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Ordoliberalism, European Monetary Union and State Power

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Ordoliberalism, European Monetary Union and State Power

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Abstract

The capitalist state is the indispensable power of a free labor economy. Its class character is not founded on a national basis. Rather it is founded on the world market relations of capitalist wealth and includes a history of suffering. The article scrutinizes ordoliberalism as a veritable statement about the character of capitalist society and its state. In the contemporary debate about the ordoliberalization of Europe, its argument about capitalist labor economy as a practice of government is put aside and instead it is identified with a certain 'German' preference for austerity and seemingly also technocratic governance, undermining the European democracies and leading to calls for the resurgence of the national democratic state that governs for the many. In these accounts, illusion dominates reality. In distinction, the argument attempted here scrutinizes the role of the member states in monetary union as executive states of the bond that unites them. Monetary union strengthens the member states as 'planners for competition' and is entirely dependent upon their capacity to govern accordingly.

Keywords

Economic Liberalism/Ordoliberalism, World Market, State Power, Democracy, European Monetary Union, Austerity, Labor, Class

The Treaty of Rome 'offered a lever to stimulate our business sector, to force it to increase productivity ... hence my decision to promote the Common Market'. (De Gaulle, 1971: 143)

Introduction

Since the financial crisis of 2008 and especially the Euro Crisis of 2010 there has been an abundance of literature about ordoliberalism and the ordoliberalization of Europe. Initially ordoliberalism was discussed as a market restraining, socially responsible state-centric alternative to so-called neoliberal political economy.[1] Others considered its state-centric stance to belong to the tradition of authoritarian liberalism that had emerged in the Germany of the late 1920s/early 1930s and is associated with the work of Carl Schmitt.[2]

Ordoliberalism does indeed identify the state as a central category of capitalist economy (Haselbach, 1991; Bonefeld, 2017a). It righty comprehends the freedom of capitalist society as a practice of government. It holds that capitalist society 'cannot function without political authority' (Böhm, 2010: 167). According to Franz Böhm (1973: 101) the capitalist economy is an '*eminently* political practice' or as Leonhard Miksch (1947: 9) put it, it amounts to a 'political event [*politische Veranstaltung*]'. The role of the state in ordoliberalism is that of 'market police' (Rüstow, 1942: 289; Röpke, 2009: 52). The foundation of the market police is the independence of the state from the economic interests and the democratic majorities – it presumes government as an exercise in the 'independence of political will' (Eucken, 1932: 307-8).[3] The ordoliberal state really is the concentrated power and organized force of the capitalist social relations. Its role is to secure the freedom of capitalist society through a politics of order (*Ordnungspolitik*), literally a politics of both economic order and social ordering.[4]

Given the central role of the state in the ordoliberal argument, the literature about the ordoliberalization of Europe is confronted by the paradox that the European Union is neither a political union nor a sovereign political entity. It is a monetary union and a market union, and it is also a legal union. It establishes the regulative media of the free labor economy at a supranational level beyond the direct control of its member states, who are however bound in their politics by supranational policy commitments and requirements, rules and regulations. Regarding the Euro, it the world's only supranational currency. Nevertheless, and as I set out to argue here, the Euro is a politically constituted and sustained currency. It is governed by a union of member states, each acting as executive states of the bond that unites them. Regarding the custom union of old, Walter Hallstein (1972: 28), who was the first President of the Commission of the newly found European Economic Community, argued that what Europe is 'integrating is the role of the state in establishing the framework within which economic activity takes place'. The paper argues that European supranationalism integrates the member states as federated executive states of a community founded on market, law and money. The European Union is entirely dependent upon their capacity to bestow it with a political will and a consciousness, and to govern accordingly.[5] I hold that monetary union establishes a framework for the domestic pursuit of competitive labor relations at the same time as which it makes it seem that '*these policies appear as if they were dictated by "Europe"* in the interest of the "common good"' (Carchedi, 2001: 51). The contemporary argument about the ordoliberalization of Europe contests the normativity (and democratic morality) of the latter without asking about the raison d'étre of the former.[6]

The argument advanced here rejects as misconceived the view that ordoliberalism was the operative theory of key (German) policy makers at key points in the institutional design of the European Monetary Union and in the policy response to the Euro crisis (see, for example, Blyth 2013; Lapavitsas, 2018).[7] Furthermore, it is not the ordoliberal Europe that limits the policy options of the democratically constituted member states. Rather, world market competition compels each nation state to achieve competitive labor markets, which are the condition for achieving a measure of social integration. The requirements of competitiveness, sound money, fiscal prudence, enhanced labor productivity, etc., are not peculiar to ordoliberal thought either. They belong to a system of wealth that sustains the employment and the welfare of workers on the condition that their labor yields a profit.[8] In this system of wealth, the profitability of labor is a means of avoiding bankruptcy, and protectionism from competitive pressures on labor markets, and other commodity markets, is a measure of defense within free trade. Whether ordoliberalism expresses the requirements of this system in a particularly robust and uncompromising manner is an interesting point for discussion. However, it is not constitutive of that system, nor should it be blamed for it. Scrutiny of ordoliberal thought is helpful in that it reveals the crucial role of the member states in establishing and sustaining the framework through which they govern their national labor relations for the sake of sustained world market competitiveness. The executive federalism that the system of European monetary union exhibits is *not* a construction of ordoliberal thought. Rather the study of ordoliberalism is helpful in establishing its raison d'étre.

