

## ORDOLIBERALISM AS THEORY OF SMART GOVERNANCE

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### ABSTRACT

The paper is aimed to discuss the political school of Ordoliberalism as a possible philosophical and theoretical ground for a smart governance. The main **objectives** of the paper are: (1) to describe the basic coordinates of the Ordoliberalism, in its logical and historical path; (2) to conceptualize the smart governance from two perspectives: efficaciousness and ethics; (3) to argue the theoretical vocation of Ordoliberalism in establishing the principled base for a smart governance for a smart governance. The **approach** of the research is based on four methodological anchors: (a) logical examination; (b) historical assessment; (c) institutional analysis; and (d) axiological/ethical interpretation. The **results** of research are mainly theoretical (even philosophical): (i) logical definitions (based on sufficiency predicates) of the concept of Ordoliberalism and of smart governance – which are not usually practiced in literature; (ii) logical and institutional mechanism of grounding the smart governance on the Ordoliberalism; (iii) a (co)evolutionary chreode of smart governance based on Ordoliberalism (iv) normative „roadmap” to initiate and maintain the (co)evolutionary pack Ordoliberalism – Smart Governance. The **implications** of the research and their results and conclusions address especially academics and researchers but, in some measure, could bring usefulness also to political decision-makers. The **novelty** of the paper resides, mainly, in the methodology applied (massively based on the logical analysis, not a simple historical one), the connection between Ordoliberalism and smart governance, and in highlighting on the fact that the institutional pack Ordoliberalism – smart governance must be an intellectual project not an emergent one.

**Keywords:** sufficiency predicates, (co)evolution, legitimacy, deliberativeness.

### 1.0 INTRODUCTION

#### 1.1 A bird's eye view

Governance is one of human history's oldest concepts (and practices). For the present communication, a short examination (under the logic lens) of this concept is needed as follows.

- (i) (S) a (functional) Governance implies the *system*, i.e., the organization of individuals as a system. As known, a system has two macro-components: (i) a leading component, which enacts orders and verifies their accomplishing; (ii) an executive component, which implements the orders<sup>i</sup>. Even if the two components are difficult to observe, or they are weakly structured, in fact, they always work in any population (either human or animal) characterized by what we can call Governance;<sup>ii</sup> such predicate of Governance is met still in the most primitive social organizations of humans;<sup>iii</sup>

- logical consequence: Governance necessarily implies a hierarchy of power or, at least, a hierarchy of responsibility<sup>iv</sup>.
- (ii) (I) a (viable) Governance implies the societal *institutions*. The most important such institutions are: (i) values (many times tacitly working); (ii) norms (as a rule, codified values); (iii) organizations (specified ways/modes to elaborate the norms and to ensure their functioning across the community/society. The more developed the society is, the more are the share of codified institutions in the total of institutions;
- logical consequence: Governance is always working under the rule; the most general rule – Constitution – is formulated as result of the social contract (Rawls, 2012).
- (iii) (A) a (sustainable) Governance implies the structural property of *autopoieticity*. By autopoiesis is understood (Maturana; Varela, 1980) the process of self-(re)organizing, self-repairing on own chreode/path/trajectory. So, the Governance must have own principles and forces to sustain in an indefinite horizon of time;
- logical consequence: Governance is functioning, to some extent, based on *causa sui*<sup>v</sup> – which constitutes the underlying of the sovereignty.

So, the concept of Governance (*G*) is defined by the (logical) consistence, among them, of the three sufficiency predicates above mentioned. Formally, we have a conjunction of them:

$$G = (S) \wedge (I) \wedge (A)$$

or, verbally, the Governance is a *SIA* entity (of artifactual<sup>vi</sup> nature).

## a. About the paper

The *objectives* of the paper are: (1) to describe the basic coordinates of the Ordoliberalism, in its logical and historical path; (2) to conceptualize the Smart Governance from two perspectives: efficaciousness and ethics; (3) to argue the theoretical vocation of Ordoliberalism in establishing the principled base for a Smart Governance for a Smart Governance.

