikes), there was little doubt that equilibrium would be restored in the long run.[300] However, where Cesarano sees an almost automatic mechanism, Eichengreen points out the existence of international cooperation and coordination. Noticing that discount rate fluctuations were more or less identical across countries in the decades preceding World War I, usually following the leading central bank of the time (i.e., the Bank of England), Eichengreen concludes that it was central bank coordination that made these adjustments in global credit conditions possible (Eichengreen 1996: 33).

The problem, as always, was crisis management. That was because in moments of crisis, the direction of one central bank might necessitate an opposite path for others. Eichengreen (1996: 33-34)

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[300] The overall trust and credibility in maintaining the gold standard extended even in the cases where a central bank was temporarily allowing its gold reserves and currency rate to fall below the gold export point. As Eichengreen (1996: 36) notes, "because this escape clause was invoked in response to circumstances that were both independently verifiable and clearly not of the authorities' own making, it was possible to suspend convertibility under exceptional conditions without undermining the credibility of the authorities' commitment to maintaining it in normal times".

uses the example of the 1890 crisis to demonstrate that despite doubts about whether the Bank of England (BoE) could successfully act as both lender of last resort *and* defender of the pound, the Bank of France and that of Russia stepped in to replenish the BoE's gold reserves thereby restoring stability. The reason they did so was not, of course, to save the BoE but the sterling and, by extension, the gold standard in which they were also entangled and dependent. Cooperation and coordination, in other words, were key to the gold standard and were in fact increased after the specific episode.[301]

In the Bretton Woods system, an attempt was made to imitate such stability without having to restore to deflationary policies (like raising interest rates in cases of reserve losses) in the knowledge that under parliamentary systems and universal suffrage that would be politically too destabilizing (Polanyi 1944; Eichengreen & Temin 1999). Echoing Roosevelt's aforementioned approach, White had written that "the alterations in the domestic price level are far more costly to the nation than frequent alterations in the exchange rate would be" (White 1934 quoted in Steil 2013: 24). But in designing Bretton Woods, White would reject Keynes' proposal for a certain flexibility in exchange rates, trying to maintain this feature of the gold standard[302] – a view that Keynes had developed already in 1925 in rejecting Churchill's return to the gold standard (Keynes 1925). But rather than floating rates, Keynes would consistently call for 'stable' rates, implying that a certain adjustability was desirable. In the end, a sort of a compromise would emerge. Exchange rate relations between member countries would be fixed but adjustable, subject to specific conditions. Since that adjustability was meant to offer an alternative to deflation in case of a "fundamental disequilibrium" – a predicament that was never defined sufficiently – the reality was that it was never actually activated, at least not by strong economies. Among other reasons, the Bretton Woods system required prior IMF approval for parity changes, something that meant countries feared their intentions would be leaked before they got the chance to reap the benefits (Eichengreen 1996: 120).

Capital flows and controls

As explained in the description of the White plan, the rationale behind the Bretton Woods system was to ensure that the direct link between domestic and foreign economic policy was severed, providing the necessary space for governments to pursue policies such as full employment. As Eichengreen (1996: 3) notes, "governments may no longer have been able to take whatever steps were needed to defend a

[301] "In 1893 a consortium of European banks, with the encouragement of their governments, contributed to the U.S. Treasury's defence of the gold standard. In 1898 the Reichsbank and German commercial banks obtained assistance from the Bank of England and the Bank of France. In 1906 and 1907 the Bank of England, faced with another financial crisis, again obtained support from the Bank of France and the German Reichsbank. The Russian State Bank in turn shipped gold to Berlin to replenish the Reichsbank's reserves. Also in 1907, the Canadian government took steps to increase the stock of unbacked Dominion currency notes partly to free up reserves for a U.S. financial system experiencing an exceptional credit squeeze.65 In 1909 and 1910 the Bank of France again discounted English bills, making gold available to London. Smaller European countries such as Belgium, Norway, and Sweden borrowed reserves from foreign central banks and governments." Eichengreen 1996: 34

[302] When asked whether his plan consisted of a return to the gold standard, White answered that "it depends entirely upon what is meant by 'the gold standard'. If it meant that countries had to keep their exchange rates stable within 1 percent of the parity, then the answer was yes. If it meant that countries were restricted in their ability to issue more currency without having a specific level of gold reserves, then the answer was no." Steil 2013: 257

currency peg, but capital controls limited the extremity of the steps that were required". This was a really novel element in relation to the gold standard where, as we have seen, the expectation of maintaining the gold peg meant that capital inflows and outflows were adjusted at the expense of domestic economic conditions. Wishing to maintain that level of external stability while avoiding the domestic instability, Bretton Woods allowed capital controls in order to minimize the flows that could be disruptive and force a painful readjustment to the external anchor.

The existence of capital controls was crucial for allowing the pegged but adjustable exchange rates that Bretton Woods officiated. Since the aim was to prevent destabilizing inflows and outflows of capital, setting up controls and restrictions was seen as a crucial way to support that feature of the system. But it has to be noted that the enforcement of capital controls was gradually undermined, especially after full convertibility was established (Eichengreen 1996: 92).

Operating a system of pegged exchange rates between convertible currencies required credit to finance imbalances, as the framers of the Bretton Woods Agreement had recognized and as the European Payments Union aimed at. The greater the reluctance to adjust the peg and to raise interest rates and taxes, the larger the requisite credits. And the more rapid the relaxation of capital controls, the greater the financing needed to offset speculative outflows. This was the context for the debates over international liquidity that would dominate the 1960s as a prelude to the eventual collapse of Bretton Woods. Weak-currency countries lobbied for more generous IMF quotas and increases in international reserves, whereas strong currency countries like Germany objected that additional credits encouraged deficit countries to live "beyond their means".

The situation was complicated by the fact that the Bretton Woods System, like the gold standard before it, generated its own liquidity. As they had under the gold standard, governments and central banks supplemented their gold reserves with foreign exchange. Given the dominant position of the United States in international trade and finance and America's ample gold hoard, they did so mainly by accumulating dollars. The United States could run payments deficits in the amount of foreign governments' and central banks' desired acquisition of dollars, a change that designated the transformation of world monetary issues from a "dollar shortage" to a "dollar abundance" (Röpke 1959: vii). The United States might limit this amount by raising interest rates, making it costly for foreign central banks to acquire dollars. Or by exercising inadequate restraint, it might flood the international system with liquidity. Either way, the system remained dependent on dollars for its incremental liquidity needs." (Eichengreen 1996: 112-3)

From this perspective, one could also examine the Bretton Woods regime using another time scale which is delineated by changes and developments of US domestic economic policy, especially given the fact that alterations on that field would reverberate across the world. From this perspective, the fact that the US maintained a tight fiscal and monetary policy throughout the 1960s meant, among other things that it "abided by the rule of anchoring world prices" (Cesarano 2006: 19). But the shift to expansionary policies of the 1960s started generating the problems that would lead, as we shall see, the Bundesbank's Emminger to speak of the problem of imported inflation.

Most importantly, however, the expansion of multinational corporations and the emergence of the Eurodollar market (where dollars were not subject to US restrictions)[303] contributed greatly to the gradual relaxation of capital controls. Since the US had seized being a net exporter, the excess dollar supply was being transformed into reserves in European banks and were then advanced as a form of credit for both public and private interests. By 1969, capitalist countries outside the US held $40 billion, compared to $11 billion in 1964. The narrative of a fixed dollar/gold convertibility was crumbling.

Fiat money

Bretton Woods has to be seen as "the final stage in the transition to fiat money" (Cesarano 2006: 3). In fact, the incompatibility of maintaining global liquidity and the convertibility of the dollar (Triffin's dilemma) could be seen as building an inherent tendency within Bretton Woods to diverge from a commodity standard, seeing how the pressure to maintain dollar provision would eventually, and somewhat predictably, turn out to be more important than maintaining gold convertibility – a feature similar to the so-called 'escape clause' of the gold standard in times of crisis (Bordo and Kydland 1995; Eichengreen 1996)

But the move away from a commodity standard also has to be seen in direct conjunction with the general expansion of the government's role in regulating the economy. Embedded in the monetary logic since the late 19th century and during the gold standard, the very notion of a central bank acting as a lender of last resort was still seen as the task of a specific central bank, i.e., the Bank of England. Noticeably, at the time the United States did not even have a central bank to play such a role. But in the Bretton Woods system, governments were increasingly intervening in their economies by capping interest rates, controlling exchange rates, restricting bank investment assets and directing credit along strategic sectors (Monnet 2021). Geared towards economic growth and full employment, which implied discretionary space for public expenditure, meant that governments were very much reliant on the existence of capital controls to compensate for the absence of an adjustment mechanism like the one under the gold standard. Moreover, as Eichengreen (1996: 93) adds, "the deflationary central bank policies that had redressed payments deficits under the gold standard were no longer acceptable politically". A fiat money economy was able to facilitate these developments, as it rendered monetary policy more *politicized* (in the sense of allowing elected governments to play a role in its conduct). As Polanyi has succinctly pointed out, after the collapse of the gold standard "monetary policy was thereby

303 Eichengreen (1996: 119) offers a good summary of the functioning of the Eurodollar market: "Once controls on banking transactions in Europe were relaxed, London-based banks began to accept dollar deposits, bidding away funds from American banks whose deposit rates were capped by Regulation Q. Euro-dollar depositors, when they began to fear for the stability of the dollar, could exchange their balances for Euro–deutsche marks. Although the volume of Euro-currency transactions was limited, controls on capital movements enforced by the U.S. government at the border were less effective to the extent that a pool of dollars already existed offshore."

drawn into the sphere of politics" (Polanyi 1944: 207). It is in this conjunction that the consistent attempts to *depoliticize* monetary policy and the rising importance of central banking, especially as an institution independent from government, have to be examined.

Ordoliberals and Bretton Woods

Had the Keynesian plan to punish surplus countries and reverse the creditor/debtor dynamic made its way into the Bretton Woods agreement, there is little doubt that ordoliberals would have strongly rejected it. It was, after all, a central and decisive part of the ordoliberal framework to respect the sanctity and hierarchical supremacy of the creditor, a position that would remain unaltered throughout its whole trajectory (and would play a role in their view of the Eurozone crisis). Its theoretical predecessor, conservative liberalism, had after all always "privileged the interests of savers and creditors over borrowers and debtors through an emphasis on sound money and finances and opposition to the bail-out of those judged to have behaved imprudently" (Dyson 2021: 258).

Seeking to theoretically represent and defend what he called the "healthy bourgeoisie", Röpke's postwar writings on the question of a new international monetary order were firmly framed within a "creditor-led reconstruction" (Röpke 1944: 377; 1958: 216). Domestic economic and monetary policy would have to be stable and any adjustments would have to be borne by the debtor. From a similar standpoint, Austria's finance minister and central bank president Reinhard Kamitz stressed the need for balanced budgets, the promotion of savings and a restrictive credit policy to undermine potential money supply growth. As Dyson, rather regrettably notes, this approach on the creditor/debtor relation was furiously indifferent to any accidental or structural conditions that increase debt and, therefore, conspicuously silent on the irresponsible lending activities of banks and other financial bodies (Dyson 2021: 259). In a framework that would become highly relevant in the context of the Eurozone crisis, the same applied to debt relations between countries: the irresponsible or corrupt actions of elites could (and did) condemn whole countries and their population to punitive austerity retaliation but one would be hard pressed to find such a perspective in ordoliberalism, focused as it remained on questions of 'moral hazard'.

In any case, such a clause was not included in the Bretton Woods agreement. But what about the actual features of the system like capital controls, fixed exchange rates, convertibility and the discretionary space given to national economic development its equivalent social compromise? The previous chapter on the social market economy might already provide enough clues as to which of these features would be supported by ordoliberals and which not. As Röpke would argue, some policies promoted economic integration and some disintegration (Gregg 2010: 147). Fixed exchange rates, for example, resembling as they did a feature of the gold standard, were strongly supported by most – at least until the emergence of positions in favor of floating exchange rates, pioneered among others by Friedrich Lutz, Milton Friedman and his monetarist colleagues. But even the fixed exchange rates feature was not immediately adopted by ordoliberal thinkers. That is because, in the early days of the postwar period, i.e., after Bretton Woods had been signed but before it was operationalized, ordoliberals would continue to imagine and promote the re-instatement of the gold standard.

As Röpke had written in his 1937 *Die Lehre von Wirtschaft*, a necessary monetary "system of exchange could be underwritten internationally through a gold standard, which during the period of the late nineteenth and early twentieth century had been a guarantor of the stability of value." (Rahtz 2017: 141). In accordance to this line of thought, ordoliberal plans for an international economic order[304] were, in more ways than one, little more than an attempt to revive the pre-1914 liberal order, a position that presupposed the re-adoption of the gold standard without which no international monetary order could have any success. As Lutz had clarified since 1935, the gold standard was a *sine qua non* precondition for a return to the market economy and a competitive order.

> Only when the world restores the conditions necessary for a gold standard to function, that is to say, only when it makes free competition once again the structural principle of the economic system, is there any point in returning to such a system. Deciding on the general economic system, therefore, also implies deciding on the re-introduction of the gold standard.
>
> Lutz 1935: 241

As we have seen, a key reason why the gold standard was favoured related directly to its anti-discretionary character which, in ordoliberal thinking, lent it an aura of inherent *rationality*. As Lutz argued, "the whole system is automatic in the sense that in principle almost nothing at all is left to the planning initiative of bank managers, who only have to take note of their reserves. The wisdom of the gold standard lies precisely in the fact that its practical workings provide a guide which is inherently reasonable." (Lutz ibid: 226; see also Lutz 1958). Nonetheless, and concomitant with the ordoliberal approach that saw rationality as confined to experts like themselves, the "self-evident" supremacy of the system was not, in itself, enough to convince. Developing a position that saw communist/collectivist threats from below and inflationary Keynesian planning from above, many ordoliberals would (rather curiously, if we follow Ruggie) interpret the postwar order as moving further away from the liberal ideals they held, a position firmly framed around their views on the gold standard.

While recognising that certain "domestic preconditions" would have to be met in order for the gold standard to become once again a viable option, and presumably aware that such conditions an international willingness and cooperation would be even *more* critical, ordoliberals continued to see the gold standard as "the only possible form of a new international monetary order" well into the 1950s

[304] As Röpke had written to Hayek in 1942, " I am now thinking of working on an analysis of the complicated structure of the international economic order up to 1914 for a joint programme of researches undertaken by the professors of our Institute…I thought it would not be a bad thing to show to all who are now so busy to draft the outline of a new international order…how the problem has already been solved and what the internal prerequisites of this solution—besides which I still see no other one—really are. It seems to me high time to point out that you cannot deal with the national order in terms of collectivism and with the international order in terms of liberalismRöpke to Hayek, 16/1/1942, Nachlass Röpke, Ordner 7, 216-129, in Rahtz 2017: 133.

(Röpke 1954: 82). Central to this preference for the gold standard was the opposition to a system that allowed governmental discretionary space. Even more conciliatory voices that suggested alternatives to the gold standard retained that perspective: the proposal to entrust monetary stabilization to the well-functioning *Bank of International Settlements* (BIS), for example, was directly linked to the fact that the BIS was "completely detached from fiscal authorities (Martin 2022: 223). A similar framework was visible in ideas to frame financial reconstruction around the provision of loans like the ones provided by the League of Nations in the aftermath of World War I, accompanied as they were by fiscally orthodox conditionalities.

In any case, the actual potential of a return to the gold standard, a different commodity standard (such as the Chicago Plan) or other equivalents was already precluded from the Bretton Woods agreement and ordoliberals would be forced to eventually acknowledge this. But their view and attitude towards the features of the Bretton Woods system would retain a centrifugal attachment to such a framework: its key features would be appraised when indicating any proximity to the gold standard and dismissed when they enhanced the ability of governments to conduct discretionary economic policy, expansionary social programs and restrictive trade practices.

For those detached from the immediate task of policy making, such a position would become increasingly polemical. In 1956, for example, Röpke would lament the fact that the space for national discretionary policy that Bretton Woods' capital and exchange controls allowed meant that a country's monetary policy was left "at the mercy of the American steelworkers, the election tactics of the Republican party, the trade unions of England, and the confusion of political factions in France" (Röpke 1956: 192). And while structurally committed to a top-down approach that minimized the potential of mass democratic procedures to undermine the foundations of the market economy, Röpke would also complain that in the postwar predicament, the "top" had actually been subverted by Keynesian ideas, steering economic policy towards full employment targets and, therefore, collectivism.[305] Deeply hostile to any developmental policies accompanying the Bretton Woods regime, Röpke would describe the policy of the IBRD as "a recipe for failure insofar as it was charged with lending to countries which had no reasonable prospect of attracting private capital and yet were somehow deemed to have a reasonable chance of repaying a loan" (Gregg 2010: 148). If developing countries could not attract foreign capital, he would add in 1960, that was simply because they resisted succumbing to market

[305] Slobodian (2018) and Becher et al (2022) have recorded how Röpke's positions became increasingly unhinged from the mid-1950s onwards, focusing on his full support for the racist system of Apartheid and his affinity with extreme conservative circles in the US. But one can make a similar observation about his views on economic topics as well: in his 1959 *International Order and Economic Integration*, for example, he showed no hesitancy to condemn all existing international structures and institutions as hindrances to a liberal order. In what can only be described as a long rant, he purported: "Neither the International Monetary Fund - which, as an international credit institution, has up to the present been of very little use, and, as an international monetary authority, has done harm rather than good) – nor the International Bank for Reconstruction and Development (World Bank), the second creation of the Bretton Woods Conference of 1944, nor the Marshall Plan, however salutary it was as a political move, and bountiful as international poor relief, nor the efforts of the International Trade Organization with its one surviving live child, the General Agreement on Tariffs and Trade (GATT), nor the other institutions of one kind or another, almost too numerous to be counted, nor the Schuman Plan are the real instruments of the relative progress of the last few years, and even OEEC with its European Payments Union, which may, before most others, claim a not inconsiderable credit, can, at the best, be considered merely as an impermanent emergency structure." Röpke 1959: 224.

forces, refusing to “satisfy the conditions necessary for a voluntary flow of capital from the West” and to “pay in interest, dividends, and salaries the price without which no capital aid can be offered even in the most favourable case” (Röpke 1960: 189). A parallel attitude, he would conclude, was also visible in the mindset of modern welfare states (Ibid: 182)

As mentioned, of central concern for ordoliberals during the Bretton Woods period was the freedom it gave to governments to observe the postwar consensus and social compromise which was, for writers like Röpke, a recipe for collectivism and therefore a subtle attack on the world of property. As Tumlir would put it in 1983 in the *Ordo* journal,

> “What is the ultimate legal meaning of the governments’ ‘discretionary power to intervene in the economic process’? Whatever the particular designation of a power of this kind, they all amount to the right to override the existing specification and/or assignment of private property rights, and/or arbitrarily to change their values. Whether the government prescribes minimum or maximum prices or wages, changes in the levels of protection against imports, controls external payments, subsidizes particular production or export, or imposes quantitative limits on them, prescribes particular modes or methods of production, or intervenes in any other of the myriad possible ways, private property rights are diminished, redistributed, or their value changed.
>
> Tumlir 1983: 75

Another key feature of the Bretton Woods agreement, capital controls, was also consistently attacked as creating precisely such barriers, in ways that give the impression that ordoliberals were unaware of (or indifferent to) the inter-dependence between fixed exchange rates and capital controls. Or else, they saw that inter-dependence as grounded on the need to maintain a social compromise which they rejected. A similar perspective determined the view on exchange rate controls before full convertibility was achieved. As Röpke wrote in 1954, their abolition would be a positive step in the right direction because full convertibility would exert pressure on governments (especially ‘left-wing’ ones) and take away some of their discretionary capacity. As he noted,

> The faster and the more decisive a totally new situation is created by abolishing exchange controls, the smaller will be the danger that after the lapse of the period of four years the total economic system, which is decisively determined by convertibility, will be questioned again .... If exchange control has once been abolished and if this fact has become part of a new international monetary system, it will be very difficult for a later, more leftist government to question again what has been accomplished by returning to a "left-leaning" course of economic and monetary policy .... It follows not only that establishing the market economy securely, as at present in Germany, is the best basis for convertibility, but that the movement towards convertibility is the most secure way to anchor the market economy.
>
> Röpke 1954: 82 in Bernholz 1989b: 207

Committed to the illusion of a return to the gold standard, people like Röpke would continue to consider the Bretton Woods system as an “ersatz solution for the lack of an adjustment mechanism” prone to support interventionist states. Writing in 1958, Lutz would adopt a similar position. While recognising that the Bretton Woods agreement was based on the necessity of replacing the disorder and disintegration of the 1930s with some *Ordnung*, he added that "the tragedy, however, is that moral norms of behaviour, instinctively followed, can never be fully replaced by contracts, which are always the result of compromise between interests" (Lutz 1958: 137, hereafter my translation).

The case for flexible exchange rates

While the adoption of full convertibility (as well as the institutional form of central bank independence) could have potentially made the ordoliberal approach more accommodating and pragmatic, towards the end of the 1950s many ordoliberals appeared to change their minds even about the question of fixed exchange rates. These years had seen, in any case, unprecedented economic growth[306] and the so-called *Wirtschaftswunder* in West Germany – the causes of which, as we have seen, many sought to explain by Erhard's reforms rather than a wider economic boom. As Bernholz would put it in 1989, in a review of the relationship between ordoliberalism and the money supply, ordoliberals approached the question from the following angle: "which monetary system should be selected if autonomous economic policies of other important countries preclude a return to the gold standard?" (Bernholz 1989: 208). In a relevant text written for ORDO in 1958, and after reiterating the supremacy of the gold standard, Lutz proceeded to acknowledge that the current inability or unwillingness of governments to follow deflationary policies that increase unemployment (Lutz 1958: 139) preclude a return to the gold standard. Hinting (but without expanding) on the potential for a central bank to impose similar disciplinary measures, he clarifies that seeking a "national autonomous monetary policy geared to full employment at home" without sacrificing such autonomy to "an international order that guarantees fixed exchange rates and free movement of money and capital" (Ibid: 140), creates insurmountable problems in the balance of payments and the overall international order. Under the current system, he adds, countries respond to conflicts and imbalances by resorting to exchange controls, import restrictions or devaluation – anything to avoid deflation. For Lutz, the only way to avoid further disintegration would be the adoption of flexible exchange rates.

In a system of flexible exchange rates, Lutz argued, foreign exchange markets would assume the role of bringing the equilibrium that has been lost. Countries with high inflation, due to wages rising above productivity or demand-oriented policies would see their exchange rate fall, while surplus countries would no longer feel the need to defend themselves against imported inflation as central banks would no longer have the obligation to defend the exchange rate. This will be replaced by markets signals. Consequently, exchange rate movements will re-calibrate balance of payments towards equilibrium without affecting international trade.

In the same year, Gottfried Haberler, one of the ordoliberal-minded theorists who would become an early critic of the European Economic Community, also advocated the adoption of flexible

[306] Foreign trade grew an at annual rate of 6 per cent since 1948, outpacing that of GDP – for the first time since the mid-nineteenth century, accompanied by a new cycle of liberalisation and the opening of national markets. Gillingham 2003: 40

exchange rates against the Bretton Woods regime. Abandoning his earlier support for fixed exchange rates, whose "postulate of uniformity and consistency [...] imposes severe restrictions on any attempt at doctoring the terms of trade" (Haberler 1945: 308), Defending the exchange rate had become, in his view, disruptive to trade and payments as official responses against capital flows undermined their capacity to bring equilibrium by following market signals (Willet 1981: 35 Ordo Journal). A very similar defence of flexible exchange rates was also advanced by Milton Friedman, in his famous "The Case for Flexible Exchange Rates" (Friedman 1953) and, later on, by Harry G Johnson (1969).

When Friedman and others proposed flexible exchange rates, especially as a solution to the "dollar gap", hardly anyone was convinced. Not only was there no clarity in relation to whether the proposal was for a universal system of flexible rates or whether it concerned specific countries, but the suggested autonomy that flexible rates were supposed to give to policy was not a given. Kindleberger mounted his own critique of this proposition (Kindleberger 1969: 98-99), but ordoliberals themselves were also not convinced. Fearful of sharp fluctuations and incorrect evaluations that could maintain themselves for long (Richter 1999: 531), they showed preference for domestic monetary supply control and wider economic cooperation to neutralize inflationary pressures without sacrificing stable exchange rates which were still see as elementary for a market based foreign trade. Among other reasons, Bernholz notes, was the fact that a flexible exchange rate system was seen as "compatible with very different domestic monetary constitutions from a fully discretionary monetary policy controlled by the government to a tight control of the money supply by a system of rules" (Bernholz 1989: 208). Instead, many ordoliberals had by that time shown a preference that went beyond these debates: that of central bank independence which could ensure, in either case, a strong hold over the money supply. That solution, it seemed, could overcome the problem of both domestic policy and the political obstacles of domestic social pressures.

The Bretton Woods system of fixed exchange rates collapsed, as already noted, under combined pressures in the early 1970s. In its aftermath, a system of flexible exchange rates was adopted almost by default: no international conference took place to negotiate a new international monetary order. But the consequence of the adoption was not the type of equilibrium that Friedman, Haberler and the others had foreseen. As Kindleberger had noted, a chaotic situation where monies compete with each other without any one having a dominant position, leads to one of these emerging dominant. The flexible exchange rate system was, as much as that of fixed rates, dominated by the dollar.

In response, European countries started envisioning their own system of fixing exchange rates, a process that would, after various attempts (the Snake, ERM) to the inauguration of the European Monetary Union. Interestingly, that option had also been promoted by Lutz in his 1958 text as even more preferable than flexible rates but, at the time, impossible to achieve due to the tremendous coordination it would require. As he wrote, "I don't know whether this is due to my innate pessimism or my lack of imagination: in any case, I cannot believe in such a successful coordination of monetary and economic policies." (Lutz 1958: 146).

The end of the social market economy?

In 1971, Hans Otto Lenel, Eucken's student, editorial secretary of the *ORDO* and economics professor in Mainz, raised the question whether Germany could still be considered a social market economy (Lenel 1971). After explaining that the key characteristic of the social market economy is "trust on the individual" and on the price mechanism, Lenel added that these conditions are necessary but not sufficient, their adoption providing no discernible distinction with laissez-faire advocates in itself. Following Erhard's and other ordoliberal interventions in the debate (discussed in chapter 3 of this dissertation), Lenel repeated that the *social* aspect of the social market economy was based on the promotion of "self-provision" (*Initiative des einzelnen*) and the rejection of subsidiarity (Lenel 1971: 31 – thereafter my translation). But even though the success of the market economy in providing robust economic growth had been achieved, this had not been translated into the furthering of the self-provision principle. Instead, public spending and provision had accelerated. The promise of a market-based social policy had been forgotten.

Going through various aspects of contemporaneous policies in the context of the new coalition government with the SPD at its head, Lenel pointed out a series of areas where the social market economy had been unsuccessful: with social policy being the first, Lenel also added agricultural and transport policy. More importantly, Lenel criticised the 1957 cartel law as indicating that a lot of water has been "into the wine of the market economy" (Ibid: 35). Praising Karl Schiller's lead in the Ministry of Economics and his call for a "clear market economy" (Ibid: 33) throughout the text, Lenel nonetheless argued that his contributions were not enough to return to the main principles and coordinates of the social market economy.

Apart from the specific policies where the retreat of the social market economy was visible, Lenel exposed the general framework within which these took place: competition, in his view, had been reduced to a microeconomic level (only *trade* policy followed a market orientation), while macroeconomic decisions had moved in the direction of central planning. In this context, competition had become an *instrument* for achieving goals set by a different authority and its role as "securing freedom [was] receding" (Ibid: 35). Having "*de jure* market mechanisms and private property" was not enough for a market economy to function. In fact, rejecting central planning in order to advance a re-concentration of companies was not concomitant with a market economy but that was, in his view, the consequence of the cartel law and its numerous exemptions. With the combined consequences of the (highly unnecessary and dangerous) co-determination, the West German state of 1971 was dangerously close to reverting to a relationship of dependency on concentrated economic power (Ibid: 37).

Repeating an argument that we observed in the postwar embrace of the new democratic order, Lenel lamented the advancement of co-determination as *undemocratic*, since it silenced non-organized interests who received no place in the negotiation table (Ibid: 39). Closing his text with a strong critique of the isolated goal of economic growth, Lenel reminded that Röpke, Rüstow and Eucken did not see economic growth as a suitable aim *per se*, as this could be achieved through a number of means that were not necessarily market conforming (such as concentration of economic power). Efficiency was not the only objective: an inter-dependence of orders implied taking into account the wider political order and social fabric (Ibid: 46). In this context, the SPD's expansionary cyclical policies were increasing the money supply, threatening the stability of the currency and, therefore, the very essence of the market economy (Ibid: 41). After concluding that the social market economy was not dead but heading in that direction, Lenel ended with a call for making the "non-economic foundations" of ordoliberal thinking more understandable by the general public (Ibid: 47).

Summarising the debates within the ordoliberal universe, Oberender & Okruch would proclaim in a 1992 *ORDO* article:

> [...] the diagnosis of the threat and the call for a sense of proportion in social policy are as old as the actual implementation of the concept of the social market economy. As early as the 1950s, there was a lack of a "clear economic and social policy" (Erhard et al. 1955), attention was drawn to the "problem of pension reform" (Rüstow et al. 1956) and a distinction was made between "sensible and senseless social policy" (Rüstow et al. 1959). Wolfgang Frickhöffer and others (1962) would soon pose the rhetorical question: "Should the state distribute gifts?" In the 1960s, a "consistent social market economy" (Briefs and others 1966) is still visible, while Ludwig Erhard (1970) felt compelled to ask "Is the market economy still secure?". Walter Hamm (1975) discussed the question "Is the social market economy degenerating?", and Wolfram Engels (1976) gave the answer in the form of a demand: "More market"! The "future problems of the social market economy" are scientifically investigated [Issing 1981], and the "renewal of the social market economy" politically proclaimed (Press and Information Office of the Federal Government 1986). Otto Schlecht (1996) summarised the apparently continuing task: "Renewed social market economy instead of regulatory and welfare state".
>
> Oberender & Okruch 1992: 467 (my translation)

For those who had identified the social market economy as an ordoliberal project, its key features were usually projected in the liberal and currency reforms of 1948. From that point on, implementing policies within this framework had to be closely observed – as were the compromises that also accompanied its operationalization. For this reason, views on the ordoliberal character of the West German economy after the reforms would be split. For some, like Lenel who wrote in retrospect, the direction of a 'clear market economy' had been compromised. Similar expressions of dissatisfaction could also be observed in the 1950s and 1960s, especially by writers like Röpke or even Böhm who, though directly engaged in legislation proposals, would emerge rather disappointed. Others, however, retained their optimistic views. Both Erhard and Müller-Armack, *political* ordoliberals above all, refused to translate compromises as defeats. More pragmatic (or willing to compromise), they understood the social market economy (and ordoliberalism) as a *process* of creating both a framework and path dependent institutions that could secure a long-term trajectory of the market economy. From their perspective, besides the 1948 reforms, key transformations of the West German economy could be found in both the cartel law and the creation of the independent Bundesbank. On top of that, the direct involvement of Müller-

Armack in the process of the creation of the EU and the hands-on engagement of ordoliberals like von der Groeben, Hallstein and Mestmäcker in drawing out the EEC's competition law were also pivotal moments.

Nonetheless, it was hard to ignore that the ordoliberal project in West Germany had become directly linked to Erhard himself. This explains both the continued support he received even from ordoliberals critical of the compromises, as well as a sense of defeat when he failed to maintain his position as German chancellor beyond 1966. But it is worth noting that his downfall was not only related to economic or social policies. Just as geopolitical issues had been crucial in allowing Erhard to promote the social market economy, they would also play a key role in his downfall.

As Thompson (2022) describes in her recent book *Disorder*, a key reason for Erhard's loss of power in the 1966 elections can be traced in the tremendous pressure that the United States placed on Germany (and other Western countries, like the UK) to directly engage with and support its military operations in Vietnam. Looking for a way to enhance the *raison d'etre* of NATO, the US "threatened to withdraw military protection from West Germany" though they would eventually be "unable to make Bonn help finance the war" (Thompson 2022: 51).

In his seminal article on the period, Blang (2004) explains that the relations between the US and West Germany had been more or less smooth since 1949. Konrad Adenauer's chief foreign policy objectives[307] had resulted in a thoroughly complementary foreign policy agenda between the two countries until 1961, when the erection of the Berlin Wall and the formalization of German division was accepted by John F. Kennedy at the dismay of West German authorities. The revitalisation of the West German economy in time to support US material needs during the Korean war, and the subsequent benefits for the West German economy were also crucial.

Nonetheless, with the passage of time and the veritable strengthening of the economy, Adenauer's foreign policy appeared to move further away from the US. This was not accepted by Erhard who, among other things, committed to reverse this shift and to move West Germany back closer to US interests as soon as he replaced Adenauer as Chancellor in October 1963. Speaking to Dean Acheson, one of the key architects of the postwar regime, then Secretary of State Gerhard Shröder declared that the US were not only "the strongest", but also the "only one with whom the problem of reunification can be solved".[308]

Fearing that the Vietnam escalation would remove US troops from West Germany, while also trying to reconcile the growing conflict between De Gaulle and the US, Erhard still found it hard to placate both sides. Eventually, when the US threatened to withdraw troops from West Germany, Erhard tried to re-assert his country's commitment to the US. Ignoring De Gaulle's calls for neutralization,

[307] "Secure the military and political support of West Germany by its Western Allies, end the German division, and protect Berlin", Blang 2004: 342

[308] 'Schroder conversation with Dean Acheson', 19 October 1963: AAPD 1963, 1343-44, cited in Blang 2004: 354

Erhard made West Germany the first country to recognize the South Vietnamese government while also starting secret talks with the People's Republic of China (Blang 2004). This official rapprochement was publicly celebrated with Erhard's visit to Lyndon Johnson's ranch, which the West German Chancellor spent sporting a cowboy hat. During the talks between the two, however, Johnson stated his terms: "Bonn had to raise its contribution to the costs of US troops stationed in Germany and should expand its defence budget to some DM 20 billion" (Blang 2004: 344). The question of German re-unification, which Erhard wanted to promote via US mediation, was not in the agenda.

Caught between mounting tensions between the US and France[309], with the latter forming a vision of an increasingly independent Europe as a mediator in global affairs, Erhard insisted on a full backing of US interests, forcing De Gaulle to call him a "vassal" of the United States. In this choice, however, Erhard was moving further and further away from the question of re-unification which, as noted, was becoming almost irrelevant to US foreign policy. But the spectrum of choices were almost irreconcilable: the possibility of achieving any West German foreign policy concerns while alienating either the US or France was remote, as both allies were pivotal in promoting any potential for re-unification.

The outbreak of full war in 1965, after the US made air strikes against North Vietnam, exposed the fragile balance that Erhard was trying to maintain. Public outrage at the intensifying escalation within West Germany and the inability to justify the country's continuing support of the US caused a major rift. US portrayal of the war in Vietnam as a struggle for "freedom and democracy" against "communist aggression", which Erhard had to repeat, now conflicted with the obvious withdrawal of any consideration of West German foreign policy interests and, adding to that, constant requests for more financial aid for the US military strategy in exchange for not withdrawing US troops from Europe. Mounting pressure to deploy West German troops in Vietnam did not stop even when Erhard pointed out the constitutional obstacle for any such deployment. As Blang notes, Erhard and other West German officials spent the next visit to the US trying to figure out ways to "escape partly unharmed from the crazy situation" (Blang 2004: 249).

But these global developments were not taking place in a vacuum. The domestic front was also in shambles. There, Erhard's policy of budgetary restrictions had led to a recession and diminished economic output which, combined with increasingly disconcerting images of bombing, napalms and death coming out of Vietnam, changed the public consensus and generated forces that would bring tremendous political and social conflicts in the foreground of West Germany society well until the early 1980s. As the *Frankfurter Allgemeine Zeitung* expressed it at the time,

> Germany's situation, based both on a past mortgage and on exposure to the West, does not need to be described in detail. Did real military aid under such circumstances bring a moral advantage to the American-Western side? Was it not natural to fear that the

[309] De Gaulle officially recognized the regime of the People's Republic of China in January 1964 at the dismay of the US. Blang 2004: 345

> concomitant disadvantages would outweigh the these advantages? There must surely be other means to materially underpin a too-cheap moral undercutting.[310]

Despite growing opposition, however, Erhard remained firm in his conviction. Eager to appease the US, however, he agreed to temporarily suspend spending rules in relation to weapons' purchases while making cuts in all other sectors. Agreeing to a massive increase in annual weapons purchases from the US under an agreement that "no longer included the stipulation of earlier accords concluded with the Kennedy administration, which had made German purchases dependent on a balanced budget in West Germany" (Blang 2004: 350), the West German mini-recession quickly turned inflationary. And yet, despite his unequivocal pro-US position, Erhard found no sympathetic ears in Washington nor, for that matter, within his own party. Legislating for a balanced budget in May 1966 and the Bundesbank's five (5) per cent interest rate hike in response to inflation sealed Erhard's fate, igniting rumours that his eventual downfall was caused by the central bank's invariance. The sharp reduction of domestic demand generated widespread fears of a 1930's deflation. With the FDP deciding to abandon the coalition with Erhard, he was eventually forced to resign in November 1966. Not with a bang but with a whimper, the political representative of the social market economy, of the *Wirtschaftswunder* and the rehabilitation of (West) Germany in the global stage, exited the policy making framework. As Plumpe noted, "in the light of Erhard's former popularity, his departure was surprisingly unspectacular." (Plumpe 2016: 266)

For many commentators, the defeat of Erhard marked the end of the social market economy and the implementation, for the first time in West Germany, of Keynesian policies, although Richter (1999: 533) places the "growing impact of Keynesian theory on German economic policy" as early as 1961. A shift change away from price stability towards full employment was attempted, according to this view, its full embrace only averted by the vigilant Bundesbank and its refusal to succumb to political pressure (see also Beyer et al 2009).

The new Economic Minister, Karl Schiller, publicly criticized the Bundesbank's refusal to lower interest rates as well as the bank's rejection of his demand-stimulation programme to stave off the recession. Insisting that the government was not doing enough to stabilize its budget or wage growth, the Bundesbank stayed put (Holtfrerich 1999: 380-381). The conflict was further accelerated by what has been described as a turn towards Keynesianism visible in the Stability and Growth Act of 1967. According to the Act, all federal corporations under public law were required to act in such a way that "within the framework of the market order, they contribute simultaneously to the stability of the price level, a high level of employment and external equilibrium at a steady and appropriate rate of economic growth" (*Gesetz zur Förderung des Stabilität und des Wachstums der Wirtschaft*, 8th June 1967). But apart from introducing the goal of high levels of employment and steady growth alongside price stability and external equilibrium, ordoliberals would also focus and strongly criticise the attempt to embed these

[310] *Frankfurter Allgemeine Zeitung*, Editorial, January 25th, 1966. [my translation]

goals institutionally, by concretizing the secondary mandate of the Bundesbank, i.e., the obligation to support without prejudice to its primary mandate the "general economic policy of the Federal Cabinet". This was to be performed, as Holtfrerich (1999: 381) notes, by making "new credit-policy instruments available to the Bundesbank" with the government wanting "a say in their deployment".

The wider characteristics of the period, however, urge some restraint in accepting this broad brush of a supposed Keynesian shift. On the one hand, the utilization of the term "Keynesianism" should be qualified not in relation to its wider sense but from a very specific West German perspective, i.e., any attempt to place the question of unemployment on an equal standing with price stability.[311] A central obstacle to this narrative concerns the Economics Minister of the SPD, Karl Schiller who, as we have seen, has often earned the praise of ordoliberals themselves.[312] While it is true that Schiller's overall approach did consist of stressing the inability of an "autonomous functioning of the market" in delivering the results it promised, the question that needs to be carefully answered is whether Erhard and his advisers really believed in the "autonomous functioning" of the market.

As we have seen, the central tenet of ordoliberal thought was not reliant on some metaphysical conceptualisation of autonomous market equilibrium, stressing instead the necessity of a state-led regulatory framework that could correct market deficiencies and failures which were *inherent* in its functioning. If the political role of the state was seen, therefore, as one of framework-building focused on neutralising attempts to *politicise* economic policy, Schiller was as much concerned with insulating policy from *"*a range of social and lobbying interests*"* (Lumpe 2016: 268) as his ordoliberal "rivals".

There is no reason to deny that the *Stabilitätsgesetz* marked a transformation. But Schiller's vision was neither confined to it nor was it that distant from ordoliberalism. While he had supported SPD planning schemes in 1948, Schiller had justified that not on an ideological basis but due to his view that the preconditions for a transition to market economy were not there yet. Present and forever impressed by Rüstow's 1932 speech at the *Verein für Sozialpolitik*, Schiller would develop a vision of an "enlightened market economy with social commitment" that was almost identical to that of Müller-Armack. He never rejected the price mechanism and sought, already from 1950, to introduce into the SPD the notion that even the goals of full employment could only be achieved when market forces were regulated by an *Ordnung* (Nicholls 1994: 268). Tough on anti-cartel legislation, unhappy with co-determination and particularly mild on social policy (lest it overheats the economy), Schiller sought to encourage competition, reducing state policy to an influential but not directive role vis-à-vis the market (Ibid: 373). As Nicholls himself points out, there was nothing in Schiller's views "to which Rüstow, or Müller-Armack could have taken objection" (Ibid: 372).

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311 Bundesbank President Klasen was accused of 'Keynesianism' for interpreting "the Bundesbank's task of 'safeguarding the currency' differently from all his successors since then. He accorded economic growth equal priority to price stability [and] recalled that not only inflation, but also unemployment had been a 'trauma' for the German people" (Holtfrerich 1999: 394).

312 In 1969, Wolfgang Frickhöffer, president of the *Aktionsgemeinschaft Sozialemarktwirtschaft*, called Schiller an eighty (80) per cent market economist who "adapts his projections to the changed facts and not facts to projections." Molsberger 1970: 186

In his position as Economic Minister Schiller was, at least initially, successful. By 1968-9 growth rates had "returned to the levels to which West Germany had become accustomed in the economic miracle years" (Plumpe 2016: 269). And though inflationary pressures mounted, we know that this time around the conceptualization of imported inflation, as a consequence of the unravelling of the Bretton Woods agreement, was more central in explaining these pressures than Schiller's policies. The simultaneous outbreak of a series of wildcat strikes by a rising autonomous working class that was no longer controlled by trade unions or co-determination and managed to get significant gains only added to the mix (Johnson 1998: 72). But that was also hardly Schiller's doing: it reflected the fact that firms, unsettled by the dynamism of the workers' struggles, started making concessions that went beyond wage agreements (Plumpe 2016: v269-270).

In the end, it was only the coordination of chancellor Schmidt with his newly elected French counterpart, Valéry Giscard d'Estaing, and the crucial backing of the Bundesbank, that stabilized the West German *and* European monetary situation.[313] And this 'resolution' was framed around the central issue of European integration. From this perspective, it was no coincidence that a gradual shift of attention towards the European level became visible within ordoliberal thinking too.

As for the end of the social market economy, a final observation can be advanced. As we have seen, a widespread consensus within established West German political parties had come, by the late 1950s, to embrace if not the concept itself, at least its main coordinates. If we take Foucault's approach that the social market economy was a new form of *governmentality*, the narrative that it came to an end with the advent of the SPD coalition government appears unfounded. Even though it might be claimed that different political actors interpreted its exact meaning in different ways and in accordance to their electorates' sensitivities (lending some support to Hayek's denunciation of the concept as empty of content), it could also be argued that in practice, its central features were shared with little divergence. A market-oriented economy that rejected central planning; a sovereign-consumer oriented form of social relations; an acceptance of the necessity to heed attention to social inequality with an eye to finding market-based solutions for its over-coming; a role for the state as a regulatory framework that advances, without controlling, competition. These were positions that were, whether abstract or not, shared by most central political and official actors in West Germany's postwar period, and they were also translated into the institutional forms that were created in that time.

Moreover, the various compromises that were present in the process of operationalizing such a framework were not, in any way, unique to Germany, nor where they a consequence of creeping collectivism as Röpke fantasized. They were the inevitable consequences of antagonism and conflict that capitalist societies engender through their inherent contradictions and were as much visible and determinant in other European countries as they were in Germany. This brings us to a second observation: despite its claim to uniqueness, there is a certain perspective from which West Germany

[313] Helmut Schmidt is widely acknowledged as playing a pivotal role as Germany's *Weltökonom* in the process of European Integration (indicatively, see Dyson & Maes 2016). Unfortunately, space does not allow for a full appraisal of his contribution.

was not as clearly demarcated from other market economies (Leaman 1988: 75). All European postwar economies were based on market principles, trade expansion, liberal ideals and social policies as a means of legitimising higher productivity rates and profits. The element of compromise that characterized the period reflected the dialectic dynamic between those pushing for more market liberalisations and those who, in one way or another, tried to tame its consequences. There is, in short, no other way to understand why the vision of European integration, which represented above all else an attempt to coordinate trade and monetary relations at a level beyond that of the nation-state, found eager supporters not merely in the ordoliberal circles but in the whole European ruling class. Conceptualizing such a supra-national response reflected another thing in common: a rising level of discontent and subversion that could no longer be accommodated within the postwar social compromise.

In this context, the need to respond to this erosion took a very specific, cross-national form: the re-orientation of thinking towards supranational formations, inspired by the various experiments such as the European Payments Union, the Economic Coal and Steel Community and the various plans (Monnet Plan, Schuman Plan, etc.) that sought, but could not just yet, to express European integration in its fullest form. Not all ordoliberals took to this reconfiguration of thinking kindly. As we shall see, significant opposition emerged within the ordoliberal community, with esteemed members like Röpke taking the lead. But other "practitioners" of ordoliberal positions like Erhard or Müller-Armack proved more adaptable and more forward thinking. With the support of figures like Hallstein, von der Groeber and Mestmäcker, a new chapter in the history of ordoliberalism would be written, which would prove more long-standing and convincing than Röpke's objections. As the main coordinates of this conflict around European integration are crucial in contextualizing future conflicts during the Eurozone crisis, a close look is necessary.

European Economic Community and the Rome Treaty

> [...] International competition...offered a lever to stimulate our business sector, to force it to increase productivity...hence my decision to promote the Common Market which was still just a collection of paper.
>
> De Gaulle 1971: 143

> In shifting the scale of the economic constitution from the nation to the supranational federation and later the world, the neoliberal constitutionalists seeded the field of international economic law that would emerge in the 1970s and helped theorize an integrated Europe as a model for global economic governance.
>
> Slobodian 2018: 184

The EEC was the result of negotiations that took place under the auspices of the immediate aftermath of World War II, the spectre of a not-yet-functioning Bretton Woods Agreement and some early attempts to restore trade. It was also explicitly aimed at forging a multilateral coordination between Western European countries, the origins of which can be traced to the European Payments Union (EPU), a precursor as much to the EEC as it was for the Exchange Rate Mechanism (ERM), the European Monetary System (EMS) and, eventually, the European Monetary Union (EMU) (Eichengreen & de Macedo 2001).

The European Payments Union

The Marshall Aid program was accompanied by a vision of coordination that was presented, by the US administrators, as a necessity and not merely an ideal. The conditions were a form of integration of Western European economies, a term that was at the time explained as "the abolition of trade barriers based on a system of multilateral payments within the OEEC area" (Flexner 1957: 242). More specifically, European countries had to work towards the "formation of a single large non-restrictive market, capable of large-scale, low-cost production; a substantial measure of coordination of national fiscal and monetary policies; the prevention of inflation; the use of 'necessary exchange rate adjustments, subject to the general supervision of the International Monetary Fund'; the prevention of seriously conflicting commercial policies; and the encouragement of economic arrangements among groups of two or more of the smaller nations, providing that these contribute to the integration of the whole area" (Ibid).

The EPU was meant to assist in the fulfilment of these goals. Proposed in 1949 by the US and established in July 1950, it began with a starting capital in the form of a $350 million grant from Marshall Aid money. Its explicit aim was to either replace bilateral trade agreements between specific countries or to facilitate the creation of new multilateral ones. With an overall goal of economic integration, the dismantling of trade restrictions and the facilitation and coordination of national recovery plans, the EPU was overseen by the Bank of International Settlements (BIS) which acted as its financial agent.

The structure was relatively straightforward: rather than maintaining a bilateral clearing of claims and liabilities between the trading partners, offsetting claims were settled every month towards the EPU *as a whole* using a common unit of account (Flexner 1957: 243), lending some credence to evaluations that saw something of a *bancor* imitation. Pooling resources in a way that made specific trade between EPU members irrelevant, countries would receive claims or offset liabilities in accordance to a quota equal to 15 per cent of each country's trade share. At the same time, EPU member countries had access to extended credit lines provided by the EPU. While repayment of claims was also sanctioned in either dollars or gold, the multilateralization of trade eventually meant that during its existence, less than 75 per cent of settlements were made in either. Nonetheless, as Eichengreen & de Mecado (2001) note, dollar balances in EPU countries as a whole more than doubled in this period.