In the order of presentation, the conventional argument about the ordoliberalization of Europe comes first. Then follows an account of the ordoliberal conception of *Ordnungspolitik*.

Finally, the argument turns to the supranational character of European Union. It argues that supranationalism is not imposed on unwilling and/or retreating member states. Rather, it establishes a seemingly external anchor for the domestic embedding of 'market rationality' in mass democracy. The conclusion highlights the role of the member states as federated executive states of the (supranational) bond that unites them.[9]

Ordoliberalism and the Idea of a German Europe

In the contemporary literature about an ordoliberal Europe the role of the member states as federated executive states is neither raised nor recognized. On the contrary, the argument is about the retreat of the member states and German hegemony. Concerning the former, William Scheuerman (2016: 199) holds that Europe has 'forced' the member states 'to accept external management of their economic and financial affairs' and in this process made 'mincemeat…of democracy' (see also Streeck, 2014: 97-112). In this argument, the European institutions make monetary policy, set the framework conditions for the conduct of fiscal policy in the member states, austerity, and impose the condition of enhanced market competition upon the member states, who implement Union requirements as enfeebled agents of supranational necessities. 'Europe' thus diminishes the member states and 'forces' their governments to adopt policies that might be contrary to their national interest.

In monetary union it is indeed the case that the member states come, as Engel (2003: 431) put it, 'under a regime of imposed liberty'. Christoph Engel welcomes this because 'a market economy is not a vaccination against [the democratic] disease…Even if the [Member] States have not succeeded in setting up a proper economic constitution internally, one is imposed on them from the outside' (ibid). What Engel speaks about in praise others reject as an 'ordoliberal iron cage' (Ryner, 2015). The argument about German hegemony is connected with this point about ordoliberalism (amongst others, see Bulmer and Joseph, 2016). Through its supposedly ordoliberal approach to European policy making Germany is said to govern the Eurozone at the expense of especially the Southern member states, Greece in particular (see for example Blyth, 2013; Dardot and Laval, 2016; Flassbeck and Lapavitsas, 2015; Lapavitsas, 2018). The influence of ordoliberalism is said to extend beyond a certain German economic policy preference for austerity. It is also said to have shaped the institutions of economic governance in the Eurozone at key points in the integration process. The German government's ordoliberal approach to Europe is said to have boxed the member states into an anti-Keynesian economic framework, which is detrimental to the prospects of their national economies. Joseph Stiglitz (2016) focuses the sentiment of this critique of an ordoliberal Europe well, that is, the pursuit of ordoliberal dogma in the Eurozone served the economic interests of Germany and ruined the economies of the weaker member states who were forced to commit to policies that were contrary to their national interest.

The basis of critique is not clear. For example, the President of Lithuania, Dalia Grybauskaite, rejected the anti-austerity demand for the Eurozone to discharge Greek debt not on ordoliberal economic principles. Instead, she argued that the 'countries of Central and Eastern Europe were too poor to pay for the mistakes of the wealthier Greeks'. She said: 'the feast time at the expense of others is over' (*The New York Times*, 8.7.2015). Furthermore, some German ordoliberals rejected the German government's approach to the Eurozone crisis for breaking core ordoliberal principles amongst them that the European Central Bank (ECB) is not to service sovereign debt. In actual fact, the bailout agreements passed the debt from the private to the public sector getting the sellers of labor power to service the debt through a politics of austerity. Nevertheless, these ordoliberals not only took the German government to Court, allegedly for violating constitutional obligations towards its citizens. They also formed their own party, the *Alternative für Deutschland* (AfD), to put political pressure on the government. Yet some other ordoliberals argued that although 'Germany may have followed ordoliberal thinking rather too little than too much', they accepted nevertheless as 'pragmatic' the German governments approach to the Euro-crisis (Feld, Köhler and Nientiedt, 2015: 61). Indeed, as Vanberg (2014: 14) explained, 'prudence does indeed require us to acknowledge that there may be emergency situations in which we need to temporarily disband rules that in ordinary times we consider binding'. The disbanded rules are those that some other ordoliberals hold up as non-negotiable because, in their view, they comprise the principles of the economic constitution of the European Union.[10]

Vanberg's argument points towards the political character of the attempted resolution to the Euro-crisis. Economic media neither constitute nor disband the rules of the game. Decisions about binding rules are quintessentially political in character. Especially the decision to suspend the rules of the game are intensely political in that they eliminate through an act of sovereign decision, the rule-based conduct of politics. Disbanding the rules of the game is 'emergency politics' (White, 2015). Such politics presumes the authoritative elimination of any doubt in the veracity of the decision. The decision to suspend is 'valid' because it has been made by a sovereign act and is enforced as such. During the Euro crisis, the European Council comprising the Heads of government of the Euro club came to the fore as the executive committee for managing the common affairs of the Eurozone. It asserted itself as Europe's sovereign political decision maker and therewith showed itself as the institution of institutions, of 'executive federalism' (Habermas, 2012), 'managerial decisionism' (Joerges and Weimer, 2014), executive solidarity and mutual vigilance. In cahoots with the ECB, it acted freely to do 'whatever it takes' to preserve monetary union.[11]

