
MAXIM POPOV

Authoritarian liberalism, ordoliberalism, and the contradictions of European political development

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[maximus.popov@gmail.com] (Doctor of Science, Professor at the Department of Philosophy and Ethnology, North Caucasus Federal University)

Abstract

The term ‘authoritarian liberalism’ covers two crisis-related symptoms of the constitutional and political development of Europe. In the EU and especially in the Eurozone, there is an authoritarian aspect of governance, represented by the binary process of de-democratization and de-legalization, which is related to ignoring parliamentary powers and parliamentary debates, as well as violating the guarantees of the rule of law and protection of social rights. Authoritarian liberalism strives for the rational management of free markets. Institutionally, this is manifested in the constitutional consolidation of economic freedoms and the transfer of control over economic activities to expert bodies and the executive branch of the EU. If authoritarian liberalism focuses on market rationality and economic liberalism, then authoritarian ways of implementing policies are subordinated to the interests of private property, thereby contributing to the further “authoritarian transformation” of the European Union. Thus, the eurocrisis is being transformed into a legitimization crisis and a clash of main political goals: ordoliberalism, market capitalism, European integration, and democratic self-government.

Keywords: authoritarian liberalism, market capitalism, representative democracy, neo-liberalism, ordoliberalism, eurocrisis

1 Introduction

Since the financial crisis of 2008, the authority and legitimacy of the state system in Europe have suffered from a number of fundamental problems related to the future of the European project, its values, and the prospects for European integration. The EU economy is relatively stable today (Eurobarometer, 2023); political ideas for ending the experiment in European integration remain marginal, although anti-European pressure is increasing fragmentarily in Hungary and Slovakia, where Eurosceptic parties are on the rise. Existential challenges relate both to the legitimacy of internal regimes and to the very functioning of the EU, which is caused by fragmented pressure from below in the context of

subnational claims to political autonomy. In regions of Europe where there is an increase in support for parties advocating Eurosceptic and autonomist positions, the political mobilization of supporters of independence is occurring on the basis of belonging to a national-territorial community.

The concept of authoritarian liberalism covers two elements of European constitutional development, represented by a binary process of de-democratization and de-legalization, which is associated with a disregard for parliamentary powers and parliamentary debate, as well as a violation of guarantees of the rule of law and the protection of social rights (Bonefeld, 2017; Somek, 2015; Wilkinson, 2015). The terms “executive managerialism” (Joerges & Weimer, 2012) and “emergency Europe” (White, 2015) are also used to understand this binary process. Authoritarian liberalism ignores the ethical dimension of public policy and constructs an ideological barrier to positive liberty, creating conditions for the materialistic reduction of moral imperatives of participatory democracy. Authoritarian liberalism is accompanied by systemic and anti-systemic challenges to the dominant order in the process of searching for EU integration alternatives and enhancing right-wing conservatism and ethnic nationalism, and is leading to populism and illiberal authoritarianism, which is most evident in Central and Eastern Europe, but also reflected in the growth of Eurosceptic parties such as National Rally and Alternative for Germany. The economic and political model of authoritarian liberalism has a contradictory character: in a crisis, neoliberal integration processes can increase instability, creating conditions for the escalation of reactive neotraditionalism and its development into conflicts (Moravcsik, 2004; Slobodian, 2018; Wallerstein, 1995). According to Q. Slobodian, “while neoliberal elites might be organized globally, they remain reliant on the set-up of a national vision, through which any national ruling class can appear as the sole representative of their national people. If we want to know why neoliberalism is now dissolving into this specific nightmare – one of nationalist authoritarianism – this is where we need to look” (Brandes, 2019).

In critical periods when capitalism and democracy enter into explicit conflict, both in terms of interests and values, the state is perceived as a representation of this tension within the sphere of political economy and, in some cases, as an actor in conflict resolution. The reason why we can speak here about the state, and not just about temporarily elected governments, is that all the institutions of the state strengthen and reform the relationship between democracy and capitalism through the military, police, judicial authorities, central banks, socio-cultural institutions, and the media. This “repressive ideological apparatus” in Europe (the European Commission, the European Council, the European Central Bank, the Eurogroup, the European Parliament), without having a strong representative body as a corrective force, evades democratic control (Wilkinson, 2019). Just as modern capitalism and inequality can threaten a democratic state, the democratic struggle for social equality can act as a potential threat to the capitalist state. Democratic movements can threaten a fundamental structural change in politics and economics with a new demand for political and democratic control over the economy (in the case of democratic socialism). In such a context, in order to preserve the status quo, the ideological and repressive apparatus of the capitalist “strong state” offers a more advanced form of neo-authoritarianism. To reflect the conflict dynamics of authoritarian liberalism during critical periods of European development, it is necessary to analyze ordoliberalism as a historical form of the phenomenon under consideration.