Created so as to reassure creditors' worries, debtor countries were forced to adjust their repayment under pressure of the EPU managing board. Under the EPU, "countries whose OEEC-area imports exceeded their exports [...] could finance the difference through the use of credit granted by the Union. Countries whose exports exceeded their imports in the OEEC area would receive their surplus in part by gold payments from the Union and in part by extending credit to the Union" (Flexner 1957: 243). While receiving more gold than debtors, creditor countries also benefited by the preconditions to enter the EPU, i.e., the liberalization of trade and the dismantling of restrictions. Starting at a low level, trade barriers were to be eventually reduced by more then 75 per cent in relation to their starting point. As Gillingham observes, the EPU "built in strong disincentives to running a deficit than it provided incentives to building up a surplus" (Gillingham 2003: 39). But it did also include capital controls in order to keep currency parities.

A crucial but often ignored factor for the success of the EPU system was prolonged wage moderation on behalf of the organised working class and agreement to direct productivity gains towards investments (rather than higher wages). As Eichengreen & de Mecado note,

> In the Netherlands, for example, labour unions explicitly agreed that the fruits of all productivity increases in the first half of the 1950s should be used to finance investment. In Germany, they observed significant wage restraint throughout the 1950s. In Austria, German-style wage moderation and investment were secured through consultation between representatives of labour, management, and government. Even in Britain, not renowned for labour-management harmony, the Trades Union Congress cooperated with management and with the Conservative governments that ruled from 1951 by moderating wage demands.

On their part, companies raised their investment rates, reduced dividend pay-outs and re-invested profits. By 1953, the success of the EPU kick-started discussions about its supersession or replacement by a wider plan that could formalize its characteristics and persist even when convertibility had been achieved. The result was the so-called Beyen Plan, seen by many as a precursor for the EECB (Milward 1984; Gillingham 2003).

As a last observation, the EPU system was structurally framed to discourage currency devaluations as these would worsen trade share and reduce each country's quote and available credit. The consequence was, however, the creation of a form of import tariffs against non-EPU countries, most notably the United States. But the goal of the EPU was to temporarily delay the process of reaching full convertibility which would have, at that time, reduced income in a way that would threaten the social consensus reached with organized labour. To further overcome hesitation, Eichengreen & de Mecado (2001) add, non-wage compensation was guaranteed by the western European states. The EPU ended in December 1958, when full convertibility on the basis of the Bretton Woods Agreement was feasible and the Rome Treaty had been signed. As a first attempt to centralize payments between

European countries, the EPU also represented a first direct step towards the creation of the European common market.

European Coal and Steel Community

The second step in the long path of European integration came in the form of the European Coal and Steel Community (ECSC). Representing an agreement between six (6) countries (Belgium, France, Luxembourg, Italy, the Netherlands and West Germany), the aim was to promote the further integration of two strategically crucial industries, the conflicts around which were seen as a driving force behind disequilibrium (Cairncross et al 1974: 3)

The background of the ECSC was a proposal by Jean Monnet, titled *Rapport general sur le Premier Plan de modernisation et d'equipement*, written in 1946-1947, known as the Monnet Plan. At its epicentre stood a certain embrace of planning, an economic framework that has been described as strongly embedded in the French tradition: visible in the trade unions and the Socialist party, planning was also supported by Léon Blum's Popular Front government, figures like Pierre Mendès and practiced by regimes like Vichy. It was also inscribed in the charter of the National Council of the Resistance, while one the first acts of the Provisional Government of 1944 was to create a National Economy ministry and hand it over to Mendès (Wall 1991: 87).

While most ordoliberal voices would lament the influence of central planning and would specifically target France as a *dirigiste* economy par-excellence, it is worth noting that this identification is often misleading. Amable (2017) has skilfully indicated that the apparent opposition between French *dirigisme* and the market economy is quite fragile under closer examination. Taking into account the different economic development of the German and French economies, French "planning" was less a full endorsement of central planning than a specific proposal for the process of *modernising* the French economy in a market direction, with the clear hope that the end result would be the capacity to compete effectively with Germany. Despite ordoliberal condemnation, it remained much closer in spirit to the German approach than is usually admitted.

Emerging from a background of the failure of both the private sector and liberalism to confront and correct the inadequacies of the French economy before and during the war, French liberals would embrace the necessity of some form of planning as a way forward. With 'modernisation' as the *leitmotif* of economic necessity, notions of planning in France reflected attempts to re-conceptualize the appropriate role of the state and the scope of its activity *within* a market economy; in other words, it was triggered by similar explorations that had led German ordoliberals into their own formulation of the 'third way' between laissez-faire and central planning or collectivism. To take an example, while Rueff would dismiss the *économie dirigée* as a dictatorial system, other French participants at the Mont Pèlerin Society's first meetings would continue to explore the meaning of 'liberal interventionism' or '*dirigisme libéral'* (Amable 2017: 18) and the ways the market economy could be combined with some elements of state intervention. Keeping track of the idea that ordoliberals never supported a 'night watchman state', nor promoted its withdrawal but struggled to conceptualize a new role that would facilitate without obstructing the market mechanism, a more nuanced approach to questions of affinity between the supposedly radically divergent French and German models is necessary.

Coming from positions within the business community or even engineering schools, French liberals were particularly concerned about how to make significant productivity improvements in the present and less inclined towards "abstract rules of competition" (Ibid: 16). If ordoliberals had constructed their opposition to any planning by projecting it as an obstruction of the price mechanism, French proposals would also become increasingly sensitive to both the functioning of the price mechanism and competition. Conceptualising planning as more 'indicative' than 'prescriptive', "the price mechanism and competition became the dominant regulating mechanisms in order to achieve economic efficiency, and the efforts of planners became directed towards improving, rather than replacing, the price mechanism" (Ibid: 19).[314]

Even the period of de Gaulle's rule could be better understood by adopting such a nuanced approach. Having conceptualized the state as an institution meant to "give an impulse to economic activity and harmonise the rules" (de Gaulle 1971), de Gaulle was as much an advocate of a *strong state* that could neutralize the 'ferments of dispersion' (Jackson 2018: 567), while also seeking to explore a 'third way' between Communism and laissez-faire liberalism (Ibid: 569). Visible in his adoption of the Rueff Plan of 1958 – which Röpke would later describe as identical to Erhard's 1948 reforms (Röpke 1974: 189; 195) – and the stabilization plan of 1963 (Jackson 2018: 637), de Gaulle was instinctively in favor of price stability instead of growth and fiscal orthodoxy instead of expansion, while he assigned the state the role to "oversee the market" (Ibid). In fact, he rejected the idea that the state should 'run' (*diriger*) opting for the term 'lead' (*conduire*) the economy (Amable 2017: 19).

It was in such a context that Monnet would develop his own plans, envisaging a "politically acceptable vehicle for the reconstruction of a neoliberal capitalism via the use of the state" (Wall 1991: 88). In full agreement with the overall plan to reduce tariffs and other barriers to international commerce, the Monnet Plan was committed to free trade and convertibility, adding however that French reconstruction (and 'modernization') needs were equally taken into account. Oppositional to protectionism, which Monnet also saw as responsible for the outbreak of the war, his plan was based on the acknowledgment that Franco-German relations passed through the Ruhr valley and the dependence of France on steel and coal imports. Placing such priority on heavy industry (in contrast to the emphasis on consumer goods that Erhard was promoting at the same time), the Monnet Plan was nonetheless seen as an intermediate step and by no means the final word in European integration. For

[314] Part of the charge against French *dirigisme* concerns the expansion of social policy, especially during the Third and Fourth Republics. As we have seen, however, the co-existence of a market economy with social policy was not only politically inevitable in the aftermath of World War II but it was equally present in ordoliberal tendencies.

Monnet, modernization and stabilization went together and stopping inflation had to be "associated with economic expansion to increase total resources" (Wall 1991: 96).

Drawn up to "save the Monnet Plan" (Milward 1984: 365), the eventual details of the ECSC were laid out in the Schuman Plan. Both represented "a coordinated link in the successful modernization and transformation of the French steel industry" (Wall 1991: 102), reflecting a balancing act between catering to French producers as well as exposing them to foreign competition. Pushed by the United States to include Germany into the new Europe, "the Schuman Plan was Monnet's creative answer to a way out of the French difficulty" (Ibid: 104), given that the initial Monnet Plan was essentially geared towards organizing "western Europe into a political bloc around France to provide security against a restored and resurgent Germany in the future" (Milward 1992: 122), a goal that was clearly in contradiction to US plans. Therefore, Monnet's proposal of pooling together resources (as opposed to France taking over the Ruhr, as was initially hoped) in specific sectors "combined pragmatism and vision; limitation to a single pair of products, coal and steel, greatly simplified negotiations, while success in so basic an industry was bound to provide a stepping stone for future construction of a united Europe" (Ibid: 105).

From this perspective, the Treaty creating the ECSC, signed in Paris in 1951, "introduced some of the basic features that have marked European integration since [...] a supranational High Authority, a Council of Ministers, a Parliament, a Court of Justice and a single European market for coal and steel" (Mourlon-Druol 2017: 5). Under the Schuman Plan, "the entire French and German outputs of coal and steel be placed under a single European High Authority, which would be open to other European steel producers as well. The proposed European Coal and Steel Community (ECSC) would thus create a common market for coal and steel products [...] For France, it would assure French access to the resources of the Ruhr and guarantee the 'competitiveness' of French firms on European markets. Moreover, it would facilitate planned economic modernization, as called for by the Monnet Plan, and render the ideal of economic integration compatible with the volontariste thrust of French economic policy." (Loriaux 1991: 128) As Milward adds (1984),

> The market would be regulated more in the French than in the German interest, because the Federal Republic would have to make economic sacrifices in return for so dramatic an acknowledgement of its equal political status. And in those sacrifices France would achieve a better guarantee of access to German resources than by any other policy now conceivable.
>
> Milward 1984: 365

For the United States, on the other hand, "the plan laid the foundation for European integration and opened the door to German participation in a Western European economic and political community." (Loriaux 1991: 128) More than that, its "institutional framework was maintained with some adjustments in the 1957 Treaty of Rome that created the European Economic Community (EEC), and further developed by the 1992 Maastricht Treaty that created the European Union" (Ibid). As Mourlon-Druol puts it, both the ECSC and the Schuman Plan "marked the first implementation in Europe of the supranational method." (Mourlon-Druol 2017: 5).

The Rome Treaty

Most official accounts narrate the process of European unity and integration as framed around the need to neutralize Franco-German conflict. The presupposition that underlies such an assessment, i.e., that expanded trade obstructs military confrontation, has been given little attention. On the one hand, this traditional liberal narrative can be seen as guilty of reversing the actual relation: as Somek notes, this is reflective of a dogma that "there has been peace among European nations because of integration rather than the other way round" (Somek 2014: 699). A consistent liberal mantra since the 18th century, its empirical validity could well be challenged by observing the reality of the outbreak of war and conflict *as a consequence* of market expansion and market-related concerns. At the same time, such a narrative conveniently ignores that the EEC did not stand "for unity, but for Europe's division into east and west" (Patel 2018: 21). Taking these objections into account, it is perhaps more realistic to situate the origins of the EEC and its founding document, the Rome Treaty, in the conviction that non-market oriented alternatives would hinder economic recovery and would undermine the opposition to the Soviet regime. That European integration was a response to the need and facilitation of foreign trade is common sense but, as Milward points out, "this observation is too vague and truistic to be of much use as historical explanation" (Milward 1992: 120).

A political goal pushed through economic means, European integration has to be seen as emerging within a context of a new international monetary order which, as we have seen, re-established central elements of the pre-1914 liberal order while trying to avoid some of its mishaps. At the foreground of these considerations, the experience of the interwar period was a crucial factor, especially in relation to the need to integrate the working class as an *beneficial investment for,* and not merely an *unfortunate cost of*, the market economy. It is *within* this context that the solution to three inter-related issues ("trade with West Germany, trade expansion in general, and protection of specific areas" (Milward 1992: 120) has to be contextualized.

The desire for a customs' union can also be traced in the fact that the expansion of West German exports was, until the mid-1950s essentially sustained by smaller, trade-dependent countries in western Europe (such as the Netherlands, Denmark and Norway). While these were rapidly growing markets, explaining the so-called *Wirtschaftswunder* in more realistic terms than Erhard's liberal reforms, there is little doubt that opting for an expanded customs' union was seen as an even greater potential for export growth. As Milward (1992: 159), "one appeal of a customs union was that it would extend the [West German export] base by forcing down levels of protection in France and Italy, and perhaps eventually the United Kingdom". Moreover, as West German export expansion of specific goods was accompanied by an increase of its imports in raw material or semi-finished goods, West Germany's

European partners also had good reasons to want a customs union. Already after the creation of the ECSC, export shares going towards the UK shrank, whereas the share going to ECSC members increased, a result that did not only depend on West German exports but also intra-ECSC trade (Milward 1992: 167). The basis for the geographical trade patterns that is often seen as *resulting* from the creation of the EEC was already in place beforehand and is, therefore, a better explanation of its emergence.[315]

From this perspective, the Rome Treaty reflected a continuity or update of previous arrangements (such as the EPU or the ECSC). Its central aim was to re-establish trade relations in a way that would benefit all signatory member states: for France, the goal was to re-assert its importance in Europe and vis-à-vis Germany; for smaller, trade-dependent nations such as the Netherlands and Denmark, it concerned the further expansion of their commercial activities and improved deals for their imports from West Germany; for the Federal republic it reflected both the desire to facilitate the already expanding dynamism of its export sector, as the need for political recognition and equality after World War II. These combined aims were then formulated in the ideological conviction that better trade arrangements would minimize the prospect of another war like the one that had ended almost ten years before. A final hope of achieving gradual independence from American aid and American imports – a goal shared at the time by the United States – giving Europe a stronger international standing was also significant.[316] As Milward forcefully concludes,

> the will of the European nation-state to survive as an organizational entity depended on the prosperity which sustained the domestic post-war political compromises everywhere. The importance of foreign trade to that prosperity was great and was magnified in the political and economic thought of the time. West Germany was the pivot on which the increases in foreign trade, investment and prosperity turned. It was essential for political and economic reasons that West Germany be bound to the west, but it needed an arrangement that satisfied the economic interests of western European countries if a durable way of doing this was to be found.
>
> Milward 1992: 223

At the background of these economic and political considerations lay the reality that this section has attempted to expose: that rapid economic growth in Western Europe in the 1950s was primarily based on the widespread wage moderation performed by organized working class interests, a fact responsible not only for West German export gains but for the more structural concern of productivity gains. These were, in West Germany as anywhere else, premised on the simultaneous generous provision of non-waged compensation that, although visible in different forms across western Europe (from public housing to unemployment benefits and from health care to education), remained consistent throughout.

[315] As Milward writes, "[...] the geographical pattern of trade which became identified with the common market began in 1954", (Milward 1992: 171). Later, he adds that "even though more than 60 per cent of German exports by value went to Europe, they were by no means concentrated on the market of the Six" (Ibid: 196)

[316] As Maurice Faure, a member of the Ministry of Foreign Affairs of France put it to the French Parliament in the eve of the ratification of the Rome Treaty, "there are not four Great Powers, there are two: America and Russia. There will be a third by the end of the century: China. It depends on you whether there will be a fourth: Europe". Quoted in Milward 1992: 208

This fact gains wider significance when one notices how important the negotiations over a harmonisation and equalization of wages across member states became in the last stages of the Rome Treaty negotiations. When Erhard vehemently opposed any attempt to internationalize French and German welfare or wage levels – a further point of agreement with Röpke and his fear that expansionary and inflationary France would become a drag on the Federal Republic – an impasse was reached. But even beyond inflationary pressures, Erhard saw that an equalization of wages would have resulted in a 4 per cent average yearly increase of German wages for the next 4 years (Milward 1992: 214). Nonetheless, Erhard's objections did not lead to an abandonment of the plan. The wider framework that was always part and parcel of the process of European integration was essential. More particularly, the dramatic turn of international events that occurred *while the negotiations were taking place* (most importantly, the Suez crisis and US refusal to support the UK and the Hungarian uprising and its brutal suppression) was crucial in forcing a relative compromise and final deal. The terms of the signed Rome Treaty did, contrary to Erhard's wishes, include a commitment "to improve the level of welfare provision to that of the most generous provider" (Milward 1992: 216).

Customs Union, Common Market or Economic Constitution?

In its final form, the Rome Treaty represented what Tuori & Tuori (2014) have aptly described as a 'micro-economic' constitution, that is, an economic constitution focused on regulating "the behaviour of individual economic actors [with] cross-border implications" (Tuori & Tuori 2014: 16). Positing the 'four freedoms' as central and focusing on trade, it might be perhaps appropriate to assume that it bore little relation to the ordoliberal economic constitution that posited a decisive *Gesamtentscheidung* that establishes a specific economic order. But this would be too hasty an interpretation.

Looking at the Rome Treaty negotiations and final articles, one stumbles across the absolutely essential role that competition law – i.e., the rules of the game of trade relations – played in its formation and subsequent development.[317] Not only did the Rome Treaty establish a legal order under which individual economic actors were protected at an unprecedented level, by giving them direct access to confront their own government policies in front of EU law, but its competition law was also openly geared towards minimising private economic power, an approach fully concomitant with Eucken's and Böhm's ordoliberal principles. Moreover, two of the highest authorities of the EEC took on roles to defend and promote these precise coordinates of competition law: the European Commission, also known as the European Anti-Trust Authority, which was granted the competence to monitor compliance with competition law; and the European Court of Justice which ensured through its decisions the supremacy of EU competition law in cases of divergence from national law. Both non-political bodies of experts, they ensured the operationalization of the Treaty's underlying competition objectives way beyond the often emphasized four freedoms. Exploring the full implications of these issues and their

[317] As Seidel pointedly notes, EU competition law remained effectively unchanged until 2003. (ref)

relationship to the ordoliberal economic constitution will be done in more detail further on, but suffice to say at the moment that despite the absence of economic and monetary policy decision-making powers, and the handing over of macroeconomic considerations and policy to member states, the Rome Treaty was in fact presupposing a specific (market) economic order.

The primacy of price stability and of the price mechanism were considered as given goals to be followed by member states, whose national constitutional law would ensure both such constitutive principles and their underlying framework of private property, freedom of contract and trade. Moreover, Art. 107(2) gave the Commission the power to intervene and react if a member state's practices resulted in "distorting competition".[318] On top of this, the overall framework of the Bretton Woods agreement, which included exchange rate stability and a given monetary framework was, at the time, seen as sufficient to maintain key monetary coordinates without the need to include them in the Rome Treaty and thereby raise questions of so-called sovereignty abandonment. To put it bluntly, sovereignty in relation to monetary policy and exchange rates was already significantly supervised by the Bretton Woods regime, making its absence from the Rome Treaty somewhat irrelevant.

These observations should not, however, obscure the fact that the Rome Treaty also allowed space for policies that diverged from the ordoliberal framework, with the Common Agricultural Policy (CAP), which provided subsidies to farmers, a consistent frame of reference in this regard. Moreover, signs of the postwar compromise were also visibly present. Art. 104 of the Treaty did call for each member state to "ensure the equilibrium of its overall balance of payments", to "maintain confidence in its currency" and to retain "a stable level of prices", but it also included "taking care to ensure a high level of employment". Nonetheless, such additions could also be conceived as paying lip-service to wider demands; their operationalization within the EEC would eventually prove to be minimal.

From a certain perspective, interpreting the Treaty as reflecting a compromise between (so-called) German and French positions is not out of place. But such an approach would have to carefully explain both German protectionist elements of its own agricultural sector, and French embrace of competition law (see p. 252 of this dissertation). Lastly, another observation is pertinent. Though throughout the negotiations the aim was clearly in the direction of creating a Common Market between specific countries, it was in the final stages that the result was renamed as European Economic Community. As Patel (2018: 22) notes, this was not an insignificant symbolism. Despite its smaller size, the EEC was pregnant with higher goals that would include *all of Europe* in the foreseeable future and its final name reflected that ambition. "Working towards a Common Market was one thing, aspiring to a European Community a great deal more noble" (Ibid). But whether this reflected an attempt to

[318] "If a Member State makes an alternation in its rate of exchange which is inconsistent with the objectives set out in Article 104 and which seriously distorts conditions of competition, the Commission may, after consulting the Monetary Committee, authorise other Member States to take for a strictly limited period the necessary measures, the conditions and details of which it shall determine, in order to counter the consequences of such alteration." Treaty of Rome, Art. 107(2)

force a European identity *beyond* the economic and legal sphere, as Patel concludes, deserves a more critical assessment.

Competition as the 'organizing principle' of the EEC

Since the eventual Rome Treaty was, as noted, based on previous attempts of integration like the Monnet/Schuman Plans and the ECSC, it is suitable to begin any investigation of the relationship of ordoliberalism to the EEC from there. Considering the fact that these early integration schemes and agreements were decisively focused on trade relations, it goes without saying that competition law, which regulates the framework within which trade takes place, holds a central position. Despite the fact that many would describe integration attempts as a *political project*, this does not necessarily depict a contradiction. From a certain perspective, ordoliberals did consider the establishment of the economic constitution as the result of *political will*, or a *political decision* (*Gesamtentscheidung*). Similarly, political considerations remained crucial if only because making the draft treaties and plans acceptable to European parliaments and their political delegates was a *sine qua non* of the whole process. But none of these considerations should divert from the significance of competition law.

Küsters' seminal and detailed work on the topic provides a good overview of the specific and highly debated issue of ordoliberal influence in the negotiations concerning competition law during the Monnet/Schuman Plans and the ECSC Treaty, leading all the way to the Rome Treaty. As a starting observation, it is important to note that the significance of ordoliberalism in this process did not only relate to the specific composition of these committees, where a wide range of German ordoliberal thinkers were present and influential, but also in the way that the ordoliberal framework was present in the contributions of non-German delegates. The final imprint of ordoliberal positions can also be seen in the actual drafts and signed agreements.

Breaking this down, we can begin by noting how Erhard appointed Müller-Armack as state secretary for European integration, a position he would maintain throughout the whole process of negotiations and the final signing of the Rome Treaty. Less known, perhaps, is the fact that the German delegation tasked with negotiating the Schuman Plan that led to the ECSC Treaty, for example, prepared itself by reading Röpke's texts on the subject. In fact, as Küsters (2022: 206) informs us, Adenauer had asked Röpke to head the German delegation, a proposal that he rejected but not before suggesting Hallstein as his replacement, something that Adenauer accepted.

Hallstein would prove a central figure at this level of European integration. President of the German delegation during the Schuman Plan negotiations (June 1950) that led to the ECSC (April 1951), Hallstein would also head the negotiations in Messina (June 1955) and the discussions of the Spaak Report in Brussels (April-June 1956). In March 1957, he would be the German representative who officially signed the Rome Treaty alongside Adenauer. His ordoliberal credentials, though disputed by some (White 2003) are impossible to ignore.

A law professor since the 1930s, his contact with ordoliberal positions occurred in the interwar period. Positively quoting Großmann-Doerth in his 1942 *Von der Sozialisierung des Privatrechts*, Hallstein gave joint seminars with Franz Böhm. After his capture by US troops during the Battle of Cherbourg in 1944 and after spending one year as a POW, Hallstein returned to Germany and became rector at the University of Frankfurt. Rejecting a proposal by Erhard to become a deputy minister in the Bavarian Ministry of Economics, Hallstein would accept Adenauer's appointment to head the German delegation in the negotiations of the Schuman Plan in the summer of 1950. Hallstein's relation to ordoliberalism continued even after the EEC was created and he became the European Commission's first president. Quoting Eucken extensively throughout his life, Hallstein would give a lecture in Freiburg, in 1961, on the "interdependence between economic integration and the political order" (Küsters 2022: 208). Closely connected with Mestmäcker, whom he invited to observe the meetings of the European Commission, Hallstein was one of the first to call the EEC an 'economic constitution' (Ibid). According to Joerges (2016: 147), Hallstein was "an avowed ordoliberal".

In his role as German representative in the Schuman Plan/ECSC and Rome Treaty negotiations, Hallstein brought along other German ordoliberals as parts of his delegation. Most notably, he was accompanied by Walter Bauer (co-author of the *Josten Draft*[319] and MPS member) who took part in all working groups dealing with competition policy, as well as Heinrich Kronstein, a US based "avowed supporter of the ordoliberal model" who lectured at the Frankfurt University at the invitation of Böhm (Küsters 2022: 209; Phalow 2014: 399). Moreover, during the June 1956 discussions at Val Duchesse which led to the final drafts of the Rome Treaty, Hallstein appointed Hans von der Groeben, another ordoliberal, to head the working group discussing the Common Market. Von der Groeben would eventually become head of the Common Market Commission, alongside Marjolin (France) and Schaus (Luxembourg).

As noted, however, traces of ordoliberal thinking were not confined to the German delegation. Monnet's own vision, which the Schuman Plan was meant to salvage, showed an important affinity to ordoliberal thinking on competition, framed around a strict restriction of cartels and monopolies. Together with Pierre Uri, Monnet and Schuman would develop their proposals from the perspective of "eliminating inefficient producers", condemning national or international cartels and opting for "genuine competition" (Ibid: 203-5). Their plans were embedded in an understanding of creating a "market structure with legal governance" whose *political objective* was, echoing Eucken, that of "preventing political abuse of economic power". US Secretary of State Acheson would describe the Schuman Plan as aiming at economic "expansion based on competition but without domination". As Küsters notes, it represented an attempt to reconcile "liberal competition with an ordering, institutional force". Similar positions were visible in other delegates, such as Van Zeeland (who signed the ECSC on behalf of Belgium) and who belonged, according to Dyson (2021: 55-6, 211-212, 252, 260) to the

[319] See pp. 184-5 of this dissertation

"ordoliberal family" as a strong *supporter* of balanced budgets and the gold standard and a fierce *opponent* of inflation as a destructive force against the moral fabric of society and an unacceptable inversion of the creditor/debtor dynamic. Like other ordoliberals (see section 3.3.5 of this dissertation) Van Zeeland would also embrace the institutional set up of central bank independence, once the return to the gold standard had been proven untenable.

The ECSC negotiations were undertaken with a similar compositions. And while semantic and linguistic differences in the conceptualization of competition between the various national delegations have been detected, one does not need to draw Küsters' conclusion that "French-German differences represented two opposing views" (Ibid: 211). A different reading of the debates and conflicts during the negotiations can point at the fact that the opposing views did not actually cut across *national* lines: Monnet, Schuman and the German ordoliberals had more in common with each other than they did with other delegates representing their respective national governments. This can be observed clearly, for example, in the discussion around the *Verbotprinzip* and *Missbrauchprinzip* over competition/cartel legislation. Küsters notes that Monnet was closer to the *Verbotprinzip* than German delegates. But if we compare with what we have already seen during the negotiations of the cartel law in West Germany, ordoliberals also strongly supported the *Verbotprinzip.* It was after pressure from industrial interests that the focus shifted to the *Missbrauchprinzip*, forcing Erhard to concede to Adenauer in the final draft and causing Böhm's dissapointement with the outcome (see pp. 187-89 of this dissertation). There is little reason not to assume that a similar conflict was present *within* the German delegation to the European integration negotiations.

Taking a wider view, the creation of the EEC seems to have reflected a conscious attempt to "scale up" the concept of an economic constitution beyond the national terrain. As Müller-Armack specifically framed it, it represented the "second phase of the social market economy" (Dyson 2016: 138). Despite Erhard's objections, split between a personal reluctance to "relinquish national sovereignty" (Slobodian 2018: 209) upon which his career depended and the influence of Röpke's objections (discussed in detail in the next sections), Erhard would eventually also embrace the EEC as an expansion of market principles in the European continent. Urging for "the first priority […] to be price stability and the free convertibility of currencies" (Mierzejewski 2004: 167), his appointment of Müller-Armack shows as much.

For Müller-Armack himself, the aim was clear and forward thinking: establishing a European "stability community" (*Stabilitätsgemeinschaft*) founded "on law over and above its constitutive political entities" (Müller-Armack 1971: 162).[320] "A law-based order", in other words, "committed to

[320] As Bonefeld put it, "Liberty would be restored and with it, the real democracy of the market, that is the democracy of demand and supply, where those unaware of the operation of the labour market will be punished by the hand of the invisible. In short, a domestic policy of austerity would be anchored in a supranational regime, a regime designed to provide 'stability' (*Stabilitätsgemeinschaft*; cf. Müller-Armack, 1971). In Müller-Armack's view, 'stability' stands for low inflation, a strong currency, competitive labour costs, and an effective and efficient labour force whose ability to demand conditions is checked by 'Europe'". Bonefeld 2012: 59

guaranteeing economic freedoms and protecting competition" (Joerges 2004: 461; Bonefeld 2019: 1003). Working within the context of embedding "the logic of the market" in a way that would eventually be "rubbed off on other policy areas" (Patel 2018: 39), ordoliberals like Müller-Armack saw the EEC as something beyond a mere trade agreement for abolishing barriers and tariffs: it was a *starting point* for an Eucken-inspired economic constitution.

Central to this vision was EEC competition law, a field seen as "the first supranational policy of the European Union" (McGowan & Wilks 1995). And the task of designing competition law was, from the very beginning, led by ordoliberals, most of whom had gathered experience from the negotiations around the cartel law inside West Germany. At the instructions of Erhard, Hallstein created the Directorate-General for Competition (DG IV) with an initial aim of fleshing out a "common line in European cartel policy". In turn, the DG IV was handed to Hans von der Groeben who, following Hallstein's and Erhard's advice, assigned the largest Directorate within the DG IV (*Directorate A*) to E.F. Schumacher, son of Eucken's mentor, Hermann Schumacher. Other members of Directorate A included ordoliberals such as Ernst Albrecht, a student of the ordoliberal Fritz W. Meyer, and Ivo Schwartz, a law student of Walter Eucken (Seidel 2009; see also Dyson 2020: 101). Repeating Müller-Armack's remarks almost a decade later, von der Groeben would, in a lecture delivered at the ordoliberal *Aktionsgemeinschaft Soziale Marktwirtschaft,*[321] describe the EEC as an "achievement of an order based on law" (von der Groeben 1965).

As Seidel (2009) has shown in her seminal research on the DG IV, under von der Groeben's leadership "competition came to be, and still is considered, one of the central means to promote European integration and to realize the goals laid out in the treaty establishing the EEC" (Seidel 2009: 130). Presented as an indispensable barrier to state planning and *dirigisme*, early drafts of the law specified that "rules were necessary to prevent competition in the future common market from being distorted" (Seidel 2009: 130).

For Von der Groeben and his advisor E. J. Mestmäcker (a student of Franz Böhm and future editor of the *ORDO* Journal), competition law would be the means through which to bring the "economic constitution of the EEC Treaty to life" (Slobodian 2018: 205). As Mestmäcker would argue, "the EEC Treaty embodies an economic constitution. Its substantive foundation is constituted by the freedoms of traffic in goods and services and of personal movement, the prohibition of national discriminations and the system of undistorted competition" (Mestmäcker 1973). This, Seidel adds, laid the foundations for "a European competition order, or *Wettbewerbsordnung*." (Seidel 2009: 139-140). A clear aim was that EEC competition policy would act as a framework within which "each member enjoys the social permission to act as an entrepreneur' (Böhm 1966: 174), free to "plan and implement their own economic decisions by relying only on prices and legal rules" (Mestmäcker 2007: 22). In

[321] The *Aktionsgemeinschaft Soziale Marktwirtschaft* (ASM) was established in 1953 by Otto Lautenbach (whom Eucken would call "the German Keynes") but was already taken over by Alexander Rüstow in 1954, who transformed it into an ordoliberal think tank with prominent ordoliberals, such as Franz Böhm and Wilhelm Röpke, in its advisory board.

typical ordoliberal fashion, the underlying target of competition policy was to curtail the power of both private interests and the working class to distort the price mechanism and markets. Mestmäcker would have no hesitation to spell this out:

> The task of compelling enterprises to act in the public interest is assigned to market competition and, by extension, to the legislature, who should protect competition from restraints created by enterprises and powerful labour unions.
>
> Mestmäcker 1993: 71

Contrary to the early ordoliberal critics of the EEC, Von der Groeben and Mestmäcker understood its inauguration as a process of embedding market principles in an economic coordination beyond national boundaries that would eventually (as it did in fact happen) expand beyond its initial six members. In this project, competition law was tasked with creating a framework that would eliminate protectionist measures and market-distorting policies. "The system of undistorted competition –extending far beyond the traditional field of cartel law", Mestmäcker would eventually argue, "is one of the constitutional foundations of the Community (Mestmäcker 1973: 182), binding "not only on the behaviour of firms, but also on that of the member countries as entrepreneurial units" (Ibid: 190).

The constitutional aspect of this project would be gradually enhanced, reaching a crucial turning point that indicates its judicial protection by the European Court of Justice (ECJ) in 1966. While competition law up until that point was somewhat restricted to issues of cartelization, a case brought before the ECJ showed for the first time that the constitutional court could contribute with its legal judgements towards "the emergence of a fully-fledged [competition] policy" (Cini & McGowan 1998: 22). In *Etablissements Consten and Grundig v. Commission,* a conflict between a German firm (Grundig) and two French competitors (Consten and UNEF) that reached the French court was referred to the European Commission and, afterwards, the ECJ. Its ruling came in support of open competition and market integration (Ibid).[322] Cini & McGowan note this ruling as "crucial in raising morale within DGIV" (Ibid) with Slobodian (2018: 211) adding that it led Mestmäcker into considering "the EEC Treaty as having constitutional qualities by which competition law might protect 'individual freedom' even against one's own national government".

Drawing an overall estimate from the negotiations of European integration and the specific role of competition law, one can conclude that ordoliberal thinking was very much present in the drafts and final versions and that, moreover, this was not confined to the German delegation. The meetings between the various delegations took place under a mutually shared goal of creating the conditions for liberalizing trade, abolishing or diminishing any obstacles to exchange and a strict commitment to encase this new 'freedom' within a legal framework. There is little doubt that members of each national delegation were also approaching the negotiations with an eye on defending their own *particular*

[322] Küsters (2022: 220) notes that critical cases of the ECJ based on ordoliberal principles of competition were visible even before the Rome Treaty, citing the case of the *Fédéchar* (1956).

national interests and, therefore, reflecting divergent national economic trajectories. But to conclude that these divergences were the defining characteristics of the early steps of European integration promotes a quite common but also misleading understanding of integration as the consequence of *diplomatic* negotiations between competing economies (see also Milward 1984; 1992). This obscures the fact that the talks were held under the *common* goal of designing the most appropriate way for establishing and promoting a *market economy* across national economies despite their different historical development and/or accumulation regimes. Lastly, as I have tried to show, the experts who met to translate these different approaches into legal Treaties did not merely act as *ambassadors* of their respective countries' economic lobbies' and interests but as convinced advocates for the supremacy of the market, the price mechanism, competition and law.

If the specific wording and significance of each clause was debated, this was never an indication of divergence from this common aim. If anything else, it reflected the (inconvenient, in the ordoliberal view) fact that the eventual Treaties would still have to be signed by national parliaments and governments who continued to be bound to social and political pressures and be responsible, to a certain degree, to their electorates. But another central aim of the negotiations and the draft Treaties, expressed as such from the beginning, was the *irreversibility* of the institutions and legal framework that was being created. While this has been interpreted (see Patel 2018) as a necessary precondition for subtracting full commitment from all parties, another view can also be advanced: that the *irreversibility* aspect conformed with the need to ensure that the framework that was being created would embed *path-dependency* and would encase these economies within a set of market-oriented rules that were irrevocable *despite* transformations of the political landscape via elections or other social developments. It can, perhaps, be argued that not everyone who took part in the talks had such a clear vision. But it would be mistaken to assume that none of them did. If anything else, the eventual historical trajectory of European integration can be borne as testimony that such a vision was (and remained) central to its conceptualization, even if in that moment many appeared unconvinced, among them key ordoliberal figures.

The real split in ordoliberalism

As Slobodian (2018: 182) succinctly puts it, "Europe is one of the riddles of the neoliberal century". The main reason for such an assessment concerns the fact that in the early process of European integration, and even after its inauguration in 1957, key ordoliberal figures voiced very strong criticisms (and even condemnation) of the project. These debates reflected two divergent translations of the very concept of integration. For those ordoliberals who became critical of the EEC, integration was understood through it Latin origin, *integratio*, which meant "the restoration of something lost" (Slobodian 2018: 186). This was what Röpke would try to maintain arguing, as we shall see, that the plans for the EEC should not be called "integration" and should instead be replaced with a plan to *restore* the liberal order as it was before 1914, i.e., before it *dis-integrated*. For Röpke, the inauguration of the European Customs Union turned "national autarchy to a continental one" (Röpke 1958c: 35, hereafter my translation) whereas what was needed to arrive at a happier future was a return to a past that had been "progressively destroyed in the storms of the world crisis since 1931" (Röpke 1958c: 33).

On the other side, pro-EEC ordoliberals and neoliberals would promote the concept as a process of "creating a new entity" by combining different but separate economies (Machlup 1977: 3). At the epicentre of their conflict was the potential that the EEC was not building an actual free trade zone but extending protectionist tendencies towards *third countries*, abolishing tariffs and duties only *internally*. The debates also extended to questions of federation or federalism, debated in the first Mont Pèlerin meeting in 1947, but would at the end centre around issues of competition law and constitutionality (in the form of an 'economic constitution').

In his 1987 book on the formative years of the European Union, von der Groeben attests that "opinions were divided on the usefulness of a customs union" (von der Groeben 1985: 48). On the one side stood those he called the "universalists", who "saw every regional structure as a deviation from the path of righteousness" and who only saw progress of the market economy through "low tariffs, the removal of quotas and similar obstacles to trade, most-favoured-nation treatment, convertibility of currencies and a 'national' economic and monetary policy geared towards stability" (von der Groeben 1985: 48). This group came to be represented by figures like Wilhelm Röpke, Gottfried Haberler and Michael Heilperin.

Röpke was the most vocal critic of European developments, penning at least two highly critical articles in the *ORDO* journal (Röpke 1958c; 1959b), as well as another critique probably meant for a wider audience in English for the journal *Modern Age* (Röpke 1958b). In these, he derided the European Union as a formation that would create a 'closed bloc' with high external tariffs, arguing that "the benefits of an internal trade liberalization are offset to the extent to which barriers are erected against third countries" (Röpke 1958b: 171). This development created an imminent danger of a return to protectionism and "economic nationalism", whose effects would prove "more virulent than ever" (Röpke 1958b: 171).

Röpke's objections were framed around two angles: on the one hand, he feared that the *internal* effects of the EEC would prove disastrous, a perspective he developed almost purely by painting a picture of France as a recalcitrant, protectionist, *dirigiste*, inflationary-prone nation that was using European integration to inflict its own sins on other, fiscally responsible market economies (like Germany). The analogies he used to make his point were indicative, but also disturbing. It makes no sense, he claimed, to put "healthy children together with measles-infected children, the healthy children would remain so" (Röpke 1957a: 166ff). European integration could only have some *internal* success if it was based on the example of Germany's monetary discipline, encouraging other countries to adopt similar monetary, economic and fiscal policies.

Focusing on a part of the negotiation process during which France demanded a certain harmonization of labour costs and welfare burdens in order to avoid finding itself in a downward competitive spiral after barriers had been removed, Röpke chose to interpret this as France's attempt to get the other member states to "hoist their labour costs (wages and welfare expenditure) up to the French level." (Röpke 1958b: 174) In his view, the only way for such a harmonization to take place was through market mechanisms themselves. As he continued in the same passage,

> No responsible economist has ever claimed that free trade presupposes equal costs of labour (or capital), as this is not even true in a national market. On the contrary, it is free trade that will reduce existing differences of labour and capital cost. This applies even where free movement is limited to commodities, and will apply even more when the migration of manpower and the flow of capital are just as free; this, of course, marks the ultimate highest degree of integration which Europe, with all its good intentions, will be able to reach only in the final phase of a long development."

By demanding a pre-emptive agreement on such an equalization, France was sentencing other member states to its own inflationary path while making full convertibility of currencies even more impossible. Its demand was, in the last analysis, nothing but a "harmonization of inflation", while the common market envisaged was nothing but "common *dirigisme*" (Ibid). For a "genuine common market" to be successful, France would have to first get its own economy in order and only then could serious discussions of integration begin. Using the term "common market" to describe what was being attempted in western Europe only served to "concentrate our attention on the internal goings-on and [...] excuse the suspicion that it is their purpose to serve as a red herring or to camouflage the whole things" (Ibid: 171).

In Röpke's view, France's sins were not confined to its attempt to export its inflation to the other member states. It was also responsible for erecting high *external* obstacles to free trade by demanding high tariffs for the world *outside* the EEC. "The ever-present danger of increased external barriers", he added, was "particularly grave in cases where one of the uniting countries is greater than most others, of considerable political weight, and with a protectionist tradition, and where this country refuses to join unless a high common tariff – the natural line of least resistance-is agreed upon." (Ibid: 171) For Röpke, the only acceptable "community" of markets was the global one. As he put it, "if the external tariff of a common market is higher than the previous national tariffs of a number of participating countries [...] the internal "common market" (if, indeed, it is real and not itself partly fictitious) comes into existence at the cost of a "less common" external market." (Ibid 171)

A closed bloc of regional free trade, even if it escapes the dangers of internal protectionism, will still end up meaning "protectionism against third countries" (Ibid: 172). "Even without external barriers", he would conclude, "regional free trade may disturb rather than help international trade. The idea seems less paradoxical as soon as we realize that any system of regional free trade – be it a customs union or a preference system – is twofaced; while it means internal freedom, it brings about external seclusion." (Ibid: 171)

Recognising that a customs union always has "two faces", he acknowledged the attraction that it might create for those supportive of market economies and free trade. But neglecting the equally strong tendencies towards protectionism and economic planning, emanating from France, would be a grave mistake. It was from this perspective that he saw it as preferable to confine the present efforts to the less ambitious scheme of a regional preference system (Free Trade Zone)'or to devote the more energy to the liberalization of trade so far pursued in OEEC and GATT." (Ibid: 173) That GATT had no enforcement mechanism does not appear to have bothered Röpke.

In later writings, Röpke would recognize that a principal aim of European integration was to end the chronic animosity between France and Germany and to "increase Europe's power of resistance in the face of Communist imperialism whose principal aim remains Free Europe" (Röpke 1963: 188). In a more conciliatory tone, he even argued that there were forces within France that were moving in the right direction. Taking the chance to praise his (ordoliberal-minded) friend Jacques Rueff, Röpke declared him as the chief force behind attempts to re-establish a correct economic and monetary order. Comparing Rueff's 1958 program with Erhard's 1948 reforms, while noting the 10 year delay between them, he maintained however much more forcefully and polemically that the overall consensus in his time was "a deep-set *disturbance of economic order* and the *host of ideologies*, *illusions, confusions, passions, and mass sentiments responsible for that disorder*." (Ibid: 191, emphasis on original). Of these "confusions", the most dangerous was the lure of Keynesianism, full employment and planning tendencies which, to make his point even more poignant (or repugnant), he saw as originating with Nazism. "One generation ago", he did not hesitate from writing, "National-Socialist Germany had brought to near perfection a model of an economic policy which, in spite of the political opposition to the Third Reich, made a deep impression on the world and which, after the war, became the fashion almost everywhere." (Ibid: 191).

Röpke's criticisms of European integration did not go unnoticed. As we saw, Erhard was captivated by their content, at least for some time, and his tendency to acknowledge Röpke's objections (at least verbally) would create tense moments during the negotiations.[323] Von der Groeben too would somewhat pay his tribute to Röpke's positions, clarifying that the 'universalists' believed that "the Common Market's institutions, suspected of *dirigiste* tendencies, would 'naturally' respond to such a situation by setting up a planned economy" (von der Groeben 1985: 48). He did add, however, that developments did not verify any of these claims.

[323] Milward notes, for example, that Erhard continued to criticize certain terms of the Rome Treaty right to the end and urged US opposition to them (Milward 1992: 198).

If there was, nonetheless, one point at which even Röpke was willing to admit steps in the right direction, that concerned competition law and especially Art. 54(5) of the ECSC treaty.[324] "Far from being an intervention of the planned economy", he would write in 1952,

> such a measure would be entirely suitable for making the market-economy management of investments considerably purer and more rational than it has been up to now. It would be carried in the heart of any neoliberal, and if the High Authority were to take this competence seriously across the board […], an extraordinary improvement in the market-economy order of the industries under its control would be achieved. If one considers the scope of this provision, there is hardly any provision that would make the Coal and Steel Community an instrument of a liberal revolution […] as much as this one, for it basically means that the High Authority has the possibility of depriving all protectionism and subsidisation […] of their actual meaning.[325]

Ordoliberals (and neoliberals) who promoted European integration painted a totally different picture, even though at times they would also acknowledge some of Röpke's concerns as legitimate. For some of them, the EEC was a project framed in close adherence to the idea of federalization as a means of creating "an optimal constitutional balance between decentralization and centralisation, between local and global" (Masini 2014: 127 in Schulz-Forberg & Olsen 2014). But a crucial presupposition was added here. Borrowing from ideas developed by Lionel Robbins, this form of thinking asserted that "independent sovereignty must be limited" and "the national States must learn to regard themselves as the functions of international local government" (ibid.) What was required was "a constitutional architecture based on a multilevel federal system which allows decentralised choices and, at the same time, central strategic unity. In Robbins' words: "There must be neither alliance nor complete unification, but Federation; neither *Staatenbund*, nor *Einheitsstaat*, but *Bundesstaat*". (Ibid.)

This was not an aspect lost on those responsible for the negotiations. Monnet, for example, was also of the opinion that the EEC, established on the basis of the ECSC that he helped design, was not enough to ensure integration. Inter-governmental cooperation made no sense without the abandonment of national sovereignty. Only a real federation of European nations could solve these questions (Marjolin 1989: 177). But, contrary to Röpke and closer to Mestmäcker, he did believe that "a start would have to be made by doing something more practical and more ambitious. National sovereignty would have to be tackled more boldly and on a narrower front" (Monnet 1978: 274). The resulting institutions and framework would create a process of gradual transmission of power and decision making from national sovereignty to supranational bodies. As Marjolin describes Monnet's idea, the

[324] Art. 54(5) of the ECSC Treaty reads: "If the High Authority finds that the financing of a programme or the operation of the installations therein planned would involve subsidies, aids, protection or discrimination contrary to this Treaty, the adverse opinion delivered by it on these grounds shall have the force of a decision within the meaning of Article 14 and the effect of prohibiting the undertaking concerned from drawing on resources other than its own funds to carry out the programme..

[325] Röpke (1952) "Das Beispiel der Montanunion,", 76f., inaccessible today, quoted in Küsters 2022: 220)

“pooling of certain powers, hitherto national, would set off a process that would end in the emergence of a European state” (Marjolin 1989: 178).[326]

Others would be much more bold about the ordoliberal prospect of European integration. Belonging to the so-called “second generation” of ordoliberals, and whom Slobodian calls the “constitutionalists” due to the fact that they were trained as lawyers and not economists, Ernst-Joachim Mestmäcker and Hans von der Groeben declared, in opposition to Röpke, that “the EEC Treaty was based upon the market economy philosophy and that the rules of competition in particular were in accordance with neo-liberal ideas and were now being extended to international trade within the Community” (von der Groeben 1985: 48). To strengthen his point, von der Groeben pointed out that the “powers of the EEC’s institutions, and of the Commission in particular, do not allow it to undertake experiments in a planned economy”. Even the rules of the often derided as shamefully *dirigiste* Common Agricultural Policy (CAP) “were to some extent acceptable to advocates of the market economy precepts”. (von der Groeben 1985: ibid).

From the ‘constitutionalist’ perspective, there was an inherent contradiction in the ‘universalist’ position, which was broken down as follows: given that ordoliberal thought acknowledged the need of state activity in providing a regulatory framework against laissez-faire within the national structure, and given that “the market economy system in the Federal Republic of Germany does not *entirely exclude* intervention to combat crises and to achieve greater equality of distribution” (von der Groeben 1985: 49, my emphasis), what was the justification for rejecting the same conditions on the “transnational field”? The true reason behind these objections, von der Groeben finally hints, had to do with the reluctance to accept a “curtailment of the sovereign rights” of national parliaments (von der Groeben 1985: ibid).

In general terms, the ‘constitutionalists’ found Röpke’s and others’ assessments crippling and premature. The EEC might have been objectionable on some counts, but it was a work in progress and the task of ordo/neoliberals was to engage with and push the project in their direction[327]. With E. J.

[326] Röpke’s argument was also based on the need to undermine national sovereignty but he saw early attempts as not enough. As he had argued in 1955, at a lecture given at the Academy of International Law in Hague, “to diminish national sovereignty is most emphatically one of the urgent needs of our time [but] the excess of sovereignty should be abolished instead of being transferred to a higher political and geographical unit” (Slobodian 2018: 11). This particular passage is useful in evaluating a contemporary (mis) interpretation of Röpke that saw him as defending the nation-state. Sally, for example, in his attempt to portray Röpke as a proponent of a “liberalism from below”, argued in 1999 in ORDO that “Röpke was one of the few who persisted in downplaying international-level solutions; it is to his lasting credit that, unlike most economic liberals in the 1930s and 1940s, **he did not swallow the Utopian nonsense on "world government" and insisted on the enduring importance of the nation-state**. In keeping with the legacy of Hume, Smith and the nineteenth century English economists, he continued to emphasise the primacy of unilateral, national level "example-setting" action "from below" as the foundation-stone of a sound and healthy international economic order. This was the British example in the nineteenth century, especially in the field of trade liberalisation; it was also the German example during the Erhard years, unilaterally setting the right example that other West European nations gradually followed in the 1950s.” Sally 1999: 49

[327] Another interesting figure in this trajectory is Rolf Wagenführ. Starting with a PhD thesis from Jena University on Soviet business-cycle theory under the supervision of Wilhelm Röpke, Wagenführ quickly landed a key position as a statistician in the *Institut für Konjunkturforschung*, emerging as a central figure in wartime statistics during the Nazi era. Quickly rehabilitated in the post-war period, and after a brief stint as chief statistician in the West German trade union federation, he was put in charge of the temporary statistical department of the European Coal and Steel Community. In 1958, and after the Rome Treaty, he was placed as first Director of Statistics (the precursor of the Eurostat) in the European Community (EC).