In sum, the premise of the arguments about ordoliberalism as the revealed truth of the monetary union as an iron cage of austerity is not clear. Fundamentally, the argument about the ordoliberalization of Europe fails to recognize the member states as the constitutive entities of European supranationalism. *Pace* the idea of the retreat of states, it is the member states, individually and collectively, that endow the Euro with a political will and a consciousness. The failure of one to commit to the bond that unites them impacts on the seam of monetary union, with explosive effect, as the Euro-crisis showed. Without sustained and concerted executive solidarity between the member states the Euro is a powerless currency that is at the mercy of its weakest link. In the European Union, the member states not only compete with each other for competitive advantage. They also depend on each other for sustaining the supranational framework through which they conduct their business of government. Indeed, the premise of their business in monetary union is the global competitive framework of world market price and profit, and 'the more the member countries are tied to Germany, the greater the expropriation of value from labour' (Carchedi, 2001: 50), which is the foundation of their global standing, especially viz. the rise of China and other Asian economies (see Fouskas and Gökay, 2019). During the euro-crisis, the pressures asserted upon the weaker member states was immense, to the point of open revolt in Greece. Nevertheless, the anti-labor policies of the resolution to the euro-crisis were, I argue, not unwanted by the national governments that agreed and enforced them (see Roufos, 2018). The claim that these policies were dictated by Germany through 'the European institutions' disguises the class-based character of the politics of world market competitiveness through a nationalizing narrative about hegemonic ‘aggressors’ and their (Greek) ‘victims’.[12] In actual fact, the member states ‘engage’ in the ‘European institutions’ as a structure in support of their capacity to secure and sustain competitive labor relations in mass-democratic settings. Ordoliberalism articulates this politics as a politics of order - an (European) *Ordnungspolitik.*

On the State of Economic Freedom

Ordoliberalism identifies the economic constitution of a free labor economy as ‘an explicit and uncompromising decision’ (Röpke, 1982: 39) about the founding principles of a capitalist social order. Economic constitution determines the fundamental character of a definite form of society, its constitutive principles, basic regulatory rules, and fundamental values and commitments. Furthermore, it determines both the scope of legitimate parliamentary law making and ‘style’ of political interventionism.[13] In the ordoliberal argument capitalist economic constitution does not permit discretionary intervention into the freedom of contract and excludes ‘an economic policy that seeks to improve outcomes *directly*, by way of specific interventions in the economic process’ (Vanberg, 2015: 29). Instead, ‘all governmental decisions that might affect the economy should flow from the economic constitution’ (Gerber, 1994: 47). There is thus no scope for a mixed economy, in which the state intervenes both for the system of private property and against its logic. Any such ‘intermingling’ (Gerber, 1994: 42) is said to lead to social chaos and economic disorder (see Eucken, 1932).

According to Eucken (2004: 254-289), the economic constitution of a capitalist labor economy comprises seven constituent principles and four regulative principles. The constituent principles are a functioning price system, primacy of the monetary order, open markets, private property, freedom of contract, legal liability, and constancy of economic policy. The four regulatory principles are anti-monopoly policy, which have primarily to do with the establishment of competitive labor relations, income policy, correction of externalities, and correction of anomalous labor supply. They are to facilitate the economic constitution 'in concrete historical situations' (Eucken, 1959: 183). The constituent principles require conditions of sound money and fiscal tightness and enshrine the inviolability of private property and freedom of contract. They also make clear that freedom entails responsibility, that is, the economic agents are liable for the consequences of their decisions. The principle of liability holds that the freedom of decision-making comes with responsibility for its outcomes. Freedom entails responsibility, that is, in the case of labor, the freedom of labor entails the laborer as a self-responsible market participant – unemployment is an opportunity of future employment. Liability 'surrenders each one to the control of the market, deprives him of power, forces him to increase his work, necessitates constant adaptations, and by the means of bankruptcy has unpleasant means of coercion' (Eucken, 2004: 237). In the ordoliberal account, the state is not a public insurance company for the hazard of private risk taking through, say, state aid or bail-outs. Any such insurance, it is argued, is an incentive for irresponsible risk taking and encouragement for 'rent seeking' by the powerful private actors (Eucken, 2004: 282).[14]

The strong state is an additional constitutive principle of economic liberty (Eucken, 2004: 337). It has to hold out against politicized labor relations, trade union power, and mass democratic demands for conditions. In an economic order founded on freedom of contract there is always 'a danger' that the state is 'weakened or corrupted by economic power groups' (Eucken, 1932: 307) who 'elevate cheating to a legislative or governmental programme' (Böhm, 2010: 183). In a democratic context there is the additional danger that the liberal state might fall prey to 'mass opinion, mass claims, mass emotion, and mass passion' that are 'directed…against property, law, social differentiation, tradition, continuity, and common interest' (Röpke, 1998: 152). Unless limited by the liberal principle, mass democracy tends to allow '"mass-produced" men to shirk their own responsibility' by demanding employment protection from world market pressures (Röpke, 1957: 24). In this argument 'nobody is authorized to abandon' (Eucken, 2004: 178) the freedom to compete through market-distorting behaviors. According to Böhm (1937: 122) such behaviors amount to acts of 'sabotage', the prevention of which requires a strict direction of public policy (Böhm, 2010: 167). In the ordoliberal argument, the issue is not whether the state should or should not intervene. Rather, the issue is the purpose and method, the objective and aim of state intervention.