2 Ordoliberalism and authoritarian liberalism – other faces of the neoliberal canon: a literature review

The synthesis of political authoritarianism and economic liberalism is not unique within the framework of the eurocrisis; this approach was used in the context of the transformation of capitalism in Southeast Asia and Latin America to denote autocratic and even dictatorial measures aimed at implementing a free-market economy (Jayasuriya, 2001). This type of authoritarian-liberal synthesis is called “authoritarian neoliberalism,” which is associated with the transition from the relatively consensual neoliberalism of the “third way” to a new coercive type that arose during the recent financial crisis (Bruff, 2014). The ordoliberal theory of the strong state that underlies authoritarian neoliberalism avoids analyzing conflictual capitalist dynamics, taking market capitalism for granted: ordoliberalism does not resolve the fundamental contradictions between public goods and private interests and does not reduce the structural inequalities inherent in the capitalist state.

Following the constructivist approach in EU studies, the “power of ideas” has been most commonly invoked to explain German policy and the resultant imposition of ordoliberal doctrine throughout the continent (McNamara, 1999). The German commitment to what W. Munchau has characterized as “ordoliberal utopia” (at the expense of potential Eurozone instability) is discursively assumed (Munchau, 2018). J. Bibow assigns critical weight to “Germany’s oddly anti-Keynesian views on matters of macroeconomic policy” (Bibow, 2017). Ordoliberal ideas have played a decisive role in all phases of the Eurozone crisis: ordoliberalism has defined a distinctive European approach to the global financial crisis in a region that was once the global heartland of Keynesianism and the social contract. As A. Cafruny and L.S. Talani note, “Germany’s material / corporate interests – and its particular domestic and regional predicament – throw[...] up enormous obstacles to the abandonment of ordoliberalism and the adoption of the more expansive Keynesian policies that most observers believe are necessary to sustain the Eurozone” (Cafruny and Talani, 2019, p. 1013). The contradiction between the interests of German capital and those of many of the other Member States makes it extremely difficult to meet the developmental needs of the Eurozone as a whole.

There are three distinct aspects to the ordoliberal tradition: a) the normative standpoint; b) practical policy advice focusing on the rules of the game (“*Ordnungspolitik*” in German); and c) academic research programs, which develop around the question of what a good societal and economic order looks like, how it can be implemented, and what types of institutions and rules work better than others (“*Ordnungsökonomik*” in German, translated as constitutional economics) (Horn, 2022). The German intellectual tradition of ordoliberalism has its roots in the work of economists and legal theorists associated with the Freiburg School in interwar Germany. The Freiburg tradition of ordoliberalism revolves around the concept of the strong state, i.e., a limited government, non-corrupted by private interests. The task of government is to provide, protect, and reliably enforce the non-discriminatory general rules of the game for economic and social interaction without intervening much in the process itself, nor becoming a player itself. While societal order is seen as a complex structure, with the subsystems of the economy, politics, and civil society interwoven and interdependent, it is the legal order, understood as an economic order that must actively be constructed in an enlightened, generally beneficial way (Eucken, Böhm, and Grossmann-Doerth, 1936). This economic constitution not only prohibits political in-

terventions by means of caps or floors and any other meddling with prices, but also calls for a stable currency in terms of both prices and exchange rates, open markets, the protection of private property and freedom of contract, economic accountability, and consistent public policy (Eucken, 1952). As R. Bachmann notes, “there is a natural tendency for German culture to accept, perhaps even admire, ordoliberal economics, because it is a type of economics that is close to continental law: rules- and framework-based [...] Ordoliberals are viewed as good economists because they really are like jurists” (Bachmann, 2019, p. 116). It was the German economic constitutionalists’ distrust of popular sovereignty and of the “chaos” of social reformism that subsequently led European ordoliberalism to transform the norms of democratic constitutionalism and representative democracy to support economic commitments to currency and price stability, strict fiscal discipline, and competitiveness. The ordoliberal turn in Europe took place under the leadership of Franz Böhm’s most important disciple, Ernst-Joachim Mestmäcker, who argued in 1975 that “the academic school of thought which promotes the *Wirtschaftsverfassung* (translated as “economic constitution”) [...] is not committed to the elaboration of the political potency of the economic, in order to fall into the arms of the democratic regime, but rather seeks to place that regime in a position whereby it can independently and adequately perform its mandated rule of law and welfare tasks” (Mestmäcker, 1975, p. 419).

Early ordoliberalism, as “an orderly and improved” German version of neoliberalism and a historical form of authoritarian liberalism, formed a market-oriented and constitutionally oriented model of the strong state’s authoritarian response to the economic and constitutional crisis of the Weimar Republic, resisting the growing pressure of social democracy and European socialist projects. This neoliberal model of authoritarian response to the economic crisis was not unique to late Weimar – countries around the world tried to support the demands of the Gold Standard, resisting social democracy, until they gave up gold, which led to Welfarism in Britain and the New Deal in the United States. As M. Schmelzer notes, it was precisely the matter of capital controls that neoliberal promoters of the Gold Standard and floating exchange rates saw as the key threat to a liberal order. Two recurring points can be regarded as fundamental axioms of neoliberal monetary thought: first, the rejection of any form of currency and capital controls; second, the attempt to use automatic market mechanisms to impede or roll back democratic (and Keynesian) economic policies and thus reintroduce fiscal and monetary restraint. While the rejection of government controls was generally constitutive of liberal worldviews, capital controls were of particular concern for neoliberals (Schmelzer, 2020, p. 204). In the following sections, I will try to trace the development of these debates and analyze the conceptual and institutional relationship between authoritarian liberalism and ordoliberalism in diachronic and synchronic terms.