The objectives are got using rather a *logical* (and, partially, historical) than an empirical methodological *approach*, to ensure that the allegations keep the highest generality possible.

The research is organized in three sections: (i); the Ordoliberalism; (ii) the Smart Governance under the Ordoliberalism; (iii) some lessons for democracy from a possible „ordoliberal world”.

## 2.0 ON THE ORDOLIBERALISM

### 2.1 Preliminaries

The Ordoliberalism<sup>vii</sup> is originated in three intellectual traditions: (a) principles of political economics; (b) liberal tradition; (c) neoclassical economic theory. It grew as an academical discourse, aiming at getting a scientific statute<sup>viii</sup>.

The logical base of Ordoliberalism consists in two inter-correlated phenomena which have a necessary character: (i) transformation of the order; (ii) transformation of the processes.<sup>ix</sup> Historically, Ordoliberalism begins as neoliberalism, around 1950, although the stage of its theoretical founding starts around 1930 (by Freiburg School, especially Walter Eucken).

Ordoliberalism was often called *the third way*<sup>x</sup> (*Nota bene*: either as an authoritarian liberalism or a democratic authoritarianism), by positioning itself between Manchester-ian laissez-faire and communist despotism (Biebricher *et al.*, 2022). In fact, Ordoliberalism requires a strong state able to provide a free economy<sup>xi</sup>.

In its essence, Ordoliberalism can be viewed as a conservative liberalism. It sees the basic cause of societal crises in the cultural field (supra-structure, in Marxian terms), not in the economic/material field (base<sup>xii</sup>, in Marxian terms), so the possible economic crisis is an effect of the cultural crisis. Here resides some causal idealism of Ordoliberalism. *Nota bene*: some authors claim that, however, this the initial (German) Ordoliberalism is still present in the today German conservative tradition (Hien, 2023).

The normativity of Ordoliberalism has its origins in the natural order, based on the assumption that the human nature is an ontological invariant<sup>xiii</sup>.

## 2.2 The basic ideas of Ordoliberalism

*First of all*, Ordoliberalism proposes five economic principles to objectify its essence:

- the state has only to deal with the rules of the game (especially through the monetary policy – *Nota bene*: here is the link between Friedman-ian monetarism of Chicago School and the Ordoliberalism);
- there must also be redistribution at societal level – but at a minimal level, especially through progressive taxation; economic agents must be responsible for both profit and loss; instead, Ordoliberalism rejects the socialization of losses (government bailout);
- the state is responsible for managing negative externalities (generated by both private sector and governmental one);
- the state must prevent and handle (if happens) absolute poverty – including minimum wage or minimal income;
- the state must align its intervention to the compliance with the market – the state's intervention must not disrupt the market<sup>xiv</sup>. Although the state should be strong, it should not take the position of a benevolent state<sup>xv</sup>, but that of the guardian of the free market, by normatively delivering, ensuring, and guaranteeing equality before the law – in fact, to provide the rule of law.

*Secondly*, Ordoliberalism should be considered as a revival of the liberalism in its basic political, ethical, and economic dimensions.

*Thirdly*, Ordoliberalism, although is often called the third way, this does not mean at all a middle way between laissez-faire and state interventionism, as Keynes claimed under the

denomination „middle course”. Ordoliberalism combines three crucial predicates: (i) the liberal interventionism; (ii) the social reformism; (iii) the sociological conservatism.