Mestmäcker and Hans von der Groeben at the fore, that is precisely what they did. Actively participating in various committees, this particular set of ordoliberals saw true potential in the EEC. Focusing especially on competition policy, which for them did not mean "laissez-faire, but the achievement of an order based on law", Mestmäcker and von der Groeben tried to convince their sceptical ordoliberal colleagues that, however incomplete it might appear, the EEC represented the best attempt thus far to "scale up" the concept of the economic constitution to the supra-state level. Overall, their vision was linked to the establishment of a constitutional order, with the European Court of Justice as "the guardian of the EEC (Rome) Treaty" and the treaty itself an expression of Hayek's call to bind the state through "constitutionally guaranteed legal principles". As Küsters (2022: 220) notes, some ordoliberals had "recognised early on that the legal language gave room for interpretation and accordingly opened up possibilities for them to influence its future application." (Küsters 2022: 220).

For these thinkers and policymakers, the EEC represented an "institutional fix that would transcend the GATT by providing a mechanism of oversight and, most importantly, enforcement within the nation-state." (Slobodian 2018: 204) Recognizing that the GATT was a step in the right direction but, as Müller-Armack would claim, "sluggish" and with limited success (Müller-Armack 1957: 532), European integration was conceptualized as progressive move that utilized the ECSC as a stepping stone, increasing its members, promoting "undistorted competition" and the 'four freedoms' of goods, capital, services and labour. These were cornerstones of the project that had been set from the very beginning in the collaborative efforts of Pierre Uri, director of Economic Affairs of the ECSC, and von der Groeben, clearly visible in the Spaak report (see also Dale 2019: 1048).

Having already noted that any state financial assistance within the context of the EEC "is incompatible with the common market if it distorts competition" (Spaak Report), the final drafts had created the space for the European Commission to "make proposals to eliminate" distortions of competition. Starting from this background, Mestmäcker would later describe the efforts of these early visionaries of European integration as directly aiming to bring about "the economic constitution of the EEC Treaty to life" (Slobodian 2018: 207-8).

If there was one noticeable difference in the second generation of ordoliberals, that was the way in which they tried to combine Eucken's and Böhm's writings on the economic order as the outcome of a *Gesamtentscheidung* with Hayek's view of competition as a "discovery process". While Mestmäcker saw "the goal of 'undistorted competition' in European Community law as "politically the most important effect of the appreciation of the legal shapability of the economic system [...] first recognized by Walter Eucken and Franz Böhm" (Slobodian 2018: 208), he also departed from Eucken's concept of 'perfect competition' (even in its '*as if*' conceptualization), embracing Hayek's view as it was expressed in his 1961 lecture in Freiburg. There, after paying tribute to Eucken and his legacy, Hayek had noted in a long passage worth quoting that,

> the concept of perfect competition [...] is indeed closely connected with the conception of perfect knowledge, and in fact often explicitly presupposes perfect knowledge. Yet, as I have attempted to show at some length on another occasion, this state of perfect competition presupposes conditions in which most of the activities which in ordinary life are described by the verb 'to compete' are excluded. This process of competition seems to me to be best understood as a constant search for information about opportunities, a process of learning in which new knowledge is acquired all the time—where the effects of changes on demand and prices are studied, and generally the possibilities of action explored. To treat such a process, which essentially aims at finding out what will be successful, as if it proceeded on the basis of initially given and unchanging knowledge, is of course completely to miss the most important feature of it.
>
> Hayek 1961: 425

Similarly, thinkers like Mestmäcker drew inspiration from the federalist visions of Robbins and Hayek,[328] seeing the EEC as a potential operationalization of that model and a path towards decreasing the autonomy of individual member states. As Slobodian points out, Mestmäcker referenced Hayek's "conclusion that a free system is possible only be renunciation of discretionary policy and by binding all action of the state to general, constitutionally guaranteed legal principles." Designed to "exclude control of interstate trade as an instrument of national economic policy", the EEC, Mestmäcker would conclude, "was a starting point for creating such an arrangement"(Slobodian 2018: 209). Given that the EEC was a community structured through law, giving rise to the oft-cited claim that the European Union as a process of "integration through law" (see Joerges 2022), securing the framework of competition was to be performed through constitutional oversight that had, by definition, to be at a supra-state level, i.e., by establishing EU law supremacy. As Mestmäcker would note, "if a conflict arises national law must give way" (Mestmäcker 1965b: 70). It was precisely this ability of EU law to supersede member state law that "made the EEC valuable to Mestmäcker", as it made EEC citizens of the member states "subject to the law of the community" (Slobodian 2018: 209-10).

In doing so, the EEC was expanding Eucken's vision of curtailing economic power *at the same time* as restricting state interventionist and planning tendencies. As Slobodian concludes,

> the bifurcation of powers, upward to the community and down to the individual was essential to the constitutionalist reading of Europe. To neoliberal constitutionalists, Europe was a "supranational legal order" securing private rights enforceable by the European Court of Justice. In Mestmäcker's synthesis of Hayek, Böhm, and Robbins, the emphasis is not on the surveillance rights of the Commission but on the legal relationship that placed the citizen inside the twin nested sovereignties of Europe and nation. The vertical legal relationship created from the in dividual to the European

[328] "The absence of tariff walls and the free movements of men and capital between the states of the federation has certain important consequences which are frequently overlooked. They limit to a great extent the scope of the economic policy of the individual states. If goods, men, and money can move freely over the interstate frontiers, it becomes clearly impossible to affect the prices of the different products through action by the individual state. The Union becomes one single market, and prices in its different parts will differ only by the costs of transport. Any change in any part of the Union in the conditions of production of any commodity which can be transported to other parts will affect prices everywhere. Similarly, any change in the opportunities for investment, or the remuneration of labour in any part of the Union, will, more or less promptly, affect the supply and the price of capital and labour in all other parts of the Union" (Hayek 1939: 258-9)

> Court of Justice created an avenue to elude deviant exercises of national sovereignty and secure the human right to trade.
>
> Slobodian 2018: 210

The outline of the ordoliberal debates around European integration can now be assessed from the perspective of the concept of the economic constitution. If one side, Röpke et al, were critical of the process for reasons outlined above, while the other side, von der Groeben et al, embraced it, the potential is there to work through the disagreements and find a common perspective. To start, it should be noted that none of the two sides purported that the EEC *was the economic constitution*. If Röpke saw signs of disintegration, von der Groeben and Mestmäcker saw initial steps. What in the end seems to reconnect the two sides of the debate, however, is a firm agreement in what *both* would conceptualize as *either* a more preferable option (Röpke) or the next necessary steps (Von der Groeben & Mestmäcker): deepening integration through a tighter currency, monetary and economic integration. Röpke had already declared that it was such an absence that doomed the project. Similarly, and despite coming from a more positive evaluation on the EEC and an embrace of its competition law, Lutz and Miksch would also argue that what the EEC lacked was sufficient monetary and currency stability (Küsters 2022: 205). In fact, as we have seen, Lutz had in 1958 promoted a closer European monetary and economic coordination as *preferable* to flexible exchange rates (see page 218 of this dissertation). As for Röpke, Feld would later point out that the 'denationalization of money' and the insulation of monetary authorities from the "pressure of national fiscal and labour market policies" represent EMU achievements that even Röpke would have appreciated (Feld 2012: 11).

Conclusion

> Whereas Franz Böhm and Walter Eucken had spoken of the economic constitution only at the level of the nation, the constitutionalists suggested it could be scaled up to international arrangements.
>
> Slobodian 2018: 204

A number of conclusions can be drawn from the issues raised in this chapter. To start with, there is a certain perspective from which one would expect ordoliberals to be satisfied with the Bretton Woods regime. It consisted of an international coordination meant to put an end to protectionist tendencies, a global monetary order that tried (at least in part) to retain elements of the gold standard such as fixed exchange rates, and it had the overall aim of expanding international trade. Importantly, it was embedded in the anti-Soviet framework of the cold war era. The reception was, however, quite different. Other elements of the Bretton Woods arrangement stood in contrast to many ordoliberal positions. The central role of capital controls, to take one example, was seen as an obstructive and non-market conforming intervention. Similarly, the overall state-led developmental framework with elements of full employment and social welfare promotion was oppositional to their approach.

Notwithstanding the ordoliberal rejection of the discretionary space that Bretton Woods allowed, as well as the features of capital and exchange controls that have been explored in this chapter, one could also argued that despite contrary assessments and narratives on the conceptualization of the role of the strong state, a mechanism capable of neutralizing social pressures and class struggles remained central to the ordoliberal framework well into the postwar period. What makes this observation more forceful is the fact that the designers of Bretton Woods and the governments that oversaw its implementation cannot in any reasonable way be described as left-wing or collectivist. What they envisaged, instead, was a liberal monetary order that avoided the experience of individual states competing with each other through diverting capital flows in their direction (and rebalancing when these threatened inflationary pressures), and to create a system of internationally supervised coordination and cooperation between states not as a "collectivist" or "socialist" experiment but as "nodes of regulation of the global flow of capital" (Bonefeld 1993: 55). This was a system meant to accommodate capitalist accumulation and profitability without having to resort (at least in the core of western capitalist countries) to outright repression and suppression of dissent, geared as it was instead towards recognising the stabilizing capacity of democratic and class integration. Put otherwise, the aim was the liberal embedded order of the Bretton Woods period was the "reconcile private ownership with widespread demands for social protection" (Germann 2021: 81; see also Schmelzer 2010). As we have already seen in the context of the social market economy, the ordoliberal acknowledgment of this perspective was very gradual.

But there are two more perspectives from which we can evaluate ordoliberal responses to Bretton Woods: one would be to look at Bretton Woods as a theoretical argument and debate, analysing which aspects fit into the ordoliberal framework and which fell outside. Another view, however, would be to examine Bretton Woods from the perspective of West Germany and the period of the social market economy. Though ordoliberals did not construct their framework with an eye to defending specific German interests, the specific period saw them in positions of power and therefore as directly interested in navigating the inauguration of the social market economy (or the economic constitution) with international developments. From this viewpoint, although Bretton Woods might have been inspired as a model for balancing a reconciliation between capital and labour, promoting a postwar "concerted effort by governing elites to ensure that national projects of "domesticating" the working classes would not come into conflict with one another again" (Germann 2021: 61), it was also meant to allow each member state enough discretionary space to set its own policies. While initially rejecting this attempt at reconciliation, seeing an unacceptable corporatism emerging as a result of unnecessary compromises, the fact that it was this precise 'domestication' that allowed economic growth would indirectly play a role into smoothing ordoliberal conceptualizations of postwar democratic governance (see section 3.5 of this dissertation).

Similarly, while the restricted space granted to the BdL/Bundesbank by the fixed exchange rates regime and the full convertibility of the DM made central bank independence somewhat mute, it also mimicked a predicament found in the gold standard that ordoliberals, as we saw, favoured. As Johnson 1998: 21) noted, “so long as the international treaties had fixed international currency parities, the independence of central banks from domestic governments was secondary to their dependence on the Bretton Woods system”. The conditions in which West Germany found itself within the Bretton Woods, provided both an external anchor and domestic discretionary space, but that dynamic benefited the realisation of price stability and economic growth (even at the expense of temporary full employment) through expanded trade that ordoliberals also sought to achieve. Full employment, in any case, was something ordoliberals opposed when it was an *aim* and *consequence* of state intervention and central planning – which was not the case in West Germany. And while ordoliberals were, as recorded, critical of the welfare expansion of the era of the social market economy, its ability to constrain social conflict and to create a framework within which wage moderation was possible could not be denied. Finally, while it is true that a specific constituency of ordoliberal thinking was geared towards small-scale business as a way of breaking down “economic power” and cartelization, the re-concentration of industry and full state support for the export industry[329] played, despite claims to the contrary, a bigger role in pushing the *Wirtschaftswunder* than the 1948 liberal reforms of Erhard.[330] As Germann concludes, “integration into a rapidly expanding world economy – reconstructed and superintended by the American hegemon – provided the missing link between the rigid internal consolidation that favoured capitalist property owners and employers, and popular demands for far-reaching reforms or at least a significant rise in material living standards” (Germann 2021: 70).

Writing in 1987, Von der Groeben would claim that “Wilhelm Röpke was not prepared to acknowledge that the EEC Treaty was based upon the market economy philosophy and that the rules of competition in particular were in accordance with neo-liberal ideas” (Von der Groeben 1985: 48). Röpke’s forecasts, however, that inflationary-prone countries such as France would infect “stability-conscious national economies”, endanger convertibility and increase protectionism, “proved to be largely unfounded” (Ibid). No experimentation towards planned economies occurred or was even legally sanctioned within the EEC, nor did the Commission ever refrain from using its powers against market distorting practices in the name of maintaining diplomatic balance. Echoing an earlier statement of Eucken in relation to the debates in the immediate aftermath of World War II (see this dissertation,

[329] Which Erhard himself had called, in 1953, “the very core and precondition of our economic and social order”. Quoted in Cesaratto & Stirati 2014: 73. Considering the fact that “the first markets into which West German goods were able to insert themselves at the birth of the Federal Republic became therefore the most dynamically growing markets of the decade” (Milward 1992: 158) this comes as no surprise. It also, counter-intuitively contradicts the narrative that it was his liberal reforms that paved the way for the so-called *Wirtschaftswunder*.

[330] As Eichengreen & de Mecado point out, “European nations were natural trading partners for reasons of proximity and history. [...] Without a rapid expansion of trade to permit this pattern of comparative advantage to be exploited, it is doubtful that productivity and incomes could have risen as they did. And [...] slower growth emanating from the international sector would have increased the sacrifices in living standards entailed in the domestic settlement, threatening stability there as well.”

p. 158), Von der Groeben would claim that what was "at stake was not a choice between market economy, freedom and prosperity on the one hand, and planned economy, protectionism, controls and poverty on the other, but differing views on how the market economy and freedom could be safeguarded, within not only a national but a European framework" (Von Der Groeben 1985: 49).

In a particularly noteworthy passage of his book, von der Groeben also embarked into a somewhat justificatory argumentation for the CAP, framed around the argument that the absence of a common agricultural policy would have left competence to each member state with no potential for transnational overview or supervision. Claiming that the inclusion of agricultural policy in the EEC Treaty was both economic and political, he pointed out that for countries like France, the Netherlands and Italy "agricultural exports played a very important role in the overall trade balance" (Von der Groeben 1985: 70). For this reason, leaving agricultural policy *outside* of EEC jurisdiction would have created even worse problems of protectionism. Instead, the inclusion of a common EEC agricultural policy eliminated national legislation that allowed countries to implement non-market conforming policies such as fixing prices (Ibid: 71-73).

Long before the generalized and formal acknowledgment of EU law supremacy, Mestmäcker would support the framework according to which "national law must give way" to supranational legislation. Moreover, in accordance to the private law approach of Böhm, the practical aim of competition policy was to act as a framework within which "each member enjoys the social permission to act as an entrepreneur" (Böhm 1966: 174), free to "plan and implement their own economic decisions by relying only on prices and legal rules" (Mestmäcker 2007: 22). "The legal subjects", Mestmäcker would add, "were not only the Member States but also individuals" (Mestmäcker 1965a: 73). The expansion of the underlying principle of the 'sovereign consumer' as a legal subject that enjoyed, *contrary to organized interests*, a direct juridical relation to the supranational institutions of the European Community, was now possible.

Without any need to resort to expressed fears (or even delusions) of planned economy tendencies and overall submission to inflationary pressures, it was certainly much more realistic to begin trade liberalization amongst pre-existing trade patterns and partners than to wish for a simultaneous global-wide abolition of tariffs and custom duties – especially, as Von der Groeben and others noted, in the absence of any actual enforcing mechanism to oversee such a project. Once again, the privilege of drawing theoretical plans within the framework of abstract principles stood in sharp contrast to those engaged in direct policy making and its challenges. As Slobodian (2018: 190) points out, "unlike Röpke and Haberler, whose academic perches protected their purism, Müller-Armack's active role in politics and administration made him more aware of the need to find practical solutions".

While Röpke and others saw the EEC as antagonistic to GATT or unnecessary due to it, wider pragmatic considerations understood that the two were complimentary. If GATT would regulate international trade, there was still a strong *political* and perhaps even strategic need to regulate a resurgent German economy within Europe. As Milward notes, "it was only when it was clear that the

Federal republic had become the pivot of Western Europe's prosperity that the advantage of the customs union for regulating trade with Germany, its irreversibility, came to the fore" (Milward 1992: 122). From this perspective, another view of Röpke's objections can be discerned. Rather than abstractly supporting the overall, simultaneous and therefore unrealistic international abolition of trade barriers, it is possible to see Röpke's position as stemming from a more traditional understanding of foreign trade successes as determined by "comparative and competitive advantages of some nations over others, which themselves were the outcome of different actor endowments" (Ibid). In this approach, the type of European integration that was pursued by non-German European actors would in fact act as an impediment against those advantages. Such an evaluation of Röpke's objection in fact fits rather nicely to his expressed fear that the material conditions of other economies would be a drag on others. Whether conscious of it or not, Röpke's position was in fact concomitant with a German bias.

A similar point can be made about the consistent complain by Röpke and others about the CAP as *dirigisme* par excellence. Though there is little doubt that France sought to protect its agricultural industry from worldwide competition, this approach neglects the fact that Germany was also particularly protectionist in regards to its own agricultural industry. But its size, compared to France, was significantly smaller to attract as much attention and agricultural exports from West Germany were never an issue that attracted much attention. Nonetheless, as Milward (1992: 144-146) notes, it was in fact high agricultural prices in West Germany that can be used to explain the lower per capita consumption that explains, in turn, the lower import ratio between Germany and the UK. As he adds, "as a rough measure of the import saving in foodstuffs resulting from agricultural protection this does amount to almost 80 per cent of the value of the export surplus" (Ibid: 144). In overall, even if West Germany was, in comparison, *less protectionist* than other European countries, this did not mean that it did not engage in protectionist measures. West Germany's developing surplus was the result of manufacture exports where protection was significantly low, but this alone does not suffice to draw a conclusion of minimal protectionism.

What many might today consider to be 'common sense' – that free trade brings economic growth – was not at all the case in the 1950s. In fact, "until the early 1950s historical experience seemed to offer no solid guarantees that freer foreign trade would make national economies prosper" (Milward 1992: 121). This did not, however, negate the fact that ordoliberals and a wide range of pragmatic policymakers across Europe saw that European integration provided an "'extra-democratic' framework for economic adjustment" (Bonefeld 2002: 124).

Speaking in 1975, Robert Marjolin would point out that the Rome Treaty established a customs union with little more practical significance. The key question of national sovereignty was cast aside, since what member states had really surrendered were only "the instruments of commercial policy, notably customs duties and quantitative restrictions", keeping "all other instruments of economic and monetary policy" (Marjolin 1975: 5). But Marjolin seems to pay little attention to the significance of "commercial policy" in shaping a market economy, especially in relation to competition law.

Additionally, he paid little attention to the emergence of EU Law as a central instrument for a supranational structure that also followed a market logic. Thus, while his statement is formally correct, it implies a certain discontinuity that fails to explains later stages of European integration. From the ordoliberal point of view of Mestmäcker and von der Groeben, such a statement did not convey the whole truth. For them the EEC was an economic constitution, if only for setting up the appropriate regulatory and legal framework that would facilitate the market economy and would set the stage for next steps. Given that the EEC was created, as already noted, within a context that already had a monetary framework (Bretton Woods), it was not coincidental that its collapse would push forward the next steps of integration, centered around the need to fill a gap – rather than starting anew or 'relaunching' a failed idea.

The ordoliberal concerns about the limits of the EEC project were shared by both its proponents and critics. This chapter has tried however to reformulate their differences by placing less emphasis in the actually unfeasible alternative of the establishment of a worldwide free trade coordination, focusing instead on the concrete ground of political and social antagonism mediated by democratic procedures which the EEC was trying to overcome. The very compromises that had forced ordoliberals to turn their attention towards supra-national models that could carry the vision of an economic constitution as a disciplining mechanism of economic and political centrifugal forces were, in the EEC, meant to be uprooted and diminished. Despite the disagreements that were portrayed in the last section of this chapter, there was a clear underlying aim, from both sides of the debate, to ensure the expansion of global trade under conditions of profitability, productivity gains through enhanced division of labour and the rigorous undermining of organized interests. In this context, the experiences – however incomplete – of the social market economy, the Bretton Woods regime and the European Economic Community were indispensable stepping stones for the next phase: the European Monetary Union.

CHAPTER 5: EMBEDDING THE ECONOMIC CONSTITUTION

Ordoliberalism and the European Monetary Union

> Even key aspects of the basis of government economic policy in Germany that remains in force today, namely the aim formulated in the Stability and Growth Act of 1967 of achieving, as simultaneously as possible, price stability, a high employment rate, continuous and appropriate economic growth and a trade balance, reflect ordoliberal principles.
>
> Schäuble 2020: xvii

Summary

The final chapter of this research will conclude by tracing the emergence of the European Monetary Union as a culmination of both the fluctuations that occurred after the collapse of Bretton Woods, the reshaping of the global situation and the continued influence of the ordoliberal framework. Starting from the collapse of the Bretton Woods monetary order and the explosion of social antagonism in the same decade, responses to the so-called 'crisis of the 1970s' were multiple and varied. But officials and policymakers favourable to (and responsible for) European integration, embraced a very specific response: a deepening of market relations and economic/monetary coordination between member states. The different in details but similar in overall aim plans that shaped the eventual creation of the European Monetary Union were forged during the 1970s but could only reach maturity and implementation when wider economic and social conditions allowed it, i.e., in the 1990s. Similarly, the eventual unravelling of the EMU during its prolonged crisis that started in 2008 brought into the surface a conflict between those who used all available institutional means to maintain the coordinates of the 1990s formal decisions (such as the Maastricht Treaty and its constitutional obligations) and those who, faced with an unprecedented crisis, were willing to experiment with so-called unconventional means in order to stave off further collapse. The current predicament is after all, whether described as a 'polycrisis' or not, the direct consequence of these dynamics. Within this context, exploring the influence of ordoliberal thinking in either the deepening of European integration or in the crisis management responses that emerged after 2010 requires a certain switch of focus. For one, the process of the creation of the EMU did not follow the same path as that of the EEC. Instead of high-level negotiations (and a shared common goal) that would could discern in the process of creating the EEC, EMU creation plans were mostly confined to central bankers and monetary theories. Given that central bankers do consist of a transnational network of its own, it might appear fruitless to investigate ordoliberal influence – an approach that might seem even more validated by the fact that very few (if any) central bankers would identify as ordoliberal. But the prioritisation of central banking and monetary discipline as a key path towards the EMU provides, in itself, an indication of a preference and a focus point that has already been presented as central to ordoliberal thinking. Among other

reasons, as we shall see, the overwhelming focus on monetary stability (i.e., anti-inflation) is already predicated on a political position, shared by (independent) central bankers as it is by ordoliberals. Reassessing the process of European integration from the 1970s onwards through the prism of examining the presence of ordoliberal positions also helps in advancing one of the methodological approaches of this thesis as laid out in Chapter 1. More specifically, it will allow the tracing of a critical juncture moment – most notable in the collapse of the Bretton Woods regime and the subsequent turbulations in the 1970s – as a crucial step for the creation of path-dependent institutions and frameworks. From this perspective, the ordoliberal influence will be cross-examined not as the active consequence of actors and policymakers committed to advancing ordoliberal positions (as was the case in the early EEC period) but as embedded institutional forms and policy proposals that managed to reach a level of so-called "common sense" during the 1970s. This approach can also help explain the disappearance of the various alternatives to European integration that emerged in the 1970s how they receded from view after the predominant choice appeared as clear and irreversible. If the 1970s has become (especially today) synonymous with crisis and instability, the institutional responses at a European level that sought to overcome such a negative predicament were crucial in embedding path-dependency, creating the ground for what has been called "institutional inertia and the conservative character of policy-making" (Kaiser 2010: 57).

The collapse of Bretton Woods

"The US could not eternally ask people to set their watches by a defective clock"
Valéry Giscard d'Estaing 1970[331]

In 1971, US president Nixon decided to close the 'gold window', that is, dollar convertibility into gold. As this was formally one of the key features of the Bretton Woods system, the decision essentially marked the end of this specific post-war arrangement. Initially announced as a temporary measure and only made officially permanent two years later, there is enough evidence to show that the decision was in fact irreversible. Retrospectively coined "one of the most accurately and generally predicted of major economic events" (Garber 1993: 461), the mounting problems of the Bretton Woods arrangement had become obvious to all years before.

As we have seen, the Bretton Woods regime had created a peculiar geopolitical gridlock. As the international reserve currency, the dollar was utilised in global trade transactions. At the same time, the official arrangement was that it was a currency tied to gold. Contrary to the gold standard, however, under which debt incurred would be cleared through gold transfers, Bretton Woods was an attempt to

[331] Quoted in Steil 2013: 226

allow countries to escape the painful adjustment that accompanied such transfers, establishing the IMF as an international organization that would provide short-term financial assistance (while also supervising narrow parity adjustments) so as to avoid either deflationary policies (when gold reserves were depleted) or devaluations. Framed around controls over capital flows, Bretton Woods was also meant to undermine speculative attacks and destabilizing exchange rate adjustments. As Germann puts it, “the Bretton Woods system sought to free governments from the imperative of achieving *external* at the expense of *internal* stability” (Germann 2021: 81).

As the European (and Japanese) economies recorded high levels of growth in the 1950s and 1960s, the initial ‘dollar gap’ was replaced by dollar excess. The amount of dollars now circulating around the world could no longer be in par with US gold reserves. As Steil (2013: 333) explains, “the United States could not simultaneously keep the world adequately supplied with dollars *and* sustain the large gold reserves required by its gold-convertibility commitment.” This had become clear already in 1959 when Robert Triffin, architect of the European Payment Union, testified before Congress to that effect, just one year after full convertibility had been officially formalized by more than ten European countries. Nonetheless, Bretton Woods was sustained on the basis of a ‘gentleman’s agreement’ that foreign countries would not request their dollar reserves to be exchanged for gold. Given that most countries benefited from the arrangement, this unofficial basis was maintained for a long period.

This consensus started to change in the 1960s. US domestic policy had an impact on dollar holders, so the unwillingness of the US to display fiscal and monetary restraint was increasingly seen as causing inflation around the world. Especially for countries such as West Germany, which had based its export model on an undervalued DM and domestic price/currency stability, there were growing concerns about ‘imported inflation’ from the US. But the first country to actually challenge this situation was France.

De Gaulle became increasingly critical of the system whereby the US issued dollars “which it used for lending to other countries, paying its debts, or for buying goods, well in excess of the true value of its reserves” (De Gaulle 1970: 372). Prompted and schooled by Jacques Rueff, the French president would deliver his famous 1965 press conference where he attacked US hegemony, the Bretton Woods system and the dollar as a “credit instrument reserved for one state only” (Rueff 1971: 72). Criticising “the monetary relationships that have prevailed throughout the world ever since the days when Europe's ordeals destroyed its equilibrium” (Ibid: 69), de Gaulle would declare that

> The circumstances that led to the gold-exchange standard in the past are indeed different now. The currencies of Western nations have been rehabilitated, so much so that the total gold reserves of the Six are now equal to those of the United States. They would be even higher if the Six determined to convert all their dollar holdings into gold. It is therefore clear that the convention under which the dollar is an international currency of transcendent value no longer rests on the initial basis, which was that the United States owned the major part of the world's gold.
>
> De Gaulle 1965

Interviewed by *The Economist* a few days later, Jacques Rueff would explain the economic background and context of de Gaulle's press conference (while denying that he in fact wrote the speech). As he noted, the situation was such that "the United States is heavily in debt without having to pay" (Rueff 1971: 72). Meeting its obligations by issuing more dollars, the US enjoyed the privilege of doing that at will, without ever feeling pressure to repay in gold or any pressure by the IMF. Echoing de Gaulle's final phrases of the press conference where he proposed reinstating "the supreme law, the golden rule" (de Gaulle 1965: 73), Rueff told his interviewer that returning to the gold standard would restore "the most elementary common sense, in other words, *to ensure that the debtor country loses what the creditor country gains*" (Rueff 1971: 80, my emphasis). But Rueff's suggestion was not confined to this restoration of the creditor/debtor relation, however central it was. It also consisted of a clear rejection of the predicament created by Bretton Woods that allowed discretionary domestic sovereignty over economic and monetary decisions. Concomitant with ordoliberal arguments of the time, Rueff would reject Triffin's proposal for overcoming the Bretton Woods gridlock by opting for a system closer to Keynes' *bancor* by declaring: "I do not like it because I think it will give a monetary or a fiscal authority the power to decide the amount of credit that ought to be created." (Rueff 1971: 82)

Under the auspices of such an approach, France would move away from its initial rhetorical criticisms and spectacular actions (like sending the French fleet to New York to demand gold in exchange for its dollars), concretizing its pressure. As Germann's research into German archives has revealed, in 1967 France withdrew from the 'London gold pool', a system created by the Britain, Switzerland and the EEC whereby European central banks cooperatively defended the official rate of \$35 per ounce of gold (Eichengreen 1996: 122).[332] Simultaneously placing large demands for gold forced the British to "suspend gold interventions in March 1968" (Germann 2021: 82-3), it is safe to conclude that the 'gold window' was already shut from that moment. While the US had responded by restricting gold convertibility to official transactions between central banks but it was clear that "the United States would renounce even that limited guarantee when confronted with substantial demands for gold" (Ibid: 83).

These developments have given rise to the oft-repeated argument that it was the actions of France that essentially brought Bretton Woods to its knees, forcing Nixon to officially close the gold window when confronted with French intransigence and no other real choice. Contemporary research, however, has questioned this narrative. While it was the case that France was pressuring the US in these ways, the argument advanced is that what France sought to do was force a transformation of the system not its collapse. Hoping to force a change that would create "a more symmetrical monetary arrangement under which no single currency would enjoy the privileges of *seignorage*" (Ibid), the French aim was

[332] As Eichengreen explains, "any divergence between the official American and London market prices of gold created a temptation for central banks to buy gold from the United States for \$35 an ounce and sell it in London for a higher price. Their capacity to do so was only limited by their liquid reserve dollars [...] This was the context for the creation of the Gold Pool in 1961 [...] an arrangement whereby central banks sought to share the cost of maintaining the London price of gold at \$35 an ounce rather than deplete American gold reserves." Eichengreen 2007: 17

one of revision. Knowing that the franc would never become an international reserve currency, French strategy was a series of calculated threats equivalent to a bank run – if France tried to convert its reserves to actual gold, others would stand in line to make sure they were not denied access.

Nixon's eventual decision to close the gold window has predominantly been interpreted as a response to France's pressures (see, for example, Kindleberger 1976: 21-22) and, essentially, a unilateral decision by the US to severe the dollar/gold peg in order to maintain and "renew US hegemony" (Germann 2021: 82) after consistent attempt to preserve the system had failed. While there is little reason to deny France's increasing pressure, approaching the issue from the perspective that France wanted a *reform* rather than an abolition of the monetary order implies that a wider lens, and especially one that takes into account German policy at the time and which goes beyond the predominant narrative that Germany was an "obedient ally" of the US (see Eichengreen 2011).

From this perspective, certain new circumstances have to be taken into account. To start with, Germany in the 1960s was not in the same position as in the 1950s. A country with consistent economic growth and a balance of payments surplus, the creation of the EEC meant that West Germany was by the 1960s no longer dependent on external political recognition. Moreover, its dependence on military protection from the US should also be qualified. Not only would US troops withdrawal bring West Germany closer to France, but the very force of such a dependence is undermined by Willy Brandt's *Ostpolitik* (a new approach and relation-building with the Soviet Union) which was clearly at odds with US cold war policy.[333]

The fact that Germany's policies towards the US were acquiescent until the late 1960s (in 1967 West Germany pledged *not* to request gold conversion of its dollar reserves) should not, as Germann shows, be taken to mean that they remained so in the following years. As Germany's model was predominantly based on its export sector, maintaining its competitiveness relied heavily on the undervalued DM – a consequence of the Bretton Woods initial agreement. For that reason, France's 'anti-American' rhetoric was not concomitant with West German interests. And even though "West Germans had proved uniquely willing to accept a loss of competitive advantage in order to improve the overall functioning of the system" (Gray 2007: 296), further developments and pressures created by US domestic policy (and the threat of imported inflation) eventually changed German attitudes.

Germann's archival research shows that already from 1965, "German officials seriously considered joining de Gaulle in asking for an increase in the price of gold" (Germann 2021: 86). In fact, "even the possibility of joining France in converting dollar surpluses into gold – raised more prominently by the former president of the Bank deutscher Länder, Wilhelm Vocke – was discussed. But following de Gaulle in his quest to restore the gold standard and replace account settling via gold transfers would make it very difficult for Germany to use its accumulated dollar reserves – estimated,

[333] As Germann also shows, West Germany's *Ostpolitik* also required a renewed commitment and promotion of the European project. Germann 2021: 85 At the same time, Brandt's Ostpolitik was in line with the US détente. For more on this, seeSarotte 2001, Stent 2003 and Hoffman 2007.

at the time, at 40 per cent of Bundesbank reserves (Germann 2021: 86). And West German officials knew that forcing the US to convert dollars into gold would force the Americans to suspend convertibility at a time that West Germany did not have enough gold reserves to deal with the consequences. A policy of shoring up such reserves was chosen instead.

In the end, when Nixon refused to respond to a massive speculative exit from dollars in 1970-1971, the die was cast. As Germann shows, a concerted European gold conversion process began, with the central banks of Belgium and the Netherlands demanding $140 million in gold, France cashing in $282 million and the Bank of England demanding, in August 1971, a three billion dollars' worth of gold guarantee. According to Eichengreen (2007: 18), West Germany "signalled its desire to do likewise". The international coordination and cooperation that had maintained the Bretton Woods system until 1971, a fact that Eichengreen places on the regular coordination between central bank governors, the BIS and the OECD's Economic Policy Committee (Eichengreen 1996: 121), was no longer there.

Floating

When the gold/dollar parity was officially abandoned in 1973, the immediate consequence was the transformation of fixed exchange rates into floating rates as central banks stopped defending existing rate parities. As a further consequence, new financial instruments emerged that accelerated the growth of foreign exchange markets. But the view that floating signified an 'inevitable consequence' of the inability of states to defend themselves and their currencies against technological and market developments (Eichengreen 2007), has been criticized by other IPE scholars (see Helleiner 1994; Krippner 2011), who stress the importance of "the systemic character of monetary relations" (Gray 2007: 296) as well as the "uncertainty and contingency of the situation, [the] plurality of policy options and, most importantly, the interactivity of state responses" (Germann 2014: 770). Rather than an example of a hegemonic power taking action to ensure its continued role, critical perspectives prefer to illuminate the actions of other capitalist countries in the final collapse of Bretton Woods and the shift to floating exchange rates.

Turning to the specific example of West Germany, we can see that in that moment it was faced with a small number of options in how to deal with the destabilizing predicament of the final period of Bretton Woods: collapse in the confidence of the dollar that took in the late 1960s forced West German policymakers to contemplate either a revaluation of the DM or the imposition of capital controls. Neither options were particularly favoured: revaluing the DM would have meant an inflow of foreign capital (destabilising domestic anti-inflationary policy), diminished export competitiveness and foreign reserves dwindling. Alternatively, capital controls would damage the open market model upon which export competitiveness was based, while also forcing the Bundesbank to prop up support for the currency's parity. In fact, as Scherrer (2003: 123, my translation) has shown, "as broader and broader economic circles were affected by the increasingly permanent controls, a mobilisation of the business community against these controls began, with a high input of resources". As a consequence, and for a time, "flexible exchange rates made the effects of lifting capital controls seem less threatening, so that by exploiting structural economic relationships (keyword: *benign neglect*) the controls could be relaxed" (Ibid).[334]

In September 1969, shortly before the SPD formed its coalition with the FDP that sent the CDU/CSU into opposition for the first time since 1949, a revaluation of the D-Mark was expected by all. Economics Minister Schiller had advocated for that option since March of that year, dismissing any suggestion about capital controls which were identified as either French-style *dirigisme* or even pre-1948 Nazi controls, a position that was shared by the Central Bank Council of the Bundesbank (Holtfrerich 1999: 386). Opposed by Kiesinger, Schiller was however supported by the *Frankfurter Allgemeine Zeitung* and the *Süddeutsche Zeitung*, as well as economists like Herbert Giersch. Schiller's proposal appeared to have won public opinion (Gray 2007: 302). Schiller's view was strongly influenced by what he saw as increasing social tension brought about by rising corporate profits, on the one hand, and wage moderation that has just been agreed via collective agreements binding for a period of two to three years. The explosion of a series of wildcat strikes in September 1969 proved his point (Holtfrerich 1999: 387).

At this point, Otmar Emminger made a novel proposal: a temporary float of the DM. Relieving the Bundesbank from intervening in currency markets to defend its value, while not hurting exports, the idea was embraced by chancellor Kiesinger and his Finance Minister Strauss.[335] Confident that the consequence would be "that the D-Mark would hover somewhere near its present value" (Ibid), the decision was approved in late September.[336]

Allowing markets to determine the value of the currency ran against the core of the post-war monetary regime and the institutions placed to oversee it. The European Commission responded very critically but, somewhat unsurprisingly, the IMF was not as harsh, noting that decisive action was better than allowing the continuation of this destabilizing speculative frenzy. Ensuring its temporary character was, however, stressed. As promised, Schiller brought the value back to its original parity in less than a month. But in setting the ensuing parity at a higher level in order to avoid any future adjustments, a drain in liquidity ensued. As a consequences, the Bundesbank was forced to ask the IMF for short term financial assistance to counteract the imbalance (Ibid: 304, see also Holtfrerich 1999: 389)

The Bundesbank's experiment highlighted the consequences of the increasing deterioration of Bretton Woods. The continuation of wildcat strikes and rising wages was interpreted, in the Federal

[334] Among other observations, Scherrer also notes that the collapse of Bretton Woods also designates the moment when "business elites contributed to the replacement of state actors" Scherrer 2003: 124.
[335] Interestingly, as Holtfrerich (1999: 383) notes, the proposal for a "transition to floating exchange rates" had already been suggested by the Council of Economic Experts (*Sachverständigenrat*) in 1964/5, something that had been at the time opposed by Emminger too.
[336] Gray (2007: 202, ff. 31) notes an important parameter. In unofficial records of the Central Bank Council of the Bundesbank, it was made clear that should the DM value move beyond a specific point, the central bank would intervene but this had to be kept from the public in order to ensure that speculators would not move in that direction.

Government as in the Bundesbank, as an inflationary pressure resulting from the failure to revaluate. Another speculative capital inflow into West Germany in 1971 was, however, also treated through the strategy of floating the DM that was seen as successful.[337] But it was becoming clear that such *ersatz* solutions were limited in their capacity, hardly capable of resolving wider structural problems of a collapsing monetary order. Wage growth continued throughout 1970 too, reaching an unprecedented (for West Germany) level of 14 per cent, with unit labour costs following closely at 11.6 per cent (Ibid: 390). Despite the temporary success of the float, and despite the theoretical argumentation in favour of market-based solutions as *panacea*, the reality was that a new type of monetary arrangement had to be coordinated at a higher level.

In the end, when Bretton Woods was officially terminated and floating was adopted, this was not the result of a specific ideological preference for this system, despite its consistent propagation since the 1950s by people like Friedman, Lutz and Harry Johnson. Even within the Bundesbank, the predominant view remained the one promoted by its president Klasen, which was to maintain fixed exchange rates and stave off the consequences by giving more power to control credit allocation to the Bundesbank (Johnson 1998: 70). This strategy would have meant, as Johnson adds, “credit ceilings, selective controls, and an activist minimum-reserve policy”. Although rigorously fought by the Bundesbank’s vice president, Otmar Emminger, the eventual adoption of a DM float turned out to be more accidental than an intellectual/ideological victory. As Germann notes (2021: 95), Emminger himself admitted that “in reality the transition to floating was forced upon us by events, whatever rational considerations and expectations we had with regards to a float” (Emminger 1986, quoted in Germann 2021:95). What was problematic, in any case, was the notion that West Germany could continue along such a path on its own. It is from this perspective that renewed discussions about European integration accelerated from 1969 onwards, starting with Willy Brandt’s intervention at the Hague Summit of the European Community in December 1969, echoing the sentiment that any drastic moves in relation to exchange rates would have to be coordinated at a European level. As Gray (2007: 305) notes, this prospect was “explicitly endorsed by European leaders at the Hague summit”.[338]

[337] Emminger’s 1969 prediction that the float would discourage capital inflows was verified. But it is worth noting that this was the result of its temporary character.

[338] It is worth noting here that ordoliberals rejected the adoption of Special Drawing Rights (SDR) by the IMF in 1970 as a means of escaping the dominance of the US dollar. In a 1971 paper published in ORDO, Otmar Issing explained the main reasons: one the one hand, Issing accepted that the Bretton Woods system was characterised by a certain “irrationality” that was based on the production of US deficits, that it was becoming an “inflation generating machine” and that imbalances of countries’ balance of payments destabilized the whole international monetary order. But the introduction of SDR’s was also rejected with the argument that, on the one hand, its theoretical prerequisites were to be found in Keynes and Triffin and, on the other hand, SDR’s would in fact “delay the necessary measures [for countries] to rebalance their balance of payments” (Issing 1971: 277), while also accelerating inflationary pressures (and allowing further dollar deficits). Lamenting the lack of consensus for adopting an “internationalization of the Friedman Plan” (of floating exchange rates) (Ibid: 288), Issing concludes that should monetary stability be seen as an indispensable economic policy objective, the only option is flexible exchange rates. To the extent that fixed exchange rates and a centralized supply of international liquidity remain in place (something that SDR would not eliminate), this leads to objectionable and “serious interventions in the monetary policy of the individual countries” (Ibid: 290).

Transformations of the ordoliberal outlook

When Hayek accepted a position in Freiburg, Rüstow treated the news with delight, assuming from Hayek's inaugural lecture that he had moved closer to ordoliberal positions.[339] Yet, these feelings were probably premature. As Dyson notes (2021: 33), the move to Freiburg coincides more with "a shift away from Eucken towards greater engagement with Hayek's different notion of the market as a spontaneous order" and a much more "skeptical view of institutional engineering" than anything else. Developing themes that would be widely publicized through his Swedish Riksbank Award (misleadingly referred to as a "Nobel Prize in Economics") acceptance speech in December 1974, and while retaining a certain belief in the "order of rules", Hayek's main preoccupation concerned the illusion and arrogance of feigning any substantive knowledge of the "essential complexity of economic systems" and market signals, while also alluding that "orders" also develop organically within the market system (Dyson 2021: 34). A widening gap separated these views from Röpke's projection of the market as an "artistic construction" (Röpke 1944).[340] But an overall tendency towards a prioritization of markets *at the expense* of the postwar liberal embedded order and the social compromises it promised became embedded in the 1970s, driven predominantly by an inability to stave off a radicalized and now autonomously organized working class that refused to accept the deterioration of its conditions due to falling profitability.

The conclusion of Beyer et all (2009) is very similar. Arguing that "broad upward trends in commodity prices, the collapse of Bretton Woods and the collapse of the oil market regime were all driven by excess demand growth in the late 1960s and the early 1970s" (Beyer et al 2009: 13), official responses (from floating rates to European integration discussions) were heavily driven by a concerted attempt to reign down on wage demands, workers' militancy and what was even described as employers' acquiescence or inability to confront organized interests (see Chamayou 2021).

What today might appear as an embrace of some marginal Marxist viewpoint was, at the time, openly proclaimed: rising wages because of social struggles and an inability to offset labour cost by productivity increases lay at the centre of the profitability drop and the only way forward was to "attack labour" (Chamayou 2021: 21). In conditions close to full employment, workers' discipline in the assembly line and the streets was radically undermined. Echoing early ordoliberal rejections of full employment demands, managerial concerns throughout the world locked in step: "In a nation where the

[339] "In a letter dated April 23, 1963, Rüstow wrote to Edith Eucken: "By far the most essential and pleasant is, however, the fact that with his Freiburg inaugural lecture Hayek has unambiguously placed himself within the camp of neoliberalism, while before he unambiguously - including in extensive conversations with me - had argued the position of paleo-liberalism" (cited in Vanberg's (2013) text 'Hayek in Freiburg" in the collected edition "Hayek: A Collaborative Biography")

[340] In what can be described as an attempt to bridge this gap, Vanberg and others have tried to rejuvenate ordoliberal thinking by combining it with the work on constitutional political economy of Buchanan, an attempt framed within the public choice theory paradigm. Starting from the late 1980s, Vanberg sought to introduce Buchanan's "individualistic and contractarian" (Dyson 2021: 88) streak into ordoliberal thought, arguing for its greater compatibility with modern citizenship and in attempts to move away from the accusations of authoritarianism present in early ordoliberal writing. Younger ordoliberal scholars, like Malte Dold, have also moved in similar directions, calling for a revival of ordoliberalism through a reversal of focus towards "participation from below" (Dold *forthcoming*).

government is formally committed to maintain full employment", asked *Business Week* in 1970, "what forces will restrain the perfectly human demand of labour for more money and more power? (Business Week 1970: 156). Similarly, *Life Magazine* would report in 1972 that "much of the fear of being unemployed has disappeared, along with the notion that hard work is a virtue in itself" (Life Magazine 1972: 38). But the threat of unemployment itself could not reach full effectiveness if welfare policies remained high enough to cushion layoffs. In the context of the social antagonism of the 1970s, the early ordoliberal rejection of both welfare and full employment fit like a missing piece of a puzzle.

Faced with such opposition, the vision of a spontaneous market order was, once again, accompanied by an increased preference for a strong state. And these updates coincided with another early characteristic of the strong state, i.e., the renewed dismissal of "political democracy", understood at the time as the political framework that allowed for such widespread lack of discipline and political cowardness. The inherent conflict between democracy and markets made its forceful reappearance.

The development of a sovereign consumer democracy that had been praised by ordoliberals/neoliberals during the 1950s and 1960s was being replaced by widespread demands for further participation and involvement not only in workplace issues but questions of everyday life. The promise of "some measure of apathy and non-involvement" that had characterized the liberal embedded order was breaking down alongside the postwar compromise. As a consequence, Huntington would argue, "a greater degree of moderation in democracy" was needed (Huntington 1973: 113). This relatively mild recommendation stood in stark contrast to more pronounced calls to radically limit the framework that had eroded the social compromise and led to unpredictable and uncontrolled struggles. A critic of the *Governability of Democracies* Report noted in amazement that Huntington et al were violating "a taboo of American society" by criticizing its rhetoric in public, concluding that "Western intellectuals are now calmly discussing hypotheses which they once associated with lunatic fringes" (Wolfe 1975: 559). As we have seen, however, a consistent critique of mass democracy and direct participation never belonged to any "lunatic fringe": it was part and parcel of the ordoliberal/neoliberal framework in its interwar years, later replaced by the embrace of the postwar sovereign consumer democracy (see Chapter 2 of this dissertation).

An authoritarian methodological individualism?

In the 1970s, however, a discernible return of authoritarian liberalism took the form of promoting a market liberal order through politically authoritarian means, more capable of dismantling the social compromise that had characterised the post-war period by promoting the draining of public expenditure that determined the non-wage compensation that had sustained the compromise. This authoritarian turn was also seen as entirely appropriate and necessary in order to quell the wave of both organized and autonomous proletarian militancy. If Reagan showed his cards in his management of the air-controllers strike of 1981 (firing 11.000 striking workers despite having federally protected jobs), with Thatcher showing the same attitude in her dealing of the printers' strike in 1983 and, famously, the miners' strike of 1984-5, neoliberal and ordoliberal thinkers at the time did not restrict their quest for authoritarian solutions to the stretching out of the limits of democratic tolerance in western liberal democracies.

Paying attention to such transformations, when Samuelson was asked in 1980 about the potential future for western democracies, he pointed at Latin American countries (Chamayou 2021: 197). Shortly after, Hayek reportedly told a Chilean journalist that "it is possible for a dictator to rule in a liberal way". The temporal and theoretical gap that had separated the interwar neoliberal/ordoliberal flirtations with Carl Schmitt and the strong state from the post-war embrace of democratic order seemed to be radically collapsing.

A central feature of the ideological justification of this return of authoritarian liberalism was the outspoken and forceful (re)definition of 'freedom' as a concept strictly confined to economic freedom. Triggered by the collapse of industrial peace and the draining of profits due to the disentanglement of wages as fixed below productivity, 'economic freedom' was seen to be facing its most serious threat in decades. But a blueprint of sorts was in fact at hand. The simultaneous need to defeat working class insurgency, cut public expenditure and support the private sector mirrored a predicament that liberals knew well. Classical liberalism, after all, could also be described as an attempt to conceptualize the facilitation of the flourishing of the private sector through the creation of institutional checks and balances that would limit the state's redistributive functions while enhancing its repressive ones.