3 Toward a diachronic analysis of ordoliberalism and authoritarian liberalism

During critical periods of transformation, tensions between democratic and capitalist states increase, which entails a deep constitutional crisis. In late Weimar Germany, the democratic capitalist state reached its apogee due to the growth of a politically emancipated proletariat that began to threaten the political and economic differentiation created and

defended by the Constitution. Since 1930, public power in Germany had been deployed in a highly discretionary and dictatorial manner, bypassing Parliament and repressing spontaneous public debate, with the presidential Cabinets ruling via emergency powers granted by the Constitution against a backdrop of growing extra-parliamentary unrest on the streets. Liberals and conservatives turned to authoritarian government to manage the political and economic turbulence of the period, in an attempt to maintain the illusion of the separation of the political and economic realms. The reaction of the ruling elite to this threat was the convergence of authoritarianism and economic liberalism, as the social democrat and constitutional theorist H. Heller first pointed out in 1933 (Heller, 2015). The term “authoritarian liberalism” was used by H. Heller to radically criticize Germany’s attempts to enter into an alliance with big business in the period between 1930 and 1933 in order to maintain economic liberalism at the cost of intervening in politics in favor of capitalist interests (Heller, 2015). In the mid-1920s, H. Heller still imagined the Weimar state as a neutral state, equally open to different governmental regimes, socialist as much as capitalist. As Wilkinson notes, “he had soon speculated, however, by 1928, that the path to dictatorship might be taken by the working class due to the severe socio-economic disparities that were emerging. If we put it in terms associated with Polanyi (whose *The Great Transformation* would be first published in 1944), Heller thought that the “countermovement” would occur through the turn to an authoritarianism led in the first instance by the proletariat. By late 1932, however, Heller realised that it would in fact be the ruling class that would first defect from the principles of parliamentary democracy” (Wilkinson, 2022, p. 192).

The purpose of the criticism of H. Heller was the centrist policy of Chancellor H. Brüning. The centrist government of H. Brüning ignored parliamentary democracy, using presidential decrees under the cover of an emergency, to impose austerity and protect the basic principles of economic liberalism. This policy was based on disappointment with democratic solidarity for maintaining a capitalist economy during the critical period of post-war deflation, unemployment, and political turbulence. For Germany’s early Ordoliberals, the fear, reinforced by the success of the Bolsheviks in Russia, was determined by the potential turn of democracy towards socialism (Cristi, 1998). According to K. Polanyi, the more fiercely the countries resisted social democracy through authoritarianism in the name of economic liberalism, the stronger and harsher was the backlash: authoritarian liberalism ousted democracy, weakening its ability to respond to the fascist threat (Polanyi, 2001).

H. Heller’s concept of authoritarian liberalism became part of the criticism of C. Schmitt’s political theology and constitutional theory with the formula “strong state, free economy.” C. Schmitt recommended Germany a strong state with a free market that opposed the threat of democratic socialism and experiments of economic democracy. A common feature of these doctrines is the recognition of the state as a source of security and social order in capitalist society. In relation to the economy, the state is absolutely the dominant force: C. Schmitt and the German Ordoliberals viewed the state as a “security regime” and characterized it as the main instrument for preventing civil war (Schmitt, 2008). For them, the Weimar Republic was an ineffective political structure that allowed the ruled to influence the strategy of the rulers. According to C. Schmitt and the German Ordoliberals, for the sake of a free economy, the state should have been built as a fortress in order not to become a victim of massive democratic demands for social protection.

C. Schmitt argued his position by referring to the concept of the Leviathan by T. Hobbes as a symbol of dominant power, as well as to the traditions of conservative criticism of the egalitarianism of the French Revolution: Schmitt rejected the idea of social equality and defined lawmaking in democracy as the “rule of the crowd” (Schmitt, 2008).

Ordoliberals argued, based on the political intuitions of A. Smith, that the power of the state is fundamental to the creation of civil society. The state, as legislator, must uphold the law of private property and prevent “bloodshed and disorder” (Smith, 1976). In ordoliberal theory, the state is the political practice of the “market police,” where competition is not a category of cohesion and integration (Rüstow, 1942). The market police is obliged to maintain a competition of private interests, which can be reconciled based on common needs for security and freedom through contract and guarantees of property rights. Acting as market police, the state civilizes the behavior of “greedy self-seekers” based on “politically imperative rules of the game” (Rüstow, 1942). The law is a means of social security and a category of personal freedom: individuals are free if they obey the law, but the law does not apply to riots. The rule of law is underpinned by social order as a key political category. For theorists of authoritarian ordoliberalism, the rule of law entails the absolute power of the state as a concentrated force of order: if a situation of choice between law and order arises, the law must be sacrificed for the sake of order (Bonefeld, 2017). According to H. Marcuse, authoritarian liberalism is associated with the existentialization and totalization of the political sphere, when the depoliticization of social relations entails the politicization of the state as the dominant force (Marcuse, 1988).