Ordoliberalism is the doctrine of 'liberal interventionism' (Rüstow, 1963: 252). In this conception the state does not intervene for specific social ends. Rather, it intervenes for undistorted exposure of the economic agents to competitive market pressures. Liberal interventionism is meant to sustain and secure the conditions of the free economy in every concrete situation. Therefore, ordoliberalism recognizes as indispensable the role of the state in setting and enforcing the 'conditions under which the "invisible hand" that Adam Smith had described can be expected to do its work' (Vanberg, 2015: 29). That is, since 'nobody is authorized to abandon' the freedom of competition on the world's labor markets, and other commodity markets, everybody has to comply with the demands of that freedom. In the ordoliberal conception, the buying and selling of labor power is dependent on a state that is not bound by public opinion, subject to mass democratic aspirations and undisciplined parliamentary majorities, and paralyzed by powerful demands for special treatment and protection from competitive pressures. Rather, it entails the fettering of the democratic ideal to the liberal principle, to achieve the 'independence of political will' (Eucken) upon which the politics of liberal interventionism depends. Sustaining the free economy might in fact require as 'many economic interventions as in a policy of [Keynesian] planning'. Indeed, the 'freer the market', the 'more rules' are needed to sustain the freedom of competition (Miksch, 1947: 133, 327). The quantity of state intervention is not an issue. What is at issue is its specific (political) quality, its 'style'.

The separation of political power from social democratic aspirations is of particular importance in relationship to monetary policy. The capitalist exchange relations require 'a certain stability of money' (Eucken, 2004: 256).[15] In fact, the 'inviolability of money' (Röpke, 1998: 220; Eucken 2004: 54) is the premise of a free labor economy. It regulates the economic behaviors by an impersonal 'signaling system', that is, the free price mechanism. This mechanism that operates akin to a 'calculating machine' (Eucken, 1989: 28) informs consumers and producers, buyers of labor power and their employers, of the degree of scarcity in the whole economy. As such a 'scarcity gauge' (29) it effects the behavior of the economic agents on the labor market, and other commodity markets. The working of labor market pre-supposes a definite social order and expresses this order in the regulation of individual preference by competitive price movements – or as Currie (2000: 124) put it when considering the social order of monetary union: it comprises two principle means of economic adjustment: 'a) workers can move; b) wages can change'. Freedom is an expression of order.

Order is a political category. It amounts to a political practice of *Ordnungspolitik*, that is, a politics of 'planning' by the 'free price mechanism' (see Balogh, 1950).

Ordoliberalism, therefore, rejects the idea of the state as a night-watchman state as a dangerous idea. Laissez faire liberalism is the liberalism of fools. It gives '[t]he enemies' of freedom 'every conceivable opportunity to put an end to liberal democracy' (Röpke, 1998: 66). Röpke argues his case along Schmittean lines, that is, laissez faire liberalism is no defense against the mass democratic demand for 'equality', which, in his view, had in fact transformed the liberal executive state of old into the Weimar legislative state (*Gesetztgebungsstaat*) of mass opinion and mass demands.[16] Mass democracy, which is based upon the 'principle of sovereignty of the people, ascertained by majority decision and intended to realize the identity of people and government…gives a free hand to all trouble makers and agitators, therefore condemning itself to death with open eyes…this absolute tolerance even towards intolerance, this intransigent dogmatism of the liberals…must ultimately reduce "pure democracy" to the defenceless victim of anti-liberalism' (Röpke, 2009: 50). Unfettered by the liberal principle, monetary policy and credit policy will 'be operated like a switchboard by a government directly dependent upon a parliamentary majority or, worse still, upon some non-parliamentary group posing as the representative of public opinion' (Röpke, 1998: 223). For the sake of sound money, money has to be taken out of mass democratic politics.[17] 'Debt creation [is] not to be used as a regulative instrument of public finance', trade policy [is] not to be used to bring the current account of balance of payments into equilibrium, exchange rate [is] not to be maintained to improve national competitiveness, inflation [is] not a method of attaining full employment; competition policy [is] not to be used as a counter cyclical devise or as a way of protecting particular sectors and big business from modernisation, etc.'

(Willgerodt and Peacock, 1989: 9). In mass democracy, what is needed, therefore, is not only an 'appropriate *economic* constitution', What is needed also is the establishment of 'an appropriate *political* constitution' (Vanberg, 2015: 31) to ensure the effectiveness of the state as the 'guardian of competitive order' and sound monetary conditions (Vanberg, 2001: 50). In mass democratic settings, acquiring autonomous capacity for liberal interventionism is a basic condition for the government of a free labor economy.