The most sophisticated analysis that sought to reconnect 18th century classical liberalism to contemporaneous concerns about 'totalitarianism' or 'unlimited democracy' arguably belongs to James Buchanan. Founder of the Public Choice theory, Buchanan had already from the early 1960s engaged in a rigorous examination of modern government rule from the perspective of methodological or normative individualism, testing the compatibility of government rule from the viewpoint of personal liberties.

While the specific perspective contains a number of similarities with the ordoliberal framework – the unequivocal support of a market economy, Eucken's Rousseau-ian concern about the individual "dissolving in the collective mass" (Horn 2022), the necessity of a rules-based order as a guarantee against abuses of power), the perspective of methodological or normative individualism could also be seen as distinct from that of an inter-dependence of orders within an institutional framework. It did, however, share some foundational motivation: methodological individualism was not merely an instrument meant to advance social and political theory. It represented the reverse image (and rejection) of collective power (also known through aliases like "organized interests", "labour power monopolies" etc). The affinity with ordoliberalism could also be located here.

Moreover, in the context of the post-war development of ordoliberalism, however, and the shift towards a constitutional order as opposed to a 'strong state' (see chapter 3 of this dissertation), the affinity between Buchanan and the ordoliberal framework is more than visible. Not only has Buchanan's Public Choice theory greatly influenced and determined contemporary ordoliberals like Lars P. Feld, but Victor Vanberg's collaboration with Buchanan in the development of constitutional political economy has often been seen as a consistent attempt to renew interest in the normative and research potential of the ordoliberal framework.[341] And while a thorough investigation into Buchanan's work is, in itself, beyond the subject matter of this dissertation, it is worth spelling out these key affinities, even at the cost of somehow side-lining the potential methodological approaches.

Buchanan, as much as other ordoliberals, drew their critique of unlimited democracy from the writings of Tocqueville and his warning about majority rule and the ability of a specific political class to act selfishly while claiming to represent the 'public good'. If Buchanan added something conceptually distinct, that concerned the placement of the individual and personal liberty at the epicentre of any conceptualization of the 'public good', creating some contrast with postwar ordoliberals who were more willing to accept a wider social framework within their theory and its implementation. Moreover, and somewhat contrary to Tocqueville, Buchanan employed the use of constitutional checks and balances in order to address the same problem identified by 18th century liberals: the necessary limits to state power.

Buchanan developed his combination of constitutional economics and Public Choice theory by applying it to a specific analysis of contemporary democracy. Arguing that it "inevitable results in incoherent and extremely costly state action" (Biebricher 2015: 259), Buchanan located the reasons behind such failure on the fact that elected officials and bureaucrats remain individuals seeking their own best interests and the process of democratic rule allows them to climb onto positions of agency and power which they can then utilize for their own benefit. Contemporary debt politics allow states (and their bureaucrats) to amass public debt and act selfishly by burdening future generations with its repayment. Already here, a strong affinity with the ordoliberal aim to disempower organized interests is visible. Like Eucken and other ordoliberals, Buchanan saw democracy as a process that empowers a political class to act beyond specific principles and rules, placing no limits on its scope and range of activities, and thereby allowing the state to be turned into prey, unable to cater to individual liberties.

In the same manner as Böhm, Buchanan saw the economic sphere of the market economy as one constituted by law, creating what we have seen as the 'economic constitution'. If ordoliberals in Europe had focused on competition law as a means of encasing functioning markets, Buchanan's focus was more geared towards taxation powers of the government and democratic governance as a whole. Thus, in a paper published by ORDO in 1979, Buchanan explains the constitutional need for fiscal constraints. In a certain way, the underlying focus was the same: how to limit organized power from

[341] The influence of public choice theory and of Buchanan can also be discerned by the fact that, starting from the mid-late 1970s, an increasing number of articles in *ORDO* are on topics related to Buchanan's concerns and Hayek's theories – alongside, as noted, articles by Hayek and Buchanan themselves. See indicatively, *Ordo* 1975 Vol. 26; 1979 Vol. 30; 1980 Vol. 31; 1981 Vol. 32; 1983 Vol. 34; 1985 Vol. 36; 1987 Vol. 38

taking hold of the state mechanism. The ordoliberal insistence on limiting private power might appear to be missing from Buchanan's coinciding embrace of privatizations – but the two need not appear as in contradiction: for ordoliberals, private power was seen as a consequence of "privileges accorded by government", largely focused on cartels and monopolies. This found its equivalent in Buchanan's theorizing of the need to limit governmental potential for interference outside constitutional rules.

Echoing Hayek's approach that saw "laws in the substantive sense [as] essentially long-term measures" (Hayek 1960: 208), Buchanan was particularly concerned about the potential for a legislature to amend the 'rule of law' at will, something provided by democratic regimes that gave too much discretionary space to specific parts of the state, a condition geared to undermine the rights of minorities. Far from aspiring to a laissez-faire system which, Hayek added while wearing his ordoliberal hat, did "not provide us with an adequate criterion for distinguishing what is and what is not permissible in a free system" (Hayek 1960: 231), the rule of law protected by a constitution needed a very specific range of action: ensuring that there is no social or "distributive justice" is allowed (Hayek 1960: 232). Similarly, Buchanan saw the constitutionalization of the economic order as forbidding discriminatory legislation that distorts market forces.

Buchanan's conceptual move from the 'rule of law' to a constitutional framework was a specific addition towards solving the problem of majority rule (Biebricher 2017: 843). But his contributions went beyond specific economic policies. Rather, Buchanan was concerned with wider issues such as public finance through constitutionalizing, for example, balanced budgets. Within Buchanan's oeuvre, normative individualism, public choice theory and constitutionalization are, however, not merely extended to the economic order or public finance.[342] They directly engage with questions of politics and, more specifically, the bureaucracy of the modern state. As Vanberg explained, "constitutional economics [...] focuses on the set of rules which constitute the organization 'state' and define the constraints within which it operates" (Vanberg 1988: 23)

Moving away from the ordoliberal position of scientific experts as the "only objective, independent advisers capable of providing true insight [and] the basis upon which economic judgements can be made" (Böhm et al 1936: 15-16), Buchanan asserted that decision makers and state bureaucrats are as much inflicted by selfish, short-term and 'rent-seeking' interests as the masses. As Biebricher notes, "the extension of the homo economicus model to politics yields [...] the assumption that in the democratic market for rents there is not just demand but also supply" (Biebricher 2017: 844). From this perspective, given that amassing public debt is a decision that has a long-term horizon that does not temporally affect either politicians or their voters, the propensity to increase debt and burden future generations cannot be halted through a system that allows such discretion. Instead, a constitutional

[342] The focus on public finance was not coincidental. Drawing from Adam Smith who saw government taxation as a vexation that diverts revenue from productive to unproductive sectors, Buchanan also saw it as an impediment to the growth of wealth. Given that the power of the state to tax was mitigated and undermined by public resistance, the state would resort to borrowing in order to finance the gap. This, in turn, explains Buchanan's shift of focus from taxation towards public debt.

introduction of a balanced budget commitment puts a direct obstacle: politicians cannot, today or tomorrow, increase public debt in ways that affect those who have no say on the matter. The short-term bias of democratic governance is bypassed (Buchanan 1986: 217).

Evaluating Buchanan's formulations (as well as many ordoliberal ones) it becomes hard to sustain the assertion that they consist of value-free statements of scientific experts untamed by ideological positions or promoting specific economic interests. While this specific aspect of ordoliberal thinking will be examined in more detail in the concluding chapter of this dissertation, suffice hear to say that Buchanan's conceptualization of the constitutionalization of balanced budgets is as much guilty of specific ideological presuppositions as he accuses his opponents to be. The purportedly "democratic" concern of future citizens stumbles upon a wide array of contradictions. To start with, presupposing a specific commitment in non-existent persons and, even more, a commitment that aligns with one's contemporaneous perspective at the expense of actual living subjects and actors is, in itself, an extremely bold claim. As Biebricher has noted, the notion that future generations would be against public debt already (falsely) presupposes a ceteris paribus situation: "if fiscal discipline in the present means that public infrastructural investments from bridges and roads to schools and water supply works is put off, it is arguable that society would choose debt over fiscal savings" (Biebricher 2017: 846). Not only does Buchanan conceptualize constitutional law as a fixed, non-dynamic and immune to social reality structure – what Mirowski called the "constitutional immobility" (Mirowski 2019: 212) – but his particular support for constitutionalizing balanced budgets adds a further presupposition: that the proper functioning of the market economy somehow corresponds to a "public good" favoured by all. Given the redistributive aspects of public finance, the notion of constitutionally precluding any parliamentary debate or deliberation on its parameters does not resemble a democratic procedure, even one loosely defined. Rather than protecting the supposed scientific soundness of proposals like balanced budgets, constitutional constraints are meant to bypass their intense unpopularity.

Looking at the actual dynamics of public debt in order to make such arguments is, in itself, also revealing of something else: it radically ignores a far larger composition that predominates debt issues in in contemporary capitalism, namely private debt. If future generations of citizens are seen as by definition resistant to public debt, could one not after all make the same claim about private companies and their shareholders? What guarantee is there that today's corporate decisions on incurring debt will be approved by future shareholders? Clearly, such a view would immediately lay to waste a key feature of contemporary market economies, i.e., the absolute necessity of incurring debt in order to finance investments, innovation and business expansion (to mention just a few).

Reducing public debt to a generational conflict reveals itself to be no more than a rather dubious justificatory device for pretending that a specific ideological conviction (present in all neoliberal/ordoliberal thinking) carries democratic legitimacy. Rather than making an argument about democracy, Buchanan is advancing one about public debt. The impossibility of extending his logic (assuming the target is democratic governance) to any other field – in fact, even fields that Buchanan might not object to – exposes this more than anything else. In closing, one can also note that the constitutionalization of specific approaches to public financing and state spending is further problematized by Buchanan's apparent side-lining of a central feature of constitutional law, which is the necessity of subjecting constitutional law to judicial review. This feature is not merely an aspect of including "checks and balances" but rather a clear indication of the fact that constitutional law (and law in general, one might add) is not a static but a dynamic process subject to and influenced by different historical contingencies, social relations and changing circumstances. Buchanan's approach of a certain sacred-ness of constitutions and the implication that they should remain somewhat 'untouchable' by any current or future deliberations is also, whether realised or not, an argument against judicial review itself – or, to say the least, its actual implications.

In the context of elaborating on suitable forms for undermining the ability of the state to unilaterally increase its competences and power, Buchanan would eventually end up with a positive appraisal of 'direct democracy' through institutionalized popular referendums. A central reason behind such a preference comes from the presupposed position that the "cartel of elected politicians" would find it directly against their interests (assuming they are rational utlility-maximizers only concerned with 'renting out' groups or individuals) to legislate for a balanced budgets that deprives them of the potential of taking advantage of their agency. To bypass this, individual citizens should be assigned with the task (Buchanan 1985). Recognising that such an arrangement necessitates a specific "constitutional attitude" for it to be effective, Buchanan (see also Frey 1994) would point at the example of Switzerland as a successful application of such direct democratic procedures. As Biebricher notes, the example of Switzerland is not coincidental. Part of the obvious attraction concerns the fact that the actual outcomes arrived at by these referendums (rather than the process itself) consist of a 'popular' embrace of low taxes, balanced budgets and low public debt. Moreover, as Buchanan himself has argued, another inspiration for such direct democratic methods came from Reagan's proposal 1973 (and Howard Jarvis' 1978 eventual implementation) of Proposition 13 in California, a decision to cap property taxes that emerged after a referendum. It is highly debatable, for example, if Buchanan and other Public Choice theorists would be as ecstatic about the result of the Berlin 2019 referendum that called for the expropriation of real estate from private companies.

It soon becomes clear that behind the endorsement of public referendums lie a wide series of presuppositions that direct affect the potential outcome of such exercises: Buchanan's own insistence on a "constitutional attitude" could be, when stripped of its purported neutral-free discursive aura, conceived as a means of embedding that specific aspects of modern market societies are not suitable for public deliberation: the institution of private property or a market economy clearly belonging to these, from which preferences for low taxes and balanced budgets stem. Secondly, the very methodological approach of normative individualism sets a specific bar: organized or collective interests are by definition excluded from playing any role, their congregation itself seen as symbolic of totalitarianism. In the name of 'no coercion', therefore, constitutional principles are elevated to the role of protecting ... private property and the limitation of democracy.

This is the point where the underlying necessity of a strong state is posited. For in the context of a market economy, the supposed voluntariness of contractual agreements reveals itself to be little more than a myth. This "voluntariness" does not produce the necessary consent that would allow the continuation and maintenance of a market economy, so the constitutionalization of fiscal discipline requires an enforcing mechanism.

Concluding his remarks on Buchanan, Biebricher notes that looking at the specific examples where balanced budgets have indeed been constitutionalized can help explain the process through which this came about. But he also adds that in all of these cases, the legislation is "either watered down or ignored whenever political expediency necessitates" (Biebricher 2016: 850). There is however one other example where Buchanan's views became operational at a constitutional level, even though Buchanan himself carefully made sure to never publicly recognise the fact or his contribution to it: Pinochet's brutal dictatorship in Chile.

Buchanan's actual participation in drafting the dictatorship's 1980 constitution remains a contested issue. The most obvious proponents of such a thesis are Alfred Stepan (1985) and Karin Fischer (2009). But Nancy McLean's (2018) *Democracy in Chains* claims to have uncovered further evidence of Buchanan's direct participation, citing letter exchanges between Carlos Francisco Cáceres and Buchanan in the early 1980s in which Cáceres explicitly asks Buchanan for guidance in drafting the "new Constitution that will define our future republican life", posing question that range from "the way to elect the political authorities" to "the economic matters that should be included" (McLean 2018: 210-211). This paper trail indicates, according to McLean, that Buchanan responded positively to the request, making specific proposals in further exchanges and eventually visiting Chile in May 1980 to engage in "in-person guidance". The committee already drafting it had meticulously read his Limits of Liberty. When in Chile, McLean adds, Buchanan provided "detailed advice on how to bind democracy, delivered over the course of five formal lectures to top representatives of a governing elite that melded military and the corporate world" (Ibid: 211).

In that period, Buchanan also authored a newspaper article for the Chilean El Mercurio where he set out the aims of his school of thought (and, presumably, of the new constitution). As he wrote, "we are formulating constitutional ways in which we can limit government intervention in the economy and make sure it keeps its hands out of the pockets of productive contributors". In turn, Buchanan explained what these limits on the government should be: a constitutionally enshrined balanced budget, a constitutionally independent central bank and a further constitutional restriction that forbids any "change of substance" unless there is a supermajority of two-thirds (2/3) or five-sixths (5/6) of the legislative body.

Buchanan's actual participation in drafting Pinochet's constitution is hard to discern. But looking at the voted constitution of 1980 (the campaign for which carried the name of Hayek's book *The Constitution of Liberty*), one finds the following statues:

- Art. 67 constitutionalizes the requirement for a balanced budget
- Art. 108 establishes the autonomy of the central bank, which is forbidden from financing public or private entities (unless there is a "case of foreign war or the danger of it")
- Art. 128 states that in cases of a rejection of a Bill of Reform by the President of the Republic, a three-fifths (3/5) or two-thirds (2/3) majority of the members in office of both Chambers of government are required to pass the Bill.

In other words, the exact restrictions that Buchanan wanted to see in a constitution were in fact voted in Chile's dictatorial constitution. One may of course argue that those who drafted the constitution were simply influenced by his ideas, without that implying that he had some direct role in designing the actual constitution. At this point, however, the question of whether he participated or not in the drafting is rather irrelevant. What remains as a fact is that Buchanan's specific constitutional political economy was copy-pasted in the constitution of Pinochet's dictatorship.

One year after the voting of the new constitution, the Mont Pèlerin society decided to have its regional meeting in Chile, at the seaside resort of Vina del Mar. This came as a result of discussions during Hayek's own visit to the country in 1977. Being an honorary president of the MPS at the time, Hayek's approval was crucial. Among the participants were key monetarist figures such as Milton Friedman, German ordoliberals like Wolfgang Frickhöffer, constitutional political economists like James Buchanan.

Frickhöffer was a regular collaborator of Rüstow, succeeding him as president of the Aktionsgemeinschaft Soziale Marktwirtschaft (ASM). In the Vina del Mar MPS meeting he presented a paper titled "The Implementation of a Market Economy: The German and the Chilean Models", in which he "likened Pinochet's efforts to the post-World War II German efforts to secure a social market economy under Ludwig Erhard" (Fischer 2009: 327). According to Frickhöffer, the similarities begin in the fact that 1948 there was also "no democracy in Germany" (Frickhöffer 1982: 92, hereafter my translation). Calling the democratic regime before Pinochet "an abominable and anti-social farce" (Frickhöffer 1982: 89), Frickhöffer pointed out that in parliamentary systems where 'lobbies' insist on their interests, "profound and radical reforms can hardly be carried out" (Ibid: 89-90). Comparing the West German social market economy to the ideas of the Chicago Boys, Frickhöffer had no hesitancy to say that "we are in complete agreement. We all want the market, not politicians and bureaucrats, to determine as many activities as possible" (Ibid: 92). If there is one difference between the two, that concerns only the question of "supervision and promotion of competition". Concluding that Pinochet's military coup d'état was "justified and inevitable" (Ibid: 93), he compares Pinochet with Clay and praises them both for introducing a "decentralized system, a free economy with decentralized initiative" that resulted in the creation of an "authoritarian system that led to an even greater degree of freedom" (Ibid: 94).

Buchanan gave a talk under the title "Democracy: Limited or Unlimited?". Fischer claims that while the talk was "abstract" it also "provided theoretical support for [Pinochet's] regime (Fischer 2009: 325). In contrast, Farrant & Tarko (2018) have mounted a counter-argument claiming that not only is there nothing supportive for Pinochet visible in the article, but Buchanan in fact "publicly chided a number of MPS colleagues who had effusively praised Pinochet's dictatorship" (Farrant & Tarko 2018: 14). Evidence to support this is given in the form of a report of the Chilean (neoliberal) newspaper El Mercurio, throwing some reasonable doubts as to its validity. But the problem goes beyond that.

Reading the actual paper that Buchanan presented in the MPS meeting sheds some light into this controversy (and to wider questions about the relation between Buchanan's constitutional political economy and ordoliberalism). Neither is the paper particularly "abstract", as Fischer claims, nor did Buchanan provide a "steadfast defence of universal suffrage and constitutionally-limited majoritarian democracy" as Farrant & Tarko mysteriously argue, once again basing their argument on a report by the Chilean La Segunda newspaper (rather than the text itself).

From the very beginning of his presentation, Buchanan clarified that he cannot even imagine anyone being in support of "unlimited democracy", given its totalitarian nature that is known ever since early Greek writers on politics (Buchanan 1981: 1). Instead, the real question that needs to be discussed is what kind of limits "are minimally necessary to insure the viability of a society in which individuals can maintain personal liberties, and, more instrumentally, on how such limits can be made effective in the mind-set of the late 20th century". To address this point, Buchanan argues that special focus has to be placed on the political structure of government, separating this into three threads: the procedural restrictions of government reach, the difference between parliamentary democracies and republics and the philosophical foundations of the democratic precept, as embodied in the notion of political equality. Finally, his paper aims to expose what he calls the "electoral fallacy" and to show why public choice theory is the best basis for "getting political thinking straight" (Ibid:).

Buchanan's discussion of political structures zeroes in on what he qualifies as the main difference between parliamentary democracies and republics – with the US being the key example of a republic. He then narrows down the chief divergence between the two systems defined through the question of judicial review of the combined legislative/executive power (in the case of parliamentary democracies) and the predominance of independent agencies and the existence of constitutional checks and balances (for the case of republics like the US). While noting that since the 1930s (one can safely assume his refers to the New Deal) those precise checks and balances have been eroded (Ibid: 3), Buchanan notes that the republican system still retains constraints that are unavailable to parliamentary democracies, the latter urgently requiring "direct and explicit non-procedural limits on government activities” (Ibid). In conclusion of this section, Buchanan notes that even though republics are still in need of more efficient checks and balances, he is more hopeful about the success of such a development in republics because there a “constitutional attitude” present.

In the next section, Buchanan takes issue with normative definitions of democracy, openly claiming that “government by the people” is a meaningless conceptualization. Among other problems, “to those who are ruled”, he notes, majority rule “is no different from rule from any other group” (Ibid: 4). In a conclusion that seems to have escaped Farrant & Tarko, he writes that “there is nothing sacrosanct in simply majority rule”. Moving away from such definitions, Buchanan asserts that in reality, democracy describes a regime where “governmental decisions affecting all members of the polity, are reached through processes of discussion and decision-making in which all members participate, actually or potentially, on equal terms.” (Ibid: 4) This description brings Buchanan to the question of political equality, i.e., the real meaning of what “on equal terms” signifies.

One must be careful not to conclude that Buchanan is giving a normative and positive character to political equality. Reading on, we see that Buchanan explains political equality as giving each individual equality before the law, equal weight in determining how the law shall be changed and universal franchise. But he immediately adds that the real question is how this political equality is valued from the perspective of the individual. After describing two potential scenarios (with zero-sum or positive-sum outcomes) which relate to the range of activities of government, Buchanan crucially concludes that in the positive-sum scenario (in which outcomes generate gains for all members and which he describes in terms reminiscent of contemporary market economies) where governmental range of activities is limited, the political equality he just described “will be much less valuable (and considered much less ‘necessary’” (Ibid: 6, my emphasis).

Buchanan then proceeds to describe how actual “modern ‘democratic’ politics” create institutions that allow politicians to pretend to work for the “public interest” while protecting their own interests, concluding that in these circumstances the value of political equality is even harder for an individual to measure. Key to this confusion is what Buchanan posits as a central distinction that political philosophers of his time consistently fail to recognize, i.e., the difference between placing limits on the range and scope of government activities and that of placing limits on the satisfaction of the ”democratic precept” (Ibid: 7).

Re-establishing that his methodological viewpoint is strictly that of the “protection of individual liberties”, he asserts that the creation of limits on the range of activities is much more important than the satisfaction of the democratic precept. As he writes,

> a governmental-political structure that is limited constitutionally to a well-defined range of activities, even if governmental decisions within this range are made non-democratically, may well be preferred to open-ended and unlimited governmental-political structure in which decisions are made democratically (by legislative-parliamentary majorities). (Ibid: 7)

Adding a diagram to further explain his point, Buchanan essentially spells out that, faced with 4 options (divided into constitutionally limited and unlimited governmental activities with each one sub-divided into restrictive or majoritarian participation), "any individual would prefer a constitutionally-limited, restricted participation regime" (Ibid: 8, my emphasis).

Buchanan continues by making the claim that such conclusions were already obvious to classical liberals such as Montesquieu and Hume. Their healthy scepticism towards government and those with the agency to exploit the powers it provides has been, he notes in disappointment, lost in time. Thankfully, however, their "wisdom" of proposing constitutional checks and balances to that power has somehow survived and the 1981 academic and political climate is, he will inform his audience at a later point, "more receptive to constitutional ideas […] than at any time during my active career" (Ibid: 14). Fusing 18th century liberal "wisdom" with ordoliberal and Hayekian views, Buchanan argues that crucial to its emergence was the realisation that "free markets could spontaneously coordinate the activities of persons within a minimally-protective legal order independently of detailed government control" (p. 10). "The political function of the market economy", he concludes, "was widely appreciated" (Ibid, my emphasis).

In the following section, Buchanan explains the reason behind the erosion of such wisdom to what he calls "the electoral fallacy". Unfortunately, he claims, the classical liberal emphasis on the political function of the markets was eventually mistaken with "the explicitly political liberal objective of minimising the role of the absolutist or aristocratic state" (a clear allusion to the laissez-faire period). Though problematic, however, the further development of this fallacy would prove even worse, "somehow giving birth to the almost totally unexamined presumption that, once the state becomes "fully democratic", with free and open elections, and with universal suffrage, the 18th century argument for the minimisation of potential government coercion vanishes" (Ibid: 11). Quite contrary, as he had explained in the opening sections, the establishment of free and open elections alongside universal suffrage does not mean less but more necessity for "overt limitation on the range and scope of governmental authority" (Ibid). Returning to his earlier point that no one in reality supports "unlimited democracy", Buchanan asserts that this confusion has led many to put forward arguments reminiscent of this exact support.

Closing, Buchanan alludes to public choice theory's superior capacity of clarifying these fallacies and confusions, something that comes as a consequence of the fact it is a "positive analysis, totally divorced from ideological pre-commitments" (Ibid: 13). Repeating his perspective as one meant to "preserve a social order in which individuals retain personal liberties" (Ibid), Buchanan draws attention to the need of enforceability of constitutional limits, the success of which he assigns to the predominance of the afore-mentioned "constitutional attitude" which, he had informed his audience earlier, people like Paul Samuelson lack.

Buchanan's final remarks are worth paying specific attention to. After describing how the current environment (directly referencing Reagan to explain what he means) gives good reasons for hoping that things are moving in a positive direction, he warns his MPS colleagues against "electoral complacency" (Ibid: 14). Despite Reagan (and presumably Thatcher) he adds that, "we should not be lulled to sleep by temporary electoral victories of politicians and parties that share our own ideological pre-commitments". The reason why such successes should not be over-estimated is worth quoting in full. "Such victories", Buchanan tells his audience,

> tend to distract attention away from the more fundamental issues of imposing new rules for limiting government, rules that will remain operative regardless of which parties or which politicians are installed for short terms of office. Temporary periods of office by leaders who share our ideological pre-commitments can be, and must be, put to good use by using the scarce time to design and to implement new rules that will at least be quasi-permanent elements of the social fabric. (Ibid: 14).

Even though this final advice is directly aimed at providing constitutional restrictions to democratic procedures by effectively neutralising and annulling electoral results , one can safely expand its vision to apply to the political structure in place in the very country where Buchanan gave his presentation, i.e., Pinochet's dictatorship. As numerous scholars have noted, the 1980 Constitution of the dictatorship was equipped with "locks and bolts" that gave it a "quasi-permanent" status despite the collapse of the dictatorship in 1988. As current events show, Chileans have still not managed to get rid of Pinochet's constitution.

It is safe to assume that many MPS members who attended the Vina del Mar meeting were taken in by the widespread belief that not only disruptive social antagonism but also economic growth depended on the appointment of authoritarian regimes or some 'enlightened dictator'. The "economic successes" of Singapore, Hong Kong or Taiwan were also revoked at the time, as was Chile.[343] In such a context, Chile remains special because it did not only provide neoliberals with an opportunity to make such theoretical connections between economic performance and the suspension of mass democracy; it literally gave them ample experimental space to directly test their theories unperturbed by democratic fetters. Their open support of the regime, therefore, it is not surprising.

These flirtations with open authoritarianism subsided in the following years. One could make the argument that wider public awareness of Pinochet's dictatorship forced some to reconsider, but that would probably reflect more wishful thinking that reality. The systematic abuse of civil rights and the horrifying torture and murder score of the regime did not seem to bother the visitors of Vina del Mar. Nor, in fact, did they seem concerned when their economic castle proved to be built in sand. When in

[343] In a 1982 article for *ORDO*, Ronald Clapham calls Pinochet's regime a "socially oriented market economy". He also adds that while "human and civil rights, as well as the representation of workers' interests by trade unions were formally and materially restricted [*sic*] by the military government [...] the adoption of the draft for a new constitution [...] in the referendum [*sic*] of September 1980 can be interpreted as partial legitimization". Clapham 1982: 96, my translation.

1981 the Chilean economy contracted by more than 14 per cent, Pinochet responded by firing many of the Chicago Boys that had designed the initial shock treatment and the MPS meeting. But this did not reverse all of their policies. By the mid-1980s, the "below poverty" level had risen to 45 per cent of the population (in contrast to 23 per cent in 1970), while "college tuition costs […] equal 40 percent of the average household's income, making a higher education in Chile the most expensive on the planet, relative to per capita income." (McLean 2018: 221). No neoliberals or their Chicago Boys' local affiliates produced any mea culpa statements.

Yet, there remains something distinct about Buchanan's role in this story. Though the dictatorship was also a good testing ground for the implementation of his theory, it was clear that his main concern (as his Vina del Mar paper also testifies) was the creation of permanent conditions of constitutional limitations that would, at the end of the day, be maintained regardless of the political structure that ruled a country. In this way, then, Buchanan's contribution in Chile was the most significant and ever-lasting. Whereas the variable of economic performance would (and did) fluctuate, Buchanan's constitutionalization of balanced budgets, an independent central bank and the requirement of supermajorities to make any substantive changes remained in place long after Pinochet fell and democratic 'normality' returned. It is a clear testimony of Buchanan's victory then that Chile's post-dictatorial regime has remained unable to challenge the "locks and bolts" inserted in the constitution in 1980. Being indifferent to the systematic abuse and horrors of a regime and participating in an international meeting who purpose is to whitewash its violence is one thing. Ensuring that the institutional forms that are built in that time cannot be rescinded even if the regime collapses, is quite another.

The monetarist transition

Such a radical turn towards authoritarian liberalism to the extent of openly supporting (or silently tolerating) murderous regimes was not endorsed by all ordoliberals. Though figures like Frickhöffer continue to hold important positions within the ordoliberal network and were not criticized for their positions, they were also never publicly endorsed. Any mentions of Pinochet or Chile in a cursory reading of ORDO issues are accompanied by clear characterizations of "dictator" or "brutal dictatorial regime" that abolished free elections.

Perhaps one reason for this can be sought in the fact that another transformation was taking place at the same time, one with less bloody characteristics. This was the so-called "monetarist revolution" and it deeply affected the ordoliberal framework too. A significant part of existing literature posits the two (monetarism and ordoliberalism) as if in a competitive relation, the argument being that ordoliberal influence in Germany was essentially undermined by the advent of monetarist positions. Dyson (2017: 95) argues that Chicago School monetarism exerted "more influence" on the Bundesbank than ordoliberalism. What this dissertation proposes, however, is a different reading, in which it was ordoliberals themselves who became influenced and ended up propagating monetarism. Rather than being replaced by it, they became its key proponents.

The link between Buchanan's constitutionalization of balanced budgets and the monetarist shift in monetary policy can be traced in the underlying understanding, shared by both, about the role of the state in a market economy. From this perspective, the democratic state was becoming anti-democratic by limiting the freedom of the individual to allocate her resources, thereby undermining the dynamic of capitalist growth. As Clarke noted in describing positions like the ones held by Buchanan,

> whether through taxation, public borrowing or inflation, the state appropriates and redistributes resources according to its own political priorities, and the political pressures to which it is subject, and the more it spends the more it undermines the incentives and the individual freedom of the market. This damage is all the greater if the state resorts to inflationary financing which destroys the integrity of the currency, and so the regulatory role of money.
>
> Clarke 1988: 327

Similarly, monetarists saw the necessity of reducing the discretionary capacity of the state as a *sine qua non* conditions for reducing its capacity to exploit this power and promoting a sense of reinforcing stability and soundness by clearly defined monetary targets beyond government control. It was this enhanced view of monetarism (moving from a simple concern over the money supply to a reconceptualization of the legal and administrative powers of the state) that remained predominant even after the initial experiments with money supply control in a regime of floating exchange rates proved rather incapable of providing stability.

In a very mediated way, the *political function* of monetarism corresponded to an attack on the bureaucratization of the state, discursively identified at the time as a form of authoritarianism, *at the same time* as actually enhancing its authoritarian features. In short, it was a strategy of defending anti-democratic structures in the name of democracy, and authoritarian measures in the name of anti-authoritarianism. Buchanan's reconceptualization of the role of the state was eventually seen as a supplement to the monetary focus of monetarism (see also Clarke 1988: 334 for the equivalent in Thatcher's case).

From such a perspective, the argument by Feld et al (2015: 54-55) that there is no common ground between ordoliberalism and monetarism appears misleading. In fact, as Pühringer's (2020) empirical research has shown, there existed very significant links and network connections between the economists who promoted monetarism in Germany, the Council of Economic Experts (GCEE) and institutions like the MPS, the *Aktionsgemeinschaft Soziale Marktwirtschaft* and the Hayek Society. In this shift, Herbert Giersch was once again instrumental, being a member of both the Council and MPS.

In the background, the newly created Council had already endorsed floating exchange rates under the influence of both Giersch and Lutz. In its first Annual Report of 1964-1965, the GCEE had pointed out that "[…] a system of flexible spot and forward exchange rates would be different from a system of fixed rates with, from time to time, adapted intervention points (crawling peg), since it would not be necessary to fix a new parity and since the risk of doing too little or too much and of revaluing too early or too late would be absent. Only the full flexibility of exchange rates allows an effective policy of monetary stability without the necessity to exert, from time to time, deflationary pressures". Accompanying such statements was a report prepared for the Council by Friedrich Lutz and Egon Sohmen who insisted on the need to introduce flexible exchange rates to preserve monetary stability.

This approach continued despite changes in membership. As Feld (2016: 48) notes, "The German Council of Economic Experts was influential in developing concepts monetary targeting", lending support to the policy shift in the Bundesbank of 1973[344]. Similarly, in 1976 the GCEE argued that it was up to a supply-side oriented policy to support private investment and the necessary structural changes to achieve "decent economic growth and high employment" (GCEE 1976, paragraph 296). There is little doubt that the major force behind the monetarist turn in West Germany was the Bundesbank. However, the type of monetarism that was adopted in West Germany differed significantly from the US or UK version. A closer look at its key features and the actual context within which this paradigm shift took place is essential.

German-style monetarism

As has been noted (pp. 259-261 of this dissertation) the shift to monetarism in German monetary policy was not smooth. The Council of the Bundesbank remained divided between two approaches: a so-called "dirigiste" (Johnson 1998: 70) approach by president Klasen, which sought to counteract imported inflation by directing monetary policy towards domestic credit controls (and external capital controls to stave off capital flows);[345] and the positions of officials like Blessing and Schiller, who preferred a revaluation of the DM. The third option, supported mostly from the first to speak of imported inflation, Otmar Emminger, was to float the DM and to focus monetary policy on domestic monetary targets. Emminger's positions won the day, assisted by a deteriorating international environment and – allegedly – some luck[346]. In any case, the result was as much reflective of a compromise. Given the unprecedented nature of the monetary direction, an agreement was made concerning its implementation as an experimental program. More importantly perhaps, the new focus of the Bundesbank would allow fiscal policy to retain some expansionary capacity (Johnson 1998: 70), thereby maintaining in full place the German model (see also Germann 2021). Combined with wage moderation promises from the unions and the non-wage compensation of welfare intact, West Germany embarked on what is best

[344] 'Mut zur Stabilisierung', Annual Economic Report 1973/1974, Stuttgart: Kohlhammer
[345] According to Dyson (2021: 351) this position was also supported by Otto Veit.
[346] Johnson claims that Emminger's positions dominated because most of his opponents fell ill. In a crucial meeting between the Federal Cabinet and the central bank in February 1973, it was Emminger who represented the Bundesbank, as Klasen was in hospital for an operation. While this meeting produced no agreement, when Emminger went to the cabinet in March to request a release from the obligation to support the DM, Schmidt also happened to be hospitalized. The only other official present apart from Brandt was the FDP's Hans Friedrichs. Emminger found it wasy to convince the chancellor to float the DM. Johnson 1998: 70; 82.

characterized as a "moderate" version of monetarist policies. As Germann adds, "paradoxically, Germany's decision to float served to maintain the 'embedded liberal' compromise domestically, while exacerbating the speculative capital movements that would contribute to its undoing elsewhere in the capitalist world in the decade to follow." (Germann 2013: 784)

The victory of Emminger was however not immediate. In the period between 1971 and 1973, the Bundesbank remained divided on the question of exchange rates, with the Klasen position in favor of introducing credit ceilings and minimum-reserve policies temporarily winning the argument. Part of this position can even be explained with reference to some ostensibly ordoliberal arguments: it reflected an adherence to supporting the existing regulatory framework of both Bretton Woods and its "temporary" replacement, the Smithsonian agreement, as much as it was geared towards European integration, the process of which required aligning European currencies rather than letting markets determine their exchange rate. What also seems to have influenced Klasen, Johnson argues, was the realization that large corporations were using their massive capital resources to extend credit to other companies, thus bypassing central bank credit control.

But the consequence of that temporary embrace produced a backlash, most notably in savings' institutions that saw the regulation as increasing the propensity of large corporations in seeking credit outside the banking system where it would be cheaper. The simultaneous increase in inflation in 1973-4, which appeared indifferent to a Bundesbank geared to print more DMs to support the Smithsonian parity, also triggered fears about the erosion of the savings' culture.

In this context, Emminger's position enjoyed crucial support and managed to get approval. From that point onwards, the monetarist conversion of the Bundesbank took two distinct forms, retrospectively justifying its characterization as "moderate" or even "hybrid", since it was not a replica of Friedmanite or Brunner-ite prescriptions.

The first aim was to stabilize the banking sector and especially the fact that access to the Eurodollar market had allowed commercial banks to manipulate money supply beyond Bundesbank reach. Increasing their 'free liquid reserves' (i.e., essentially the sum of the bank's excess reserves), through importing dollars and converting them into DMs (under the fixed/Smithsonian agreements), commercial banks' free liquid reserves were found to be single-handedly responsible for the increase of the money supply in 1972.[347] By floating the DM (and thus stopping automatic conversion of imported dollars into German marks) and adding the free liquid reserves into their targeted money aggregate[348], the Bundesbank managed to reduce both money supply and credit. The aim was to "honor the bank's money-creation process at penalty rates that would discourage them from deviating from the Bundesbank's desired growth path for money" (Johnson 1998: 87). As Germann has argued, "floating

[347] Bundesbank, *Annual Report* 1972, see also Johnson 1998: 85.
[348] The Bundesbank did not target the usual money aggregates M1, M2, M3 as suggested by Friedman or Brunner. Instead they created their own target, called *Zentralbankgeldmenge* (CBM) which reflected money in circulation plus reserve requirements. To defend it, they argued it was an easier and quicker quantity to measure and, on top of that, it acted as "a bridge from nominal GNP to government fiscal policy." Johnson 1998: 87

freed the Bundesbank from the obligation of having to take in unwanted foreign currencies and limited the access of German banks and businesses to euromarkets [while creating] the precondition for the introduction of monetary growth targets that was to play a central role in the Bundesbank's fight against inflation". In short, Germann concludes, "monetarism augmented the regulatory powers of central bankers and supported their efforts to 'regain command over the liquidity of the banks'." (Germann 2013: 783)

The second target of the Bundesbank new monetary policy was to 'stabilize' labour, i.e., to put an end to the wage increases that it saw as the chiefly responsible component of the general price level increase. Given that the independence of trade union to achieve wage settlements was (at least for their members) just as sacrosanct as the central bank's own independence, it was crucial for the Bundesbank to find a way to affect wage bargaining "without appearing to do so" (Johnson 1998: 90; see also Streeck's concept of 'institutionalized monetarism', 1994: 118).

The resulting strategy was framed within the conscious attempt to avoid repeating any public Bundesbank intervention on wage settlements, something that had led in early 1974 to a conflict between unions and the central bank. Instead, and after a series of good will gestures that invited trade union participation in the Central Bank Council (which were never materialized in any case), the Bundesbank announced the simultaneous lowering of interest rates (as part of an anti-recessionary strategy) *while also* declaring its monetary target at 8 per cent. In this way, lower interest rates could give the impression of loosening monetary policy, while the concurrent money target would take care of any inflationary increases of the money supply. Publicly broadcast as in line with the inflationary expectations of the public, the strategy was "privately described by senior Bundesbank officials as a kind of 'disguised incomes' policy' (*Versteckte Einkommenspolitik*)" (Johnson 1998: 94). As Beyer et al (2008: 12) summarize, "the shift towards a floating regime and the attendant turn towards monetarism in the course of 1973 and 1974 enabled the German state to stabilise the relationship between capital and labour in a moment of global economic turbulence.

What is striking about the experience of the monetarist turn in West Germany, in contrast to other countries, is the way that it was used to *maintain* rather than *dismantle* the existing compromise of West Germany's political economy. As Johnson remarks, "monetary targeting represented a transfer to the Bundesbank's council of those elements of negotiation and compromise towards which the universalistic construction of the German political economy had already been moving" (Johnson 1998: 95). As noted, the decision to engage in monetary targeting in 1973 was accompanied by lowering interest rates, a policy that acted in a contra-recessionary way, allowing a certain economic expansion and tampering unemployment pressures. This strategy continued in the next years, though not necessarily in the same way. Keeping interest rates at a low level, Bundesbank policy proved to be quite lenient towards deficit spending, which rose to 7 per cent of GNP in 1975 but was nonetheless declared "in keeping with the economic situation" in the Bundesbank's Annual Report (Bundesbank 1975: 23;

see also Johnson 1998: 101). "At all events", the 1975 Report noted, "any smaller growth of the deficit would have retarded the economic recovery".

The new system of monetary targeting quickly became embedded in macroeconomic considerations of all actors. What is particularly interesting in relation to trade unions however, is the fact that the Bundesbank's monetary targeting strategy was able to satisfy *both* those who were concerned with inflation *and* the unions' focus on unemployment. Despite the overall embedding of the memory of 1923 hyperinflation in the West German general public, it remained the case that unions were more concerned with unemployment than inflation – something that the Bundesbank was fully aware of (Johnson 1998: 101).[349] Thus, the combined *restrictive* monetary policy of the Bundesbank and the *expansive* deficit spending of the government generated a balance that reinforced the overall consensus. As Johnson points out, "this allowed the Bundesbank to tell workers and employers alike that it was doing its utmost to promote the recovery without endangering the gains made in the battle against inflation" (Ibid: 103).

At the same time, the adoption of monetary targeting undermined the emergence of the neoconservative tendency that became so crucial in the US and the UK. While the appreciated DM shaved off some of the export dynamism, it also reduced import costs and, therefore, the general price index. At the same time, the ability to impose a new social peace proved highly beneficial to the export sector: in contrast to competitor countries, the sharp reduction of strike activity in Germany (1 million days lost in 1974 reduced to 68.000 in 1975) enhanced German exports.[350]

That this balancing act was achieved *in large part* due to the Bundesbank's independence marked an important point of difference between the German monetarist experiment and the theoretical analyses of American monetarists like Friedman who, geared intellectually towards free banking and disdainful of the Federal Reserve's tendency to submit to fiscal dominance, criticized CBI.[351] But most importantly, perhaps, the difference is located in the noted "lax" attitude of the Bundesbank towards deficit spending and fiscal policy, a reflection of the conviction to maintain the West German domestic model (see also Germann 2021). Such an approach was in sharp contrast to the promises and budget plans of the Reagan administration, to which US monetarists had projected their hopes on, at least initially.[352]

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[349] Johnson (1998: 100) makes another acute observation: the mass membership of German trade unions meant that the Bundesbank could rely on the fact that the prevailing attitudes against inflation in the general public were also represented inside the trade union membership.

[350] As the Bundesbank itself noted in its 1974 Annual Report: "German exporters benefited from the fact that the products they offered were particularly in demand and that in view of the downturn in domestic business it was usually not difficult for them to deliver on time, in contrast to some foreign competitors whose capacities were in most cases fully utilised and whose ability to deliver promptly was often hampered by strikes." (Bundesbank 1974: 12)

[351] Friedman advocated the adoption of a rule to determine the rate of money growth, reducing the central bank activity to the role of supervising its implementation. See Friedman 1959.

[352] Inspired by a combination of monetarism and public choice economics, Reagan's budget plan was geared towards massive spending cuts and welfare erosion to balance the budget, while at the same time slashing federal taxes. However welcome this approach was, its implementation would leave proponents of monetarism and spending cuts disappointed: Reagan's budget plans had exempted defense spending from the proposed cuts, a strategy that was "exacerbated by the fact that the Volcker shock dried up tax receipts, forcing the government further into deficit, while dwindling inflation greatly magnified the burden

An election campaign promising to imitate Reaganomics in 1983 was never put to practice. "Once in office", Johnson points out, the coalition "left the German economy and social structures essentially as it found them, with the major exception of raising taxes to trim the deficit" (Johnson 1998: 104). By that time, the high interest rates of the Volcker shock had led to capital flight and the West German debate was dominated by attempts to respond to the new international conditions. In this context, while the left wing of the SPD continued to call for a demand-oriented policy, a coalition of Bundesbank, GCEE, FDP and the right wing of the SPD won the day. The SPD's last attempt to salvage its position through a moderate fiscal consolidation program in 1982 (the so-called Operation 1982) came too late. The FDP distanced itself from the coalition and a new government led by Helmut Kohl was appointed in 1983 that proceeded with more concrete fiscal consolidation plans (see also Pühringer 2020: 298-299). The result was a massive reduction of deficit spending (bringing it down to 2.5 per cent by 1985) through a combination of raising taxes and wage moderation. The subsequent sharp rise in unemployment (reaching a post-war unprecedented level of 9.2 per cent in 1985) was, however, counter-balanced by the still standing social safety net (Johnson 1998: 107).

Capable of maintaining the social peace of the West German compromise, the policy of monetary targeting continued in Germany long after it was abandoned in the US. Unwilling to destroy such a balance, the Kohl government ignored (monetarist) calls to reduce welfare and wages in a similarly aggressive way as Reagan or Thatcher had done. "The early and sustained victory for monetary targeting", as Johnson concludes, "preempted a more radical populist monetarism and rendered superfluous any serious assault on the powers and rights of the labour movement" (Johnson 1998: 109). The conclusion reflected a central "lesson" that German policymakers had embedded and promoted since Weimar: "to stabilize money is to stabilize politics".

Concluding remarks on the monetarist transition

The main tenets of monetarism were laid out by Friedman. His argument started off as a critique of existing (Keynesian) policies. As Jones notes, "Friedman argued that the error in Keynesian policies was based on an underestimation of the importance of a stable supply of money" (Jones 2012: 205).

> Where Keynes had emphasized fiscal policy and expansive money as a route out of economic downturns, Friedman and his followers marshaled an impressive amount of evidence to show that the mismanagement of money was most often responsible for prolonged slumps, including the Great Depression of the 1930s. In this sense, through his concept of the natural rate of unemployment, Friedman made a similarly "hands-off" argument about the role of government and public authorities in economic management as the Austrians had. Although much of the economics profession came to accept the limits of the Keynesian consensus, it was Friedman who gained the most

of interest rates on existing public debt. In seeming contradiction with his campaign rhetoric, Reagan's fiscal policies ended up producing massive budget deficits, many times larger and significantly more costly than those of previous decades." (Cooper 2017: 239).

> prominence among politicians and policymakers, in part because he had correctly predicted the onset of stagflation in his AEA address in 1967.
>
> Jones 2012: 205-6

As this passage shows, a new approach on the causes of the Great Depression of 1930 was a key paving stone through which monetarism came to prominence. Locating the actions of the Federal Reserve as the key for understanding the Depression, Friedman & Schwarz established a specific paradigm: from that point onwards, crises and inflation would be the consequence of mistaken central banking policy (and, reversely, growth and low inflation the consequences of correct central banking). This simple approach continues to resonate among mainstream (and sometimes non-mainstream) approaches, visible even today when commentators insist that the current inflationary push is the consequences of years of quantitative easing on behalf of the Federal Reserve and the ECB.

In any case, such approaches were also somewhat present in the ordoliberal framework. If the monetarist focus can be reduced to targeting the money supply as a means of maintaining monetary stability, this would be in agreement with Eucken's proposal of central bank targeting of the money supply in 1923 (see pp. 55-56 of this thesis) as well as Lutz's in the 1930s. Moreover, the Reichsbank itself had first utilized it in 1927 (see pp. 42 & footnote 56 of this thesis). From such a perspective, it is perhaps more accurate way to describe the change that took place in the 1970s are an update of less developed earlier positions.[353]

From another perspective, however, Eucken's undeveloped views on the matter could confuse the question, making the link between (at least) traditional ordoliberalism and monetarism ambiguous (Dyson 2021: 389). In fact, with some exceptions like Giersch in the GCEE, however, ordoliberal positions at the time remained skeptical of monetarist proposals. When Schlesinger presented a paper in the Bundesbank council defending (US-influenced) monetarist views, Rolf Gocht,[354] an economist trained by Eucken in Freiburg who had moved to the Bundesbank from the federal economic ministry, objected to the monetarist turn suggesting instead a re-orientation of monetary policy framed around a strict "rules-based monetary and credit policy" reminiscent of the Chicago Plan of the 1930s – which Eucken and Lutz had endorsed (Dyson 2020: 102; 2021: 393).

From a certain perspective, some ordoliberals saw monetarism as an almost "libertarian" and "laissez-faire"-inspired attempt to dismantle the existing regulatory framework. Allowing the central bank to determine the monetary target (especially in the context of a *corporatist* model of coordination) was too discretionary for their liking. In a somewhat contradictory way, the choice of allowing markets to determine the price of the currency and its exchange rate *as opposed to the existing regulatory*

[353] As von Hagen (2022: 244) explains in his account of the Konstanz Seminar and its influence on Bundesbank policy, "the breakdown of the Bretton Woods System in early 1973 changed the conditions for monetary policy for the Bundesbank. In the months immediately following the Bundesbank's exit from the exchange-rate peg in march 1973, the bank aimed at keeping free liquid reserves close to zero, with the result that money markets became very volatile and free liquid reserves lost their perceived usefulness as a monetary policy target."