Early German ordoliberalism expressed the political needs of a free economy in the form of “political theology”: it is vital to eliminate all democratic intentions of state policy, especially in the monetary sphere, which should not be run like a switchboard by a weak government directly dependent on a parliamentary majority, or, even worse, by a non-parliamentary group posing as a representative of public opinion (Röpke, 1960, p. 232). In this context, the Ordoliberals argued that the desire for a free economy presupposes a reduction in social democracy and total freedom to make executive decisions. The weakness of democracy in its effective response to economic crises and social unrest leads to the fact that, according to W. Röpke, it must be supported by restrictions and guarantees that prevent democracy from being absorbed by democracy itself (Röpke, 1969, p. 97).

The main argument of H. Heller is that social inequality is incompatible with constitutional democracy, since it requires a high degree of social homogeneity, or at least the prospect of it, for maintaining political legitimacy (Heller, 2015). However, constitutionalism still underestimates the challenges to democracy from economic liberalism and sees democracy as a threat to capitalism. After the Second World War, political theory substantiated the key idea of the constitutional protection of liberalism, neglecting the studies of power structures that can formally undermine democracy in a capitalist state (Hailbronner, 2015). Constitutional theorists involved in the design of legal and political institutions developed internal, international, and supranational institutional mechanisms for controlling majoritarianism and “democratic irrationality.” According to K. Horn, “it is true that the historical ordoliberals grappled with the idea of party democracy at first. Fairness requires one to bear in mind, though, that their academically formative years, the beginning of the interwar era, were the first time that people from the shattered former Austrian and German empires experienced modern democracy. Without wanting to restore mon-

archy, some of them, looking back at the protection of individual rights that had been secured under the empire, were worrying whether the new type of parliamentarism would live up to the challenge” (Horn, 2022, p. 551).

Independent technocratic institutions, such as constitutional courts, commissions, and central banks, are becoming the norm and are gradually taking root in liberal consciousness. European integration is becoming an integral part of the post-war liberal-constitutional process of building a “militant democracy”: J. W. Muller offers the concept of “constrained democracy” as a representation of this phenomenon (Muller, 2011). The principle of the militant defense of liberalism in the name of democratic consolidation is due, primarily, to concern for economic liberalism, rather than the goals of protecting political liberalism and strengthening representative democracy. In contemporary constitutional theory, the focus is on analyzing the challenges and dangers posed by unfettered democracy, rather than addressing the obvious effects of unfettered capitalism on social and economic inequality, as warned by H. Heller and K. Polanyi.

The Glorious Thirty years of the welfare state facilitated the contradictions between capitalism and democracy. Post-war democracies were created not just in opposition to state terror or aggressive nationalism, but also in opposition to the totalitarian concept of spontaneous historical action carried out by collective political actors, such as the Nazi *Volksgemeinschaft*. In response, Western Europeans built a highly controlled form of democracy, marked by the stamp of a deep distrust of popular sovereignty and even of traditional parliamentary sovereignty. Liberal theory has sought to resolve the majoritarian dilemma by restricting democracy, both institutionally (constitutional control) and ideologically (the concept of reasonableness by J. Rawls) (Rawls, 1993). Thus, contemporary constitutional theory is moving away from critical interaction with political economy. European integration is seen as an aspect of the constrained democracy project, and not as a further stage of reconstructing the relationship between politics and economics.

The post-war development of Europe was characterized by a new vision of not only technocratic management functions, but also management relations, in particular, the nature and limits of economic management. The Freiburg Ordoliberals, for whom both unfettered capitalism and disorderly democracy were threats, proposed a new concept of the economic role of the state and a social market economy based on neoliberal competition. C. Friedrich, in analyzing the ideological significance of neoliberalism, noted a fundamental theoretical turn in German ordoliberalism with its idea of transforming people’s sovereignty into individual freedom as a tool to legitimize constitutional order (Friedrich, 1955). For European Ordoliberals, economic constitutionalism, based on individual rights and competition, was intended to ensure the complete elimination of class and ethno-national conflicts from the political sphere. From this point on, the self-identification of subjects of constitutional relations in Europe (in particular, the European Court of Justice and the European Commission) was to be determined by the ideology of economic rationality and the logic of market competition.

Ordoliberalism identifies the economic constitution of a free labor economy as “an explicit and uncompromising decision” about the founding principles of a capitalist social order (Röpke, 1982, p. 39). The economic constitution determines the fundamental character of a definite form of society, its constitutive principles, basic regulatory rules, socio-cultural values and commitments; furthermore, it determines both the scope of legitimate

parliamentary law-making and the style of political interventionism. The ordoliberal argument is that the capitalist economic constitution does not permit discretionary intervention in 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, p. 29). Instead, “all governmental decisions that might affect the economy should flow from the economic constitution” (Gerber, 1994, p. 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.

Ordoliberalism is the doctrine of “liberal interventionism”: According to this conception, the state does not intervene for specific social ends; rather, it intervenes to ensure the undistorted exposure of economic agents to competitive market pressures (Rüstow, 1963, p. 252). 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, p. 29). As W. Bonefeld notes, “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” (Bonefeld, 2019). 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, 1989) 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, p. 133, p. 327).