About Europe: Economic Constitution and State Power

Since in mass democracy there is the risk of discretion towards, and potential comprise with the so-called special interests, principally the interests of labor in sustained access to the means of subsistence, housing, health, and education, the establishment of binding international or supranational structures of market, law and money is a potentially powerful means to 'prevent liberalism being devoured by democracy' (Röpke, 1969: 97). In this context, Röpke, and Hayek and others too, explores the market-liberating function of a federated system of inter-state relations as a powerful defense 'against the flood of modern mass democracy' because it 'diminishes national sovereignty' without transferring to a higher authority (Röpke, 1998: 8; Röpke, 1955: 250).[18] Any such transfer is rejected as a danger to the free economy because it tends to create a 'collectivist form of economic organisation (bloc economy)' (2002: 231).[19] In these arrangements the potential for economic planning is 'transferred from the national level to the international level. It would mean the yet stronger and more inescapable domination of the planners, statisticians, and econometricians, the centralising power of an international planning bureaucracy, international economic intervention, and all the rest of it..., creating a giant European organisation' (Röpke, 1998: 243, 245). Röpke and others like him (see Slobodian, 2018), including Feld (2012) in the context of European monetary union, reject political union because it does not diminish sovereignty. Instead, it transfers it to a higher level, which in Röpke's view will bring to power an '*economocracy*', that is, 'domination' by a centralized 'planning bureaucracy'. Röpke offers a stark choice: either a political union or a federation of independent nation states (2002: 230). That is either a 'bloc economy', in which the economy is centrally planned, or a community that facilitates decentralized decision making by the individual market participants, each pursuing their own self-interest on the basis of law and regulated by the price mechanism, the one buying the other selling labor power (231). 'Either it is right and desirable that money and credit policy should be operated like a switchboard by a government directly dependent upon a parliamentary majority or, worse still, upon some non-parliamentary group posing as the representative of public opinion. Or, conversely, it is right and desirable to counteract such dependency' (1998: 223) through a European *Stabilitätsgemeinschaft* committed to the economic constitution of the free labor economy.[20]

Michael Wilkinson's (2013: 353) characterization of what Müller-Armarck (1971) conceives of as a European *Stabilitätsgemeinschaft* is apt: it amounts to a '[f]raternity through commerce'. In contrast to a bloc economy characterized by central planning, it is a 'community of price, market and settlement' without a sovereign unifying power and controlling and directing center (Röpke, 2000: 231). According to Müller-Armack (1971: 162) the European *Stabilitätsgemeinschaft* is founded 'on law over and above its constitutive political entities'. It thereby establishes a 'law-based order committed to guaranteeing economic freedoms and protecting competition' (Joerges, 2005: 461). By establishing individual economic rights over and above the member states, and by establishing supranational money, it asserts a 'disciplinary effect' (Feld 2012: 440) on their national economies and also their parliamentary systems of democratic law-making, which now operate within an extra-territorial framework of directly applicable supranational law and money, and (negative) economic Rights belonging to individuals (Everson, 1995). The Union thus has the 'negative power' that Hayek talks about in his account of the virtues of inter-state federalism (see Bonefeld, 1998). Negative power prevents 'individual states from interfering with economic activity in certain ways, although it may not have the positive power of acting in their stead' (Hayek, 1949: 267). Nevertheless, negative power is a practice of government, too. The strength of the supranational bond depends on the power of the member governments to translate and implement supranational rules and commitments into effective national politics, from fiscal retrenchment to removal of protectionist measures, and from the abandonment of state aid to the achievement of competitive labor relations.

In the case of the European Union, its social order comprises supranational law, money, and market-forces with decentralized decision making by territorialized economic agents that compete with each other as self-responsible price-takers each endowed with 'Europeanized' abstract economic rights that are not subject to democratic law-making by parliamentary assemblies in the member states. On the contrary these rights set the framework for permissible law making and politics in the member states who are bound by European agreements and subject to adjudication of the European Court of Justice. The European Union respects in its entirety the traditional forms of parliamentary democracy in member states.[21] Indeed, it makes the establishment of parliamentary democracy a condition of membership. Nevertheless, it places economic governance into a supranational structure and retains parliamentary sovereignty in the member states that in effect operate as federated executive states of Union rules.[22] Europe institutionalizes the freedom to compete as individual right, removes monetary policy from the processes of parliamentary, political contestation, and ensures constancy of economic policy through supranational agreements. Furthermore, Europe is not a fiscal Union. Instead, it advocates the principle of (sovereign) liability.[23] It has a currency union with no fiscal union and no political union.[24] However, Europe also integrates the member states as the federated executive states of supranational rules. Its *Stabilitätsgemeinschaft* is not a function of technocratic processes of regulation. On the contrary it is entirely dependent upon the capacity of the constituent member states to govern accordingly.[25]