[354] After his retirement from the Bundesbank in 1976, Gocht would become a *Vorstandsmitglied* of the Walter Eucken Institute.

framework (or even a new ones based on clear rules) was conceived as fallacious. As Clarke notes, "in abandoning the economy to the judgement of the market, without any means of regulating either wages or the expansion of credit" (Clarke 1988: 310), there was a real concern of unleashing unchecked inflationary forces. Floating the DM and opting for domestic money targets also stood in contrast to both the Bretton Woods framework and that of European integration which was centered around a closer alignment of European currencies, and which a market-oriented float might disrupt. Lastly, as Johnson notes, floating was also partly seen as a threat to central bank independence as it was a strategy fully backed by the Finance Ministry and thus, potentially, beyond the control of the bank. "Floating", Johnson noted, "might secure the Bundesbank's independence from Washington only to subordinate it to Bonn" (Johnson 1998: 75)

Thus, it would be erroneous to suggest that the monetarist shift was in any way driven by ordoliberal tendencies. Having said that, however, assuming discontinuity between ordoliberalism and monetarism would also be misleading. Ordoliberals like Norbert Kloten and Peter Bernholz were regular participants of the Konstanz Seminar and became early converts who then proceeded to extol both the monetarist approach and its affinity to ordoliberalism (see Peacock & Willgerodt 1989b, chapters 4 and 10). In addition, it has to be taken into account that even the Konstanz Seminars did not appear as a *deus ex machina*. As Reiner Koenig, former head of the Bundesbank's economics department, wrote in a personal letter to one of the key chroniclers of the Seminars in 2018,

> during the 1970s and 1980s, the Konstanz Seminars had a significant importance in Germany's monetary policy, albeit in a more indirect way as background information. The academic debate about monetarism at the time was noted within the Bundesbank and contributed much to the changing monetary policy orientation – away from the old control of liquid reserves and towards the concept of monetary targeting.
>
> Koenig quoted in von Hagen 2022: 244

Finally, another angle is also worth considering. In the context of the prevailing battle lines in the late 1970s, which were drawn between a receding Keynesian sensitivity and an emerging monetarism, ordoliberals squarely sided with the latter (Fèvre 2022: 217). Eventually, as monetarism fused into a central banking paradigm for an environment governed by central bank independence and fixed exchange rates, its embrace by ordoliberals became easier. Combined with new research that stressed the time inconsistency question and that of central banking credibility as prerequisites of low inflation (see for example Alesina & Summers 1993; also Köhler & Vanberg 2015: 75), its affinity with the wider ordoliberal framework becoming so pronounced that it is today indistinguishable from contemporary ordoliberals like Lars P. Feld and others.

A final note on monetarism is also pertinent. Its relative expansion beyond the realm of Friedman and Reagan, enabled its further embrace by wider theoretical and political tendencies and groups, a fact that proved to be a blind spot for those who interpreted monetarism as representing the victory of financial capital over industrial capital, and as a strategy aimed at facilitating and legitimizing the increase in capital mobility and the financial innovations that accompanied it.[355] What this approach failed to capture, for example, are the reasons why (especially left wing or social democratic) politicians would *willingly* opt for strategies of de-industrialization, recession and high unemployment, if the choice was there to utilize government power to subordinate financial capital. In reality, positing industrial and financial capital as adversaries obscured the fact that both came to see profitability as the consequence of their links, something evident in the fact that most manufacturing corporations are not only engaged in financial exchanges, they have created their own (Norfield 2016). This view also overlooks the fact that a significant percentage of financial innovation takes the form of loans and shares *towards* manufacturing corporations. As Clarke already noted, "accumulation on a world scale is dominated by multinational corporations, which take the form of financial holding companies, closely integrated with multinational banks and financial institutions, which move their capital freely between countries, between branches of production, and between productive and financial investments" (Clarke 1988: 5)

A similar interpretation of monetarism as the ideological justification for a capitalist counter-attack that sought to reverse working class gains when they threatened profitability fails to explain significant working class support and popularity for monetarist positions. As Clarke has argued, monetarism represented a more profound reformulation of the role of the state and its relation to capital and markets, its essential character being that of creating "not simply a shift in the balance of economic and political power, but a change in the form of state and class relations, in which some elements of the working class gain at the expense of others" (Clarke 1988: 7)

Such a perspective allows one to approach monetarism as not merely concomitant to the advent of the New Right in the US (the examination of the Bundesbank's 'moderate' monetarism has already shown this to be an over-generalization) but as suggesting a new framework and structure of state and capital that was embraced by social democratic parties too (the earliest examples being those of Australia, New Zealand and Southern Europe). Though beyond the topic of this dissertation, it is worth noting that the social-democratic attempt to initially respond to the crisis by reverting to a Keynesian compromise (enhancing non-wage compensation as a means to pacify opposition) was met with a virulent campaign by capitalist interests – that threatened with an investment strike. In response, from UK's Labour all the way to Germany, a drastic re-orientation of social democratic parties became premised on controlling demand through decreasing the money supply under the (classical liberal) argument that rising wages and a tight labour market contribute to unemployment.[356] And although a popular rejection of inflation was somewhat "easier" in Germany, it nonetheless proved as effective in

[355] This was most prominently advanced by Perry Anderson in his 1964 *New Left Review* article "The Origins of the Present Crisis" (NLR, Vol. 1, Issue 23, January/February 1964).
[356] This was, for example, an argument promoted by Wolfgang Streeck himself in the period when the Agenda 2010 reforms were being discussed and in the design of which he took part, despite regretting it in a later period.

other countries. From this perspective, it remains empirically unjustified to maintain that the monetarist transition was a top-down ideological victory, an approach that fails to comprehend or explain why, despite the shift into classical liberal anti-inflationary policies, spending cuts, rising unemployment and a fall in real wages, social democratic parties that embraced monetarist "solutions" even recovered electorally after the fact.[357]

The "new realism" of social democracy[358] was as much taken in by monetarist positions and policies as were right-wing/conservative parties, even though their transition might have been more gradual. It was after all, as Clarke points out, under Labour's Callaghan government in 1976 that the shift away from Keynesian positions to monetarism was effected.[359] Thatcher did not come into the scene until 3 years later. The difference between the two, at the end of the day, was probably little more than discursive: "while social democratic governments submit to the power of money in the name of realism, right-wing governments proclaim its power as that of a moral principle" (Clarke 1988: 2)

The Final Leap: European Monetary Integration

> For anyone contemplating the discussions in 1990-1 on European Monetary and Political Union the arresting fact is that virtually every question which they have raised was discussed with equal fullness and frankness more than thirty years earlier.
>
> Milward 1992: 190

In tracing the origins of the EMU, the trajectory of European integration is naturally decisive. The notion of an "historical inheritance" (Dyson & Featherstone 1999) as a guiding and limiting force of the further integration process was, naturally, indispensable. Of similar importance is the way in which specific national 'traditions and experiences' had shaped both past integration and its translation into the national terrain, in other words how each member state had wrestled domestically with the meaning of European integration and how it's trajectory had shaped domestic political conflicts and debates. Looking at European integration through the national lens was also crucial in structuring how member states saw the benefits (and disadvantages) of the European community and how, from this perspective, they sought to steer further integration towards beneficial results.

When examining European integration, the above features have been relatively predominant in existing literature. But they have also led to a conceptualisation of integration that prioritises (if not

[357] This attitude was also reflected in the rejection of non-wage compensation, i.e., welfare, which had become, in that time, synonymous with "public assistance to the poor" rather than a component of the social compromise.
[358] Explored in Mudge (2021) for the cases of the US Democratic Party, the SPD, the UK's Labour Party and Sweden's Social Democratic Party (SAP); in Amable & Palombarini (2021) for the case of the French Parti Socialiste.
[359] Exemplary in this case was Callaghan's statement at the Labour Party Conference in 1976: "We used to think that you could spend your way out of a recession and increase employment by cutting taxes and boosting government spending. I tell you in all candour that the option no longer exists, and that in so far as it ever did exist, it only worked, on each occasion, since the war, by injecting a bigger dose of inflation into the economy on every occasion, followed by a higher level of unemployment as the next step."

entirely overshadows) its history as one of a diplomatic and geopolitical *quid quo pro*. In these accounts, France and Germany are given the protagonist roles, with *France* being utilized not only as a monolithic whole but as one representing a particular *politics* too, that of *dirigisme* and of strong defence of national *sovereignty*. Similarly, *Germany* is assigned the role of orderly and strict orthodoxy, geared towards defending its specific national interests, translated as its currency and export sector.

From this perspective, other European countries play only secondary roles, usually reduced to either aligning themselves with one of the two poles or simply pushed forward by the tide created by them. This approach has not only undermined their own specific understandings and interests in European integration but it has also, more importantly, obscured the extent of a *commonly shared vision* around the role of the state, markets and labour, as well as the institutional and regulatory framework that binds these.

The EMU represents the somewhat delayed consequence of the Bretton Woods collapse. But there is nothing *deterministic* about its trajectory. The fall of Bretton Woods affected the monetary order at a global level, but not everyone responded to it in the same way. While many regional free trade areas exist around the world, none of these have created specific institutional and monetary frameworks that come close to the European community. As Jabko (2006: 2) also notes "market liberalization in Europe mirrored in many respects what was happening in the rest of the industrialized world. But only in Europe did this process go hand in hand with a process of deep institutional integration". The distinct institutional set up of the EMU, with the European Central Bank, the European Commission and the European Court of Justice at its core, immediately separates the EMU as a unique phenomenon and strengthens the argument of an ordoliberal influence in its architecture if only from the perspective that the overall aims of price stability and balanced budgets (that, it can be argued, were shared far beyond Europe) were accompanied by the creation and central positioning of non-majoritarian supranational institutions placed in charge of the implementation of said goals.[360]

But any attempt to explain this remarkable convergence at the institutional level, as well as at the level of shared goals, becomes impossible if its trajectory is understood through the lens of national traditions, experiences and interests. Especially in the case of France, the consistent but essentially misleading depiction of the country as a hotbed of *dirigiste* policy preferences can only be sustained by ignoring the pivotal role of figures like Giscard d'Estaing in pushing monetary integration, a figure rigidly committed to a framework of balanced budgets, independent central banks and fiscal discipline (see Dyson & Featherstone 1999) who openly promoted this political economy (and the German economic performance) as the appropriate model for France's necessary *modernization*. An identical outlook can be found in the case of Raymond Barre who served as EC Commissioner for economic and

[360] This approach stands in contrast to interpretations of European integration that saw it as the expression of the ability of multinational corporations and financial actors gaining necessary political power to promote their interests within a globalized context (see Moravscik 1998).

financial affairs during the Werner negotiations. In a published plan of his from 1976, Barre conceptualized European integration as a process of domestic stabilization and international competitiveness through the use of exchange rate convergence as an "external discipline", adding the importance of balanced budgets, wage moderation and targeting of the money supply as the means to arrive there.

A further example would be Jacques Delors, an unambiguously central figure in the design, implementation and management of the EMU. Officially a member of the *Parti Socialiste* of France, his identification with any "socialist", "dirigiste" or "collectivist" visions or policies would be a profound misrepresentation. A member of the Banque de France for 17 years (1945-1962); an anti-inflation advocate during his time in the French Planning Commission (1962-1969); chair of the European Parliament's Committee on Monetary Affairs during the early ERM years; Finance Minister (1981-1984) and chiefly responsible for convincing Mitterrand to abandon electoral expansionary promises, remain in the EMS and endorse its disciplinary framework in 1982-3; chair of the Delors Committee tasked with providing the monetary blueprint of the EMU; and, finally, President of the European Commission. Delors' career is almost literally the opposite of a French *dirigiste*. A similar trajectory and ideological commitment can be found in the history of Jean-Claude Trichet. Head of the Treasury since 1987, Trichet was crucial in granting independence to the Banque de France (CBI being a requirement for participation in the EMU that needed a constitutional amendment), later becoming its President. Appointed at the head of the ECB shortly after its inauguration, Trichet led the European Central Bank through the early years of the Eurozone crisis, leaving behind a legacy of stringent austerity premised on a stern belief on price stability (Tooze 2018).

From the German perspective, the case of Hans Tietmeyer springs to mind. Trained in Müller-Armack's Cologne University department, Tietmeyer was a self-described dedicated ordoliberal. Appointed in the Finance Ministry in 1962 and becoming its State Secretary in 1982, Tietmeyer proceeded to become president of the Bundesbank in 1993. A close aid of Economics Minister Otto Graf Lambsdorff, he had contributed to the latter's monetarist critique of the SPD government, developing positions that would be fiercely defended during his participation in the Werner Report.[361]

But there is another way through which the over-emphasis on France and Germany has effected a crucial neglect of a key aspect that determined the process of integration (social and labour struggles), with Italy being the most pronounced example in this regard. Details are not particularly necessary but suffice to say that the explosion of social antagonism, labour struggles and widespread radical subversion in Italy during the 1970s was at a level incomparable to most other European countries (who also had their share, as we have seen in both France with May 1968 and Germany with the outbreak of

[361] This expose should not be misinterpreted as implying, the way some historiographies of the EMU do (see, for example Dyson & Featherstone 1999, esp. pp. 692-693; but also Anderson 2022) that the development of European integration was a consequence of specific figures moulding European institutions in accordance to their personal beliefs or interests. Such an account misses the point of the historical trajectory and dialectic between (liberal) ideational beliefs and their institutional imprint, reducing the analytical categories of economic and monetary convictions to a narrow set of *individual* positions.

wildcat strikes) were a crucial component in embedding the necessity of external anchors as a form of discipline that evaded domestic pressures.

As already noted, discussions towards further monetary integration in Europe were accelerated in the last years before the collapse of Bretton Woods. Looking at this process through a 'national' lens, its central features are usually described as stemming from the need to escape US influence and the corroding elements of Bretton Woods, the (French) desire to exert more political influence over increasing German hegemony, and Germany's attempt to facilitate the creation of a new monetary order that would erode US lack of fiscal discipline (and the inflationary pressures it creates), while also maintaining its domestic social market economy compromise *and* its export dynamism (Germann 2021). There is, of course, nothing explicitly *wrong* about this approach. But that does not mean that it gives us a full picture. In fact, maintaining such an angle has become a means to ignore other crucial aspects. The result is not merely an incomplete understanding but a distorted one.

One key element missing from such an account is the predominance of the widely shared position that European integration facilitates and embeds stronger fiscal and monetary discipline. For those forces pushing for EMU, the Nixon administration's proposal for a system of exchange rate "limited flexibility" as an ersatz replacement of Bretton Woods, was seen as exacerbating "the problems of international finance by allowing a slackening of discipline" (Gray 2007: 305).[362] Taking this into account, if there was a discernible "national" difference expressed in the negotiations that only reflected a somewhat *temporal* and developmental divergence: for some countries, the aim of integration was to achieve *modernization*, i.e., to catch up with those capitalist economies that had achieved efficient economic performance. For others, the aim was to *maintain* the stability that had already been achieved. The key contradiction in this predicament, however, was the simple fact that for those countries who wished to "catch up" and *modernize* their economies (i.e., enhance its international competitiveness) the only real option was imposing fiscal discipline and monetary/price stability, i.e., austerity. Goals of full employment and welfare expansion had to be de-prioritised and practically undermined, while institutional forms like central bank independence brought to the foreground. In contrast, for countries like Germany, maintaining their *Stabilitätskultur* actually meant *avoiding* austerity.

The significant political cost and consequences of belonging to the *modernising* constituency and progressing towards European integration through austerity was a central explanation behind the delay, as well as the key reason behind the various incomplete experiments that took place between the renewed EMU discussions and its actual inauguration. But this realisation should not be taken to imply that an impenetrable contradiction lay at the core of integration. Quite to the contrary, this realisation is what made the need to stabilize monetary relations incredibly intense. Behind this intensity lay a commonly shared consensus among elites and ruling classes that monetary integration would be the

[362] In 1968, the European Commission submitted a report called "Memorandum on Community Action in the Monetary Field". It called for renewed coordination in setting exchange rate parity, the elimination of day-to-day fluctuations around the parities, the setting up of mutual assistance credit mechanisms and the creation of a European unit of account.

most optimal way to 'depoliticize' policy choices, to insulate them from societal pressures and democratic oversight and to minimise public scrutiny.

From such a perspective, the necessity of taking into account cross-European *epistemic communities* forged along those lines and becoming embedded in existing institutional forms or proposed institutional plans, are crucial in contextualising the end-result of the EMU (McNamara 1999; Verdun 1999). Ordoliberalism/neoliberalism represents one key *epistemic community* behind this drive.[363] As we have seen already in the early steps of the EPU, the ECSC and the EEC, the process of negotiations for the creation of a customs union, the abolition of trade barriers and the creation of a regulatory framework (competition law) did not simply play out as a process of conflicting *national* interests (see pages 225-248 of this thesis), but through the cross-national and ideational common aims. At the later stage before the inauguration of the EMU, the *epistemic community* that played the most crucial role in designing its main features was that of central bankers (Verdun 1999). This was not simply the consequence of the banal fact that a *monetary* union requires *monetary* experts. Such an approach over-emphasizes the *technical* character of the convergence while obscuring the *political* character and function of monetary integration. It also reflects the fact that behind central banking elite convergence a set of mutually shared *political* standpoints around sound money, anti-inflation and democratic processes is to be found.

From the Werner Report to the EMS

The Werner Report

Pierre Werner, Minister of State, President of Luxembourg and Finance Minister, delivered a speech in November 1960 titled "The meanings of monetary integration" (Werner 1960). Drawing from the experiences of Benelux relations, Werner pointed out that "economic cooperation and integration are more directly achieved through the use of the monetary instrument". But he also added that "the adoption of a single currency occurs at the end rather than the beginning of the process of integration". The rapprochement of economic policies takes precedence. As if responding to the previous criticisms of a 'closed bloc' that establishes integration *within* but maintains (if not strengthens) protectionism *outside*, Werner argued that "a common market among sovereign countries presupposes not only a financial order within the community but a financial order on a wider international, continental or global scale".

A keen student of monetary and financial integration questions, Werner was influenced by Jacques Rueff, under whom he had studied in Paris (see also Dyson 2021: xx). For this reason, his vision of a European unit of account was meant to be pegged directly to gold (rather than the dollar). His main focus was undermining the fluctuations that resulted from devaluations and revaluations of

[363] As Dyson & Featherstone (1999: 263) forcefully put it when describing the process of negotiations, "it was not so much a matter of making concessions to the ordo-liberal coalition as willingly endorsing the principles that they advocated".

national currencies and the ways these obstructed financial exchanges and trade. While this European currency would, at first, only be utilized in trade exchanges between member countries, Werner was hoping that it could gradually also be privately used in order "to accustom people, little by little, to this collective currency" (Werner 1960). This specific currency draw inspiration from the EPU and its dollar-equivalent unit of account (*Epunit*), but Werner also understood the similarities with. Keynes' *bancor*, something visible in his proposals for this EU currency's name: *Euror*, *Goldeur* or *Gramor*.

Though not a member of Monnet's *Action Committee for a United States of Europe*, Werner remained close to the group's work and deeply familiarized himself with the common monetary aspects of the committee. More widely, Werner was fully aware that a prospect of a common European monetary policy was already visible in the Rome Treaty. That was, in any case, what many understood as an implication behind Art. 107 that urged member states to treat exchange rates as a matter of "common interest" and, perhaps even more forcibly, in Art. 207 which said that the Community budget "shall be drawn up in the unit of account determined in accordance with the provisions of the regulations made pursuant to Art. 209. No mention of a common currency was included at the time, but it is far from outlandish to interpret the fact that the deposits of member states' financial contributions retaining a fixed value corresponding to a fixed parity was a step in that direction. The existence of the Bretton Woods system was, as already argued, seen as sufficient in establishing an externally anchored monetary stability, capable of side lining concerns about monetary sovereignty that countries like France had stressed at the time. Also relevant to this discussion was the setting up of a European unit of account concerning farm prices in 1962.

Werner was also closely following the work of the European Committee of Governors of Central banks, meant to coordinate monetary policy across EEC member states, as well as the Budgetary Policy Committee and the Medium Term Economic Policy Committee. This knowledge made him aware of the various forms of opposition to monetary integration, especially that expressed by then Bundesbank president, Karl Blessing, who saw the prospect of monetary integration and a common currency only feasible *after* the creation of a European federal state, a position shared by most member states' representatives at the time. But he did, nonetheless, see the potential of proceeding with monetary integration through the establishment of fixed exchange rates and common monetary discipline under the auspices of a specific institutional framework.

Until the mid-1960s, none of Werner's ideas received any practical consideration on behalf of European functionaries and officials. But with the gradual understanding of the limits of Bretton Woods and in anticipation of the fact that the system might implode, serious discussions about further monetary integration (and the prospect of a common currency) accelerated. It is thus no coincidence that the Committee of Governors of Central Banks was created in 1964 (its first meeting hosted by the BIS in Basel) or that the European Council decided, in May 1964, to increase the cooperation between member states in the field of international monetary relations.

In a certain way, such discussions were concomitant with de Gaulle's open criticism of Bretton Woods and the dollar's hegemonic role, discussions around a European alternative accelerated. At the same time, however, they were also somewhat hindered by the insistence on retaining national monetary and economic independence. A move towards a supranational institutional framework that would include economic and monetary policy was strongly resisted. Werner would be a central figure in trying to balance these conflicting perspectives and he acted decisively to end the 'empty chair' crisis initiated by France by devising the 'Luxembourg Compromise'.[364]

In many ways, Werner believed that while a common currency was still premature in the late 1960s, increased monetary discipline was already possible. But it would only be made possible by the increased destabilisation generated by Bretton Woods and the common desire among European countries' officials to protect European trade and its economies from the turbulence. Speaking alongside Monnet and Hallstein in January 1968, Werner stressed the need for closer monetary cooperation and discipline in the face of a destabilising international context, adding comments about the deregulation of capital flows and the Eurodollar market. In the same year, he argued for the need to ensure economic policy coordination in order to supplement monetary discipline. "'Monetary solidarity", he noted, "will only be established laboriously in line with the strengthening of economic policy, and is dependent on it. On the other hand, the establishment of legal procedures and instruments directed towards a common monetary policy will be a powerful lever for bringing national economies closer together." (Werner 1968).

The final Werner Report was presented in October 1970 and it described the process of monetary integration as a three-stage plan to be achieved within a decade (Marsh 2009: 60-61; James 2009: 77)). The underlying aim, as described in the draft minutes, was to "bring into being an area within which goods, services, people and capital would move freely while monetary transactions carried out by businesses would not be hindered in any way or exposed to exchange rate risks".[365] In the first stage, lasting three (3) years, exchange rate parity would be enforced with clear guidelines for economic and budgetary *coordination*. The second stage would consist of a further reduction of exchange rate variability and price divergences, while the final stage would see an irreversible fixing of exchange rates, the removal of all capital controls and a European central bank system, loosely related to the Federal Reserve, that would assume control of European monetary policy (Eichengreen 1993: 1323). Its final objective was formulated by stating that

[364] Between June 1965 and January 1966, de Gaulle suspended France's participation in the meetings of the EEC Council of Ministers, blocking its decision making capacity. De Gaulle's objections concerned the proposed extension of the role of the European Parliament and his rejection of an attempt to replace the unanimity principle for a majority rule. Werner was a key author of the 'Luxembourg Compromise', which granted France certain concessions in the voting question by retaining the unanimity principle when "very important interests of one or more partners are at stake". European Council (1966).
[365] Draft minutes of the first meeting of the ad hoc 'plan by stages' group, 20 March 1970, European Communities, secretariat of the 'plan by stages' group, Brussels, 31 March 1970, ORII/22/70-F. In the Pierre Werner family archives, ref. PW 048.

> a monetary union implies inside its boundaries the total and irreversible convertibility of currencies, the elimination of margins of fluctuation in exchange rates, the irrevocable fixing of parity rates and the complete liberation of movements of capital.
>
> Werner Report, 1970

The discussions and negotiations inside the Werner committee have often been interpreted as reflecting two diverging outlooks, retrospectively described as the "economist" and the "monetarist" positions (Danescu 2012). The 'economist' viewpoint represented the approach that a monetary union could only be the *end result* of a long process of economic convergence. The 'monetarist' position (unrelated to the monetarism of Friedman and Brunner), represented the view that European integration should proceed by prioritising monetary union which would then *force* economic convergence. Underlying these positions, according to many accounts, was a different emphasis on the way to achieve the same result: the 'economist' view saw monetary integration as resulting from a process of convergence, fearful of the potential that national politics would take advantage of the benefits of monetary unification to avoid aligning their economic coordinates. From this perspective, potential member states had to ensure that opening markets and liberalising capital movements would occur under conditions of readiness to absorb shocks, shared economic values and embedding a *Stabilitätskultur* in countries that showed no inclinations towards it. The 'monetarist' view, in contrast, saw monetary unification as a *precondition* for establishing fiscal discipline, utilizing the monetary union as an *external constraint* that would ensure that member states would be forced to align their economic, fiscal and trade policies.

As it should be clear by now, despite being described as such (see Danescu 2012) these approaches were not oppositional to each other, seeing how the ultimate goal was identical in both cases. What they did express was, as already noted, a difference between the goal of using external discipline as a way of *modernizing* economic performance and that of *maintaining* existing economic performance through discipline. None of the two were even remotely close to seeing European integration as a process for promoting fiscal or welfare expansion, trade protectionism or full employment strategies. The international context was one of global competitiveness goals, and European integration was from the outset conceptualized as a means for embedding precisely that.

In the end, the proposals of the Werner Report was over-shadowed by the collapse of the Bretton Woods agreement, the default option of floating exchange rates and the various ersatz mechanisms (like the short-lived Smithsonian Agreement[366] that tried to maintain a dollar standard and its eventual but also short-lived replacement by the 'Snake in the Tunnel' that was focused on European currencies)[367]. Both mechanisms were geared towards exchange rate stability, adopting different fluctuation margins that would soon prove unsatisfactory for most member states. Already in 1974,

[366] The Smithsonian Agreement was initiated by the US, and was meant to create a path for a new dollar standard. The agreement saw an 8.5 per cent devaluation of the dollar (bringing the parity with gold at $38 dollars per ounce). The wider exchange rate bands established by the Smithsonian opened the space for speculative pressures, the intervention against which led to increasing dollar reserves and, therefore, inflationary pressures.
[367] In the Snake arrangement, EEC currencies were allowed to fluctuate within a band of 2.25 per cent.

"only five EEC member states out of nine belonged to the snake (Belgium, Denmark, Germany, Luxembourg and the Netherlands)" (Mourlon-Druol 2017: 5).

The failure of the Werner Report to produce any commitment and the developments connected with the collapse of Bretton Woods as well as the explosion of social antagonism across the world put a parenthesis on the question of monetary integration.[368] Before these were revived in a way that pointed to a continuity with the key coordinates of the Werner Report meantime, further political developments momentarily diverted the outlook of monetary integration. In this context, and a final attempt to revive a more Keynesian outlook on integration, concomitant with the last pushes too resolve the crisis through a doubling down on Keynesian positions, the *McDougall Report* for monetary integration of 1977 emphasized the question of centralizing EU member state budgets in a federal budget and assigning a five (5) per cent common fund to support the creation of the single currency (Ferry 2006: 825). The underlying aim was to establish a "counter-cyclical redistribution scheme at the Community level" (Jabko 2006: 130-131), a plan that was swiftly thrown into the dustbin by the time the fiscal conservative coalition re-animated monetary integration discussions.

European Monetary System (EMS)

The next step in the process of integration was the European Monetary System, initiated in March 1979 by the European Commission, representing a more successful attempt to converge nominal and real exchange rates between member states. Lasting until 1999 when it was replaced by the EMU, the EMS was the result of an initial effort by Giscard and Schmidt to promote the next steps of monetary integration, aiming at "stabilising intra-European currency fluctuations, strengthening Europe's weight internationally in currency terms and providing a symbol of European unity" (Mourlon-Druol 2017: 6). With eight (8) countries participating[369], the EMS was also crucial for its accompanying creation of the European Currency Unit (ECU), a composite accounting unit rather than a currency which would, however, gradually bring together four (4) more countries' currencies (Greece, Spain, Britain and Portugal). Reminiscent of the Bretton Woods agreement but with the DM instead of the dollar as its (unofficial) anchor currency, the EMS reflected an attempt to put into practice the vision of convergence of EU currencies in the direction of a political economy of stability, low inflation and stable growth rates.[370] The attainment of exchange rate stability was supervised by the Exchange Rate Mechanism (ERM)

A central feature that figured prominently during the negotiations for the EMS was the nature of the way in which the ECU could act as a common unit to be used to stabilize exchange rate

[368] It is interesting that the effect on social and labour struggles of that period and the profound threat they posed is more often than not ignored in the historiographies of European integration. May 1968 in France is a slight exception, though even in this case its inclusion into the trajectory is almost entirely conceptualized as affecting *domestic* party/political conflict in France. The case of Italy, where social antagonism throughout the whole 1970s decade was of an even deeper level is glaringly absent.
[369] These were France, Denmark, Belgium, Luxembourg, Ireland, the Netherlands, Germany and Italy.
[370] As Emminger noted, the EMS created "a 'zone of relative monetary stability' for almost half of German exports", in Germann 2021: 133

fluctuations. An initial plan saw the member states being able to intervene with the ECU in their own currency problems, while being able to repay any credit provided also in their own currencies. This was strongly rejected by Bundesbank officials, with Emminger decrying that this amounted to a "community of inflation" (Marsh 2009: 88-9). In contrast, Emminger and Pöhl demanded that repayment should be made in a hard currency (dollars or DMs or even gold), while also permitting the Bundesbank to withdraw from the obligation to intervene in a case of emergency (a clause that would actually be utilized around the time of German unification). Although the Bundesbank had not even been invited in the discussions leading up to the EMS (McNamara 1998: 126), its positions were eventually adopted.[371]

At an early stage (1979-1982), a certain level of exchange rate flexibility was tolerated. For this reason, the Committee of Central Bank Governors and the Monetary Committee found that the further steps towards generalising the use of the ECU (as well as the proposal to create a European Monetary Fund) would have to be delayed. A "longer transitional stage" (Bundesbank 1980: 61) was promptly suggested. In the opinion of the German central bank, though exchange rate fluctuations in the first years were kept to a minimum despite minor fluctuations, the overall orientation of members' monetary policy towards defending their exchange rates "has also been enhanced by a few factors which exert only a temporary influence and which cannot be counted on for too long" (Ibid). In any case, the bank continued, "the stability of exchange rates *cannot be the main criterion* of a zone of monetary stability" (Ibid: 62, my emphasis). "Differences in inflation rates continue to be as large" and to the extent that "prices and costs develop very differently in the individual countries", fixed exchange rates mean that "inflation stimuli are automatically transmitted to countries with greater price stability" (Ibid). Concluding, the Bundesbank report pointed out that even though monetary policy convergence has obstructed inflation pressures from fully developing, differences in balance of payments, interest rates, growth, employment and public sector indebtedness continue to burden the system. "The objective of greater stability both domestically and externally", the Bundesbank closes, "will only be achieved if countries with higher rates of inflation continue the restrictive policy stance they have adopted with particular persistence" (Ibid).[372]

What the Bundesbank was describing was more than true. Throughout the 1970s and early 1980s, most European countries had adopted restrictive monetary policies, austerity mechanisms and a re-orientation towards price stability. The first example would be France in 1976 when President of the Republic Giscard d'Estaing and his Prime Minister Raymond Barres rejected Chirac's attempts towards expansion and initiated a wide program of austerity reforms (Howarth 2016). This was based on a reformulation of macroeconomic targets towards money supply control, restrictive budget policies and

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[371] As Germann (2021: 134) argues, it was the common understanding of the EMS as a "disciplining device" that allowed it to survive the relative conflict between Chancellor Schmidt and the Bundesbank.

[372] Reflecting this dire assessment but taking it one step too far, *The Economist* went as far as to publish the 'obituary' of the European Community in 1982. See *Economist* 1982.

stable money. For these coordinates to be effective, state subsidies were removed, alongside capital controls, while wage moderation was demanded alongside a new tolerance towards rising unemployment (a strategy theoretically, though never empirically, justified by evoking Friedman's 'natural rate of unemployment, or NAIRU). Should these combined measures and targets be implemented, France's competitiveness vis-à-vis Germany (and the global market) would be enhanced, allowing France to finally *modernize* its economy and role. The market-oriented, investment-attracting focus was framed as a necessary step for adjusting to the changing international conditions (McNamara 1998).

Identical policies would be adopted in other European countries. Italy, for example, would go through the 1970s suffering from the combined effects of the oil crisis and a militant working class and radical social movements. While initially trying to manage the consequences of the oil crisis through reflationary policies, an appeal to the IMF in 1974 reversed the orientation. From that moment onwards, monetary tightening along the lines of the German model would be predominant. And while in France the conflicts between the socialists and the communists of the left had created the necessary space for Giscard to pursue his austerity policies, in Italy it was the direct embrace of the new paradigm by the communist party that facilitated its adoption.

The adoption of such strategies were crucial in creating the ground for France and Italy to join the EMS and to *also* embed this new direction on an external anchor. But the period *after* the creation of the EMS was equally crucial in solidifying these choices, as well as creating the framework for other, smaller and open economies to follow this path.[373]

These transformations in the macroeconomic sensitivities of European ruling class coincided with an increasingly dominant role of the DM as the anchor *par excellence* of the EMS which became even more pronounced after 1983 (Tomann 2007). From this vantage point, the Bundesbank's continuing complains about higher inflation rates further determined the policies adopted until the end of the decade. The prospect of mutually re-aligning monetary policy in order to converge inflation rates to their European average (at approximately 9 per cent in the mid-1980s) was, naturally, unacceptable to the Bundesbank. But it has to be kept in mind that the eventual re-alignment of monetary policies was not simply the result of German *pressure*.

While monetarism had made a substantial breakthrough as an intellectual directive that allowed an abandonment of Keynesian/demand-management policies, its adoption was very much premised on two factors beyond its theoretical attraction: on the one hand stood the successful performance of the German economy throughout the stagflation period of maintaining an average of 4-5 per cent inflation rate while not sacrificing its export dynamism or the strength of the DM. On the other hand, the different

[373] In the late 1980s, Spain sought to imitate "la disinflation á la francaise". But the process had begun even before in other European countries: between 1982 and 1983, the Netherlands, Belgium and Denmark also embarked in almost identical austerity programs framed within the same exact justifications. Similarly, the Pasok government of Greece, elected in 1981 on a program of reflationary Keynesian policies, reverted its course in 1984. For the Netherlands, see Oudenampsen (2022). For Belgium and Denmark, see McNamara 1998, pp. 140-144. For Greece, see Roufos (2018).

national ruling classes had converged incredibly into a mutually shared framework of economic and monetary thinking that, in contrast to Germany, needed an *external* anchor to make it justifiable *domestically*. As was the case during the Eurozone crisis, the policies that were enacted in the name of external obligations (like the EMS or the EMU) represented measures that each European country was *already* eager to implement but was fearful of the political cost they might carry. While Bundesbank pressure was not imaginary, the actual adoption of these strategies *relied* on the Bundesbank bogeyman as an excuse for implementing already shared policies. As a Spanish banker succinctly put it in 1989, "squeeze them and blame the Bundesbank".[374]

The asymmetry of the EMS, therefore, worked, in fact, as a further prompt *for other* European countries to converge their monetary policies in the direction of the German model. And there is perhaps no better example of this than the trajectory of the Mitterrand government elected in 1981. In this case, Mitterrand represented (second) last attempt at reflationary policies *after* the implementation of austerity by Giscard.[375] Banking on the discontent that the recessionary policies and rising unemployment, Mitterrand's *Parti Socialiste* was voted in on a platform of reversing the direction. Faced with an already hostile international environment, the policies promoted by the *PS* might appear somewhat peculiar: significant capital flight was already under way following the Volcker shock interest rate hike in the US, while interest rates were also kept at a high level due to the strong DM and EMS alignment.[376] In any case, Mitterrand and his cabinet attempted to negotiate within the ERM, only to meet Bundesbank intransigence. In a move that would be repeated during the Eurozone crisis, Germany offered currency adjustment assistance to France (so as to stay inside the EMS) but only in exchange for drastic austerity measures (Germann 2021, pp. 134-7).[377] Judging that exiting the EMS would bring the French economy into a worse predicament (Cowles 1995: 509), Mitterrand agreed to the austerity package, greatly pleasing those within the *PS* (like Jacques Delors) who already preferred a program of competitive disinflation (see also Amable & Palombarini 2021).

Once again, however, it is crucial to note that the so-called 'capitulation' of Mitterrand was not confined to German pressure or the international environment. Though both these factors were crucial, the domestic alliance which had committed itself to the implementation of a "Modell Deutschland" set of economic policies was not only pivotal in facilitating this "*volta face*" but could also claim to have

[374] This is quote from Luiz Martinez-Arévalo found in Harmon 1994: 11.
[375] The other was the government of Pasok in Greece, also elected in 1981 on a similar platform. See Roufos 2018, Chapter 2.
[376] McNamara notes very correctly, however, that for the *PS* and other social-democratic parties in Europe which *had not been in power* during the stagflation period, the widely perceived failure of the Keynesian reflationary policies had not been incorporated. Rather, for these parties the economic downturn of the 1970s was experienced (and perceived) as the consequence of right-wing, conservative and monetarist policies.
[377] A similar approach was visible in Germany's refusal to extend a loan to the Labour government of Callaghan in the mid-1970s. Although the Labour party had "already departed from the Keynesian policy consensus before it turned to the IMF in 1976" (Germann 2021: 126), the conflict within the Labour party and the ambiguousness towards Keynesian expansionism was ill-received in Germany. And while Labour agreed to drastic concessions "in exchange for Germany's support for setting up a 'safety net'" in the hope of avoiding going to the IMF, "the German side refused to play along" (Ibid: 130). As Germann adds, this "set a crucial international precedent".

added a number of macro-economic parameters to fiscal discipline that would become embedded in the Maastricht Treaty and the fiscal framework of the EMU.[378]

The stability of the EMS asymmetry would be seriously challenged by the unexpected event of German unification in the early 1990s. While the details of this historic change are not important *per se* in the context of this section, the response of the Bundesbank – and its consequences for the EMS/ERM – were. In that time, fearing the inflationary pressures that had come as a result of the unification (directly related to the eventual and unavoidable conversion rate between the two marks at a 1:1 parity and a fiscal boost to finance unification), the Bundesbank responded by raising interest rates.[379] The consequence was not only an inflow of capital towards Germany but also a realisation by investors that Germany was not prepared to act aggressively to protect the existing exchange rates of the ERM. That led to a series of speculative attacks on other EMS currencies (most notably Italy and the UK), with the subsequent attempt by these countries to counter them leading to the depletion of their reserves and the final exit from the ERM mechanism.

From a certain perspective, joining the EMS/ERM was a formal way of foregrounding European commitments in order to achieve domestic goals. Previous to that, countries' attempts to impose low inflation-oriented monetary policy and balanced budgets *on their own* ran the risk of overtly "politicising economic policy to the extent that the government might fail to distance itself sufficiently from the political consequences of imposing austerity" (Bonefeld & Burnham 1998: 33). Especially in the case of the UK, which was at the time still open to the notion of joining a single currency, austerity measures had generated a significant strengthening of trade union militancy, while the addition imposition of the poll tax gave rise to the biggest social movement of disobedience, resulting in massive riots that led to the resignation of Thatcher herself. From this perspective, it was not coincidental that one month before Thatcher's resignation, the UK joined the ERM which was now seen (and presented) as a 'golden opportunity' to have monetary discipline implemented *from without*, something that the Iron Lady was clearly uncomfortable with (Sandholtz 1993; Bonefeld & Burnham 1998: 36). As described at the time in the *Quarterly Review* of the National Westminster Bank, "the deflationary discipline of fixed exchange rates is at the very heart of the present domestic economic debate", adding that

[378] The so-called 3 per cent deficit rule that demands a 3 per cent deficit to GDP rule that was embodied in the Maastricht Treaty as a fiscal rule was devised by Mitterrand's advisors in 1983. As one of the authors of this "rule", Guy Abeille, would write at a later date, the 3 per cent rule was literally made up for the sole purpose of providing Mitterrand's government with "a rule, simple and useful, that carries the aura of expertise, a rule to use against all those who wished to devour the budget". Abeille would add with remarkable honesty, "to determine a ratio of deficit to GDP, we have to compare a money flow, divided into maturing debts that have to be repaid in the following years, with the wealth that has been produced in the year in which the debt was made. There is an obvious temporal discontinuity...". In any case, he added, "the deficit/GDP ratio can [...] only act as an indication, that gives us a vague impression of the situation, but it cannot, in any case, be used as a compass, as it measures absolutely nothing" (Abeille 2010)

[379] According to Marsh (2009: 152) German rates rose 6 percentage points above US rates, representing the "sharpest trans-Atlantic monetary turnaround of the post-war era".

> the most disappointing feature of the past eleven years of attempted price restraint has been the fact that wage inflation has persistently outstripped general inflation ... It is now clear that merely a portion of these greater labour costs was justified by improvements in productivity. Only an exchange rate policy ... can constitute a sufficiently obvious discipline, even for the dullest of wage negotiators, to break this trend that has bedevilled us for more than a generation.
>
> Stevens 1991: 26-7

According to Marsh (2009: 147) Thatcher herself also came to eventually acknowledging the benefits of the ERM, describing it to the German foreign minister Genscher as an opportunity "to use the D-Mark as a sort of Gold Standard which would help bear down on inflation".

However thought out the strategy was, it was not without costs. Very soon, countries like the UK and Italy would pay dearly for their attempts to anchor fiscal and monetary discipline externally through the EMS/ERM. What is crucial to maintain, however, was that their exit from the mechanism did not signal a re-orientation of the wider shared goals. Rather, it signified a doubling down on key policies that could enhance monetary discipline (in the case of the UK, through more indirect moves like central bank independence) that could eventually allow them (in the case of Italy) to join the EMU – but not before further devaluations of the currency that would also play a significant though indirect role in the eventual EMU. As McNamara notes in her overall evaluation of the EMS era, a remarkable elite convergence on the need for highly restrictive monetary and fiscal policy emerged that did not only make the EMS a "success" but it formally paved the ground for the EMU.[380]

There was only a major fault line in the EMS: the ability to opt out. As we saw, despite the convergence of the macro-economic political economy of European countries in the direction of monetary tightening, price stability and the abandonment of policies of reflation and full employment, serious pressure to defend EMS regulations caused the exit of the UK and Italy during the 1992 crisis. This absence of *irreversibility* in the mechanism undermined its function as an external discipline mechanism. As Otmar Issing put it in retrospect,

> I would not previously have forecast that the European currency would start during the 1990s. The decisive moment came with the currency crisis of 1992-1993. The status quo was not tenable. We faced a 30 per cent devaluation of the lire [sic]. Some companies in Southern Germany competing with Italy went bankrupt. There was a danger of controls on movement and goods. I and others came to the conclusion that the Common Market would not survive another crisis of this dimension.[381]

It was clear that the next step of European integration would have to be drawn up on the basis of disallowing that very 'escape clause'.

[380] McNamara (1998: 64) demonstrates this in a graph that shows how many core European countries opted for expansionary or restrictive measures when faced with the two oil crisis in 1973 and 1979. In the first case, two countries (Italy and Britain) responded with expansionary measure, France stood in the middle and Germany reacted with tightening its monetary policy. By 1979, when the second oil crisis emerged, all 4 countries responded with restrictive measures.
[381] Quoted in Marsh 2009: 191

Maastricht Treaty

In sharp contrast to the process of European integration during the 1950s and 1960s, from the 1980s onwards discussions about further integration and monetary unification were increasingly held within small and usually very closed circles of so-called technical experts. This development was first noticed by legal scholars who pointed out at the increasing role of expert committees in the process of integration (Joerges & Neyer 1997), explained as an approach meant to "preserve the legitimacy of national democracies and to set limits upon the traditional Nation State within a supranational community" (Ibid: 273). But soon the phenomenon was observed and researched in the fields of monetary policy and the role of epistemic communities in forging consensus (Verdun 1998).

From this perspective, the argument went that EU policy-making was architecturally a particularly fitting framework for such an expression of technocratic predominance. As Verdun notes, the absence of an executive government or a parliament for deliberating policy is especially pronounced, while other channels of deliberation, like political parties, are also less significant. The real lack of media coverage at the EU level (something that changed after the Eurozone crisis) was also crucial in this respect but perhaps even more importantly, and concomitant with the ordoliberal desire to insulate policy-making from pluralistic democratic pressures, EU governance reflected a regulatory mechanism rather than an interventionist one (Verdun 1999: 309).

This contextualization becomes especially important in the context of the discussions that led to the creation of the EMU and its quasi-constitutional document, the Maastricht Treaty, though its significance can already be observed in the design and eventual implementation of the Single European Act (Cowles 1995), the agenda of which was set by non-state actors like the European Round Table of Industrialists (ERT). As Cowles (1995: 515) notes, additionally, the ERT was also part of the discussions of the Delors Committee that had the wider task of creating a blue print for the European Monetary Union. The addition of a clause in the Single European Act (SEA) that saw the EMU as a necessary step for the completion of the single European market, a point repeated by the German Foreign Minister Genscher in 1988, was quite likely the consequence of these meetings.

Verdun (1999) has provided substantive research on the role played by the Delors Committee in the drawing up of the EMU and Maastricht Treaty. In her account, the close connection between the members of the Delors Committee (reminiscent of a similar affinity during the Werner Report) was essential in creating the blue print for the Maastricht Treaty (Verdun 1998: 311; see also Rosenthal 1975; Cameron 1997). After convincingly establishing that the composition of the Delors Committee constituted an epistemic community (Verdun 1999: 316-7), Verdun lays out the initial questions/discussion issues that Delors sent out as preparatory work for the Committee's meetings: the first one concerned the debate whether a parallel or a single currency was preferable and/or necessary;[382]

[382] The question of a parallel currency will become especially relevant in the following section which discusses the positioning (and conflicts) within ordoliberalism in relation to the EMU.

secondly, Delors posed the question of whether a European Fund or a European Central Bank should be placed in charge of monetary policy in a future EMU, adding that in the second case, its institutional set up and statues should be agreed upon; thirdly, Delors inquired about potential stages for reaching the goal of EMU. Importantly, the question of the separation between economic and monetary policy was crucial, as well as the macroeconomic conditions and the institutional changes necessary for creating the EMU (Verdun 1999: 318).[383]

Once the decision for an independent, federal central bank whose aim would be solely defined as that of price stability was (swiftly and unanimously) decided (Verdun 1999: 319; see also James 1999), the question turned into the transition period. None of these, however, represented any diversion from the "core consensus on the direction of monetary policy, and the institutional framework in which the EMU would operate" (Ibid). Alongside, the Committee also decided on establishing clear and binding rules on budget deficits, framed around the 3 per cent rule (see Abeille 2010) and a limit of 60 per cent of GDP for debt levels.

In fleshing out the core beliefs that the Delors Committee abided to, one can recognise four main coordinates: (a) all identified with an anti-inflation objective; (b) all agreed on the need for fixed exchange rates; (c) all found Bundesbank hegemony as politically undesirable and, (d) all agreed that there should be no equivalent economic/governmental authority at the supranational level (Verdun 1999: 320). Reflecting shared ideas about weighing and validating knowledge, about potential problems and their solution and bound together in a "common policy enterprise", the Delors Committee fulfils all the definitions of an 'epistemic community'. It is worth taking into account that all the final decisions of the Delors Committee were unanimous. Finally, the Delors Committee did not spell out details on the convergence criteria for entry into the EMU but they did provide a framework within which these would be formulated.

The final formulation of the path to EMU essentially embodied all the recommendations of the Delors Committee, translated them into quasi-constitutional articles, while also agreeing on the convergence criteria and period. By 1998, the stage was set. Drastic convergence of interest and inflation rates, as well as spending cuts and balancing budgets, had been achieved by all member states, with the final list of members somewhat surprisingly including eleven (11) states: Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain. Britain, Denmark and Sweden had also followed the convergence guidelines but had decided to stay outside of the Eurozone. Greece, deemed economically unready, was meant to join shortly after (and it did in 2001).