In the context of the European sovereign-debt crisis, ordoliberalism has internationally come to be held responsible for Germany’s stern official attitude, especially toward Greece (Ryner, 2015). In the realm of fiscal policy, ordoliberalism is associated with an unrelenting insistence on budgetary commitments and financial responsibility (no bailouts), leading to unnecessary hardship through austerity, while strictly restraining the task of central banks to the maintenance of price stability. With the beginning of the eurocrisis, liberal centrism tries to stabilize but increasingly becomes the subject of growing political disputes from the standpoint of state power. Having lost faith in the power of institutional tools, the European state system begins to resort to coercion in an attempt to maintain order. Since democratic support for liberal centrism remains weak, it can compensate for it in other ways, presenting its criticism as an irrational and anti-European force. As a result, authoritarian liberalism today must support not only de-democratization in order to strengthen the liberal economic order, but also justify hegemonic relations between the capitals in the new “German Europe,” where each country should be similar to Germany, despite the impossibility of such a requirement (Wilkinson, 2015). In essence, the ordoliberal rules of economic liberalism established by the Economic and Monetary Union conflict with democratic and social movements against austerity (in the case of Greece, this conflict reached a limit after the election of a pro-European government opposing austerity).

Austerity in Greece took an “unprecedented form”: this is because Greece was the worst of all peripheral countries in terms of both internal (budget deficit) and external liabilities (current account deficit) (Fouskas & Dimoulas, 2017). As a result, the crisis took a very acute form. Under the triple discipline of the Troika (IMF, the ECB, and the European Commission), Greek cabinets have since 2010 pursued a most peculiar and acute form of bondage, that of internal devaluation, and by way of accepting a direct colonial regime within Greece proper. The crisis in Greece revealed that even specific departments and branches of the Greek state are controlled directly by the creditors, or the Troika. When Y. Varoufakis tried to test his “Plan B” when he was Minister of Finance from January to July 2015, he found out that even the General Secretariat for Public Revenue based in his Ministry of Finance was controlled by these creditors, who refused to provide him with the tax codes he wanted in case Greece’s negotiations with the Troika failed (Varoufakis, 2017). This resembles aspects of formal-colonial imperialism of the 19th century (Fouskas, 2019).

4 Authoritarian liberalism and democracy in the crisis processes of EU development

The ordoliberal free economy presumes the state to be an independent power in society that promotes competition in the face of “quarrelsome workers and reluctant captains of industry”: according to the ordoliberal paradigm, the political state does not compete with the invisible hand of the market; in the words of W. Bonefeld, “it depoliticises [...] social relations to achieve a law[-]governed exchange society and in this manner it facilitates the operation of the invisible hand” (Bonefeld, 2015, p. 6). The conceptual foundation of the ordoliberal “market police” is the independence of the state from economic interests and democratic majorities – it presumes government as an exercise in the “independence of political will” (Eucken’s concept) (Bonefeld, 2019). In fact, the ordoliberal state is the concentrated power and organized force of capitalist social relations. Its role is to secure the freedom of capitalist society through the politics of order (*Ordnungspolitik*), the politics of both economic order and social ordering – the politics of ordoliberal market rationality. During the eurocrisis, the European Council, comprising the Heads of government of the EU, 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 Hobbes-Schmitt’s strong state of “executive federalism” and “authoritarian managerialism.” The European ordoliberal institutions make monetary policy, set the framework conditions for the conduct of fiscal policy in the Member States, introduce austerity, and impose the condition of enhanced market competition upon the Member States, who implement Union requirements as enfeebled agents of supranational necessities. In a monetary union, EU Member States find themselves, as C. Engel put it, “under a regime of imposed liberty” (Engel, 2003, p. 431). 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).

The debt crisis hit Greece in May 2010, leading to massive austerity as the price of bailouts and debt reduction. During the fall of 2011, Greece experienced the full force

of what has aptly been called “Eurozone fiscal colonialism” (Legrain, 2014). Having announced plans to conduct a national referendum on the Troika’s bailout proposal, Prime Minister G. Papandreou was replaced by a “national unity government” of technocrats led by the unelected former Vice President of the ECB, L. Papademos, when France and Germany threatened to withhold financial support. The result was the wholesale restructuring of Greek society and economy under the diktat of the Troika. The Troika’s diktat applies not only to Greece but also to Italy, a founding member and the third-largest economy in the EU. In 2011, Prime Minister S. Berlusconi was compelled to resign under pressure from Brussels and the financial markets in favor of the “technocrat” and former European Commissioner for Competition, Mario Monti. As a result of the austerity faced by Italy under the technocratic governments of Monti, Letta, and Renzi, Italian populism rose to power, winning the elections of March 2018 (Cafruny & Talani, 2019).