The market liberal watchword for Europe as a *Stabilitätsgemeinschaft* is subsidiarity. Subsidiarity entails a system of 'relative sovereignty' (Röpke, 1954: 38), in which the fundamentals of capitalist economy are regulated by law-governed and rule-based institutions that are not 'directly controlled by the electorate' (Engel, 2003: 430). For Engel, the functioning system of supranational rule-making and national implementation of the rules agreed upon makes 'Europe…the stronghold of the fight to save the Member States' civil society' (430) that in his view is one of sovereign consumers. Subsidiarity fetters democratic government to transcendent structures of law and money. It is by virtue of this denationalized system of economic governance that the member states 'come under a regime of imposed liberty' (431). However, in distinction to Engel, the appearance of the European institutions as depoliticized structures, mere institutions of technocratic governance, is deceptive. Vivien Schmitt's argument that 'while the EU has *policy without politics*, the member states end up with *politics without policy*' (2006: 33) recognizes the function of the member states as executive states of European policy. However, her ascription of policy-making to the EU is potentially misleading too. The EU is not a policy-making institution, nor does it make EU law, nor does it suspend law in an 'emergency'. The 'pact for Europe' is a pact without demos (MaCartney, 2014). It is, however, not a pact without governing executives. In fact, European law is made by the member state executives that meet in the European Council, and the various ministerial councils that support it. That is to say, European law is executive law, not parliamentary law. Furthermore, the policy decisions about, for example, fiscal retrenchment, etc., are also made by the member states executives meeting in the European councils. They are executive policy decisions. The European system of 'imposed liberty' has its political place in a system of executive decision-making that is akin to a medieval conclave of rulers (Anderson, 1997; Bonefeld, 1998). Regarding the claim that the 'member states end up with politics without policy', the policies that they implement are in fact agreed upon by the executives of the member states meeting in the European Council. They decide on the rules of the game, which are then (meant to be) implemented through the domestic conduct of government. Furthermore, during the crisis of the Euro-zone, the suspension of the rules of the game and the decisions about the character of fiscal sovereignty in the member states, amounted to emergency politics by the European (executive) Council. The time of emergency is the time of unbound executive power – in Europe, too (Joerges, 2016). Law is not applicable to chaos. Law presupposes order. *Ordnungspolitik* is the politics of order and law.

Mestmäcker (2003) thus characterized European integration as a comprehensive decision (*Gesamtentscheidung*) about the constitution of Europe, political as well as economic. Its principal elements are the free movement of goods, capital, services and labor and competition law. Competition between territorialized labor markets now also includes the institutional systems, from taxation to social protection (see Dardot and Laval 2013: 208–212). The regulative institutions of the European Union are law, money and market. These institutions are removed from traditional democratic principles of parliamentary law making. In its stead it establishes a fraternity of trade, commerce and exchange and institutes a market liberal framework for the pursuit of individual economic rights in competing territorialized labor markets within the EU. Within this framework the member states governments are the principal law makers and act as executive states of 'liberal interventionism' (Rüstow, 1963: 252). The formative power of European Union is market rule through the integration of the role of the member states as authoritative decision-makers of the rules of the game and as the authoritative enforcers of the rules decided upon (cf. Friedman, 1960: 25-30), as market police and 'planners of competition' (cf. Hayek, 1944: 31).

Conclusion

During the Eurozone crisis the solidarity shown by member states to prevent the collapse of monetary union has been immense. In the case of Greece, the commitment to Europe that was finally extracted under threat of expulsion in July 2015 put a whole political economy on the brink of collapse and led to the restructuring of its social contract. In the case of Spain and Portugal (2011-2014) it led *de facto* to formal governments of national unity and in Italy (2011-2013) it led to the appointment of a technocratic government. The Euro crisis exposed the European Council comprising the Heads of government of the Euro club as the political executive committee for managing the common affairs of the Eurozone. The Council has overseen the strengthening of fiscal rules and hardening of the entire system of fiscal governance, which now requires the achievement of balanced budgets and includes the requirement that member states submit their budgets to European assessors before they are presented to the national parliaments.

I have argued that the European Council, including its various ministerial councils, is the membership organization of national executives. It is the *de facto* European legislator and policy-maker. National parliaments may oppose the ratification of decisions made by European Councils, but their powers remain purely negative. Member state parliaments do not make European policy or law. The Council operates akin to a medieval conclave of sovereign kings and queens who are united in their efforts to find resolutions to conflicts that, in the past, pitted them against each other. Their efforts are supported by a number of legal and technocratic organizations that act upon the basis of the agreements that they have reached. The troublesome populace is kept out of the bargain. In European Union the Council is the institution of institutions. During the euro crisis, and in cahoots with the ECB, it decided to suspend the rules of monetary union in order to preserve them in the long run.

In conclusion, first, ordoliberalism is not a German ideology of austerity nor the ideology behind a European 'iron cage' of technocratic governance that forces the disempowered member states to adopt policies, which are contrary to their national interests. What makes ordoliberalism important is its understanding of the indispensability of the state in capitalist economy, which is the fundamental premise of its demand for limiting mass democracy by the liberal principle. Theorizing Europe through the ordoliberal account brings the political character of European supranationalism into sharp focus. In Europe political sovereignty is both federated to democratically accountable executive-governments and centralized in the form of a decision-making executive council as the concentrated power of European Union.

Second, in the European Union the member states govern through the European structures of money, law and market forces. Individually and collectively they are the executive states of the supranational bond which unites them. What Europe therefore integrates is not only ‘the role of the state in establishing the framework within which economic activity takes place’ (Hallstein, 1972: 28) but also the role of the states in sustaining the framework through their domestic practices of government. European supranationalism does therefore not curtail the state as the independent power of and over society, as conventional accounts have it. Rather, it provides the means for its independence from society.