As commentators at the time noted, the EMU experiment was nothing seen before in the process of European integration: in a short time, national currencies (and their monetary policy making institutions) would become obsolete, transferring their power to the ECB. The ECB was, according to

[383] Thatcher's objection to any institutional change was dutifully ignored by the Committee. Verdun 1999: 318

all observers and despite Pöhl's proposal to use the Federal Reserve as a more appropriate model, based on the Bundesbank, its independence engraved in its status.[384] But in a very particular way, the ECB was even more independent than the Bundesbank could even dream of being. In contrast to the German central bank, the European Central Bank did not even have an equivalent political institution to be independent from (Van der Sluis 2017). While fiscal policy remained in the hands of member states, the inauguration of the ECB (and its placement in Frankfurt) was already a huge step: monetary and economic policy coordination would need to be extremely skilful to have any meaning and, as we shall see, it never reached such a level. Moreover, economic and fiscal policy would have to abide to a series of rules (3 per cent deficit and 60 per cent debt/GDP) that would be monitored through the Excessive Deficit Procedure of Eurostat, further updated in a series of other treaties that spelled out potential sanctions for diverging from these targets (such as the Stability and Growth Pact of 1997 and the Lisbon Treaty of 2009). In addition, despite the fact that member states retained fiscal policy, there was an unequivocal aim to enhance the European coordination of fiscal/economic policy not only through these various treaties and regulations, but also (it was hoped at least) through the *force majeure* of monetary policy which would be, by definition, insulated from politics, i.e., *depoliticized*. Economic/fiscal policy might have remained in the hands of member states (to avoid criticism of sovereignty erosion) but they were still placed within a *depoliticized* framework.[385] In relation to the ECB, Otmar Issing would later claim:

> I don't see the ECB as a Bundesbank clone. In the law it looks like it in many respects – independence, price stability, a central bank council – it would certainly appear so; and yet they are in part completely different. The ECB Governing Council is composed of governors from countries with different tax systems, welfare systems and labour market conditions, all forming a stark contrast to the German situation. The task is substantially different. While working at the Bundesbank, I rested on the shoulders of the past, and lived off the reputation that this institution had built over time. The ECB is a new institution that has yet to gain people's trust. It already enjoys an early vote of confidence by the markets; this is evident from the low long-term interest rates. But it needs to justify that confidence through its policy, both through transparency and wise decision making. We all need to be aware that this is a difficult phase. (Issing, 2008, p. 42)

[384] Otmar Issing would also argue, in 2008, that the ECB cannot so easily be compared with the Bundesbank. As he put it in a session of the European Parliament, "I don't see the ECB as a Bundesbank clone. In the law it looks like it in many respects – independence, price stability, a central bank council – it would certainly appear so; and yet they are in part completely different. The ECB Governing Council is composed of governors from countries with different tax systems, welfare systems and labour market conditions, all forming a stark contrast to the German situation. The task is substantially different. While working at the Bundesbank, I rested on the shoulders of the past, and lived off the reputation that this institution had built over time. The ECB is a new institution that has yet to gain people's trust. It already enjoys an early vote of confidence by the markets; this is evident from the low long-term interest rates. But it needs to justify that confidence through its policy, both through transparency and wise decision making. We all need to be aware that this is a difficult phase. (Issing, 2008, p. 42)

[385] An attempt to create a supranational institution equivalent to an economic executive body was suggested, described by the *Economist* at the time as a "heavy political counter-weight to the ECB". This was originally (and bizarrely) called Euro X Council but, after German objections pointing at the fact that the SGP provided "adequate oversight", the ambitious plan gave way to creating an informal meeting ground for EMU finance ministers. It would eventually morph into the Eurogroup.

Within the contexts of these debates, the pressure was especially strong within Germany with Chancellor Kohl clashing with the Bundesbank over the highly politicized decision to abandon the DM in favour of a European common currency. Even as late as 1998 pressure to retain the DM was mounting, with an open letter signed by no less than 155 German university professors calling for an 'orderly postponement' of the EMU on the grounds that conditions were not favourable. At the same time, less than 30 per cent of voters agreed with exchanging the DM for the Euro (Marsh 2009: 207). Despite Bundesbank reluctance, however, the EMU project plans won the day and the DM lived its last year as an "autonomous currency" (Bundesbank 1998 Yearly Report) in 1998.

The profound consensus around the fundamental monetary, economic and institutional framework readily qualifies for describing the EMU as produced through an elite consensus that went far beyond monetary policy. How else could one explain, asked McNamara (1998: 2), "why [...] political actors from socialist to conservative supported an exchange rate regime that in effect gives away economic policy tools and limits their ability to use macroeconomic policy to distinguish themselves in voters' eyes?" Somewhat responding to the question, McNamara makes a profound observation that remains central for any understanding the EMU: it provided (and continues to do) "the potential to further our understanding of the role of the state, and the nature of political power" (Ibid: 3). This was, from the very beginning, what was at stake.

The EMU as an Economic Constitution

In contrast to the EEC, whose overall characteristics as a customs' union (above all) have been described as pertaining to a micro-economic framework (Tuori & Tuori 2014), the EMU is at the same time a continuation of certain fundamental aspects of the process of European integration since the end of World War II *and* a leap into territory not yet touched by previous attempts. In some ways, in fact, the creation of the EMU can been seen as jumping backwards some decades and reconnecting with an older desire to intervene in an unmediated way into the process of domestic policy making, not by directly controlling policy by through establishing an institutional and constitutional framework that would determine policy from the onset (and in relation to its output) *from the outside*. The EMU was designed as a *vincolo esterno* – an external constraint. Within this context, the backward jump can be retraced in relation to the older system of the gold standard which represented, *definitionally*, such a constraint. Instead of a system of institutional regulation and constitutional coordination of trade policy like the EEC, the EMU was a qualitative move in a different direction.

From this perspective, the link to the ordoliberal project becomes more pronounced. In a schematic way, which will be relieved of its superficiality in the following pages, the EMU consists of a supra-national institutional arrangement that connects and links different nation-states *strengthened* and not *weakened* through this integration process,[386] under the auspices of monetary unification

[386] This point will be expanded upon in the conclusion of this dissertation.

controlled by an unprecedently independent central bank (see van der Sluis 2017). This institutional body is assisted in the drawing up and implementation of economic policy through a series of unelected institutions (European Commission or the Eurogroup), alongside a set of regulations and rules (Maastricht Treaty; SGP). Finally, the process if overseen by a court of justice that has consistently confirmed in its decisions the core values of an open market competitive order. And all of this is, for lack of a better word, *observed* (without any real potential for interference) by an essentially decorative Parliament. Non-majoritarian institutions and pre-determined rules form its core policy making framework, while parliamentary politics have reached an *apogee* of insignificance. At first glance, it appears as if the EMU corresponds, at both a constitutive and a regulatory level, to the ordoliberal framework of an economic constitution. The risk, however, is to conceptualise ordoliberalism within a narrow (and relatively abstract) definition, leaving aside many of the transformations that have taken place, conceptually and practically, in the trajectory described in this dissertation. To avoid this potential mischaracterization, a closer look at the way ordoliberals understood the EMU is necessary.

For this reason, before proceeding to an account of what took place after the inauguration of the EMU, it is pertinent to return to a central theme of this dissertation and to examine ordoliberal positions of the process of integration before and after the passing of the Maastricht Treaty. This analysis will not only reconnect earlier ordoliberal objections to European integration but will also provide the structure and framework for understanding the exact way through which the ordoliberal tradition will once again find itself split in the aftermath of the outbreak of the Eurozone crisis, as well as the various measures and policies implemented to deal with that crisis.

The second split within ordoliberalism?

There are good reasons to argue that the eventual process of monetary integration, as spelled out by the Maastricht Treaty and the convergence criteria corresponded to central ordoliberal positions. If we return to the division between an 'economist' and a 'monetarist' views on European integration, for example, the way that the EMU was created corresponded more clearly to the 'economist' view that can be seen as concomitant with ordoliberalism. As Dyson & Maes (2016: 20) have argued, ordoliberalism was "consistent with the 'economist' approach, it emphasized the responsibility of Member States for creating the conditions for convergence by building stability at home."

But such a view was not shared by all. In fact, the conflicts that have been recorded within the ordoliberal camp during the design and inauguration of the EEC did not entirely disappear from view. While most had aligned themselves with the verdict handed over by von der Groeben and Mestmäcker, a specific constituency of ordoliberals/neoliberals sought to keep the spirit of Röpke's refusal alive. Despite von der Groeben's and Hallstein's attempts to justify CAP as representing an attempt to supra-nationalize a level of policy in order to deprive it of national-protectionist tendencies, for example, the specific policy remained at the epicenter of neo/ordoliberal critiques, earning special focus from MPS members (such as Gerard Curzon and Victoria Curzon-Price) well into the 1970s and 1980s.

But another, much more radical development was also under way. As Slobodian & Plehwe (2020: 92) note, Thatcher's appearance in Bruges in 1988 cemented the framework of opposition to the EU and further integration, allowing some ordoliberals to take a final stand. Echoing Röpke's concerns about abolishing barriers and borders only to see them "re-imposed at a European level", Thatcher moved the logic even further than Röpke: if there is such a thing as Europe, she proclaimed, it is only conceivable as a "family of nations" (Ibid: 93). The so-called Bruges group that emerged after the speech would continue along the same lines: the danger was *dirigisme* at a European level and the answer was a "Europe of sovereign states". A "healthy, natural patriotism" was indispensable for the proper functioning of the market economy. Did these positions represent the contemporaneous ordoliberal view on the EMU? A closer look reveals that while some ordoliberals were inclined to move in this direction, others followed a different path, one that was more directly and positively engaged with the question and necessity of a monetary union as the next step of European integration.

The pro-EMU ordoliberals appear to have been directly influenced by Buchanan's own positive assessment of the potential created by the EMU. In a lecture delivered to the Mont Pèlerin Society in 1990 (published in *ORDO* a year later) Buchanan argued that Europe in 1990 "found itself in a historical situation comparable to that of the United States in 1787" (Buchanan 1991: 127, hereafter my translation). Just like the questions faced by James Madison and his fellow activists, what Europe needed was "a *constitution*, a set of rules that limited the sovereign power of the individual states over their citizens, and at the same time established a *central government* that in turn had a direct claim on the loyalty of the citizens" (Ibid).

More importantly, perhaps, Buchanan noted that a European Monetary Union offers the opportunity to escape the pressures "exerted by rent-seekers *within* the nation-states" by promoting the "prospect of constitutionally guaranteed international *competition* between producers *and* consumers" (Ibid: 132). Within this context, "economic integration and the prospect of significant economic growth [will be] possible without the need for a direct political confrontation with the interest groups *within the nation states*". That will be the case because "individual interventions in the internal economic relations of an individual member state will be effectively counteracted by the forces of cross-border competition" (Ibid). Buchanan adds that the "existing national bureaucracies in the individual states can be maintained" as there is no need to transfer "bureaucratic powers". Their capacity to "exploit citizens will be limited in the future [...] by the competitive forces that will prevail through the constitutional guarantees of open markets throughout the federal territory" (Ibid).

European ordoliberals who supported such a vision did, however, develop their own approach on how this could be achieved. Among the most developed engagements, at this point, was the work of Pascal Salin (president of MPS between 1994-1996) and Roland Vaubel (student of Herbert Giersch and *Doktorvater* of future Bundesbank president Jens Weidmann). While both had given talks in meetings organized by the Eurosceptic Bruges Group in 1989 in London, their views on the matter where significantly different, framed around the conviction that monetary unification was a positive step but should be based on a parallel currency rather than currency unification. Among their concerns was the real potential that the EMU would become a 'collectivist' experiment, with member states would continue their habit of massive spending. Described in an *ORDO* article in the same issue as Buchanan's as a dilemma between "*l'Europe Delorienne versus a Hayekian Europe*" (Radnitzky 1991: 143), a succesful EMU could only proceed through an "improvement of institutional arrangements" (Ibid: 144).

On the same issue of *ORDO*, Hans Willgerodt published a paper which, though dealing mainly with the issue of German re-unification, also added some comments on the prospect of the EMU as understood at the time through the Delors Report. Accusing the report of being "full of ambiguities, hidden conflicts and untenable compromises", Willgerodt expressed concern about the fact that while the ECB will be independent from "both national governments and EC institutions [...] its board of governors, however, is to be composed also of the presidents of the national central banks who depend on orders of their governments" (Willgerodt 1991: 177).[387] This runs the risk of creating a "European currency which [member states] can exploit as their instrument to be used discretionary on a daily basis for political purposes" (Ibid). Only by placing the "too stable, too neutral and not enough political" DM as the anchor of the new currency can the EMU avoid the potential of "lower interest rates, inducement of monetary expansion, and more inflation" (Ibid: 178).

Continuing, Willgerodt contrasts the various plans of European integration with the reality of German unification arguing that in the latter case, "the German negotiators avoided the mistakes of the *Werner Plan* and many other plans for a European currency union which stressed only monetary arrangements and did not envisage clear-cut solutions for other fields of economic policy necessary for the well-functioning of such a monetary union" (Ibid). While criticizing Thatcher's view for placing "more than necessary" emphasis on national sovereignty, Willgerodt argues that the "only realistic idea" for European integration is that of the "*Europe des patries"* of Charles de Gaulle or Martgaret Thatcher" (Ibid: 177).

Other ordoliberal criticisms of the Maastricht Treaty were published in liberal newspapers. An article by Ohr & Schäfer for the *FAZ* in 1992 concentrated on the fact that it was seen as too weak to safeguard the goal of a stability-oriented policy, while also pointing out that actual consensus on that very stability was far from obvious. In addition, convergence criteria was perceived as too lax, arguing that in the subsequent inauguration of the EMU, competitiveness divergence would make a transfer mechanism necessary in the future thereby abolishing concerns of moral hazard and liability.

Vaubel and Palin were invited by the European Commission to present their proposal in the discussions around drafting a blueprint for the EMU (Mourlon-Druol 2012: 87-89) In their design of

[387] Willgerodt's concern would be addressed in the convergence criteria decided a year later which included the transformation of all member state national central banks into independent institutions.

this parallel payment system, Palin, Vaubel and Giersch were in regular contact with Hayek himself, who would later calls Vaubel's work his "departure point" (Slobodian & Plehwe 2020: 95). Their overriding concerns were in many ways similar to Röpke's: would the new monetary order undermine national sovereignty to an extent that it would free up the capacities contained in the world market? Would it contain enough obstacles for member states not to display fiscal irresponsibility and thus burden fiscally sound countries with inflationary pressures?

Many of these questions had already been published in an article for *The Economist*, where the authors, claiming to support a full European monetary union, proposed three central features that should accompany it: a European-wide monetary union that would also be inherently stable; the rejection of the 'integration through law' perspective; and third, to abandon exchange rate considerations and endorse a full monetary unification. The notion that monetary union would be progressively achieved (the so-called *progressivity thesis*) when member states had sufficiently aligned their exchange rates was rejected. Crucially, as mentioned, their proposal concerned a *parallel* common currency (called the Europa) and not a *single* currency (Mourlon-Druol 2012: 89)0

The question of a parallel currency was inserted in the list of fundamental questions to be discussed by the Delors Committee and it appears to have been seriously discussed as it kept returning in the first three (out of eight) meetings of the Committee. But by the fourth meeting, it was clear that there was a majority against it and the proposal was abandoned as incapable of producing the sought-for stability (Verdun 1999: 319).

This, however, did not stop them from continuing their efforts to intervene in the discussions, if only for their writings to act as warnings against a problematic development. With the support of other like-minded thinkers of the wider ordoliberal network, and further prompted by Buchanan's embrace of the positive effect of the creation of a European Monetary Union,[388] the European Constitutional Group (ECG) was created, publishing in 1993 its outlook in a report titled "A Proposal for a European Constitution". There, they explained that a durable structure for a monetary union "must be founded on solid constitutional values" (ECG 1993: 2) After rehashing some Hayekian positions about the fundamental priority of personal liberty and individual freedom, the authors move on to suggest a strengthening of the role of the Council of Ministers, a two-chamber Parliament with legislative authority and a second court of justice. A central concern of the European Constitutional Group was to prevent the centralization of power within the EMU, a tendency they sought to counteract through the placing of constitutional limits and designing rules that prevent the European Parliament from increasing its competences (through centralization)[389]. Alongside they propose the creation of

[388] As Slobodian & Plehwe (2020: 96) note, Buchanan believed that "the waning of nationalism created the opening for constitutional design.

[389] The positions of the ECG would be criticised by Thomas Apolte in an *ORDO* paper published in 1996. Acknowledging some of the concerns of the ECG, Apolte nonetheless concluded that their suggestions would bring about "a further increase in the complexity of European institutions and decision-making processes" (Apolte 1996: 289) thus reducing democratic control.

(another?) competition authority that ensures that market distortion does not take place. In general, the proposal is framed within Buchanan's theory of constitutional constraints on political power and on Hayek's ideas of federalism. Among these, was ensuring that individual member states do not have the capacity to pursue independent monetary policies, since a common monetary unit would restrict "the latitude given to the national central banks [...]as much as it was under a rigid gold standard-and possibly rather more since, even under the traditional gold standard, the fluctuations in exchanges between countries were greater than those between different parts of a single state, or than would be desirable to allow within the Union" (Hayek 1939: 259)[390].

The significance of the European Constitutional Group faded rather quickly outside of ordoliberal circles. None of the proposals they had made any leeway into the architects of the EMU and quickly the Group became somewhat irrelevant outside German discussions.[391] If there was one key feature in their proposals that would continue to animate discussions around European integration, that was the provision for member states to have "the right for secession" (Doering 1999; Vaubel 2013),[392] something that was not included in the Maastricht Treaty - but was added in 2007 through the Lisbon Treaty with Article 50. But the direction this would go was, in any case, not unpredictable. Taken up by Eurosceptics, it would play a significant role as an argument around (and in support of) Brexit.

In the context of these transformations, and especially after the breakout of the Eurozone crisis, ordoliberal objections to implemented policies multiplied. While most remained within a strict and traditional ordoliberal universe (such as lamenting the Greek bailout and the potential of bond purchases by the ECB as violations of key constitutional principles and blurring the boundaries between fiscal and monetary policy), others moved in more radical directions, with a significant part within the ordoliberal/Hayekian community moved towards rejecting the European Union altogether.

With the MPS still playing a key role in bringing such views and people together, another neoliberal Eurosceptic think tank was created in Brussels in 1993. Called the Centre for the New Europe, it continued to utilize the Hayek imaginary to animate anti-European positions.[393] Describing its viewpoint as "pro-market, yet pro-Community" in its introductory pamphlet, it "included explicit

[390] Hayek also added that in his view, it was "doubtful whether, in a Union with a universal monetary system, independent national central banks would continue to exist; they would probably have to be organized into a sort of Federal Reserve System [...] [...] a national monetary policy which was predominantly guided by the economic and financial conditions of the individual state would inevitably lead to the disruption of the universal monetary system. Clearly, therefore, all monetary policy would have to be a federal and not a state matter." (Hayek 1939: 259-60)

[391] Having abandoned the possibility of making inroads for internal reform, many of the groups' members gravitated towards openly Eurosceptic positions. It is not coincidental that more than half of the German members of the European Constitutional Group would end up mobilizing joining the *Alternative für Deutschland*.

[392] Somewhat reminiscent was an idea found in an article by Giersch in *ORDO* in 1988 titled 'Liberal Reform in West Germany'. In discussing questions related to the European Community Giersch argues that "if the central bank fails to supply stable money as a legal tender, citizens must be allowed to 'emigrate' from its monetary area and to use in a legal contract whatever means of payment they consider to be most suitable for their purposes." (Giersch 1988: 13) In the case of Doering and Vaubel, however, the 'right to secession' was mostly a *political* argument and less one related to monetary issues. In their articles, the 'right to secession' was primarily defended against a centralization of power within the EMU, centralization leading to increases in expenditure.

[393] One of its founders, the Belgian lawyer and journalist Paul Belien, would author a book titled "The Fatal Conceit of Europe".

attention to traditionally socially conservative positions" (Slobodian & Plehwe 2020: 98). Gradually, most of the neoliberals that were attracted to such positions moved further to the right, openly engaging with US libertarians, anti-immigration positions and, eventually but not surprisingly, neo-nationalist groups.

By 2017, these contradictions will explode into the national press with liberal newspapers like the *Süddeutsche Zeitung* and the *Frankfurter Allgemeine Zeitung* writing a series of articles about it. The central topic was the way in which the Hayek Foundation, a think tank founded in 1998 for the purpose of promoting the work of the Austrian economist with a considerable budget, was being "dragged into a nationalist-folkish quagmire" (*nationalistisch-völlkischen Sumpf*). In the context of the conflict, Karen Horn, then chairperson of the Foundation, left and took another 50 members with her - among them, prominent ordoliberals like Lars Feld and Otmar Issing (*Süddeutsche Zeitung* 2017). Despite these splits, however, people close to the Hayek Foundation and the *AfD* would continue to call themselves ordoliberal/neoliberal, though such positions seem to have hardly effected any wider identification of ordoliberalism with reactionary, far-right groups and organizations.

These developments are not surprising. The overall ordoliberal approach towards the EMU was tainted from the beginning by the constant assumption that the EMU was too centralized and bureaucratic, therefore inviting redistribution and collectivist tendencies, retaining governmental discretionary powers, the equalisation of welfare policy and the erosion of fiscal discipline. Though some suggested that many of the negative elements of the EMU could be traced to the incomplete erosion of national sovereignty and the lack of sufficient constitutional limits to member state competences, a parallel reading was also emerging that saw in the maintenance of national distinctiveness the answer against the EMU's faults. Increasing flirting with questions of cultural homogeneity and the absence of an EU *demos* on the basis of linguistic, cultural and political divergence, the leap towards nationalist Euroscepticism (while maintaining visions of free markets) was extremely smooth and should have been easily anticipated (see also Havertz 2018)

Besides this second *split* within the ordoliberal network, however, the remaining pro-EMU ordoliberals would retain generally positive views of the EMU, preparing to air their objections in the forms of proposals for reform rather than outright rejection.[394] While critical commentary was always present, it was primarily confined to what can be called secondary issues, in the sense that the overall framework of the monetary union was not contested and no suggestions to abolish or abandon it took prevalence. What appeared in various papers in *ORDO* and elsewhere, were discussions animated by the wider developments within ordoliberal thinking, related to constitutional political economics, public choice theory and neoliberal direct democracy. In this context, proposals were made to introduce compulsory

[394] A good example of this type of consistency can be found in Heipertz & Verdun (2010) and especially their strong criticism of the German and French governments capacity to bypass and ignore the Stability and Growth Pact rules against exceeding deficit ratios in 2003. See Heipertz & Verdun 2010, esp. pp. 140-153.

EMU-wide referendums (Feld 2003), seen as *both* more democratic and as guarantees against redistribution and increased taxes. Similarly, enhancing the constitutional grounding of the EMU through clearer separation of institutional power and greater attention to *individual* EMU citizens were also advanced. In this context, for example, a suggestion was made to prohibit 'welfare tourism' (i.e., the ability of a citizen from one member state to migrate to another member state and enjoy its welfare provisions), while clarifying that such a restriction should not apply to income tax policies – allowing EMU citizens, that is, to choose in which member state they wish to be taxed (Feld 2003). At the level of monetary policy, however, the ECB was consistently evaluated as doing a good job in maintaining price stability (Görgens 2002).

Summarizing the positive view on the EMU in 2016, Feld et al (2016: 7) would express their approval for the fact that central elements of the ordoliberal framework are to be found in the EMU constitutional arrangement: the existence of special rules to limit the capacity of member states to take advantage of the fact that fiscal policy remained in their hands; the fact that markets were still in a position to exert a disciplinary influence on budgetary policies; the lack of a bail-out possibility that forces member states to be aware of their economic capacities and behaviour, the looseness of which cannot be remedied by ECB action; finally, the significance of the Excessive Deficit Procedure was recognised as adding an institutional barrier alongside market disciplining. Finally, the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (the so-called Fiscal Compact) that constitutionalized balanced budgets in each *national* constitution was also seen as a highly positive development.

Do such expressions justify the often-claimed argument that the EMU represents an "ordoliberal iron cage"? (Ryner 2015) Especially after the outbreak of the Eurozone crisis in 2010 and the subsequent form of crisis management that was adopted, such a view became widely spread, not only in journalistic accounts but in a number of influential academic publications. In most cases, the discovery of an ordoliberal bias as the constitutive origin of the austerity policies was accompanied by a backward-looking re-appraisal of the EMU architectural design, occasionally promoting the implication that ordoliberalism was not only responsible for the ensuing harsh austerity but for the crisis itself. These positions were often indistinguishable from analyses that saw EMU architecture, crisis outbreak *and* the austerity management as originating from the same location: Germany. In these accounts, the EMU was a mechanism designed to benefit German economic hegemony, a process that exacerbated the core/periphery contradictions and led to the crisis. In turn, the crisis management represented a specifically *German* approach that reflected as much the so-called obsession with rules, as much as it worked to directly benefit German economic interests. Coming full circle, the identification of ordoliberalism with Germany's political economy is then interpreted as indicating that *Germany's* responsibility is, in fact, *ordoliberalism's* responsibility. Before evaluating these claims, a closer look at the literature is essential.

The Eurozone crisis, Germany and ordoliberalism

The question of German hegemony in the overall process of European integration has already been presented (and criticized) in different parts of this dissertation (see Chapters 4 & 5). As a way of summarising, we can say that a consistent narrative of European integration sees its trajectory as one delineated through the antagonism between France and Germany, with Germany usually finding itself in a dominant position. In this approach, the very process of integration can be drawn up as a history of France attempting to limit Germany's power and to advance its own political, economic and geopolitical position, a process that never results in the desired outcome. Among other problems, a certain peculiar circularity can be observed in the argument: this can be summarized in the fact that there is a simultaneous claim that European integration is pushed forward by the desire of countries like France to reign in on German hegemony, while at the same time *every step* taken in that direction ends up only strengthening the position of Germany. Though this might appear as a schematic representation, or even a caricature, that is only because this narrative is *itself* schematic: most of the time, authors and commentators consider this to be such a given assertion that no real attempt is made to prove it, nor is there specific attention paid to the language used to describe it.[395]

There are, however, more sophisticated approaches to the question, the most crucial among them being the research of Germann (2021). In contrast to other superficial accounts, Germann has conducted a thorough examination of the role of Germany in the last decades. His starting point was the attempt to explain the reaction of Germany to the Eurozone crisis and to try and fit this to the predominant accounts that saw a specifically ordoliberal bias in German political economy, domestic or external. Germann's conclusion is that German hegemony can be empirically verified to the extent, in fact, of playing a crucial role not only in intra-European developments (from the EEC to the Eurozone crisis) but even to wider historical conjunctural moments such as the collapse of the Bretton Woods arrangement and the Volcker shock. At the same time, Germann questions the narrative of an ordoliberal bias, arguing instead that what leads German political economy is the commitment to maintain both its export dynamism *and* that of a domestic social compromise (summarized in the social market economy model). None of these two, Germann concludes, is related to ordoliberal positions.[396] Germann's argument is concomitant with the one advanced by Dyson (2021) in his extensive review of ordoliberalism, where he argues in relation to the Eurozone crisis that "German negotiating positions had more to do with the protection of a German coordinated-market economy model of export-led growth than with the defence of Ordo-liberalism" (Dyson 2021: 13).

[395] One indicative example in Morisse-Schilblach might suffice: "European leaders deliberately accepted and explicitly pushed (with the help of the US) for another kind of German dominance in a closely interlinked Europe. What they gained from the strategy was economic wealth, on the one hand, and the certainty that Germany would relinquish its sovereignty to them, on the other [...] Germany, so to speak, became a benign hegemon by default, a status granted by its former enemies" (Morisse-Schilblach 2011: 27).

[396] For a critique of this as a narrow conceptualization of ordoliberalism, see Roufos 2021.

Another approach to the question of German hegemony that is somewhat concomitant with Germann's but has not received as much attention so far, is the one put forward by Cafruny & Talani (2019). In their view, contrary to narratives that see Germany as independently deciding (and determining) the policies and transformations taking place within the EMU, its stronger position is in fact the consequence of a *mutual dependence* mechanism that the EMU promotes (without creating it). According to Cafruny & Talani (2019: 9) "the relationship between Germany and the EU is one of mutual dependence. If [...] the rest of the EU can hardly sustain global competition outside of the EU and of the Eurozone, it is also the case that Germany needs both the Eurozone and the single market to sustain its neo-mercantilist export model". Another set of related ideas on German hegemony was put forward in the aftermath of the Eurozone crisis, the argument there being that *pre-existing* hegemony and the choice of crisis management tools resulted in a strengthening of Germany's primacy in Europe, visible in its pursuit (and success) in encouraging "institutional innovations, most notably the creation of a banking union and a new surveillance procedure to guide public expenditure in EU member states", as it is in its capacity to "dislodge industrial relations systems inside GIPS countries in the hope that, with increased aggregate demand being ruled out in the new macroeconomic policy regime, cheaper labour might mitigate their unemployment levels" (Currie & Teague 2017: 169).

Moving into more detail into the argument of a specific ordoliberal imprint in the architecture of the EEC/EMU, we find arguments about the significance of the concept of the social market economy as a "functional combination of the institutional order of the market process and redistributive components of the welfare state seems to have motivated the introduction of the social market economy as an integration objective in the draft version of the European Constitution" (Ebner 2006: 223). An ordoliberal imprint in both the Rome Treaty and the EMU is also identified in Warlouzet (2008),[397] Strassel (2009) and Denord & Schwartz (2010). But perhaps the most lasting impression of this narrative belongs to Blyth's celebrated *Austerity: The History of a Dangerous Idea* (2013), where the "German ideology" of ordoliberalism is seen as central in the postwar development of West Germany, as incorporated "into the ECB constitution and the EU Commissions' competition-focused policies", and as a predominant determinant from "the Maastricht convergence criteria and the Stability and Growth Pact to the proposed new fiscal treaty" (Blyth 2013: 141). "It's all about the economic constitution", he adds characteristically, "the rules, the ordo" (Ibid). We have also observed through the work of Küsters (2022) how ordoliberal conceptualizations of competition law were promoted and embedded from the early process of European integration (see also: Behrens 2018). Finally, we have the words of Vítor Constâncio, vice-president of the ECB between 2010 and 2018, who declared that

[397] In his more recent work, Warlouzet (2017) qualifies his earlier assessment by identifying three competing choices and solutions that determined discussions of European integration between 1973 and 1986: "a socially oriented one, a neo-mercantilist one, and a market-oriented but not always neoliberal one" (Warlouzet 2017: 214).

> aside from a single currency and a fiscal brake, the initial EMU's architecture was minimalist: the governance of economic and financial policies firmly remained a national competence and there was no fiscal policy at the European level, no crisis management mechanisms of financial assistance to states and no European financial supervision. This narrow concept was the result of the web of national interests, opposing any centralisation of complementary policies plus the dominant economic thinking of the time that reflected a practical convergence of traditional central European ordo-liberalism with the anti-Keynesian views of new-classical economics. In spite of the efforts of many economists, the design did not even reflect the theory of optimal currency areas. Rather, it promoted the view of a monetary union as a viable device of "hard money" to create price stability, from which efficient and smooth functioning of the economy would result.
>
> Constâncio 2018: 192.

As mentioned in the beginning, these positions were primarily developed in the context of the Eurozone crisis and in a specific identification of the austerity mechanism at the epicentre of the crisis management process as reflecting an ordoliberal worldview. The literature built on such a narrative is particularly extensive, but we can indicatively mention some examples to indicate the scope of the assertion. Bulmer (2014), for example, argues that in the context of the Greek crisis, "the resort to advocating ordoliberal solutions neatly combined eurozone necessity with long-standing principles of the German political economy" (Bulmer 2014: 1259). Similarly, Meiers (2015) see the "categorical imperatives of ordoliberalism" forming a "Maginot Line of monetary stability" and overwhelmingly determining Eurozone crisis management policies.

Promoting a similar approach, Ojala & Harjuniemi (2016) examined press coverage of the Eurozone crisis and concluded that the public legitimation of the austerity mechanism took place "through the promotion of an ordoliberal framing of the crisis" (Ojala & Harjuniemi 2016: 427). Identifying the "imposition of new fiscal rules and austerity and the need for competitiveness-enhancing structural reforms" as a "German agenda". Schäfer (2016) on the other hand, identified an ordoliberal ideational frame behind proposals for a banking union in Europe, a debate that indicated the German government's identification with an ordoliberal focus on "responsibility and liability" as well as an advocacy for "strong and automatic bail-ins" (Schäfer 2016: 971-2). Nonetheless, as Bibow (2017) notes, the success of Germany in imposing its anti-Keynesian model leads to a negative outcome not only for the countries in the recipient end but for Germany too. In his argument, "Germany failed to appreciate that the success of its model depends on other behaving differently. Exporting the model to Europe begged a fallacy of composition: Germany's export engine would stall when others became like them." (Bibow 2017: 574). The result of this mistaken policy is to "hold back recovery in the eurozone".

Counter-arguments to these narratives are as multi-faceted as the original arguments themselves. To begin with, we can mention the objection of ordoliberals themselves in these descriptions. Most notably, Feld et al (2015) have advanced the argument that despite the presence of ordoliberal elements in the EMU architecture, the crisis response included the endorsement of policies that would be, strictly speaking, incompatible with ordoliberal teachings. Taking issue with the identification of ordoliberalism with German monetary policy and institutional set up, they argue that “ordoliberal proposals for a monetary constitution” (pointing at Eucken’s endorsement of the Graham Plan or the commodity-reserve standard or his supposed rejection of central bank independence)[398], “bear little resemblance to the actual institutional design implemented with the founding of the Bank deutscher Länder in 1948 and the subsequent Bundesbank Act of 1957” (Feld et al 2015: 53). Moreover, they argue that the key characteristics of the EMU architecture (monetary stability, central bank independence, the removal of political influence from money (depoliticization) and the disciplining effects of not controlling money on fiscal policy) are not ordoliberal derivatives but “rather are a lesson of applied monetary economics” (Ibid: 57).[399] Finally, turning to the question of the policy choice of austerity and competitiveness enhancement through wage cuts, Feld et al point out that they go far beyond “any specific type of ordoliberal heritage or anything else specifically German” (Feld et al 2015, p. 57). Ordoliberalism, conclude Dold and Krieger (2019) in another evaluation, is being “used and abused as an ideology”.[400]

But ordoliberals are not the only ones to challenge the above narratives. Starting from the initial suggestion of German hegemony with the process of European integration, the strongest analyses against them are found in McNamara (1998), Bulmer & Paterson (2013) and Dooley (2017). Though written before the inauguration of the EMU, McNamara’s approach is nonetheless useful in setting some methodological criteria for evaluating hegemony. Starting by questioning the concept of hegemony itself when applied to Germany and Europe, she argues that that hegemonic dynamics are “difficult to extend [...] to a regional context, particularly in the monetary realm” (McNamara 1998: 25). Recognising the origin of the concept in Kindleberger’s analysis, McNamara identifies three criteria for determining whether the application of the concept is pertinent. Firstly, she argues, hegemony must assign structural power. While recognising the power of Germany’s currency, McNamara notes that the country lacks “the quantitative and qualitative economic and military dominance over its neighbours that marked the United States in the postwar era or Britain in the nineteenth century” (ibid: 26). An alternative way, McNamara suggests, would be to borrow Kindleberger’s “process-based explanation” that is applicable to a benign leadership.

From this viewpoint, a hegemon in an open and stable international arena can provide (a) a market for distressed goods; (b) a steady and possible counter-cyclical flow of capital to cushion

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398 Arguments that are addressed in detail in this dissertation in Chapters 3 & 4.

399 For a rejoinder, see Dyson (2021: 368) and the argument that the “EMU helped to push the narrative about German economic policy in an Ordo-liberal direction”, visible among other places in the fact that “through the European route of constitutionalizing a ‘stability-community’, the rulings of the Federal Constitutional Court began to reflect Ordo-liberal style reasoning in a more overt way than before”.

400 Along somewhat similar lines, Storey (2019) has argued that attempts to “insulate economic decision-making from democratic influence [...] while in line with the foundation charters of ordoliberalism, is by no means confined to Europe or to ordoliberalism.” Such attempts are rather “global in nature and are characteristic of all forms of neoliberalism and of capitalist governance more generally”. To advance his point, Storey adds that “structural adjustment in the Global South in the 1980s and 1990s [...] provides a more helpful model for how the crisis has played out in western and southern Europe than the often Eurocentric conceptions of (and specious claims for) ordoliberalism”. Storey 2019: 1, 7)

economic downturns; and (c) liquidity for the monetary system as a whole (Ibid: 27). McNamara points out that even though Germany attempts (with minimal success) to counter protectionist tendencies, it entirely fails to pass the test of the two proceeding qualifications: Germany (and the Bundesbank) "have only rarely and reluctantly responded to calls from both inside and outside its borders to reflate its economy or to ease the discount to provide liquidity" (Ibid: 27-8). One could extend McNamara's observation to the contemporary field too: examining the framework within which Germany purported to deal with the Eurozone crisis and the proposals it put forward, *none of them* corresponded to support for counter-cyclical policies or for liquidity provision. Quite the contrary, in fact, at least until 2014 when the ECB began its bond purchasing program and Germany went along.[401] Adding a last potential qualification for evaluating hegemony, McNamara suggests that perhaps a better way of understanding Germany's position in Europe could be supplemented by analysing the "use of ideology to create support among other nations for an international order or regime" (Ibid: 29). Coming closer to the conclusions of Ojala & Harjuniemi (2016) mentioned above, this "less common type" of hegemony could be getting closer to properly portraying Germany's position. Nonetheless, even such an approach cannot entirely explain EMU cooperation which, McNamara concludes, "has come about for reasons other than hegemonic action" (Ibid: 28).

A slightly more nuanced argument is brought forward by Cadwell & Snaith (2018). In their paper they question whether the contemporary EU can be characterised as ordoliberal. But their assertion does not imply a full rejection of either the concept or its significance. Rather, as they put it, even though "original tenets of ordoliberalism continue to be observable in the contemporary EU", accounts that identify it as an ordoliberal enterprise "are flawed in that they do not recognize that the EU is, and does, more than an 'economic constitution' would suggest" (Cadwell & Snaith 2018: 1065). Reverting back to the conceptualization of German hegemony, they conclude that if the ideology of ordoliberalism has been successful, that is "less because it is appropriate and more because it is German" (Ibid).

Moving forward, if one combines counter-arguments that challenge Germany's responsibility for causing the Eurozone imbalances and, therefore, the Eurozone crisis (Dooley 2017)[402] with detailed research on the process of austerity implementation, a further challenge to German (and, potentially, ordoliberal) hegemony. Utilising the theoretical framework of the politics of conditionality, Cardoso et al (2021) have produced a very essential argument that contradicts the depiction of austerity during the Eurozone crisis as a German/ordoliberal inflicted process of punishment or a humiliating *diktat*.

Identifying structural reforms as a two-sided process, their suggestion is that local 'ownership' and decisive local information about a country meant to undergo such reforms are quintessential

[401] Although, as we shall see in the last part of this chapter, the strongest opposition against the ECB's monetary policy after 2014 came from German institutional organs.
[402] Dooley's research calls for a re-consideration of the core-periphery approaches to the EMU, arguing that exploring country-specific direction of trade and capital lending shows that "there is little basis for the argument that Germany is to blame for the origins of the Eurozone crisis" (Dooley 2017: 62).

characteristic of austerity, making their external imposition almost impossible without them. More importantly, and linking with arguments about the historical use of external disciplinary mechanisms, Moury et al argue that "conditionality is to some extent useful to executives" (Moury et al 2021: 11) for the obvious reason that it "allows executives to pass reforms that they deem necessary but could not have passed in the past because they were very unpopular or were blocked by powerful interest groups" (Ibid). An identical argument concerning the indispensable domestic *complicity* in the austerity reforms that devastated Greece between 2010-2019 has been advanced by Roufos (2018a; 2018b). Somewhat more forcefully, the assertion there is that the structural austerity reforms of the period *would have not been possible* to implement without the consorted and continuous support they received from *all* the successive governments that were called to operationalize them, despite what they claimed.[403]

Crisis of the economic constitution

We have so far examined the process of the creation of the EMU, its inauguration and the conflict that it generated within ordoliberal circles. Moreover, we have examined the way in which existing literature has assessed the questions of German/ordoliberal hegemony in the EMU and in the subsequent Eurozone crisis. In a certain way, the question of whether the EMU represents an ordoliberal economic constitution remains unsolved. In the section that dealt with the similar question in relation to the EEC, the answer was to be found in the ways in which the EEC embedded key principles of the ordoliberal framework, such as competition law and the embedding of market principles through constitutionalization. Moreover, special attention was given to the fact that these principles were not confined to German negotiators or decision-makers but were widely shared across member states. In this context, the common goal of establishing the proper regulatory framework for the advancement of the market economy.

If these elements were found to be present in the EEC after the Rome Treaty, their identification in the EMU is even more profound. On top of these, in fact, one can pinpoint to a series of additional institutional and supranational arrangements that were not even there before. For example, the creation of a single currency run by an entirely independent, non-majoritarian central bank represents without a doubt a further stop in the direction of 'denationalizing' or 'depoliticising' money, while the executive/legislative structures of the EMU are predominantly reliant on other, equally non-majoritarian institutions (such as the Commission and the Eurogroup). Political, democratic and social pressures are more directly and profoundly insulated from affecting key aspects of monetary policy, while economic policy itself, while ostensibly in the jurisdiction of member states, is framed within an

[403] Where Roufos departs from Moury et al (2021: 11) is in the latter's assertion that "executives are both able and willing to reverse what was done under conditionality". While their approach appears to recognize the *shared framework* between countries under conditionality and those expressed by EMU institutions, in this last instance they seem to ignore that fact, thus attempting to conceptualize a rift that would explain domestic governments wishing to reverse the reforms. As the case of Greece has shown more clearly than any other perhaps, the overall framework of austerity has become embedded and remained unchanged *even after* the official "release" of Greece from its European surveillance.

increasingly complex and self-propelling system of rules, regulations and legislations, the ignoring of which carries the real effect of directly enforceable sanctions. Supervised by a Constitutional Court that has elevated its jurisdiction above that of national law, the EMU also includes a feature that was latent but hardly noticeable in the EEC: it is fully *irreversible*. As the Eurozone crisis showed, there is not even a legal protocol or defined procedure for a member state to leave the Eurozone.

All the above attributes of the European Monetary Union should be enough to safely argue that indeed it does represent the operationalization of an ordoliberal economic constitution. Nonetheless, in relative agreement with Caldwell & Snaith (2018), it is crucial to recognize that *despite* this unprecedented affinity, the EMU is not *only* an economic constitution. But this assertion is supplementary to the fact that, in all possible and realistic ways, what the EMU represents is the closest ever experiment for operationalizing the overwhelming framework of ideas that first appeared in the interwar period and continue to develop ever since – without, however, losing their original characteristics.

The reason why the EMU is not *solely* an economic constitution is directly related to the fact that the ordoliberal framework, however developed, continues to suffer from a series of blind spots, the most important of which being the fact that even in the case of the closest approximation in the operationalization of its principled beliefs, the real world will continue to look distorted, skewed and distant from the prescriptions. As the various conflicts and disagreements *within* the ordoliberal community have shown, there is never (and can never be) a complete unanimity on the various transformations, institutional forms, policies and overall developments that are taking place. Such unanimity is, naturally, even more remote *outside* the ordoliberal paradigm.

In this context, the last section of this dissertation will attempt to evaluate the economic constitution from a novel perspective, one pertaining to a more literal translation of the concept. Namely, through the profoundly fragile constitutionality of the EMU *as it exists* and as it has manifested itself through battles around its meaning and structure at a constitutional level. Starting from the specific example of Greek austerity, the final part will approach the same question from the perspective of the constitutional battle that took place between the German Federal Court and the European Court of Justice in the context of the political economy of the European Central Bank, a conflict that could be considered as one that threatened the continuation of the EMU more than anything that had taken place until that moment.

The fragile constitutionality of the Eurozone crisis management[404]

The Greek government's official request for financial assistance, triggered by the excessive deficit (12.8% of GDP) submitted to Eurostat in October 2009, initiated a process of economic restructuring.

[404] A version of this section was published in *Legal Form* in May 2020.

This took the form of three memoranda of understanding (MoU), concluded between successive Greek governments and the Troika[405] in 2010 and 2012 and the European Stability Mechanism (ESM) in 2015. From a legal perspective, and in part reflecting the hastiness with which the financial assistance program was conjured, the exact legal status of the financial assistance program and its relation to EU law was unclear.[406] Initially portrayed as "simple guidelines" proposed by the Troika, their concretization and implementation was "left" to the Greek government, whose proposals would have to be assessed and approved by the Troika (and later the ESM).

In this unusual context, austerity in Greece would begin with a simple draft law (3845/2010), brought to parliament in early May 2010, to which the MoU was annexed. Law 3845/2010 included a clear breakdown and implementation plan for the guidelines "proposed" by the MoU, mostly centred around significant wage and allowances' cuts for public employees and pensioners, wage reductions for private employees that prevailed over all existing contracts (collective or individual), tax increases, and benefit reductions. Weaponizing the approaching maturity of a €10 billion bond on 19 May 2010, the Troika and Greek government would insist on the absolute urgency of the situation, thereby introducing Law 3845/2010 under Article 76, paragraph 4 of the Greek Constitution, which stipulates that "a Bill or law proposal designated by the Government as very urgent shall be introduced for voting after a limited debate in one sitting".

The choice to present the MoU as a set of "guidelines", leaving the Greek government to "decide" on the exact measures, was by no means accidental. Among other things, it reflected the IMF's accumulated experience in structural adjustment programs, a key reason why the Fund was invited to participate in the first place. Aware of its negative reputation and in an attempt to "reduce the stigma associated with Fund lending" (IMF 2009: section II, 4), the IMF's own conditionality guidelines suggest avoiding "language having a contractual connotation" (IMF 2002: section B10), while also refraining from "subjecting a country member to contractual obligations to implement their programs and putting the country member in the unenviable position of being in breach of a legal obligation if it failed to meet a condition. To provide incentives to members, IMF seeks to minimize the legal consequences attached to failure." (Meng-Papantoni 2015: 18)

To the extent that the financial assistance program had all the characteristics of an international agreement, a strategic *rewording* of the kind suggested by the IMF could also serve to circumvent the fact that the Greek Constitution requires all international agreements to be subject to two crucial constitutional clauses: Article 36, which demands parliamentary ratification;[407] and, once operative on

[405] The Troika consisted of the European Commission, the European Central Bank and the International Monetary Fund.
[406] As Antoniou correctly observes, "the 'web of texts' constituting the first rescue mechanism were part of an on-going transformation in the process of European integration and of the creation of a European rescue mechanism".
[407] "Article 36 of the Constitution regulates the conclusion of international treaties and attributes the relevant constitutional competence to the President of the Republic. Paragraph 2 of the same article declares that conventions on trade, taxation, economic cooperation, participation in international organisations or unions, as well as all other conventions containing concessions for which a statute is required by the Constitution, or which may burden the Greeks individually, 'shall not be operative without ratification by a statute voted by the Parliament." Marketou 2017: 180-1, my emphasis.

this basis, Article 28, which demands a three fifths qualified majority (i.e. 180 out of 300 MPs) for this ratification.[408] During parliamentary debates, Syriza and the Communist Party of Greece (KKE) pointed to this requirement to raise their initial constitutional objections. In their view, the MoU constituted an international agreement by definition, drawn up as it was by the Troika and meant to be implemented by the Greek government. Led by Evangelos Venizelos, the core of the government's response to these objections was to proclaim that "this is not the time to stick to procedures and technicalities".[409] Besides conveying an embarrassing disregard for constitutional law for a well-respected constitutional lawyer like Venizelos, this approach was essentially an early and indicative sign that principles enshrined in the Greek Constitution would not stand in the way of the overwhelming forces lining up to implement austerity.

One of the key ways the IMF tries to avoid the perpetual stigma of enforcing harsh austerity is to insist on grounding "local ownership" of the program, making the national government responsible for laying out and applying the restructuring process.[410] From the European perspective, however, avoiding this stigma was not a primary concern. More important than this was the strategy of utilizing Greece's market exclusion to realign its economic policies with the EMU's core macroeconomic principles, spelled out in the economic order constitutionalized in the Maastricht and Lisbon treaties. For this purpose, the European side of the Troika found it imperative to work out the essential elements of the reforms, closely monitor and evaluate their implementation, and attach strict consequences to any potential failure.

From a legal perspective, this represented a gridlock. To overcome it, the MoU would have (a) to be stripped of its "international agreement" status, thus avoiding parliamentary ratification by a qualified majority and/or judicial review;[411] (b) to be "locally owned"; (c) to be produced and monitored by the Troika; and (d) to create a clear obligation of the Greek government, whose failure to comply would result in the termination of the external financial assistance. As constitutional lawyer Botopoulos

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408 "Article 28 of the Constitution defines the status of international law in the domestic legal order. Paragraph 1 states that ratified international conventions 'shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law'. Paragraphs 2 and 3 set particular procedural and substantive conditions for the ratification of certain conventions. They declare: '2. Authorities provided by the Constitution may by treaty or agreement be vested in agencies of international organizations, when this serves an important national interest and promotes cooperation with other States. A majority of three-fifths of the total number of Members of Parliament shall be necessary to vote the law ratifying the treaty or agreement.' … Article 28 of the Constitution is followed by an interpretative clause stating that it 'constitutes the foundation for the participation of the Country in the European integration process'." Marketou 2017: 181, my emphasis.

409 "We will not answer these questions from a technical standpoint. The questions posed are fundamental, political, questions that concern the fate of our country, that concern our relation to citizens, citizens who are angry, anxious and who are entitled to hope … We have to convince our citizens that we, in here, know what we are doing, not hiding behind constitutional clauses and parliamentary procedures, but facing our historical responsibilities." See Minutes of the Greek Parliament on the 6th of May 2010, 6750 (translation mine). During the 12 February 2012 session on the second MoU, Venizelos reiterated his contempt for constitutional procedure: "It is hypocritical to hide a substantial conflict about the future of this nation behind a procedural problem, behind a procedure-based objection." Quoted in Karavokyris 2014: 147, my translation.

410 "In responding to members' requests to use Fund resources and in setting program-related conditions, the Fund will be guided by the principle that the member has *primary responsibility for the selection, design, and implementation of its economic and financial policies*". IMF, "Guidelines of Conditionality", s. A(3), my emphasis.