Efforts to combat the systemic eurocrisis and its implications for public debt financing have profoundly changed the legal framework of the Economic and Monetary Union. The essence of these reforms is manifested in the active and deep involvement of the European Commission in the economic and budgetary planning of the Member States through the European Semester, which gives the Commission broad access to the entire field of domestic policy planning. The Member States of the Eurozone should not only submit to the Commission and the Eurogroup a draft budget planning for the coming year, but, under certain conditions, following the results of the work of fact-finding missions, they may be sanctioned in connection with the failure to implement the recommendations based on the reform of the Stability and Growth Pact. Constitutional reforms and the creation of new European integration institutions are accompanied by two fundamental problems that have accompanied the entire post-war European project. The first issue is the legal authority and competence of the Union and the Member States to take appropriate action. The second is related to the prospects for European crisis management in relation to the existing “democracy deficit” (Craig, 2012; Menendez, 2014; Somek, 2015). Here, the contradictions between national and supranational legal competences inevitably lead to a greater deficit of democracy. The democratic deficit is that none of the areas in which the European Parliament specializes – trade liberalization, monetary policy, the removal of non-tariff barriers, technical regulation in environmental protection, and others – appear on the list of issues of interest to voters (Moravcsik, 2004).

In liberal-democratic regimes, the political sphere is mainly the sphere of liberalism, and the social sphere is the sphere of democracy: democracy is more than liberalism, in the socioeconomic sense, but less than liberalism, in the political sense (Sartori, 1993, p. 210). The political is the sphere of limiting the powers of the state and the protection of the rights and freedoms of the individual; the social is the democratic space for the redistribution of welfare. Today, the new left advocates a cultural liberalism that promotes individual rights and equality of opportunity, while the new right advocates an authoritarian economic and political liberalism that protects the free market, freed from the “shackles of the bureaucratic state.” These competitive forms of liberalism reinforce each other and contribute to the convergence of market individualism, authoritarianism, and social atomism, leading to the depoliticization of society, making it dependent on market rationality, limiting the freedom of democratic choice, destroying previous social ties, and activating right-wing conservatism.

The process of European depoliticization as the main factor of authoritarian liberalism reached its apogee in the centrism of T. Blair's New Labour, which proposed an alternative to economic neoliberalism, but in many cases deepened it. European integration has strengthened centrism through consensus-based lawmaking procedures and institutional support for market liberalism. In the absence of a sustainable system of supranational democracy, Member States are left with "the politics but without policies," and the EU "with policies but no politics" (Mair, 2013). Western representative democracy breaks the ties between voters and party elites, who previously provided the system's legitimacy. Labor and socialist parties have fewer connections with grassroots organizations and act as technocratic organizations created to manage the system regardless of voters' preferences. Capitalist globalization creates structural pressure on left-wing governments to limit the welfare state and increase incentives for private investors. As W. Streeck notes, where there are still democratic institutions in Europe, there is no economic governance that will not be seized by non-capitalist interests; where there is economic governance, there is no democracy (Streeck, 2015a).

The authoritarian tendencies of European integration are becoming increasingly apparent in political practice, which G. Majone and S. Meunier call "crypto-federalism" and "integration by stealth." Crypto-federalism is federalism without a federal constitution, when the forces and subjects of political integration do not operate openly in the direction of the federal constitution – the main goal of neofunctionalism – but pursue a strategy of minor steps and grand effects. Crypto-federalism secretly and non-publicly launches the integration process, while political integration takes place under the guise of economic integration (Majone, 2009, p. 72). The strategy of "integration by stealth" makes democracy irrelevant and provides key solutions to European elites (Meunier, 2017).

J. Becker and C. Fuest attribute the sovereign-debt crisis in the Eurozone mainly to institutional failure: "The euro crisis was caused by overly lax banking regulation, ineffective sovereign debt rules, and a lack of institutions able to deal with crises" (Becker & Fuest, 2019, p. 142). These shortcomings are symptomatic of a "commitment problem" of Member States' policy; it is difficult for politicians to commit themselves, to keep promises, and to act sustainably because new problems have to be solved and desires arise. At the European level, it is the independence of institutions such as the ECB that mitigates the problem, while at the national level, it is political competition. "What does not work, on the other hand, is agreements and promises made at the intergovernmental level during EU summits in Brussels" (Becker & Fuest, 2019, p. 144). This setting liberates the representatives of the Member States from political liability at home for decisions taken jointly; they can shift the responsibility to the other Member States. "The medium- and long-term damage inflicted on political culture is considerable because the general public inevitably gets the impression that it is being governed remotely by Brussels" (Becker & Fuest, 2019, p. 145).

The main conditions of the euroregime imposed by the Member States of the Eurogroup, as well as the Troika institutions (IMF, the European Central Bank, and the European Commission), are neoliberal austerity measures (privatization, liberalization, labor market reforms, regressive taxation). This requires extreme state intervention in society, breaking social contracts and existing relationships. In analyzing institutional changes in the authoritarian management of the Economic and Monetary Union, in particular, the

new powers and authority of the Eurogroup and the European Central Bank, it is important to note that the neoliberal trend is a symptom of long-term trends in constitutionalism (Kaupa, 2017). T. Biebricher sees the constitutionalization, legal limitation and technocratization of politics as the core of ordoliberalism and points out that this raises some serious legitimacy problems – especially when distributional issues have to be decided upon: “these are then decisions of an inherently political nature in a twofold sense: not only are they contested vehemently within the realm of science but they [exact a toll on] particular groups of the population and therefore require a much stronger democratic legitimation than a presumably pareto-optimal politics of regulation would” (Biebricher, 2019, p. 197). The democratic pressure to which the ECB and the European Commission are exposed has decreased as a result of new mechanisms such as the European Semester and budget monitoring.