Third, Union law is made by national executives as members of a supranational Council. The heterogeneous parliaments of the Member States have been transformed - to a considerable degree - from majoritarian law-makers into endorsing debating chambers. In contrast to the heterogeneous character of national parliaments, the Council assumes the role of an assembly of friends - each committed to the bargain in - at times heated - debate on how best to sustain the European idea. With the Greek case in 2015, however, the fundamental homogeneity of Council interests was broken. Instead of containing the mutinous character of the Greek opposition to austerity, it gained entry not only into the Greek parliament, but also gained the seat of government in Greece and thus became a member of the Council, shattering its homogeneity of interests. Concerted action between the ECB and Council majority forced the Greek government to heel. Indeed, to all intents and purposes, by accepting the conditionality of the bail-out agreements the Greek state accepted its role as an executive state of the European Council. Since the Greek crisis the new right government of Italy (2018) asserted itself as the contemporary challenger to the European *Stabilitätsgemeinschaft* by proposing a budget in deviance to European fiscal rules. However, unlike Greece, the Italian government was not hemmed in by the direct democracy of the street, and after a war of words with the European Commission, it accepted its ‘responsibility’ towards the bond of monetary union and therewith the management of labor relations 'under a regime of imposed liberty'.

In sum, the warning of the late President of the German Bundesbank, Hans Tietmeyer, that "sustaining monetary union might need perhaps more solidarity than beginning it" says more than it seemed at first (cited in Eltis, 2000: 146). That is to say, the center of political power lies not in some supranational state apparatus headquartered in Brussels. It is, rather, the member states acting as executive states of their common bond that bestow power and consciousness to the monetary union, keeping it together in an attempt to sustain the supranational institutions that they have put in place to secure the world market competitiveness of European labor. Clearly the power relations among them is asymmetric, as are the territorialized rates of labor productivity. Just as German leadership is accepted for as long as labor pays the price of economic adjustment to the prevailing world market conditions, the strength of the seam of monetary union depends on the capacity of its weakest link to maintain it. The commitment shown by the Greek state to do whatever it takes to maintain its membership in the monetary union is the triumph of inter-state solidarity so far. In conditions of abject misery and under duress, which Yanis Varoufakis (2017: 49) characterized as 'financial waterboarding', it committed itself to a program of labor market reform, which had seemed beyond its capacity of government and which it has since enforced with exemplary robustness and dedication. It did not commit itself to an ordoliberal Europe. Rather, in the context of world market competition, it committed itself to restructuring Greek labor relations and conditions. The 'class character' of the state 'is not defined in national terms'. Rather it derives from the world market, 'the capitalist law of property and contract transcending national legal systems, and world money transcending national currencies' (Clarke, 1992: 136). I have argued that ordoliberalism is the theoretical expression of the raison d'étre of liberal interventionism by the mass democratic member states of the monetary union.

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Notes

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[1] See, for example, Eric Sheppard and Helga Leitner (2010) and Brigitte Young (2015).

[2] See, for example, Tribe (1995), Streeck (2015) and Bonefeld (2017b, 2018a). On Schmitt's authoritarian liberalism see, for example, Cristi (1998), Heller (2015) and Marcuse (1988).

[3] The Schmittean character of Eucken's formulation is clearly evident. Indeed, Eucken (1932: 307) refers to Carl Schmitt's (1931) *The Guardian of the Constitution* as the authoritative source behind his thinking. See also Hayek (1960: 485). The insight that the progress of capitalist society depends on good government is made most strongly by Adam Smith in chapter one of the *Wealth of Nations* (1976). On this, see Bonefeld (2013a). Unsurprisingly, Marx conceived of the capitalist state as the 'concentrated and organized force of society' (Marx, 1990: 915).

[4] The founding ordoliberal thinkers are Franz Böhm, Walter Eucken, Alfred Müller-Armack, Wilhelm Röpke, and Alexander Rüstow. Leonhard Miksch was a student of Eucken's and Ernst-Joachim Mestmäcker of Böhm's. On these thinkers and their contributions, see Slobodian (2018).

[5] On the meaning of the 'executive state', and its other, the mass democratic legislative state, in the context of ordoliberal argument about the 'free economy' as a political practice of government, see Bonefeld (2018a).

[6] The debate between Jürgen Habermas and Wolfgang Streeck, which was prompted by Habermas's (2015) review of Streeck (2014), is characteristic of the poverty of the normative approach to the European Union. In the context of anti-austerity, the debate was about the question whether the 'left' should push for the deeper integration of a thoroughly democratized Europe (Habermas) or for a peaceful dissolution of the EU in favour of resurgent nation states (Streeck). This debate suffers from the idea that there can be a meaningful comprehension of the European Union without conceptualizing the dynamic of capitalist wealth, that is, the world market validity of European labor.

[7] There is no doubt, Germany is the dominant power of the European Union and it is the case also that the Euro ties the EU countries to Germany. However, it is not the normative commitment to ordoliberal doctrine that guides the policy-decisions of the German state managers. Rather, they are guided by the desire to sustain the world market validity of 'German labor' without loss of political stability and legitimacy. The characterization of the contemporary conditions of capitalist economy in Europe as a manifestation of ordoliberalism diverts attention from the world market conditions of capitalist wealth. Instead, it makes it seem as if the conduct of public policy is determined by the ideological disposition of the hegemonic state managers. In this argument illusion dominates reality. Reality is not a product of thought. Rather, it requires thought for its comprehension. On this, see Bonefeld (2014). I use the term 'state managers' in line with Burnham's (2001) seminal account of neoliberal statecraft as an attempt at managing the conduct of public policy without democratic interference.

[8] See, for example, Bonefeld (2000), Clarke (1988) and Radice (2015).