411 Exactly the same format was utilized in the Portuguese MoU. See Fasone 2014: 26

would comment at the time, the MoU was a "special, unprecedented type of 'international agreement', that created both a national obligation *and* a commitment to an international organ" (Botopoulos 2010).

Initiating the restructuring process through Law 3845/2010 was a means of satisfying the local ownership aspect crucial to the IMF, while annexing the MoU and proclaiming it "an integral part of the draft law",[412] appeased European demands. In any case, and in formal terms, Law 3845/2010 transformed the MoU from a European-led project into "the *governmental program* for the confrontation of the economic problems of the country, a compelling public interest and a common interest of Greece's Eurozone partners" (Marketou & Dekastros 2015: 35).

Naturally, the legal transformation of the MoU into the "political program" of the Greek government was quite dubious, given that the entire process was strictly monitored and evaluated by the Troika. The further implication that this transformation meant that there was nothing legally binding between the Greek government and international authorities was even more peculiar, since strict implementation of the MoU guidelines was a precondition for the disbursement of the tranches of the loans. Nonetheless, as already noted in the first part of this post, this arrangement also carried something strangely realistic: the Greek government *did* in fact agree with the implementation of austerity measures, openly arguing that the MoU contained policy objectives endorsed– and, in many cases, already adopted–by the government.

From this moment on the key concern of both Troika and government was to ensure that this program's implementation proceed with no parliamentary hiccups that could "politicize" what was presented as a technocratic issue, thereby exacerbating the anticipated explosion of class antagonism. In this direction, an additional law (3847/2010) introduced a few days later replaced any mention of parliamentary "ratification" with the mere requirement to "discuss and inform" parliament, while Pasok (and later New Democracy) imposed strict party discipline to secure a swift process.[413]

Such side-stepping of parliamentary procedures to ensure austerity continued during the years that followed. Among the most striking examples were the proliferation of fast-track procedures, the multiplication of multi-bills, and the procedure of passing hundreds of acts under a single article. Under such a practice, seven to eight hundred pages worth of acts were at times introduced in parliament under a single article, meant to be "discussed" and voted in one day. Further, in a move reminiscent of Chancellor Brüning's use of Article 48 of the Weimar Constitution to bypass parliamentary supervision of deflationary economic policies, "emergency decrees" were repeatedly utilized, the importance of which lay in their constitutionally entrenched ability to circumvent parliamentary ratification and to "confuse even the most cunning constitutional lawyers".[414] In an attempt to pre-emptively neutralize

[412] Introductory report in the Hellenic Parliament, available online, p. 3.
[413] Nonetheless, and according to research published by the Greek Parliament, in the period 2010 to 2018 Pasok saw 26.5% of its MPs resign, while it expelled 38.8%. New Democracy expelled 31.2%, while another 37.5% resigned. Interestingly, although Syriza accelerated the implementation of austerity, there were zero expulsions and only 18.4% resigned, of which only two reflected disagreement with government policy.
[414] "The Government issued an emergency decree-law, approving the draft of the relevant Loan Agreement and authorizing the competent authorities to sign it. Subsequently, when agreements were already valid and operative in the international

constitutional objections, the executive also made frequent use of so-called "administrative acts of legislative content": on the basis of Article 44 paragraph 1 of the Constitution, the legal statute of such administrative acts renders them "part of the *interna corporis* of Parliament and [as such] not subject to judicial review" (Gerontas 2010 quoted in Marketou 2017: 149)

This continuous process of impeding established procedures was not, of course, left unanswered. Starting with a scientific committee set up by parliament, doubts were expressed concerning the constitutionality of the measures. But the committee's report went beyond deviations of parliamentary procedure. It argued that economic restructuring directly contradicted constitutionally protected social rights, such as the right to a welfare state (Art. 25. para. 1), the right to work (Art. 22, para. 1), and the right to collective bargaining (Art. 22, paras. 2 and 3). In addition, the report challenged the reforms' compatibility with the principle of proportionality and equality, while also hinting at the infringement of the right to property (Art. 17, para. 1, and Art. 1 of the Additional Protocol 1 of the ECHR). While acknowledging that the Greek Constitution allows some room for such violations when justified by "reasons of public interest", it ruled that such "infringement of the rights should be accompanied by compensation measures" (Marketou & Dekastros 2015: 118)

Alongside such opposition, political parties mounted their own challenges on the purported constitutionality of austerity. In some cases, these remained within the context of constitutional law, focusing on the status of the MoU as an international agreement requiring parliamentary ratification. Interesting in this respect was the intervention of constitutional lawyer (and future Syriza member) George Katrougalos, who advanced the somewhat peculiar argument that since the (infamous) Article 125 of the Treaty of the European Union forbids bailouts,[415] the MoU did not follow EU law but was instead a "new, unprecedented international agreement between member states and Greece" (Katrougalos 2011)[416] thereby challenging the narrative that the austerity measures reflected a consequence and *legal continuum* of Greek membership in the EMU.

However, soon after, and as the implementation of austerity continued, challenges to MoU constitutionality on behalf of political parties were politicized to such an extent that their legal content began to wither away.[417] For instance, pretending that Greek territory was being sold to repay foreign

economic sphere, the relevant decree-laws were introduced into Parliament for ratification, which validated the approval of the draft Loan Agreements retroactively in the domestic legal order." Marketou 2017: 182–83. This practice would be accelerated with the second MoU.

415 Art. 125(1) TFEU: "The Union shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of any Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project. A Member State shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of another Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project."

416 It is interesting to note that this approach implied that the MoU did in fact represent a *bailout* in violation of Art. 125, an argument more often used by German Eurosceptics to denounce the EMU crisis management, rather than a set of punitive loans accompanied by harsh conditionalities.

417 Taking cue from alarmist (and, frankly, ridiculous) proclamations by Alexis Tsipras, then Syriza's president, that the MoU included provisions about "selling Greek islands", Syriza's opposition in particular resembled an attempt at "national

creditors[418] or that Greek law resembled that of an "occupied country"[419] may have appeased the patriotic sensitivities of those who interpreted the MoU as a "national humiliation", but it lacked any substantive constitutional backing, while also relativizing the concept to such a degree that it became insulting towards *actual* occupations. Moreover, comparing Greece's legal situation in 2010 to its legal situation in the 1950s,[420] when Cold War politics and a right-wing authoritarian government in the country oversaw the marginalisation, imprisonment, exile, and often execution of left-wing sympathizers and their families moved beyond hyperbole towards hubris. At a political level, such exaggerated historical analogies and repeated references to "the loss of sovereignty" were politically revealing of Syriza's national focus, standing in stark contrast to the approach that saw the austerity apparatus as a class offensive and not a national disgrace. From a legal perspective, however their content bore the marks of what one commentator shrewdly called the "unbearable lightness of constitutional verbalism" (Christopoulos 2013: 61).

Published a few days after the voting of the second MoU in February 2012, decision 668/2012 of the Council of State (Symvoulio tis Epikrateias, or "StE") sought to respond to the various legal challenges concerning the constitutionality of the reforms. As expected, the StE ruling put forward the argument that the MoU "did not constitute an international treaty binding the Greek Government, but only the political programme of the Government for the confrontation of the economic problems of the country through the European rescue mechanism". By adopting this approach, the StE could also declare that "the Memorandum did not result in the transfer of competences to international authorities, it did not create legal rules and it did not possess a direct effect in the domestic legal order" (Marketou & Dekastros 2015: 141). Ruling that there was no transfer of competences to a foreign entity, the StE was also addressing the charge that austerity constituted a significant loss of national sovereignty. While taking the opportunity to remind plaintiffs that Article 28, paragraph 3 of the Constitution allows for

awakening" more than a substantive legal challenge. Within this framework, Katrougalos openly supported the claim that the rule of law in Greece was that of an "occupied country", while also comparing the prevailing irregularities with those of the "Para-Constitution" of 1952. In January 2013 Syriza went as far as to proclaim that Greek citizens were obliged to make use of Art. 120, para. 4 of the Constitution, which accords them the "right and the duty to resist by all possible means against anyone who attempts the violent abolition of the Constitution". In their reasoning, since Pasok had not been elected with a mandate of austerity, the government had lost all legitimacy. One month later, Syriza's "Work Committee for Changes in the State, the Political System, and the Constitution" called for a constitutional convention tasked with drawing up a new constitution.

[418] Tsipras, Parliamentary Session of 25 June 2010.

[419] "The width and intensity of the intervention that accompanies the, under crisis, violent restructuring of the Greek economic system, in conjunction with its imposition from the outside, entirely justifies the assertion by Koukiadis that what is being attempted is to impose the rule of law of an occupied country." Katrougalos, "'The Para-Constitution'" (translation mine).

[420] The "Para-Constitution" of 1952 refers to the post-Greek Civil War legislative acts and measures put in place to justify the relentless prosecution, imprisonment, exile, and even execution of those described as "communists", a characterization that was identified (de facto and de jure) as synonymous with high treason. Although these acts were formally contrary to the constitution in force at the time, they were widely implemented.

limitations of national sovereignty under specific conditions,[421] the final decision was that this was not the case, as no de jure national sovereignty had been handed over.[422]

In the context of the constitutional protection of social rights, the StE reiterated that constitutional law does not forbid wage, pension, or benefit cuts, but only their reduction below a level that *threatens the survival* of recipients. Absent an objectively defined and accepted level, a percentage cut remains well within constitutional law. A similar approach was taken toward violations of "human dignity"; the StE rejected "the claims of the plaintiffs because they did not invoke or prove any risk for their decent way of living caused by the questioned measures, which would constitute an offense to human dignity".[423]

Beyond its willingness to hide behind the vagueness of wage calculations and definitions of dignity, the StE decision was based on three points: accepting the assertion of urgency; framing economic reforms and any potential infringements on constitutional principles as mandated by a "general public interest"; and opting for judicial deference, a doctrine that effectively subordinates judicial to executive power by conceding that the designated constitutional organ lacks the expertise to evaluate economic policy.

However, the StE's uncritical adoption of the notion of "urgency", and of an imminent economic collapse, was already ambiguous, especially when considering that any alternative for dealing with Greece's higher borrowing costs was not merely ignored but pre-emptively excluded by the MoU. It is also noteworthy that the deterioration of the Greek economy, as a direct result of harsh austerity, would become a future justification for urgency, paving the way for the second and third MoU. But even if one conceded the immediate urgency of the situation (within the framework of an economy dependent on the viability of the banking system and international market access), a temporal discontinuity persisted. As Marketou noted, "the Court specified that the legislative purpose was 'not only to face, according to the assessments of the legislature, the sharp fiscal crisis but also [to consolidate] public finances in a way that will be sustainable in the future"' (Marketou 2017: 191). In this context, the enacted measures did not simply deal with an immediate emergency; they also set the stage for all future economic policy, creating a framework of embedded rules that forbid any deviation.

[421] Art. 28, para 3: "Greece shall freely proceed by law passed by an absolute majority of the total number of Members of Parliament to limit the exercise of national sovereignty, insofar as this is dictated by an important national interest, does not infringe upon the rights of man and the foundations of democratic government and is effected on the basis of the principles of equality and under the condition of reciprocity.

[422]] The StE also stated that when Greece joined the Eurozone, and signed the Maastricht and Lisbon treaties, it did so voluntarily and through democratic procedures. The MoUs were closely related to these treaties and further synchronized, coordinated, and continued the supervision of a common currency and European integration. Implementing them was therefore a valid exercise of sovereignty. Karavokyris would reiterate this argument: "The will of the state to become a member of the Eurozone, with all the commitments that this entails, and its jurisdiction to decide or consent to the adoption of the MoU's, confirm its choice as an autonomous state, as a self-governed subject, which confesses, in exactly the same way as between individuals and the state in the social contract, its dependence on the EU and its institutions, as the latter ensure, through this obligation, its self-preservation." What we had in the case of the MoUs was nothing but a "reproduction, at a European level, of the form of voluntary submission that exists within each state". Karavokyris 2014: 78–79.

[423] Decision 668/2012, point 35, available online.

This situation prompted the inevitable question, "Was it thus an economic emergency that the country was facing or was it rather an EU legal requirement to follow a certain economic policy?" (Ibid: 192)

From the perspective of austerity's designers, there was nothing contradictory about this. Greece had landed into an economic crisis due to a lack of substantial fiscal discipline, and the aim of the restructuring process was to ensure that the country's immediate repayment obligations would be met and that it would not end up in a similar situation in the future. This appeal to creating a long-standing structure (or a rules-based order) that would prevent similar economic distress in the aftermath enjoyed broad support. On the one hand, Greece's economic and political elites could push through changes to facilitate higher rates of profit (by drastically lowering the costs of labour and reproduction costs). On the other hand, this formulation appealed to those who had understood the outbreak of the crisis as the culmination of long-standing pathologies in Greece's social order. It was this semblance of "objectivity" that determined (and continues to determine) the support of a section of the Greek population for the reforms, presenting the restructuring as "harsh but necessary". The StE's ruling sought to legitimize this narrative.

The only problem here, of course, is that this was false. If Greece ended up where it did in 2010, it was not because its pathologies forced it to deviate from the dominant economic model. Rather, it was precisely because *despite* them, Greece followed that model too closely.[424] Relying on cheap credit to fuel "economic growth" was not a divergence from the dominant model of the 2000s; it was its affirmation, and one strongly facilitated by the increased profitability it generated for the banking sectors of core European countries. Greece's structural problems (e.g. low concentration of capital, relentless bureaucracy, clientelism) *adapted* to this situation; they did not generate it. In any case, the economic restructuring that was imposed was neither concerned with nor designed to overcome these problems. If there was *one* specific "pathogeny" that both the Greek ruling class and the Troika sought to eradicate, it was the historically persistent power of labour and Greee's inability or unwillingness of both state and private capital to drive down the costs of wages, pensions, and benefits *below productivity*. In other words, the pathogeny of class struggle.

On a final note, the StE's constitutional justification of the MoU reforms as serving the "general public interest" represented a specific endorsement of an ideologically charged economic doctrine that presents the supremacy of creditors' interests and fiscal discipline as objective interests, identical with the "public good". As Alasdair Roberts has shown in *Logic of Discipline*, far from any claim to objectivity, this logic represents the dominant framework for implementing reforms since decades, one characterized by scepticism towards "democratic processes and the desire to transfer authority to new

[424] The trajectory of Greece's capital accumulation model (involving, inter alia, the decline of an already small manufacturing sector after EU membership exposed its lack of competitiveness, focus on service and public sector with low productivity increases, and consistent current account deficits) is an oft-neglected historical aspect of the structural imbalances between EMU members that no amount of rules and treaties could overcome.

groups of technocrat-guardians" (Roberts 2010: 6)[425] In this context, the specific form of economic and social restructuring in Greece after 2010 was never merely a response to an immediate funding crisis. It was an accelerated and ruthlessly enforced attempt to further Greek economic integration into a model geared towards maintaining fiscal discipline despite the social cost. This is the main reason why the interests of the Troika and the Greek state and ruling class were aligned: contrary to those who saw in the economic restructuring a weakening of sovereignty, the process was one of strengthening the Greek state vis-à-vis its labour market.[426]

Identifying the underlying economic dogma that informed the StE ruling does not necessarily render the restructuring process unconstitutional. As already noted, the Greek constitution contains several clauses that allow for austerity measures, especially when a situation of urgency is taken for granted. However, given that constitutions are historical documents open to interpretation by courts and other bodies, the argument remains ambiguous. While the constitution allows its principles to be violated under certain circumstances, such as during a state of urgency or when the "general public interest" is engaged, such violations must be limited. Thus, constitutional overview can demand that these violations are temporary and exceptional, while also ensuring their adherence to principles of equality and proportionality.[427]

From this viewpoint, an examination of the performance of the Portuguese Constitutional Court (PCT), during the same period and under similar conditions of economic restructuring, exposes the weakness of the legal reasoning in the Greek case. With a national constitution similar to Greece's,[428] and after an initial period in 2011 when it held austerity to be constitutional on the basis of the same arguments as the StE,[429] the PCT embarked on what has been described as "judicial activism", declaring a series of austerity measures unconstitutional. Among other things, the PCT argued that attacks on public sector workers violated the principles of equality, legitimate expectations, and proportionality,

[425] As Roberts (2010: 3) explains, "the logic has two components. The first component makes the case for reform. This argument usually begins with an expression of deep scepticism about the merits of conventional methods of democratic governance, which are thought to produce policies that are short-sighted, unstable, or designed to satisfy the selfish concerns of powerful voting blocs, well-organized special interests, and the bureaucracy itself. This argument ends with a call for reforms that will promote policies that are farsighted, consistent over time, and crafted to serve the general interest."

[426] This is an aspect of both the EMU and the crisis management consistently mystified by the left-nationalist appeal to national sovereignty. Contrary to the view that it is a shield against globalized capital, the purpose of every nation-state is to discipline its labour market so as to increase its competitiveness in the global economy. As Bonefeld (2019: 45) contends, the EMU "integrates the member states as the federated executive states of supranational rules", while remaining "dependent upon the capacity of the constituent member states to govern accordingly".

[427] The Portuguese, Spanish, and Italian Constitutional Courts also consider the suspension of rights to be constitutionally justifiable when the measures in question are exceptional, transient, non-arbitrary, and directly relevant. See Fasone, "Constitutional Courts".

[428] It is not coincidental that both the Portuguese and Greek constitutions were drawn up immediately after the collapse of their respective dictatorships in the mid-1970s, during a tense historical period characterized by increased class struggle and democratic demands.

[429] The PCT asserted that the constitutional protection of wages did not signify the exact amount of such wages, and that a percentage cut was therefore within its framework. Moreover, the PCT accepted the urgency of the situation, and the duration and admissibility of the cuts, while also practicing judicial deference by declaring its technical inadequacy to evaluate fiscal policy. .

while also challenging their "necessity" by questioning whether the measures were the "only possible" or "least painful" ones. From 2013 onwards, the PCT continued to defy the constitutionality of various (but not all) economic reforms, by presenting their effects as cumulative and therefore as exacerbating the unconstitutional "difference of treatment" they had already observed (but acquiesced in) in 2011–12.

The example of Portugal could be (and has been thought to be) an indication that a constitutional order may be used as a shield against the devastating austerity that fiscal disciplinary measures bring about,[430] and also as an illustration of how social rights may be prioritized as against creditor protection. Compared to its Greek, Spanish, and Italian counterparts, the PCT's "judicial activism" appears to diverge sharply, and has been analyzed by different commentators by reference to social movements (Engelhardt 2017: 8) the composition of the court and its appointments procedure (Fasone 2014) and even the simple fact that PCT judges are not exempt from wage cutbacks (Engelhardt 2017).

But a closer look at the actual effects of the PCT's actions shows that this differentiation is also exaggerated. Framed within (and not outside) the overall state mechanism and its objectives, the PCT's declarations of unconstitutionality were often suspended by the Court itself, in view of the consequences they might have for public finance and Portugal's position in the EU.[431] In parallel, the unconstitutionality of certain reforms was declared *ex nunc*, i.e. with no retroactive power, thereby legitimizing previous reductions. Even when the PCT's rulings successfully blocked cuts in wages and allowances, the subsequent fiscal gap vis-à-vis the MoU program was "closed by additional measures" (European Commission 2013) in other sectors.[432] For this reason, the efficacy in mitigating the implementation of austerity through constitutional means remains highly questionable.[433]

Constitutional law, like all other forms of law, reflects social conflict and class struggle. As the examples of Greece and Portugal show, constitutions emulate the social pressures of the historical period during which they are drawn up, engraving their demands and compromises within a legal order. Insofar as law freezes historical time, traces of past struggles are reified in its structures. But this process of reification makes past gains appear as things–as legal rights provided by an alien structure, the state. This process not only lends constitutional law a "phantom objectivity" and an "autonomy that seems so strictly rational and all-embracing as to conceal every trace of its fundamental nature" (Lukács 1923:

[430] In its seventh evaluation of Portugal's "economic adjustment programme", the European Commission warned that "the package faces risks of a political and legal nature, such as the consistency of the measures with the Portuguese Constitution". For this reason, it stated, it was important to "[t]ake a number of steps aiming at mitigating the legal risks from future potential Constitutional Court rulings". European Commission 2013: 20, 72, 20, 72.
[431] "In *Acórdão* no. 353/2012, while the Court declared the suspension of allowances unconstitutional, it did not go as far as to irremediably impair the governments' duties and commitments vis-à-vis the other Eurozone countries and the Troika …. The Court considered that the consequence of a declaration of unconstitutionality, namely the annulment of the law *ex tunc*, could have put the state's solvency in danger." Fasone 2014: 27.
[432] See Fasone 2014.
[433] As Bonefeld has observed, "[w]hether the liberal rule of law applies is not a matter of law–it is a matter of sovereign decision about the validity of the rule of law in given conditions of social order". Bonefeld 2022.

83). It also indicates that the very framework within which those past achievements exist is no longer a conflictual site of direct negotiation and compromise. It becomes, instead, an internal element of the state.

In cases such as Greece, these residual elements continued to inform social and legal practice and were a reflection (but not a cause) of the slower integration within the macroeconomic layer of the EMU's constitutional order. In other countries, where social conflicts had disappeared from view and capital had been able to reassert its dynamic, an attempt to push back compromises coded in law prevailed. Italy presents a characteristic example: whereas the radical explosion of the 1960s and 1970s had forced the Italian Constitutional Court to defend social and economic rights at the expense of fiscal discipline, the reversal of this dynamic from the late 1980s onwards was also reflected in a reorientation of judicial overview. The result was the "landmark judgement no. 455/1990 [in which] the Court developed a 'balancing test' to accommodate social rights protection with the shortage and distribution of fiscal resources" (Fasone 2014: 17).

The process of EMU integration was focused primarily on transferring monetary policy to a central bank tasked with controlling and stabilizing the currency, while encasing strict fiscal rules within a constitutional order of treaties and agreements. The eventual outbreak of the Eurozone crisis in 2010 indicated that the specific setup for subordinating fiscal policy to a rules-based order and ECB monetary control did not deliver the results that were hoped. But it did not alter the foundational structure or purpose of the EMU. Instead, it led to its forceful reaffirmation, using the opportunity afforded by the crisis to impose fiscal discipline on countries excluded from international markets. But what emerged alongside was equally crucial: understanding constitutionalization as a *process*, the goal remained one of establishing a uniform constitutional order reflective of the underlying macroeconomic targets of the EMU, a continuous "dialogue" between law and economic policy. In this context, "de-politicizing" economic policy and embedding fiscal discipline also meant a process of overcoming the historically contingent balance of forces reflected in each national legal order. EMU integration means affording market freedoms supremacy over social rights, even in their reified form.

This task of reaffirming the legal and constitutional framework within which economic activity can take place did not fully belong to the "rescue packages", which acted mostly as impromptu vehicles of austerity with ambiguous legal and institutional status. Rather, it should be traced to a development that took place amid the radical uncertainty of the time: the conclusion of the Fiscal Compact in March 2012. Heralded as a step towards a "true fiscal stability union", this instrument underscored "the need for governments to maintain sound and sustainable public finances and the prevent a general governmental deficit becoming excessive is of essential importance to safeguard the stability of the euro area as a whole, and accordingly, requires the introduction of specific rules, including a 'balanced budget rule' and an automatic mechanism to take corrective action". As Article 3(2) of this instrument explained, member states had the duty to incorporate the "balanced budget rule" at a national level by means of "provisions of binding force and permanent character, *preferably constitutional*" (TSGC).

In conclusion, what can be observed from the above illustration is the fact that the development of the European economic constitution along the path set out by ordoliberal understandings was still obstructed by contradictory and not yet fully concomitant *national* constitutional courts and legislation, whose statues and mandates reflected their inauguration at a different historical period, under different social pressures. As we saw in the cases of Greece, Portugal and Italy, the aligning of the European economic order with national legislation was a prolonged process requiring, especially in the case of Greece, a crisis of tremendous proportions. But this is not the only conclusion that can be drawn. For the argument can be advanced that the constitutional reality of Greece and Portugal were unable to accommodate a *special* and extraordinary situation, i.e. the effects of the Eurozone crisis at both a domestic and European level. But the expose showed that one of the reasons for this lays in the fact that the separation between economic (fiscal) and monetary policy space within the EMU could not fulfill the objectives it was set out to accomplish. In other words, the ability of the Greek state to increase its deficit indicated a gap in the architectural design. Moreover, despite monetary overview and legal requirements as set out in the Maastricht Treaty and SGP were not sufficient to obstruct deficit spending. Leaving aside the usual explanations of statistical anomalies and conscious misrepresentation of the figures, it remains a fact that the structure of the EMU proved inadequate to constitutionalize low deficit spending and low debt levels.[434] At the same time, the ambiguousness of the constitutional reality in relation to austerity and the eventual side-lining of specific constitutional statutes *in the name of an emergency situation* also indicated that constitutional rules (in one or the other direction) were not, by themselves, enough to either halt or provide full support to austerity. As the case of Portugal showed, the constitutional court was in a position to – at least – divert certain spending cuts.

Such a predicament gave further impetus to those forces that promoted the national constitutionalization of balanced budgets, as we have seen with the case of the Fiscal Compact. Even there, however, the implementation was far from ideal, with many member states unable to fully incorporate the coordinates of the Fiscal Compact in the absence of a possibility for full constitutional amendments.[435] Yet, while this push towards the constitutionalization of balanced budgets (a form of institutional embedding of Buchanan's and ordoliberal's visions) was taking place, a different set of conflicts around the EMU were emerging, this time with the German constitutional court at the helm. And, to the dismay of those who continue to identify German constitutional and economic authorities as existing within an ordoliberal iron cage, the actual engagement and eventual ruling of the German court was potentially lethal for the economic order of the EMU and, in reality, rejected by ordoliberals.

[434] There is a long debate about whether Greek falsification of the deficit and spending figures is, on its own, an sufficient explanatory tool for understanding the outbreak of the Eurozone crisis. In the absence of space, suffice to say that looking at the details of these falsifications (as explained by the Eurostat reports themselves), one could well conclude that the key issue was the political *discretionary* space that allowed for such meddling with official numbers. But Greece was not alone in this, nor was it the first member state to run into trouble with the Eurostat, without however these facts putting a halt in the narrative. In reality, the choice to blame domestic discretionary space for falsifications also fit well with the concurrent narrative of presenting a global/European-level crisis as the mere consequence of Greek political mishandling.
[435] For more on the lukewarm implementation of the Fiscal Compact (and subsequent ordoliberal complaints) see Roufos 2023 (forthcoming).

The fragile constitutional order of the EMU's economic constitution[436]

On May 5th, 2020, the Federal Constitutional Court of Germany (*BVerfG*) published a ruling on the European Central Bank's (ECB) public sector bond-purchasing program (*PSPP*). In the judgement, the German court rejected the legal justification given to the program by the European Court of Justice (ECJ), declaring it "incomprehensible", and concluded that both ECB and ECJ have acted *ultra vires*, i.e., beyond the competence granted to them by the EMU Treaties. The court then demanded a new assessment of the *PSPP* program that considered its wider economic consequences, stating that in the absence of such a comprehensive evaluation, the ECB's bond purchasing program would be declared inapplicable to Germany and the Bundesbank would be instructed to stop participating in the program.

The official announcement of the BVerfG judgement[437] sent shockwaves. Writing for the *Financial Times*, Martin Sandbu argued that the "German court has set a bomb under the EU legal order" (Sandbu 2020); Katharina Pistor's article for *Project Syndicate* carried the title: "Germany's Constitutional Court goes Rogue" (Pistor 2020a). Less polemic but equally concerned, *The Economist* headlined its own coverage with "Seeing Red: Germany's highest court takes issue with the European Central Bank" (Economist 2020). Many commentaries reminded readers of the long history of controversy between the *BVerfG* and the ECJ, often around monetary policy issues. Though previous conflicts had been resolved, the May 2020 ruling brought to the fore the consequences of accumulated unease indicating past resolutions were temporary. What was also different this time around, as Tooze (2020a) pointed out, was the surrounding climate and a sense of impending doom triggered by the corona pandemic and, underlying that, the potential constitutional conflict around what was to become the ECB's pandemic purchasing programme (*PEPP*). In this overall context, the *BVerfG* ruling and its harsh language was interpreted as not merely challenging a specific aspect of ECB policy but as threatening "to sacrifice the Euro" as a whole (Pistor 2020b).

A wide range of criticisms and defences of the *BVerfG* ruling followed its announcement. Of particular interest here was a set of commentaries that attributed to the *BVerfG* decision a so-called "ordoliberal bias". For example, Henrik Enderlein, professor of Political Economy at the Hertie School of Berlin, argued on social media that the ruling reflects an attempt to push the ECB to "internalize ordoliberal thinking ex-ante". Similarly, de Cabanes (2020) saw an "ordoliberal paradigm at the root of the *BVerfG* decision", a position further developed in de Cabanes & Fontan (2020), which described the court's decision as triggered by the "divergence of the ECB from the ordoliberal conception of central banking". On his part, Michael Wendl, writing for the left-wing *OXI* journal, saw "dogmatic ordoliberals" behind the decision (Wendl 2020).

From a certain perspective, these assertions need to be taken seriously. Insisting on a strict interpretation of the ECB mandate, the *BVerfG* could be seen as promoting an ordoliberal-inspired

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[436] A version of this was submitted for publication at the *Constitutional Political Economy* Journal.
[437] Bundesverfassungsgericht [BVerfG], Case No. 2 BvR 859/15, May 5, 2020 [hereinafter *BVerfG PSPP*].

‘rules-based approach’ standing in opposition to a perceived tendency to disregard a commonly accepted regulatory framework. Similarly, the appeal for a consideration of the wider implications and consequences of the bond purchasing programme could be interpreted as reflecting a concern about ‘market conforming’ (Röpke 1942) policies or a sensitivity towards the ‘inter-dependence of orders’ (Eucken 1940: 298-299). Lastly, a constitutional intervention that seeks to limit what is perceived as discretionary (or *politicised*) monetary policy could also be seen as concomitant with the ordoliberal vision. The notion that a *politicised* monetary policy threatens central banking independence (CBI) through debt monetization or monetary financing is a historically consistent ordoliberal viewpoint.

A closer look, however, reveals several contradictions. To start with, some commentators argued that it was the *BVerfG* ruling itself that threatened the ECB’s independence. This was highlighted by pointing out that the *BVerfG* was not merely reminding the ECB of constitutional rules and mandates but was directly challenging the central bank’s (technical) capacity to comprehend the consequences of its own monetary policy actions. By insisting on a thorough and transparent assessment of a very particular interpretation of *proportionality* in relation to the economic consequences of the *PSPP* (Pistor 2020b), it could even be argued that the *BVerfG* was giving *instructions* to the ECB on how to draw up monetary policy, something strictly forbidden in the Treaties. As Sandbu noted at the time, there was something deeply ironic in demanding that “the ECB subjects its independence to the EU’s fiscal and economic objectives” (Sandbu 2020), let alone in interpreting such a request as an ordoliberal position. A similar argument could be advanced in relation to the *BVerfG*’s demand that, should no adequate proportional assessment be provided, the Bundesbank should stop participating in the *PSPP* – indicating another case of *instructing* an independent central bank. By calling on the Bundesbank, a member of the European Central Bank System (ECBS), to ignore its legal obligations to follow ECB policy the German constitutional court could be seen as infringing on the Bundesbank’s independence.[438] Finally, the *BVerfG* ruling could be interpreted as undermining the capacity of the ECJ to supervise and interpret EU law, thereby challenging the constitutional primacy of EU law. Such an approach could be conceptualized as contradicting the ordoliberal embrace of a supranational economic constitution. In a final note, what seems to complicate the ‘ordoliberal bias’ position even more, is the fact that leading contemporary ordoliberal figures, such as Lars P. Feld of the *Walter Eucken Institute* and advisor to the *BVerfG* for its May 20202 decision, criticized the ruling.

[438] TEFU Art. 130, which grants independence to the ECB by forbidding any instructions handed out by EU or member state institutions, bodies etc., spells out the same exact condition for national central banks. While the BVerfG saw no contradiction here. Having declared the ECB/ECJ as *ultra vires*, the Federal Court considered the subsequent instruction towards the Bundesbank to present “no conflict with the independence afforded to the ECB and the Bundesbank (Art. 130, Art. 282 TFEU, Art. 88(2) GG)” (BVerfG PSPP, §232). This approach, however, “fails to recognize the institutional distinction between a national central bank and its function in the system of European central banks.” (Wendl 2020).

EU law primacy and the 'precarious constitutional dialogue'

There is sufficient evidence to indicate that the relationship between the *BVerfG* and ECJ has not always been smooth. At the epicentre of this lies the fact that, although far from being the only national constitutional court to do so, the *BVerfG* has maintained, more forcefully than other courts, the right (and duty) for itself to make the final decision on whether EU legislation or policy is compatible with the German constitution and its understanding of the process of European integration. This approach represents an unsolved controversy around EU law primacy over domestic/national law, and thus on the overall legal order of the EU.

Since the 1964 Costa vs ENEL ruling[439], the legal order of the EU has been widely interpreted as giving European community law supremacy over domestic/constitutional law. According to Fabbrini, the reasoning behind this is straightforward: if the aim is to establish a functioning legal order, the application of EU law has to be uniform across all member states, an arrangement that further requires a European institution to oversee that uniformity. If, by contrast, each member state got to unilaterally decide which part of EU law they would adhere to, there would be no substantial basis to speak of an EU legal order and, by extension, of a common market ruled by a common legal framework.[440] In many legal commentaries, this has often been described as the optimal way through which power asymmetries within the EU can be counteracted and filtered.[441]

While the German court has, alongside all other EU member states, formally accepted this predicament, it has in reality only done so after adding a specific component: namely, that "the precedence of community law only extends as far as the Federal Republic of Germany has actually conferred competences to the EU".[442] From this perspective, the *BVerfG* accepts a "priority of application" (*Anwendungsvorrang*) for EU law, but retains the power to determine whether measures taken by EU institutions are covered by given competence,[443] thereby denying the ECJ's "exclusive competence to decide on the definite meaning and validity of EU law" (Lindeboom 2020: 1034).

For the *BVerfG*, there is no contradiction involved in this approach. Originating in its 1974 *Solange* decision, the German constitutional court had ruled that the transfer of sovereignty to international institutions is acceptable only to the degree that it does not amend the GG or alter the constitutional identity of the German state. So long as (*Solange*) EU law does not contain "a valid catalogue of

[439] Case 6/64, Costa v. E.N.E.L., 1964 E.C.R. 585 (1964).
[440] Fabbrini argues that the *BVerfG*'s interpretation employs a "bilateral framework" to conceptualize its relation to the EU, whereas the appropriate viewpoint for a supranational institution would be one of a "multilateral context". Otherwise, "[if] a single member state's (highest court) could claim to decide unilaterally on the validity of EU law, this would put it above the other states, creating a situation of inequality where the law applies to some EU member states but not to others." (Fabbrini 2015: 1006) This approach was recently criticized by Lindeboom, pointing at the fact that "equality of Member States" is "a goal, not a means". See Lindeboom 2020: 1033.
[441] For a liberal approach that conceptualizes supranational institutions as 'perfecting' democracy rather than producing a democratic deficit, see Neyer (2012). For a critical discussion of this 'bourgeois dogma', from a perspective of 'cosmopolitan citizenship' see Somek (2014).
[442] Grimm 2020: 944
[443] In the specific case at hand, the fact that the *BVerfG* first initiated a referral to the ECJ has been used as an argument to show that it does not consider itself above the ECJ. As will be argued, the problem with this approach is that in both referrals, the *BVerfG* in fact demanded the ECJ to confirm its methodology and conclusion lest it is found to be acting *ultra vires*.

fundamental rights" like the ones protected by the GG's eternity clause, the *BVerfG* retained the right to investigate the domestic applicability of EU law.[444]

Defining constitutionality (and "constitutional identity") as a feature of political sovereignty that remains rooted within member states and given that the EU does not consist of one federal state but a supra-national institution, national constitutional law continues to hold a crucial role. In the same way that the EU as a whole exists through the competences granted to it by sovereign Member States, its legal order has to reflect a similar dynamic. Grounded on the context of a willing transferal of power but confined, in the opinion of the *BVerfG*, by the 'eternity clause' of the *Grundgesetz*,[445] the process of integration remains for that reason "limited and reversible and must not exceed the scope of competences that national constitutions allow their governments to confer" (Kelemen 2016: 141-142). Despite its controversial essence, the *Solange* ruling never ignited a constitutional conflict between the *BVerfG* and the ECJ, leaving the issue dormant. And although no "catalogue of fundamental rights" was ever produced by European legislators, the "ECJ elaborated a fundamental rights jurisprudence based on general principles drawn from legal traditions of member states" (Collings 2015: 144-5). This did not, however, make the problem disappear as many had hoped. As we shall see, the constitutional conflicts that emerged in the future would be centred around this ambiguity.

The central problem with the *BVerfG*'s *Solange* reasoning was the unavoidable fact that questions of conferral, as much as other legal issues, remain subject to interpretation. While both courts acknowledge the dynamic essence of law and the necessity of judicial overview of the application of constitutional law, a real problem arises when there is a conflict of interpretation. In such a predicament, if the ECJ is not exclusively competent to provide a "uniform interpretation" of EU law (as ECJ President Lenaerts argued in an interview shortly after the *BVerfG* PSPP ruling)[446], the absence of a path for closure through a 'final authority' creates a void inside the legal order of the EU that renders conflict resolution untenable.[447] Especially in the context of interpreting questions of monetary policy, as we shall see, *Solange* imposed an irreconcilable ambiguity.

Monetary and economic policy are as dynamic as law. ECB competence presupposes the central bank's continued evaluation of existing conditions and the monitoring of developments for conducting its policy within its given mandate. From this perspective, a preliminary observation can be made: the fact that until 2014 the *BVerfG* never saw ECB policy as moving beyond its mandate, as potentially contradicting the *Grundgesetz* or the protected fundamental rights, was not merely a legal interpretation of competence use. It also indicated *BVerfG* acquiescence to the underlying political

[444] For a summary of the decision and the controversy it ignited see Collings 2015: 144-148.
[445] Art. 79 of the Basic Law (GG) states that the principles laid out in Articles 1 to 20, the separation of Germany into Länder and participation in the legislative process (laid out in Article 38 GG) cannot be amended even by parliament. For the BVERFG, constitutional identity itself is grounded on a process whereby the "democratic legitimation by the people of public authority exercised in Germany belongs to the essential contents of the principle of the sovereignty of the people" – as the BVerfG reminded in its BVerfG PSPP, para. 101).
[446] The interview was given to the Dutch newspaper NRC on May 17th, 2020.
[447] See Collings 2015: 144-146 for the first instance of such a conflict between the *BVerfG* and the *ECJ*.

economy of ECB policy. Correspondingly, the German court's objections from 2014 onwards were animated by arguments that were presented as questions of legal interpretation but were also informed by evaluations of the political economy that informed monetary policy.

The Eurozone crisis

If the first two years after the outbreak of the Eurozone crisis produced a doubling-down on the fundamental Maastricht (and SGP) coordinates by EMU institutions, spearheaded by ECB president J.C. Trichet's conservative policies and the austerity direction of "financial assistance programs" of the Troika (European Commission, ECB and IMF), increased anxiety over the effectiveness of such measures for the stability of the Euro Area *as a whole*, forced the exploration of other, so-called unconventional policies.[448] If the first example was the creation of the European Stability Mechanism (ESM) in October 2012,[449] a more pronounced indication of this new direction came when newly elected ECB president Mario Draghi announced that the ECB was prepared to do 'whatever it takes within its mandate' to save the Euro. This iconic gesture was not only signalling the willingness to follow the path of the US Federal Reserve and its adoption of a bond purchasing program but was also making a statement about restricting crisis management to the imposition of budgetary discipline on fiscally recalcitrant peripheral Member States. To be clear, enforcing 'sound budgets' was never as such abandoned. But an approach that saw such a policy as suitable for restoring stability in the *whole Euro area* was rejected.

Draghi's operationalization plan for the 'whatever it takes' comment was translated in the Outright Monetary Transaction (OMT) program,[450] prompting a turn to the field of bond purchases at a much larger scale than the limited, temporally and geographically, SMP. But the question of whether such a policy remained within the ECB's mandate became a central point of (constitutional and other) contestation (De Boer & Klooster 2020). More particularly, since the question of the ECB mandate is directly connected to questions of EU institutional competence, the 'protracted ambiguity' (Fabbrini 2015: 1005) of the EU's legal order came back to the foreground. Thus, in its otherwise supportive ruling on the Lisbon Treaty in 2009, the *BVerfG* had drawn attention to a tendency of EU institutions towards "self-enhancement" (*BVerfG Lisbon* 2009: §237) and competence expansion.[451] Furthermore,

[448] One should also add, in this context, the creation of three separate funds and programmes: the (temporary) European Financial Stability Fund (EFSF), meant to provide overall financial stability; the European Financial Stability Mechanism (EFSM) specifically targeting Member States experiencing 'severe financial difficulties'; and the Securities Markets Program (SMP), under which the ECB undertook small bond-purchases in the secondary markets, designed to avoid affecting the money supply through 'sterilization' (i.e. the re-absorption of these highly liquid deposits through fine-tuning operations into fixed-term deposits). See ECB 2010.

[449] According to the ECB, the ESM is "a permanent crisis management mechanism for the euro area which issues debt instruments in order to finance loans and other forms of financial assistance to euro area countries. The ESM entered into force on 8 October 2012 and replaced both the European Financial Stability Facility and the European Financial Stabilisation Mechanism. ESM lending is subject to strict conditionality."

[450] Among other technical features of the program, IMF involvement was prefigured "for the design of the country-specific conditionality and monitoring of such a program" ECB (2012).

[451] "[…] it must be possible within the German jurisdiction to assert the responsibility for integration if obvious transgressions of the boundaries occur when the European Union claims competences - this has also been emphasized by the agents of the

the German court pointed its fingers towards the ECJ as the driving force behind this gradual erosion (Grimm 2020: 946)[452], warning that such a development could, per *Solange*, force the German court to intervene through *ultra vires* review and contest the domestic applicability of EU law as a means for "protecting the constitutional identity of the state" (Fabbrini 2015: 1005).[453]

Pringle, 2012

The first constitutional challenge against the new direction taken in the EMU did not come from the *BVerfG*. Initiated by Thomas Pringle, a left-wing independent member of Irish parliament, it concerned the creation of the European Stability Mechanism (ESM). With an initial firepower of more than €700 billion, the ESM was authorized to provide loans, credit lines, bank recapitalizations (via loans to governments), as well as to purchase bonds issued by ESM member states in both primary and secondary bond markets (ESM 2012). The creation of the ESM had the full backing of EU institutions, and it included an amendment to Art. 136 TFEU[454], allowing for the establishment of a permanent stability mechanism "if indispensable to safeguard the stability of the euro area as a whole". It emerged after a direct recommendation of the European Council and an endorsement by the ECB, which had already called for a 'quantum leap' in the economic governance of economic and monetary union" (ECB 2011), suggesting the creation of "a permanent crisis management framework which can, as ultima ratio, provide temporary financial support to Member States whose currency is the euro experiencing impaired access to market financing".

Pringle's challenge to the ESM focused on two key issues: one the one hand, the ESM mechanism was seen as creating an overlap between economic and monetary policy, the separation of which was foreseen in the EMU's architectural design and Treaties.[455] On the other hand, but closely connected, the ESM was accused of violating the 'no bailout' clause (Art. 125 TFEU).[456] As noted by

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German Bundestag and of the Federal Government in the oral hearing - and to preserve the inviolable core content of the Basic Law's constitutional identity by means of a identity review […] The Federal Constitutional Court has already opened up the way of the ultra vires review for this, which applies where Community and Union institutions transgress the boundaries of their competences. If legal protection cannot be obtained at the Union level, the Federal Constitutional Court examines whether legal instruments of the European institutions and bodies keep within the boundaries of the sovereign powers accorded to them by way of conferral." *BVerfG Lisbon*, § 240.

[452] Kumm notes that it was already since its Maastricht decision that the *BVerfG* identified "[…] the ECJ itself is an actor that might act ultra vires in its interpretation of the EU's competencies." Kumm 2014: 205

[453] Intriguingly, according to *BVerfG Lisbon*, the most suitable safeguard of national sovereignty was the codified existence of the right to withdraw from the EU provided by Article 50 (the very same article the UK activated for Brexit). As it argued, "the continued existence of sovereign state authority is also shown in the right to withdraw from the European Union and is protected by the Federal Constitutional Court's right to pass a final judgment (4)." *BVerfG Lisbon*, § 299.

[454] The new amendment, ratified in 2013, read: "The Member States whose currency is the euro may establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality". See European Parliament (2013).

[455] "In an Economic and Monetary Union in which monetary policy competence is located with the ESCB, while economic and fiscal policy competence remains in principle with the member states, special rules are required for the coordination and control of the economic and fiscal policies of the member states and for the demarcation of monetary policy from economic and fiscal policy." Kronberger Kreis, Feld et al 2016: 7

[456] Art. 125 TFEU states that "The Union shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of any Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project. A Member State shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public

many commentators (see Borger 2013), the necessity of responding to the legal challenge and defending the ESM marked a significant shift in the constitutional/legal understanding and interpretation of both the 'no bailout clause' and the separation of monetary and economic policy.
As Borger (2013) noted, the *ECJ Pringle* ruling gave the opportunity to the European court to expand its interpretation of Art. 125.[457] Innovatively, the ECJ declared that the monetary objective of the ECB, 'price stability', was "clearly distinct" from the objective pursued by the ESM mechanism, which was to "safeguard the stability of the euro area as a whole" (*ECJ Pringle* §56). This differentiation between price stability as a monetary target and the stability of the euro area as a whole was pivotal. Until that point, the macroeconomic architecture of the EMU and its crisis management was based on two principles seen as inseparable: (a) enforcing budget discipline (in accordance to the Maastricht, the SGP and Lisbon Treaties) as a means for (b) safeguarding price stability.

The new interpretation of the ECJ, however, split these two principles apart, as it asserted that enforcing budget discipline by adhering to the 'no bailout' clause could, in itself, contradict the goal of price stability. In the ECJ's view, Art. 125 did not prohibit all financial assistance (such a reading would in any case cancel out Art. 122)[458] but merely necessitated a clear determination of the *conditions* under which such financial assistance could be provided. To the extent that financial assistance remained "within the logic of the market and maintain[ed] budget discipline" (*ECJ Pringle* §135), its provision was legitimate and justified. In other words, as Borger (2013) explained, the ECJ claimed that while refusing to provide financial assistance to a Member State under financial difficulty might have satisfied the 'no bailout' clause of the Treaty, it contradicted the aim of stabilizing the Euro area as a whole. To be sure, strict conditionalities accompanied any financial assistance with the aim of maintaining budget disciplining, but a conceptual and practical shift had taken place. The financial stability of the euro area as a whole was no longer guaranteed by sound budgets but required the provision of financial assistance. At the time, the *BVerfG* accepted this interpretation since key elements of the *Stabilitätsgemeinschaft* ('stability union') – such as the prohibition of monetary financing and the obligation to avoid excessive deficits – remained in place. To the extent that the ESM was not positioning itself as a guarantor of Member State's debts, a form of debt mutualization incompatible with the Maastricht Treaty, it was not seen as violating the 'no bailout' clause. It is crucial to note, however, that the ability of the ECJ to argue (and convince the *BVerfG*) about the distinct quality of the ESM mechanism rested on the fact that the mechanism fell "within the area of economic policy because it complements the existing policy

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law, or public undertakings of another Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project."

[457] Even better: to legally sanction an interpretation that Member States were *already following*. I owe this clarification to Marijn Van Der Sluis.

[458] Art. 122 states: "(1) Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy. (2). Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, the Council, on a proposal from the Commission, may grant, under certain conditions, Union financial assistance to the Member State concerned. The President of the Council shall inform the European Parliament of the decision taken."

framework of the Union".[459] In this sense, it was not responsible for conflating monetary and economic policy.

Another notable conclusion of the ECJ's *Pringle* ruling was the subtle allusion to the failure of market forces to ensure sound policies, despite the clear presence of such an approach in the architectural design of the EMU, which had foreseen market pressure as the external constraint that would ensure discipline for economic policy which remained within member state competences. As Borger notes, "by subjecting financial assistance to strict conditions, the emergency funds [were] meant to achieve what the markets could not: inducing Member States to maintain budgetary discipline and pursue economic reforms" (Borger 2013: 136). The approach was almost identical to one found in the *BVerfG* ruling on the Greek bailout program of 2010.[460]

OMT and Gauweiler, 2014

The first challenge to ECB policy by the *BVerfG* came after the announcement of the OMT program. Contrary to the ESM mechanism, the OMT program was a monetary measure directed towards Euro area member states hit by the crisis, promising an unlimited purchase of government bonds, subject to strict conditionalities. Although the program itself was never actually implemented, the *BVerfG* acknowledged plaintiff objections as admissible, thereafter following protocol and issuing its first referral for a preliminary ruling by the ECJ. In that referral, the German court questioned the compatibility of the OMT with the ECB mandate, while also investigating its compliance with "the prohibition of monetary financing of the budget" (*BVerfG Gauweiler Referral* § 55). A verification of these violations, essentially demanded by the German court, would render the OMT program an *ultra vires* act and would, therefore, be inapplicable within Germany (*BVerfG Gauweiler Referral,* § 44). As Sauer (2015: 998) rightly pointed out, the *BVerfG* had effectively forced itself in a rather awkward position. Following an update to the *Solange* approach in *Honeywell* (2010) and, ironically enough, in the name of *Europarechtsfreundlichkeit* (friendliness towards EU law), the German court had established the necessity "of a manifest and grave transgression of EU competences" as a prerequisite for making any referrals to the ECJ. What had appeared as a legal argument that would make judicial referrals to the *ECJ* an exceptional and therefore rare occasion, was now forcing the court to dress its appeal to the ECJ in harsh language and open threats.