Systematic interference in national law is observed within the framework of the European Semester in order to develop a mechanism for reporting macroeconomic imbalances in Member States. The checks by the European Commission and the European Council cover all areas of public policy and areas over which the Union has no jurisdiction. Due to the influence of the Union on budget planning, the Member States are left with a “core of sovereignty” (Somek, 2015): national parliaments are not the main participants in decision-making against the backdrop of the growing influence of the European Parliament and supranational executive bodies. According to W. Streeck, “where national democratic institutions are neutralized by international ‘governance,’ as under European Monetary Union, their de-politicized empty spaces are likely to be filled with new content, which may be public entertainment of the ‘post-democracy’ kind (Crouch, 2004) or some politically regressive sort of nationalism. Under the auspices of the emerging consolidation state, politicization is migrating to the right side of the political spectrum where anti-establishment parties are getting better and better at organizing discontented citizens dependent upon public services and insisting on political protection from international markets” (Streeck, 2015b). The measures taken in response to the eurocrisis can be described as violating various constitutional norms that are stipulated in European treaties and constitutions: authoritarian liberalism leads to deconstitutionalization, which is the flip side of excessive neoliberal constitutionalization: Post-war constitutional regulation in Europe reflects this authoritarian attitude, which is the systemic fear of popular sovereignty and democratic constitutional power. Various measures associated with attempts by democratic politics to strike back at the principles of authoritarian liberalism at the national and subnational levels are rejected and condemned by neoliberal constitutionalists as populist.

In the context of democratic criticism, neoliberalism ignores the danger of authoritarian rule, not limited to the socioeconomic sphere. Liberalism takes for granted the existence of a lively democratic culture, underestimating its fragility and evading the recognition of threats arising within the capitalist economy: the logic of individualism and market competition can lead to the erosion of social solidarity that democracy needs (Cohen, 2008; Polanyi, 2001; Rawls, 1971). Constitutional theorists also avoid the question of the nature and consequences of economic liberalism in capitalist society by analyzing the general problems associated with the legitimacy of a constitutional review of legislation to protect civil liberties (Alexander, 1998). According to M. Sandel, the celebration of

the metaphorical “market of ideas” does not concern the actual market for goods, capital, services, and, in a broader sense, the impact of commodification and market behavior on social relations (Sandel, 2012, p. 42).

The reduction of democracy to a neoliberal economic regime became the main goal of authoritarian liberalism in the post-war period. These attempts have included empowering European constitutional courts to rule on the legitimacy of parliamentary law, subjecting parliamentary law to the primacy of judicial oversight, declaring the majority system invalid, and using debt ceiling regulation as a constitutional constraint on parliamentary power in the current European crisis. Since the early 1980s, there have been institutional attempts to remove and reduce democratic oversight of political decision-making of technocratic institutions such as central banks, which have been given wider independent powers. Q. Slobodian argues that Hayek’s authoritarian-liberal ideas have largely informed contemporary neoliberalism and liberals – for all that the road to this was “a twisting one of diplomacy, political economy and power politics” – and therefore identifies it as “the last episode of the twentieth-century neoliberal search for an institutional fix in a world they saw as always threatened by spasms of democracy and the destructive belief that global rules could be remade to bend toward social justice” (Slobodian, 2018, p. 258).

F. Hayek’s concept of interstate federalism (“the abrogation of national sovereignties and the creation of an effective international order of law is a necessary complement and the logical consummation of the liberal program” (Hayek, 1948, p. 269), which underlies European ordoliberalism, was embodied in the European economic constitution, according to which federal states operate within a supranational framework of economic rights and restrictions that dominate national decision-making and legitimize the de-democratization of lawmaking. In the Eurozone, the ordoliberal idea of an effectively governed community that should limit the “democratic excesses of a mass society” manifests itself in a federal form, including a supranational economic constitution agreed by all Member States. This megastructure reduces national democratic regulation of monetary policy, restricts fiscal policy, and ensures free competition and territorialization of the labor market, establishing the “supranational regime of imposed liberty” (Bonefeld, 2017, p. 757). The crisis management of the Economic and Monetary Union shows the administrative character of the cosmopolitan constitution of the Member States. This type of constitution obliges states to present their results through a peer review process: the administrative dimension of authoritarian liberalism is associated with the growing importance of transnational decision-making processes, such as technocratic mechanisms and tools of control and/or coercion. In the context of the eurocrisis, the principle of the proportional exercise of powers is replaced by the principle of the proportionality of powers to unpredictable tasks (Somek, 2015).

During the COVID-19 crisis, the main goal of the EU did not change, i.e., the reproduction of the capitalist economy (Anisin, 2023). The need for the European countries, which had austerity programs during the financial crisis, to recover, is crucial to ensuring a continuum of economic and social development. As Casquilho-Martins and Belchior-Rocha note, the implications of these responses require a political commitment for them to contribute to sustainable recovery and development: “the influence that the economic and financial crisis of 2008 had on the EU is remarkable and did nothing to ensure that... societies will be prepared for a new global crisis” (Casquilho-Martins & Belchior-Rocha, 2022, p. 36).