[9] On the 'European' transformation of the national liberal-democratic state into democratically constituted executive states, see also Bonefeld (2017a, chapters 6-8; 2018a; 2018b). This article builds on these earlier attempts at articulating European union as a system of federated executive states.

[10] See, for example, Bernholz (2013) and Sinn (2014). On the AfD and its transformation from an anti-Euro party into a nationalist one, see Schmitt-Beck (2017). On the relationship between ordoliberalism and the AfD, see Havertz (2018).

The ordoliberal Jürgen Stark resigned from the ECB in protest, and Axel Weber from the Bundesbank, both in 2011. Whereas the critics see the former German finance minister Schäuble as the villain of the piece, some ordoliberals criticised him as too moderate by half. On these points, see Jacoby (2014).

Victor Vanberg is the contemporary doyen of ordoliberal thought.

[11] "Whatever it takes" is a now famous phrase used by Mario Draghi, who, in his role as President of the ECB, offered this Schmittean phrase in answer to the question of what the ECB would to do sustain the Euro. See www.ecb.Europa.eu/press/date/2012/html.sp120726.en.html.

[12] In distinction to the anti-austerity demand for a return of the nation state as the foundation of a democratic government for the many beyond the European constraints, see for example, Streeck (2014, 87-112), Flassbeck and Lapavitsas (2015), Lapavitsas (2018), and also Scheuerman (2016), the purpose of capital is to make a profit and the national state is the political form of that purpose (Neupert-Doppler, 2018). The so-called 'constraint' placed upon mass democracy by the monetary union, which ties the democratic promise of a government for the many to the liberal principle of government as the concentrated power of competitive labor relations, belongs therefore to its concept. The classical text about the class character of capitalist democracy is Luxemburg's (1989) *Reform or Revolution* of 1899. See also Agnoli (1990), Bolton and Pitts (2018), Bonefeld (2006, 2017b), Grollios (2017) and Rogers (2019).

[13] The idea of an economic 'style' is Müller-Armack's. For an account, see Bonefeld (2017a).

[14] Indeed, it is also a fundamental principle of European Monetary Union. As the former Greek Finance Minister, Yanis Varoufakis (2013), found out, in monetary union sovereign debt is not to be discharged by the Union. It may only be discharged by the respective member states. Contrary to ordoliberal insistence on liability, the politics of austerity in the Eurozone amounted to a politics of financial socialism. The banking sector was bailed out by taking money out of the pockets of the workers. The identification of freedom with self-

responsibility has principally to do with the self-responsible freedom of the 'sellers of labor power' (see Bonefeld, 2013b).

[15] According to Eucken, Lenin recognized what is at stake: 'In order to destroy bourgeois society, one has to devastate its finance' (Lenin as cited in Eucken 2004: 255).

[16] Schmitt made this point about the usurpation of the executive state by the legislative state in his *Guardian of the Constitution* (1931). The nickname of the then German Chancellor Heinrich Brüning was *Hungerkanzler* – famine chancellor.

[17] This demand for an extra-political, depoliticized conduct of monetary policy is not a specifically ordoliberal in insight or demand. For an overview in the context of the British political economy during the 1990s, see Bonefeld and Burnham (1998).

[18] See Hayek (1949). On the neoliberal debate about and acceptance of (interstate) federalism as a restraint of mass democratic interference, see Slobodian (2018). In the context of the US, see the work of Riker (1982, 1987) about federalism and state rights as means of containing the 'great society'.

[19] In this context Röpke refers to the Nazi idea of a *Großraumwirtschaft* and the Japanese idea of a 'co-prosperity sphere' as violations of federalism (2002: 231). In a later work, he also refers to the European Coal and Steel Community, which was formally established in 1951 by the Treaty of Paris, and to the European Common Market, which was created by the Treaty of Rome of 1957. In his view these Treaties point towards the establishment of an 'international welfare state' (Röpke, 1998: 243).

[20] The term *Stabilitätsgemeinschaft* is Müller-Armack's (1971).

[21] On the European Parliament as a democratic institution, see Streeck (2015), Bonefeld (2018a).

[22] As Streeck (2015: 366) put it, '[w]here there are still democratic institutions in Europe, there is no economic governance any more, lest the management of the economy is invaded by market-correcting non-capitalist interests. And where there *is* economic governance, democracy is elsewhere'.

[23] As the president of the German Bundesbank, Jens Weidmann, put it in 2014: 'Just as the market economy can only function when employers take responsibility for the

consequences of their decisions a currency union with sovereign states can only function when the states … take responsibility for their decisions'.

[24] According to O'Rourke and Taylor (2013: 169) it combines a currency union similar to the US currency union (one national economy, one currency) with the political void of the gold standard (no fiscal union, no welfare union, no political union, etc.). However, the fact that European monetary union proceeded without and has not been followed by political union does not diminish, in fact it emphasises, the political role of the member states as federated executive states of their own supranational arrangements.

[25] In the ordoliberal argument, the Eurozone crisis was a consequence of either weak national governments, which led either to feeble attempts at restructuring domestic labor relations and illiberal interference with the European economic constitution, including fiscal free-riding, or, in the case of Greece, of a deliberate attempt at holding the Eurozone to ransom. See Sinn (2014). Sinn's argument echoes Röpke's (1959: 265) characterization of false internationalism as one that allows the 'sick [to contaminate] the sound'. Sinn advocated for Greece to exit the monetary union.

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