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[459] See Borger 2013: 123, my emphasis. Such a differentiation would be later utilized by Lars P. Feld to indicate that one of the BVERFG's concerns in relation to the PSPP was the fear that it was moving in the territory of economic policy, 'just like the ESM': "The PSPP program may have the same effects as financial assistance programs of the ESM, which are economic policy measures under the purview of the Member States." See, Feld, Lars P & Wieland, Volker (2020c) p. 6

[460] "It is true that Article 125 TFEU is intended to preserve the budgetary discipline of the Member States by obliging them to take out loans on market conditions. For this reason, a narrow interpretation of Article 125 TFEU may suggest forgoing measures of assistance even where there are imminent dangers to financial stability. However, if the Member States had forgone the measures challenged by the constitutional complaint, serious consequences would have had to be feared, not only for the euro area. Every mechanical application of Article 125 TFEU would have considerably endangered the economy and also the currency in the euro area and beyond." See BVerfG (2011)

The ECJ responded by rejecting the *BVerfG*'s suggested methodology. While recognising the concern around the violation of Art. 123 (1) over monetary financing,[461] as well the question of the OMT's compatibility with the ECB's mandate, the European court concurred that the purpose of Art. 123 (1) in encouraging "Member States to follow a sound budgetary policy, not allowing monetary financing of public deficits or privileged access by public authorities to the financial markets to lead to excessively high levels of debt or excessive Member State deficits" (*ECJ Gauweiler* §100), the ECB had included sufficient safeguards in the OMT program,[462] annulling the threat of direct monetary financing or the potential for Member States to circumvent sound budgetary policies.

Responding to the issue of ECB mandate compliance, the ECJ repeated an argument found in *Pringle* that "in order to determine whether a measure falls within the area of monetary policy it is appropriate to refer principally to the objectives of the measure" (*ECJ Gauweiler* §46). While the "instruments which the measure employs in order to attain those objectives are *relevant*" (my emphasis), the Court added a reference to *Pringle* where it was observed that "the FEU Treaty [...] contains no definition of monetary policy [and] refers, in its provisions relating to that policy, to the objectives, *rather than the instruments*, of monetary policy (*ECJ Pringle* §53, my emphasis).

Having established that the monetary character of a policy related to its objectives, the ECJ proceed to assert that OMT program aimed to "safeguard an appropriate monetary policy transmission and the singleness of the monetary policy" (*ECJ Gauweiler* § 47). From this perspective, even though such a program "might be capable of contributing to the stability of the euro area, which is a matter of *economic policy*" (*ECJ Gauweiler* §51, my emphasis)[463], the *monetary* objective of price stability was not to be confused with an "economic policy measure" (*ECJ Gauweiler* §52). It remained, therefore, within the ECB's mandate.

The *BVerfG* accepted the broad outlines of the ECJ ruling and refrained from implementing any of its threats. Rather than a show of weakness or of a "dog that doesn't bite" (Weiler 2009), the resolution should be interpreted as acquiescence to the fact that the court's key concerns (prohibition of monetary financing, budget discipline) were protected even within such new and unconventional measures. Nonetheless, as Lang correctly points out, the resolution also indicated a pivotal shift "from the fundamental question whether the ECB is at all entitled to resort to such an unconventional bond-buying program to the question of the specific conditions for such a program" (Lang 2018: 928).

[461] Art. 123 (1): "Overdraft facilities or any other type of credit facility with the European Central Bank or with the central banks of the Member States (hereinafter referred to as 'national central banks') in favour of Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the European Central Bank or national central banks of debt instruments."

[462] Such as 'limiting that program to certain types of bonds issued only by those Member States which are undergoing a structural adjustment program" (ECJ Gauweiler § 116, 120) or the fact that "the ESCB has the option of selling the purchased bonds at any time" (§ 117).

[463] Compare with ECJ Pringle, para. 56: "As regards, first, the objective pursued by that mechanism, which is to safeguard the stability of the euro area as a whole, that is clearly distinct from the objective of maintaining price stability, which is the primary objective of the Union's monetary policy. Even though the stability of the euro area may have repercussions on the stability of the currency used within that area, an economic policy measure cannot be treated as equivalent to a monetary policy measure for the sole reason that it may have indirect effects on the stability of the euro."

From Weiss to BVERFG PSPP, 2017

If the OMT was an instrument aiming at the stability of the euro area in a moment of acute crisis, the next *BVerfG* referral for a preliminary ruling by the ECJ came as a result of the PSPP program, a government bond purchasing scheme adopted in 2015 with the explicit aim of responding to the threat of deflation (see *ECJ Weiss* §56, 67, 74, 80). In this second referral, submitted in July 2017, the *BVerfG* essentially repeated its concerns about monetary financing and ECB mandate violation, while also adding a further concern around loss sharing in relation to the bond purchasing program.

Some commentators rushed to qualify this referral as bringing down the tones. For Lang (2018), there was a crucial change in the language between the *BVerfG*'s *Gauweiler* and the *PSPP Referral*. In his view, although the tone and style in the *Gauweiler Referral* remained threatening (arguing that unless the ECJ adopts the *BVerfG*'s interpretation, the German court will find the program *ultra vires* and therefore inapplicable in Germany), Lang saw no "disguised threat" in the *PSPP Referral*.[464] This approach led him to conclude that it "appears highly unlikely that the *BVerfG* will declare the ECB's policy of quantitative easing ultra vires in the PSPP case regardless of the ECJ's response"(Lang 2018: 936). That prediction, as we will see, ended up being way off the mark.

The ECJ responded to the German court by issuing its *Weiss* ruling in December 2018. After clarifying that a "judgement by the (European) Court is binding on the national court" (*ECJ Weiss* §19), it effectively re-asserted most of the points made in its *Gauweiler* decision. Describing the aims of the PSPP program as one aiming at achieving inflation rates close to 2 per cent, and therefore concomitant with the ECB's monetary policy aims, the ECJ rejected the mandate violation charge by stressing that the *indirect* effects of monetary policy on economic policy do not transform it into an economic one (*ECJ Weiss* §61-67). In fact, the European court argued, those effects were *essential* for monetary policy (*ECJ Weiss* §152). In addition, the ECJ re-instated that the vague definition of monetary policy in the Treaties (§50, §53) and the absence of an "absolute separation" between the two (§60), validated the interpretation of looking at objectives and instruments. Finally, the ECJ also addressed the *BVerfG*'s concern over proportionality, concluding however that proportionality was determined by 'suitability' and 'necessity', both of which were satisfied (*ECJ Weiss* §71-87).

The necessity of giving the ECB broad discretion (§24, §73) given the complex and technical issues involved was also repeated, without however such an approach annulling the need for judicial review by the ECJ (§24). As in *Gauweiler*, the European Court rejected the notion that the PSPP involved a violation of monetary financing of member states (§102-107), outlining the series of safeguards that cancel out such an interpretation (§109-128). At the same time, it challenged the suggestion that PSPP diminished the impetus for sound budgetary policies (§130-136), by describing

[464] Lang 2018: 935. Here, Lang makes the notable claim that the language itself shifts from "dürfte" (translated as "is likely to") in the OMT case to "könnte" (translated as "it may" or "it could") in the 2017 PSPP referral.

the lack of certainty in relation to future purchases, the temporary character of the program, the discretion about re-selling or keeping until maturity the purchased bonds, and the lack of guarantee about the continuity of the program. In conclusion, the ECJ saw no potential for 'market distortion' through the PSPP (§128, §132). The structure of the program ensured the absence of debt mutualization or risk sharing, as the program clarified that each national central bank was eligible to buy securities of issues of its own jurisdiction only (§96).

It should be noted that the *BVerfG*'s *PSPP Referral* did not put into question whether monetary policy measures can have economic effects in general, acknowledging that monetary policy would be incapacitated if it could not affect economic activity. The question rather concerned the extent to which these indirect effects are of a (negative) size that outweighs the (positive) results of the policy. The problem with the question however, as Van der Sluis (2019) noted, is that the *BVerfG* never specified where the threshold stood. In this way, it appeared to be setting "an arbitrary limit […] to the competence of the ECB to conduct monetary policy" (Van der Sluis 2019: 272).

Having said that, Van der Sluis continued by claiming that *ECJ Weiss* had failed "to take seriously the possibility that the ECB actually pursues other objectives under the guise of pursuing price stability, or that economic effects are disproportional to the monetary policy objective." (Van der Sluis 2019: 273). Following through this objection, however, raises an even more important question: what *other* objective could the ECB possibly be pursuing? So far, the main allegation has been that the ECB is using its programs to perform monetary financing of member states or to transfer resources in a manner forbidden by EU Treaties (Angeloni 2020). This conclusion would, however, necessitate ignoring the fact that ECB and ECJ, as well as the *BVerfG*, have thus far concluded against such an interpretation.[465]

The BVerfG PSPP ruling and its implications

In its May 2020 ruling the *BVerfG* declared itself unconvinced about the overall justification of the PSPP, arguing that its features make it impossible to ascertain whether the *PSPP* program is actually covered by existing EMU Treaties. In conjunction, the European Court's judicial review was also lacking, as it did not comprehensibly establish a methodologically acceptable assessment. As a consequence, the *PSPP* program could in fact be violating the fundamental principle of conferral (Article 5(1) TFEU), rendering its implementation *ultra vires*. The *BVerfG* repeated that the principle

[465] An alternative approach would take into account the argumentation advanced by Daniela Gabor (2021) who has pointed out that monetary financing is in fact taking place but not under the traditional understanding of the concept. Following Giovannini (2013), Gabor points out that government bond markets are structurally embedded in financial markets, taking the role of indispensable collateral for private investors. To the extent that "in the largest Eurozone money market, every two out of three euros lent by banks and institutional investors is collateralized by sovereign bonds issued by Eurozone members (Germany and Italy being the largest)" (Gabor 2021: 6), the ECB is structurally obliged to monitor and manage government debt and the transformation of the state into a "collateral factory for modern financial systems". Rather than indicating a move towards fiscal dominance, "coordination between monetary and fiscal policies is an optical illusion that masks the macro-financial – rather than fiscal – reasons behind the intervention, and that co-exists with central bank independence and inflation-targeting regimes" (Ibid.). This form of monetary financing has not been addressed or problematized by either ECB/ECJ, *BVerfG* or ordoliberals.

of conferral is a fundamental aspect of European integration that determines the *limits* of EU competences, supplemented by the principle of proportionality which concerns the *use* of said competences. Following a course of action already spelled out in its 2009 Lisbon ruling,[466] the *BVerfG* demanded a new evaluation of the program, concluding that in its absence, the policy would be rendered inapplicable in Germany and its central bank would be ordered to stop participating in it.

Central to the *BVerfG PSPP* ruling was the acclaimed lack of a proportionality assessment of the program. As Marzal (2020) noted, the *BVerfG* put forward three measurements of proportionality: the policy "must advance a legitimate purpose (*suitability*), that purpose cannot have been attained just as effectively through less costly means (*necessity*) and the benefit obtained must be proportionate to the cost incurred (*proportionality* stricto sensu)" (see also *BVerfG PSPP* §125).[467] Although willing to concede that the suitability and necessity of PSPP was successfully defended by the ECJ, the *BVerfG* asserted that these had not been "balanced against the economic policy effects" (*BVerfG PSPP* §133), rendering the whole proportionality review "limited"[468] and therefore "meaningless".

In its *PSPP Referral,* the *BVerfG* had already alluded to the question of proportionality, claiming that the "considerable economic effects" of the PSPP makes it "questionable whether the means chosen were still proportionate to achieving the proclaimed monetary policy objective" (*PSPP Referral* §122). This specific definition of proportionality was not taken up by the ECJ, which resorted to the more traditional (and common) definition of suitability and necessity (*ECJ Weiss* §71-82). But the addition of proportionality *stricto sensu* was, once again, not only reflective of a legal position. In demanding this expanded understanding of proportionality, the German court was in fact making a wider claim about the political economy behind monetary policy, something that was made visible by the renumeration of the *specific* economic effects that the *BVerfG* felt had been neglected. As it explained, the ECJ and ECB had failed to consider:

> (1) the consequences of the program on the banking sector in "improving the economic situation of the relevant banks and increasing their credit rating […] while increasing their lending despite low interest rates"; (*BVerfG PSPP* §172)
> (2) the effects of the overall program on creating real estate and stock market bubbles, while also affecting savers and insurance holders; (*BVerfG PSPP* §173)[469]
> (3) the risk of keeping economically "unviable" companies afloat; (*BVerfG PSPP* §174)

[466] "If legal protection cannot be obtained at the Union level, the Federal Constitutional Court examines whether legal instruments of the European institutions and bodies keep within the boundaries of the sovereign powers accorded to them by way of conferral." *BVerfG Lisbon* § 269

[467] This tripartite understanding of proportionality assessment has a history in German law. See Zoller (2003). Having said that, it has not been consistently used even by the *BVerfG* itself. Considering the case at hand, it is worth noting that the question of proportionality did not even appear in the German court's initial *OMT Referral*.

[468] According to the *BVerfG*, the ECJ had found ECB policy proportional with a "limited" reference to the overall monetary objectives of the policy as already expressed in Gauweiler. "[…] the principle of proportionality requires that acts of the EU institutions be appropriate for attaining the legitimate objectives pursued by the legislation at issue and do not go beyond what is necessary in order to achieve those objectives." *ECJ Gauweiler* §67.

[469] A critique of the *BVerfG*'s prioritization of savers came from Isabel Schnabel, member of the Executive Board of the ECB, who felt the need to remind that "Germany consists not only of savers, but also of borrowers, taxpayers, property owners and, of course, workers" (Schnabel 2020, my emphasis).

Alongside a rehearsal of the concerns of the PSPP improving "the refinancing conditions of the Member States", verging into "monetary financing" territory and hindering "necessary consolidation and reform measures" (*BVerfG PSPP* §170), the German court now added that since *ECJ Weiss* rendered the distinction between monetary and economic policy impossible, the independence of the ECB was jeopardised, exposing it political influence (*BVerfG PSPP* §161).

The conclusions drawn by this judicial review were, in many ways, identical to past conflicts. The *BVerfG* concluded, once again, that there is no obvious violation of Art. 123(1) to the extent that "the 'safeguards' which, according to the ECJ, prevent circumvention of the prohibition of monetary financing, are strictly observed" (*BVerfG PSPP* §180).[470] It also refrained from passing a definite judgement on the question of central bank independence and the undermining of budget discipline, allowing these concerns to linger on as potentialities. But the eventual resolution of the conflict and the manner in which it was achieved demonstrated clearly that the central consideration of the *BVerfG* was the strictly defined proportionality question. After an official request by the Bundesbank, the ECB Governing Council "authorised the Bundesbank to share with the Federal Government and the Bundestag the documents it had received from the ECB and from which the ECB Governing Council's considerations regarding the PSPP [...] were ascertainable" (*BVerfG PSPP Resolution* §101). As the Federal Government, the Finance Ministry and the Bundestag concluded that "the ECB has demonstrated, in a comprehensible manner, an assessment of proportionality with regard to the PSPP, as required by the aforementioned judgment" (Ibid: 103), the German court showed its agreement by rendering new challenges as inadmissible.

The ordoliberal approach to the BVerfG May 2020 ruling

In order to evaluate the existence of an ordoliberal bias in the *BVerfG* ruling, I have chosen to focus on self-defined ordoliberals and long-standing ordoliberal institutions. Following this approach, I have selected the work of Prof. Lars P. Feld, professor of Economic Policy at Freiburg Universität and director of the Walter Eucken Institute, and of Prof. Wieland, director of the Institute for Monetary and Financial Stability (IMFS) (former). Both have acted as members of the Council of Economic Experts (*Sachverständigenrat*) and continue to be members of the ordoliberal Kronberger Kreis.[471] This choice is justified not merely due to their position within contemporary ordoliberalism but also because they have written extensively on the constitutional conflicts related to ECB monetary policy choices. On top of that, Feld was asked by the *BVerfG* to provide expert advice on the ECB's PSPP programme.

[470] This also meant that the conditions attached to the PSPP were recognized as *absolute limits*, pre-emptively defining an outer boundary which, some have argued, was surpassed by the ECB's pandemic bond purchasing program. I owe this observation to Marijn Van der Sluis.
[471] The Kronberger Kreis is an association that acts as scientific advisor to the *Marktwirtschaft Stiftung* (Market Economy Institute) which is dedicated to the "renaissance of ordoliberal thinking in Germany and Europe".

On the day that the *BVerfG* announced its PSPP ruling, *Deutschland Funk* published an interview with Prof. Feld (Feld 2020a). At a later date, Feld exchange with the *BVerfG* was also made available as a *Diskussionspapiere* of the Walter Eucken Institute (Feld 2020b). Finally, in September 2020, Profs. Feld and Wieland published a longer paper on the *BVerfG*'s May 2020 ruling and the ECB's strategy (Feld & Wieland 2020). Cross-referencing these with a previous publication on the *ECJ Gauweiler* ruling and the ECB's mandate by the Kronberger Kreis, in which Feld and Wieland also participated (Feld et al 2020), the aim is to reconstruct the way through which ordoliberals themselves have intervened in this debate and to evaluate the affinity of their positions to those advanced by the *BVerfG*.

In the initial interview, Feld framed the context of the upcoming ruling within certain boundaries: he explained that a final decision on whether PSPP bond purchasing was *ultra vires* depended on the complex question of separating monetary and economic policy. He also foregrounded the question of proportionality and stressed the importance of establishing clear limits on the measures implemented by the ECB (Feld 2020b). The latter issue was approached from two perspectives: on the one hand, Feld noted that monetary policy does not encounter the same limits as fiscal policy. Making the argument that "in fiscal policy there is no 'whatever it takes'", Feld reminded that as far as monetary policy is concerned, "a central bank is always in a position to provide additional liquidity with its programs". On the other hand, comparing the original OMT program and the PSPP, Feld argued that while the former was announced as "unlimited ex ante" with regards to its purchasing power, the PSPP was from the beginning limited as "no more than a third of a country's government bonds may be in the ECB portfolio", while "individual bonds may not be held in a higher proportion than 25 per cent" (Feld 2020a, my translation). Crucially, Feld closed by reminding that "ultimately, the ECB is not bound by the Federal Constitutional Court, but by European Law".

In his advisory role for the *BVerfG* and referring to Art. 123(1), Feld had agreed that "in assessing the PSPP the main question is whether the ECB has acted within the scope of its mandate" and had adhered to the "prohibition of monetary budget financing". However, he quickly noted that "detecting violations of this prohibition proves to be much more difficult in detail than it might seem at first glance" for the reason that "the purchase of government bonds is part of the traditional instruments of central banks in the context of their open market operations" (Feld 2020a: 5, my translation). Concurring with the importance of a proportional assessment, which is however defined more restrictively than the *BVerfG* on the basis of whether "the objectives are suitable and necessary" (Feld 2020a: 5), Feld addresses the question of risk assumption which he also connects to proportionality, he offers a simple remedy of granting "privileged creditor status for the ECB" thereby excluding any losses in the event of a debt haircut (Ibid). Later on, he repeats the points by stressing that in the case of the PSPP program "the ECB only assumes a small part of risk" (Feld 2020a: 24). Addressing the question of proportionality from another perspective, Feld notes the difficult of a clear assessment due to a lack of counterfactual evidence, qualifying that by adding that "one would have to know whether and how much the inflation rate would have fallen without the PSPP" (Ibid: 12). Concluding by citing research done by the Council of Economic Experts, Feld asserts that there is little doubt about the suitability of the PSPP, though there might be room for disputing its necessity, a comment further clarified with reference to "the extent and duration of the measure" (Ibid: 13). In his view, "the ECB's assessment [is] justifiable" (Ibid).

Summarising that "the ECB has so far *provided specific justifications for its policy* in regular press conferences as well as in scientific studies to the public or the expert public." (Ibid: 14, emphasis on the original), Feld also points out ECB bond purchases are restricted "to ensure that they do not undermine the budgetary discipline of the member states" (Feld 2020a: 5), a point reiterated later with the clear statement that "the PSPP does not prevent the *financial markets from disciplining budget policy*." (Ibid: 15, emphasis on the original).

In his joint intervention with Prof. Wieland (Feld & Wieland 2020), the focus is also on acknowledging legitimate concerns of the *BVerfG* while assessing the reality of the ECB bond purchasing program. Though the writers refrain from commenting on the legal dispute between the two courts, they address questions of proportionality and conferral, as well as the issue of central bank independence.

In their view, the concern over proportionality and of competence conferral is correct and concomitant with the process of European integration. But they add that "such considerations have already played an important role in how the ECB Governing Council has chosen to define price stability" (Feld & Wieland 2020: 15). Without making any concrete references to the *BVerfG*'s expanded definition that includes the effects of PSPP on commercial banks, unviable companies and German savers, they propose instead a strengthening of pre-existing proportionality assessment methodology. Suggesting an exploration into "how a regular quantitative proportionality check concerning risks and negative side effects of monetary policy could be included in the strategy." (Ibid: 16), they argue that the pre-existing Monetary Cross-Checking instrument can be further enhanced, while the re-integration of the money supply reference value tool which, they add, was mistakenly abandoned by the ECB in 2005, would also facilitate the evaluation.

Rejecting the alleged threat to ECB independence in the *BVerfG PSPP* ruling, they point out that judicial review is not a threat but part of EMU integration. Pointing at the fact that the *BVerfG* "can only request the German constitutional organs, that is the government and parliament, and the Bundesbank to work towards the objective stated in its judgement" (Feld & Wieland 2020: 9), they conclude that the *BVerfG* ruling "does not weaken the independence of the ECB" (Ibid: 32) but is in fact aimed at strengthening it because the court's request for judicial review is precisely in order to avoid the potential of "undue government influence".

Conclusion

We can see that there is a general overlap between concerns raised by the *BVerfG* and ordoliberal thinking: the rejection of monetary financing, the necessity of budget discipline, the avoidance of 'risk assumption' in the conduct of bond purchasing and the 'moral hazard' dangers it entails are all shared by ordoliberal commentators *and* the German court. It is hard to ignore, however, that the ECB and the ECJ *also* share the same concerns, addressing them directly through safeguards and continuous assessments. From this perspective, however, one would be counter-intuitively forced to conclude that the ECB/ECJ *also* suffer from an ordoliberal bias, an assertion that would render the conflict between the German court and the EU institutions as characteristic of a German ordoliberal bias utterly meaningless.

On the other hand, if one can detect points of divergence, they appear to be on issues shared between the ECB/ECJ and ordoliberals *against* the *BVerfG*. To begin with, a notable divergence between these actors concerns the question of deflation in relation to the PSPP. While the ECB,[472] ECJ,[473] and ordoliberals[474] openly acknowledge its threat and describe the PSPP programme as a direct response to the reality of this threat, the political economy underlying the *BVerfG PSPP* ruling (and, as it seems, some of its advisors)[475] seems entirely indifferent to it.[476] In fact, it seems safe to assume that the *BVerfG* was influenced by the views held by a specific constituency of German conservative economists, who consistently purported that "there has never been any danger of a deflationary spiral".[477]

Instead, and leaving aside the mutually shared concerns against monetary financing and fiscal discipline, the central elements of the *BVerfG PSPP* ruling related to the proportionality of its economic effects against savers, insurance holders, real estate bubbles and unviable companies staying afloat – a point made clear, as shown, by the eventual resolution of the conflict. None of these concerns, it is worth noting, are connected to a deflationary spiral, nor where they shared in ordoliberal interventions. This brings us to what seems to be the central point of this debate: the deflationary threat, shared by the ECB/ECJ and ordoliberals, was conceptualized as representing a clear threat not just to economic output

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472 See indicatively Lane (2020).
473 See *ECJ Weiss*, §56, 67, 74, 80.
474 In their paper, Feld & Wieland make that crystal clear. Describing "the ECB's commitment to provide a safety margin to guard against the risks of deflation", they describe the choice as "fine and based on solid economic analysis", adding that "one of us had even contributed research on deflation risks" (Field & Wieland 2020: 15).
475 Already from 2015, dissenting views within the Governing Council of the ECB had objected to the proposed PSPP program, reflecting the belief that "purchases of sovereign bonds should remain a contingency instrument of monetary policy, to be used only as a last resort in the event of an extremely adverse scenario, such as a downward deflationary spiral. However, thus far there was no evidence of a serious risk of deflation, which clearly argued against mobilising the instrument of sovereign bond purchases at the current meeting" (ECB 2015). It would be safe to assume that this position was voiced by Bundesbank president Jens Weidmann, as this approach remained constant throughout.
476 The only mentions of the risk of deflation in the *BVerfG PSPP* ruling are just quotations from *ECJ Weiss*.
477 The quote is from the "Memorandum on the ECB's Monetary Policy" (2019) signed, among others, by ex-Bundesbank Presidents Otmar Issing and Helmut Schlesinger and publicly shared by economist Hans Werner-Sinn. The fact that the deflationary threat gave way, in 2021, to inflationary pressures caused by Covid-related supply chain blockages and the war in Ukraine does not, in any case, invalidate the fact that until that point, deflation was recognised as a real threat by the ECB and ordoliberal commentators.

but to the stability of the Euro area as a whole. This was not only a clear position of the EU institutions, but was also unequivocally shared by ordoliberals like Feld, who have consistently identified European integration as concomitant with the ordoliberal framework (Feld 2005; Feld et al 2015), despite rejecting the 'ordoliberalization of Europe' approach (Feld et al 2015). In contrast, not only did the *BVerfG*'s underlying political economy side-line this issue but it actively added an additional threat. Though little research has been done on the topic given its eventual resolution, there is good reason to assume that the threatened withdrawal of the Bundesbank from the PSPP and a flooding of the markets with its acquired bonds would have drastically endangered not simply the bond purchasing program itself but also the coherence of the Euro area system. It remains unclear whether the *BVerfG* was fully aware of the wider implications of such an outcome on the process of European integration, but one can safely speculate that many of its advisors were. If one includes the fact that some of the plaintiffs that have supported the repeated challenges of the *BVerfG* are associated with the Eurosceptic and nationalist *Alternative für Deutschland*, it is even conceivable that an outcome detrimental to the EMU would be consistent with their overall aims. But it would not be consistent with ordoliberalism.

CHAPTER 6: Conclusion

From a political economy perspective, the world we inhabit today was forged approximately 100 years ago. The end of World War I came with a series of revolutions at a social, political and economic level. Not only was the previous regime of laissez-faire trade, the gold standard and restricted spending via balanced budgets radically shaken and replaced by protectionism, fiat money and inflation, but the arrival of universal suffrage, mass working class organisations and political parties ensured the collapse of the previous regime was not meant to be temporary. Meanwhile, increased technological development, industrialization catch-ups and productivity innovations did not only massively boost economic output but it also provided the state mechanism with a new and expanded role. The year 1918 did not just see the end of the war. It also saw the dawn of a new world whose characteristics were themselves forged *during* the war (Mattei 2022).

The needs of the war had provided a pivot for the state to increase its control and to expand its scope beyond anything experienced until that time. The requirements of the war (especially in relation to mass enlisting of the male workforce) and reliance on the market mechanism to fill the empty spots proved to be incompatible. As the controller of the labor-regulation department of the British Ministry of Munitions Humbert Wolfe put it, "labour ceased to be a commodity to which the laws of supply and demand applied" (Wolfe 1923: 102 quoted in Mattei 2022: 36). This change was triggered by the combined failure of the market mechanism and private interests to provide any national state with the means necessary to fulfil their military needs, as well as the increased needs for centralized coordination and planning necessary to conduct an industrial war that cost the lives of millions and irreparably damaged those who survived it.[478] International trade could no longer be regarded as a means to avoid war as trenches were built between former trading partners, sending their populations to perish in order to fulfil desires of expanded territorial and economic control.

But something even more profound was also revealed during this process: the 'naturalized' order of things came to be de-mystified. Tight budgets, limited or non-existent welfare, private property; all these sacred cows of the pre-1914 world showed themselves to be paper tigers. Similarly, due to the inroads achieved by the labour movement, exploitation, misery and poverty were also overthrown from a pedestal that proclaimed them 'natural' phenomena. If the state could take hold of private property through forced expropriations (for the war needs), regulate trade, production, distribution, as well as research and innovation and the labour market, the 'magical' efficiency of the market and price mechanism lost its allure.

Even though a large part of the labour movement did in fact see its interests represented in a take-over of the state mechanism and its placement *in the interests* of the working class, the overall

[478] The 'naturalized' predominance of profitability and market price signaling proved nothing less than disastrous during the war. For a really striking example, the UK was coming close to losing all its shipping capacities for both war and food imports because it was simply more profitable for private shipowners to sell their ships abroad. See Mattei 2022: 28-30.

radicalization of the interwar proletarian offensive actually went beyond that. For some active tendencies, the complete overthrow of the state (identified as a bourgeois invention) was also envisioned. And while such tendencies never became majoritarian, their existence meant a constant pressure from below, advancing increasingly more radical demands and desires. This meant that even when a process of reformist integration was taking place, envisioned by many state officials and decision makers as a way of smoothing down the electrified social antagonism, its implementation was often seen as a stepping stone for more changes, heralding further radicalization. As Mattei (2022: 25) puts it, while many measures "were reformist in intention, they were not so in their outcome".

Despite divergent expressions, these changes were framed around the fact that the spell of the historical dependence of workers on the market was broken. Whether by envisioning the state taking control and subordinating private and market interests or in visualizing a world without any of them, the pre-1914 economic order was in shatters.

If parts of the labour movement conceptualized the new and expanded role of the state through its potential redistributive arsenal, however, the ruling class doubled-down on a different feature: that of the state as a *repressive* mechanism. The radical transformations that took place during and after WWI were more often than not met with a form of state authoritarianism not experienced before. And while the brutal regimes of Nazism, Fascism and Stalinism would become the apogees of this development, the origins of such authoritarianism were as much coveted by liberal regimes and ways of thinking. In the context of the war and its aftermath, the breakdown of the 'naturalized' order of market mechanisms and the ascent of the labour movement revealed more forcefully than ever that "laissez-faire is no answer to riots" (Bonefeld 2014: 175).

If Nazi and fascist regimes responded to the crisis with the outright militarization of labour in order to increase productivity and production to fulfil war needs, liberal regimes employed less overt but none the less strict methods such as intensifying work rhythms, extending the work day, making strikes illegal and developing a wide range of harsh disciplinary measures for all possible forms of work resistance at the outer limits that a necessary reproduction of labour power could allow (Mattei 2022: 38-42). The automatic mechanisms of labour discipline derived from the gold standard were no longer functioning. Other ways had to be found.

In the pre-1914 economic order, *de-politicization* was a key defining feature. In the context of the radically politicized environment of the interwar period, *de-politicization* was transformed into a constantly sought-after predicament. If the gold standard had ensured that redistributive policies were excluded in a semi-automatic way, its collapse (and the experience of mass war) opened the path for their emergence. Under the new monetary regime of fiat money, the state's role was no longer confined to obstructing the outflow of gold: it was now capable of making political choices about the quantity of money in circulation, its value and its capacity to act as a social mediation, a store of wealth and an exchange mechanism.

It is within this framework that ordoliberalism makes its appearance, driven as much by the desire to salvage the liberal order as by the necessity to incorporate changes that would allow for a revived liberalism to survive in the new world. These realizations brought the new liberal defenders into conflict with both those who wanted to restore the previous order (laissez-faire) and those who saw in the radical transformations a way to move forward that would replace the 'natural' order of the economy with conscious planning. While rejecting reactionary expressions of these novel visions (such as Nazism or Stalinism) due to their propensity to obstruct international trade and to rely on central planning, ordoliberals were at the same time retaining a conservative attachment to the old world of market (so-called) efficiency and its prerequisite, private property. The desire to embark on a 'third alternative' between planning and laissez-faire was fundamentally based not on 'freedom', as they often claimed, but on the specific type of freedom created by the market mechanism and private property. In other words, freedom of capital.

Just as a specific part of private capital saw its interests best defended by fascism's brutal capacity to destroy organized labour and an anti-capitalist working class, ordoliberals also developed their 'third way' vision as relying on a strong state that could impose its will against the increasing power of labour and democratic politics. This perspective corresponds to a specific formation that no postwar narrative can easily do away with: authoritarian liberalism. In the interwar period, as this dissertation has shown, this took the form of a clear preference for rule by executive degree, the outright hostility to democratic processes, an indifference towards the use of open repression if the aim was to restore the market order and obliterate the potential for socialist or communist transformations. This very attitude led a considerable number of ordoliberals to side with fascism or Nazism, seeing in such regimes a temporary but necessary dictatorship that would silence class antagonism and undermine the ability of the working class to solidify its demystification of the 'natural' order of the market.

If ordoliberals parted ways with fascism and Nazism, this only took place *after* realizing that their 'expert' views were ignored and that their potential in influencing the new authoritarianism towards restoring market competition had been an illusion. Faced with the increasing centralization and economic planning direction of these regimes, their belated opposition was able to whitewash their previous authoritarian preferences and to strengthen the postwar myth of their anti-Nazi credentials. That this was the case in West Germany, in contrast to other European countries, was the consequence of another historically contingent fact: the military occupation of the West German state by a new international hegemon geared towards erecting clear borders between capitalist countries and the Soviet example. As this dissertation has shown, the specific economic views of the US occupying authorities in West Germany facilitated the collaboration with German ordoliberals, a predicament missing from other European countries where the absence of US military occupation and the predominance of Keynesian views meant that authoritarian liberals who had co-existed with fascist regimes found themselves marginalized.

This situation allowed German ordoliberals to push for the implementation of their views of a market economic order and for the realization of their vision of an economic constitution. And while the preference for a strong state gradually receded from the ordoliberal vocabulary, its essential characteristics were adapted (but not abandoned) to conform to the new realities. Losing some of the abstract features that had characterized ordoliberalism in the interwar period that had rendered them impossible to translate into direct policy, postwar German ordoliberalism was forged in the concrete level of real politics of the domestic and international framework, necessarily leading to a number of unavoidable compromises (such as the welfare state or forms of state interventionism) that generated internal conflicts within the ordoliberal paradigm. Simultaneously praised for their convictions but also criticized for their willingness to compromise, central figures like Ludwig Erhard and Alfred Müller-Armack became the *political entrepreneurs* of postwar ordoliberalism, supported by an expanding and international circle of advisors, decision makers, commentators and theoreticians. A veritable network of professionals, that is, that formed into a trans-national epistemic community that positioned itself at a critical distance from the postwar international monetary regime of Bretton Woods while openly criticizing the inevitable concessions that the postwar liberal embedded regime was based upon.

Existing literature on epistemic communities denotes four key characteristics that determine its relation to policy making: innovation, selection, diffusion and persistence. From a certain perspective, ordoliberalism is seen as lacking in these respects. Looking at the transformations that can be recorded from the interwar to the postwar period, from the strong state to social market economy and a constitutional order, from the commodity reserve plans to central bank independence or from Eucken's economic constitution to monetarism, commentators have questioned the policy persistence of ordoliberalism, inviting an interpretation geared towards adaptability and pragmatism. But one can also interpret these changes through the prism of evolution, under which rather than subtractions from the ordoliberal framework, what we see are additions. Considering the invariance with which the market economy, the competitive order and private property define the ordoliberal tradition, the noted changes can be further qualified as adaptations that do not affect the core belief system but represent updates on how it is to be implemented. From this perspective then, while the strong state might be discursively abandoned, it can be seen as re-emerging behind the constitutional order principle, a comparison that becomes even more qualified through the embrace of Buchanan's constitutional theory (see chapter 5). Similar conclusions can be drawn about the belated embrace of central bank independence, a choice driven by the realisation of the inapplicability of either a return to the gold standard or the creation of a commodity reserve monetary order, as well as by the ability of central bank independence to imitate central features of the gold standard in a *fiat* and *democratic majoritarian* environment. Lastly, the shift towards monetarist positions can also be evaluated as an contemporaneous supplement and practical proposal for arriving at goals and coordinates that were always central to the ordoliberal framework: price stability, sound money and low inflation. If ordoliberalism is in fact *pragmatic*, that is because it is able to adapt to new conditions while remaining consistent in its overall aims.

The engagement with ordoliberalism as a transnational epistemic community also allows for dispelling the myth of its identification with German political economy. While there is little doubt that German ordoliberals were pivotal in its development, the special relationship of ordoliberalism with German political economy requires further qualification. From the perspective advanced in this dissertation, while key features of the ordoliberal framework are consistently present (and described as such) in German political economy (namely: the primacy of price stability, the insistence on sound money and anti-inflation, the early adoption of CBI as the institutional model, the rejection of demand management/Keynesian policies), the preference for such policies also corresponds to their capacity in stabilising and promoting an export-led economy that wishes to maintain stable prices in order to facilitate its export dynamism, stable exchange rates and low inflation to facilitate trade and capital flows, an independent central bank tasked with ensuring the maintenance of such a regime.

At the same time, however, for this German "model" to maintain that stability, a social policy capable of absorbing social antagonism proved indispensable, imposing a level of wages that while below productivity, does not condemn (export and public sector) workers into precarity and insecurity, despite ordoliberal hostility especially towards its social welfare aspects. At an external level, however, the wider maintenance of the German "model" also necessitated a contradictory pressure on other European (and not only) countries to simultaneously adopt the main coordinates of the ordoliberal framework (sound money, price stability, balanced budgets and independent central banks), while lacking the export dynamism and economic output that permitted its sustainability with relative social peace.

This realisation allows for a re-consideration of the main contradictions within European integration, moving away from traditional diplomatic accounts of inter-governmental negotiations or perspectives that place German hegemony at the forefront of analysis. Rather, European integration can be re-evaluated as a decades-long balancing act of different European ruling classes trying to implement policies they shared while having different *starting points*: whereas Germany was primarily concerned with *maintaining* their model, making stability the *sine qua non* defining feature of its political economy, less economically robust and competitive countries could only reach such levels of price stability and low inflation through *modernisation* – a catch phrase that translates, at a policy level, as austerity.

The continuing contradictions that have characterised European integration can thus be seen as an inevitable consequence of the fact that the German economy has historically benefited from advantages that other countries never had - and which were not of Germany's doing, despite the hurrah narratives that explain them through references to Erhard's 1948 reforms (see chapter 3). While the country's economic development before the two wars was considerable, its post-war economic performance was unequivocally based on a number of advantages not available to other European countries: tremendous economic and financial aid (from CARIOA and Marshall Plan to the debt restructuring of 1953); the survival of its industrial base; a working class whose left wing militants had been effectively eliminated in the camps while its pro-Nazi elements acquiesced to a non-combative attitude in fear of the occupying forces; the conscious of the new US hegemon to prioritise West Germany as the cornerstone of European anti-Soviet, Cold War geopolitics. While not denying that domestic choices were also crucial in the shaping of this predicament, it remains absurd to assume (as many do) that these domestic choices were not themselves *shaped* by the international environment.

Ordoliberalism insists on presenting itself as a *framework* rather than a policy making apparatus. And this is absolutely correct. But it also signifies its weakness. Seen as the expression of a legal framework meant to encase and protect the market economy and private property by establishing a competitive order, it would be absurd to claim that the ordoliberal framework *has not* been successful - how else could one describe contemporary political economy (especially within the European context)? But the framework-building conceptualisation *also necessitates* compromises, for the simple reason that frameworks are not in themselves capable of determining and pre-emptively resolving *all* aspects of social, political and economic life and conflict.

As it has been argued, the very maintenance of key features of the ordoliberal framework in the context of the German economy also meant tolerating a level of social welfare and labour stability not available in other countries.[479] But the postwar predicament and their specific influence in shaping it in West Germany also allowed ordoliberals to compensate for such compromises by establishing institutional forms capable of creating path dependent outcomes closely aligned with the ordoliberal framework. In this context, for example, the Bundesbank can be seen as the institution closer to supporting the ordoliberal framework of price stability, tight money and practical criticism of the inflationary pressures produced by public spending and welfare. It was, in short, consistently on the side of ordoliberals and their hostility to the compromises that made the social market economy tenable in the first place. Yet, this characterisation of the Bundesbank as ordoliberal suffers from a different perspective: ordoliberalism is not a monetary policy think tank. The details and complexity of monetary policy have never been strong points of the ordoliberal framework who, as explained, saw their role more in providing larger frameworks rather than detailed policy plans. From this perspective, alongside the fact that the Bundesbank was the *German* central bank and thus obliged to support the national economy in ways that ordoliberals were not, divergence in positions between the Bundesbank and ordoliberalism are also present and visible. Looked at from a wider perspective, however, and from the perspective of a framework of policy in particular, ordoliberalism and the Bundesbank have a parallel trajectory. It is not, as chapter 5 argues, coincidental that Bundesbank converted to monetarism *at the same time* as many ordoliberals did.

[479] This is another way of explaining the peculiar fact that Germany never really became Keynesian - *it did not have to*. The social compromise (or embedded liberal order) that was effected in other countries through Keynesian-influence policies was achieved in West Germany through the *social market economy*.

In any case, however, as chapters 4 and 5 of this dissertation demonstrate, the realisation of the necessity of such compromises at a domestic level pushed ordoliberals to reconnect with their long-standing *international* or *supranational* outlook, something visible in their engagement (notwithstanding the conflicts it produced) with European integration. Their initial suspicion towards international governance and coordination (a legacy of the early days of the ordoliberal tradition, see Martin 2022) gave way to a full embrace for contingent reasons: the domestic compromises of democratically run economies was seen as avoidable at a supra national level. Here again, ordoliberals were to a large extent correct. Especially in relation to the creation of the EMU, its fundamental characteristics are fully compatible with the postwar ordoliberal vision: non-majoritarian institutions at the helm of policy making, a symbolic parliament that legitimises *the democratic identity* without however providing any real democratic control of policy, an all-powerful and independent central bank, a constitutional/judicial overview forged to protect the key elements of European integration as a *market-oriented* vision.

This dissertation has attempted to trace the trajectory of ordoliberal influence from its emergence in the interwar period to the contemporary predicament. This has been performed by examining in detail specific actors that comprised the ordoliberal epistemic community and their successes (and failures) in designing, implementing and maintaining what has been described as the ordoliberal economic constitution. But the ability to locate the specific influence of ordoliberalism rests on a constant evaluation of its central characteristics and their persistence throughout the decades. The research done here strongly supports the view that the central elements of the ordoliberal framework, as they emerged in the interwar period, retain their strong influence in ordoliberalism's contemporary expressions. Given that ordoliberalism is a *political economy*, its essential features can be broken down to two sides: the ordoliberal view of the state (as a legal, regulatory mechanism) on the one hand, and the ordoliberal view of the economic order the state is meant to facilitate and sustain.

The ordoliberal position on the state, as this research has shown, remains grounded on the conceptualisation of a strong state capable of providing a legal, regulatory framework for the facilitation of a market order *against its enemies.* This remains a crucial approach for it is only by recognising the enemies of the market order that a more clarified understanding of the ordoliberal framework is possible. In this context, while the ordoliberal state is often presented within a framework of neutrality, aiming at curtailing the corrupting influence of *particular* interest groups by disempowering them, a closer look at the conceptualisation of these groups reveals the *political* nature of the ordoliberal vision that cuts across the interwar/postwar differentiation and reflects a consistent ordoliberal position.

As chapter 2 of this dissertation shows, ordoliberals opposed the ability of organised interests to distort the price mechanism and market signals and envisioned a state capable of disempowering what they called "private power". From this perspective, a significant part of ordoliberal theory is directed towards creating a legal framework that disallows cartels and monopolies from distorting competition, a perspective visible in their efforts to influence competition law both in postwar West Germany (chapter 3) and at a European level (chapters 4 and 5). But in the ordoliberal viewpoint, “interest groups” are not confined to cartels and monopolies. They also include trade unions and the organised labour movement who are also seen as capable of exerting “too much influence” and therefore should be rendered unable to influence government policy.

What this position reveals, however, is a consistent ambiguity between ordoliberalism and the democratic process. Lumping together cartels/monopolies and the organised working-class as belonging to the category of “interest groups” represents a specific conceptual leap. In contrast to cartels and monopolies, which represent the potential of private capital to evade competition by joining forces and fixing prices, trade unions and other organisations of the working class are forms historically attached to democracy and freedom. Undermining the role of the organised working class to exert influence on economic and labour policy directly infringes on democratic rights in a way that banning cartels/monopolies does not. It is only within the wider ordoliberal pro-market conceptualisation that the subject of the working class and that of private capital can be equalized and presented as two *particular* poles against a (market) *universality*. If private capital’s propensity to distort competition can be resolved by a regulatory framework that inhibits their distorting tendencies, disempowering the ability of the working class to organise and play a role in determining the conditions of its existence and relation to capital is inseparable with minimising its democratic and social rights.

This perspective is concomitant with the persistent elitist suspicion of democracy that ordoliberalism inherits from its aristocratic liberal origins (Dyson 2021). And while this suspicion is often explained as a reaction to the dysfunctional gridlock of the emerging Weimar democracy, in reality it represents a more deep-seated opposition to mass participation in social and economic life operationalized in the postwar period through the consistent aim of depoliticization. At its basis lies the same goal: a critique of *politics*, formulated as the participation of ‘the masses’ in social and economic life, that stems from the undeniably elitist ordoliberal view of the world.

As chapters 4 and 5 have shown, the postwar embrace of democratic processes by ordoliberals was significantly qualified. It was, in fact, based on the promotion of a new conceptualization of democracy framed around the ‘sovereign consumer’, while retaining all the elements of suspicion or hostility towards mass politics that ordoliberals inherit from Tocqueville, Hume and other classical liberals. What the postwar ‘transformation’ demonstrates is the remarkable ability to utilize this new conceptualisation of democracy and democratic language as a means of *continuing* a long-standing distaste of mass democracy, majority participation and deliberation. The use of democracy, in other words, in order to *limit its use*.[480]

[480] As Mirowski very saliently put it, “you can praise equality or disown it; you can appeal to justice or else take the low road and insist justice doesn’t exist; you can appeal to natural law or dispense with it altogether; you can disparage all government or else indeed praise the virtues of an authoritarian takeover. All that really matters is the political terminus, which is to

By prioritising non-majoritarian institutions (such as central banks) as the locus points of policy making, ordoliberals saw depoliticization as a mechanism of insulating essential economic and monetary decision making from democratic and social influence. Even when presenting the role of the state as responsible for creating a legal, regulatory framework for the facilitation of the market economy, the actual implementation of such a vision necessarily presupposes a strong state, whether that is defined through crude authoritarianism – as in the case of the interwar period or in the 1970s open or silent support for dictatorships committed to preserving the market order – or in the more discursively benign but equally restricting constitutional order that aims at prohibiting through law the potential for any economic policy that does not promote markets or competition.

The purpose of the ordoliberal restriction of "private power" is also directly relevant: it is meant to protect the world of private property and the market, structures that are however *never* conceptualised as expressing power relations in themselves but some imaginary equilibrium or, at least, the "more efficient forms for allocating resources". But the supposed neutral, technocratic and depoliticized perspective of ordoliberalism is inherently biased and, therefore, *political*. It is not merely the profound contradiction of speaking of "efficient allocation" in a system that is framed around the prohibition of redistribution that reveals this. Ordoliberalism demonstrates equal indifference to the fact that the only possible 'equilibrium' that market forces can bring about, even or especially within a legal regulatory framework, is an *equilibrium of market forces*. The maintenance, in other words, of a balance within an inherently unbalanced predicament.

The institutional forms for promoting or maintaining price stability, a central constitutive principle of the ordoliberal framework, can also be evaluated through this prism. The particular obsession of ordoliberals with anti-inflation cannot, for example, be reduced to an objective preference for *stability* as opposed to *instability*. As we have seen in this dissertation, ordoliberals have a pronounced tendency to ascribe inflationary tendencies to almost *every single* social or economic process or structure that does not strictly follow their own understanding of capitalist accumulation imperatives: ranging from the existence of trade unions, the goal of full employment or the welfare state, their cataloguing of inflationary potentials reach all the way to the structure of the Bretton Woods regime, capital controls, SDRs and proposals around the European Union. But the list went even further, including of a variety of *latent* inflationary pressures even when none existed: from the notion of *repressed* inflation due to residual price controls to that of *creeping inflation* in 1960s West Germany, culminating in the concept of *imported* inflation in the absence of a domestic one. Whether contingently correct or not, the overall image that emerges is one of an ideological fixation that can only be understood through reference to a specific viewpoint that ordoliberals themselves did not (in the past)

hamstring democracy and impose policies that the [neoliberal] thought collective portrays as market enhancing. (Mirowski 2019: 216) refrain from explaining: inflation represents the erosion of wealth, of the centrality of money and of the institution of private property.

For ordoliberalism, the most efficient way of avoiding such an erosion of the capitalist economy and its class society remains the establishment of an economic constitution, a market order established through law, that can repress, undermine and/or neutralize all market distorting tendencies of social and political life. This vision, as this dissertation has demonstrated, presupposes the strengthening of the state mechanism and the uninhibited development of competitive markets, despite their historically persistent capacity to generate exploitation, inequality and ecological devastation.

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