The separation between political and economic spheres reflects tensions between democracy and capitalism as real political and social forces. According to W. Streeck, in the post-war period, the capitalist state is being transformed from “a tax state” through “a debt state” associated with the neoliberal era into a new “consolidation state” combined with the principle of austerity (Streeck, 2013). The modern state continues to develop as a democratic state; its constitutional authority essentially depends on its connection with the people. The “people” here signifies the rhetorical and symbolic power of sovereignty, which reflects the relative autonomy of the political sphere not only from a classical theocracy in the context of modern secularization, but also from economic power. This is not only a modernist worldview, but also infers a continuous and fragile process of modernization due to the social struggle against the merger of political and economic power and class society. This narrative includes class, feminist, anti-colonial, racial, and ethno-national movements, as well as other forms of political struggle for social equality and recognition. The capitalist state can still be seen as a manifestation of an unresolved but more class-modified and deeply rooted contradiction between democracy and capitalism, internationalism and nationalism, solidarity and individualism.

Transnational solidarity can become a democratically effective and legitimate tool for resolving the contradictions of market capitalism and representative democracy, but the EU is developing in line with “a neocolonial paradigm” in accordance with the relations between the core and the periphery between creditor countries and debtor countries, and inevitably transforming into a neocolonial regime of European integration (Wilkinson, 2019). Political equality and transnational solidarity become illusory, since relations between debtor countries and creditor countries resemble the conditions of unconditional surrender. Supranational constitutions are based on fundamental rights and freedoms, legal principles and sanctions, which grow out of democratic processes aligned with the development of law and politics and prove their suitability within the framework of democratically organized national states.

5 Conclusion

Authoritarian liberalism becomes actualized during periods of economic crisis and is a structural element of post-war constitutional regulation in Europe based on doubts about democracy and popular sovereignty, and in large part because of the threat it can pose to the neoliberal order. In the context of the current European crisis, it is necessary to talk about the politically authoritarian style of management of the Economic and Monetary Union, even if this managerial authoritarianism does not bear traces of direct repression. Hidden authoritarianism strengthens economic liberalism, which, in turn, strengthens the further liberal authoritarian transformation of the EU. Authoritarian liberalism limits traditional forms of representative democracy, contributing to the resuscitation of populism and political radicalism. Authoritarian restrictions on representative democracy may lead not only to the strengthening of market capitalism but also to the revival of reactionary forms of new nationalism and illiberalism. De-democratization is grounded in the fact that distribution and production issues are derived from the public sphere of poli-

tics and are determined by market rationality and technocratic bodies. When politics and reformism are reduced to economic logic and constituent power, the autonomy of the political is reduced to the perspective of the revolutionary breakthrough of right-conservative fundamentalism.

The autonomy of the economic sphere, acting according to the logic of depoliticization of inequality, the commodification of social relations, and the erosion of solidarity, affects the legitimacy of the political dimension of democracy and the relationship between the rulers and the ruled. Neoliberal theory shies away from analyzing these dynamics, taking market capitalism for granted: it does not resolve capitalist contradictions between public goods and private interests, nor the structural inequalities inherent in the capitalist state. Authoritarian liberalism embodies the structure of capitalism's dominance over democracy, prioritizing economic liberalism and assigning a "technical role" to political authoritarianism. Due to the presence and dominance of the values of liberalism, authoritarianism in this structure is not repressive or monocentric; it is subject to sharp democratic criticism in relation to the supranational overregulation of European integration processes. The adoption of the ordoliberal model of constitutionally limited democracy in post-war Europe would have been impossible without two conditions: first, the development of the welfare state, which guaranteed each member a certain share of social wealth; second, the processes of liberalization and integration that unfolded in the 1950s and 1960s that impose restrictions on the national sovereignty of European democracies through the creation of supranational institutions.

European ordoliberalism as an enhanced form of authoritarian liberalism manifests itself in the constitutional consolidation of the primacy of economic freedoms in relation to legislatures and trade unions, as well as in institutions (European Commission, European Council, ECB, Eurogroup, and European Parliament) that transfer control over economic and monetary management from parliaments to supranational expert bodies and executive power. European ordoliberalism is not formally a strict constitutional constraint, and the internal electorate may not agree with the idea of the absence of alternatives to neoliberal reforms, but today this idea is imposed as dominant. Authoritarian liberalism is becoming both a transforming and conservative idea and principle of constitutional order in Europe: the post-war Euroregime has mutated from a nominally rule-based structure accompanied by market discipline to a discretionary regime reinforced by bureaucratic power; the purpose of this mutation is to preserve the ordoliberal constitution and its underlying market-based principles.

Ordoliberalism and authoritarian liberalism are reduced to the conceptualization of the free economy as a political practice of latent authoritarianism: European ordoliberalism proceeds from the idea of the insufficiency of political liberalism and controls the democratic organization of power. Today, the ordoliberal rules of economic neoliberalism established by the Economic and Monetary Union are in conflict with democratic and social movements against austerity. Democracy and the rule of law, including the protection of social rights, are also nominally protected in EU treaties and the Charter of the European Union. The ambivalence of European politics is leading to the transformation of the eurocrisis into a crisis of legitimation and a conflict among the political values of ordoliberalism, market capitalism, European integration, and democratic self-government.

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