*Fourthly*, Ordoliberalism claims some judgments regarding the functioning of the economic process as follows:

- economic policies must be of the form of liberal interventionism, accompanied by a strong visible hand<sup>xvi</sup>;
- unlike Schumpeter, it does not consider that large firms are beneficial;
- we need not only social/socially measures, but sociological/sociologically ones;
- it is needed for the equalization of the starting line for individuals<sup>xvii</sup>, which deliver the equalization of the opportunities provided by society. *Nota bene*: this idea is compatible and logically consistent with Rawls’s principles of social justice (Rawls, 2012) and with Nussbaum requirements for the state to provide the needed capabilities for individuals (Nussbaum, 2021);
- the person is important, not the mass;
- small-scale ownership is a vector of independence, freedom, and individuality<sup>xviii</sup>;
- the economic theory (currently still massively based on the neoclassical approach, which is a positivist fundamentalism) must abandon the economism (or pan-economism) and mathematism (or pan-mathematism) and access the political economics/economy;
- Ordoliberalism is interdisciplinary, it is not limited to economics or to the economic activity;
- interventionism must not be eliminated, but the rules of the game for interventionism must be established<sup>xix</sup>.

## 2.3 The sufficiency predicates of Ordoliberalism

Based on the previous descriptive profile of Ordoliberalism, it is (theoretically) useful to identify the (minimal) set of its sufficiency predicates. In our opinion, these predicates are:

- (*O*) implies a *societal order*, not an economic order only. This means that Ordoliberalism holds a societal vocation of order, i.e., of providing a set of values, norms, institutions, and procedures aimed at minimizing the social/societal entropy (Dinga *et al*, 2022);
- (*M*) the economic action/activity is only a mean for the *person/individual flourishing*. Consequently, the economic action does not have its own logic, but a logic derived from the needs of the human individual as a person. The last resort and commandment of the economy is the person<sup>xx</sup>, as aggregated into the society, which means that it is needed

to provide its required capabilities as they result from human nature and the human condition;

- (R) the *state* is a *legitimate regulatory* instance of last resort, and a *legitimate control* instance of first resort for the inter-related triad: free individual, free market, and free society.
- (G) at societal and international (inter-societal) level, the functional interdependence between small entities is more consistent with the freedom than the structural dependence on large entity. This, generally, means that, across the world, the order must be as analytical as possible *grided*. Although the Ordoliberalism influenced the European construction (Dold; Krieger, 2019), this sufficiency predicate seems be, to some extent, contradictory with the current tendency in European Union construction, including the lane of the European federalization (or con-federalization).

### 3.0 SMART GOVERNANCE UNDER THE ORDOLIBERALISM

#### 3.1 The logical concept of Smart Governance

At point 1.1 the (general) concept of Governance has been established based on three sufficiency predicates. It is needed now to add new such predicates to pass from the genus (Governance) to the species (Smart Governance). In my opinion, the concept of Smart Governance (*SM*) requires the following two extra sufficiency predicates:

- (F) individual *freedom*
  - definition: freedom can be essentially (and apophatically) defined as the absence of external private constraints on choosing the purposes at individual level<sup>xxi</sup>.
  - way of objectifying: the social contract (Constitution), through which the state undertakes the obligation to protect any individual against any other individual or group trying to impose/influence the choice of own purpose by that individual.
  - discussion: at least three questions should be answered here: (i) what about imposing purpose by the state itself for the generic individual? (ii) what about imposing means by and individual or group for the generic individual? (iii) what about the syndicated purposes (within groups, organizations – including political parties –, local communities)?
  - author's positioning:
    - (i) imposing purposes by the state for generic individual is not a violation of freedom, because, by the social contract, the state bears the public (common) purposes, not private ones;
    - (ii) imposing, either through access or by prohibition privately (by an individual or a group), of means to get the own purposes of the generic individual is not a violation of freedom, as long as those means are under the power (for example, as legal property) of the individual or group imposing the means in question;

- (iii) this case addresses an analogous situation with the social contract – local contracts occur among individuals who agree with common purposes, so it is not about imposing such purposes from the „syndicates” in the case, therefore the definition of freedom is not violated at all.
- (E) public decision *ethicizing*
  - definition: verifying a (general) criterion based on which the public decision is taken so that the freedom (F) is working for the individual well-being, understood as a plenarity of life;
  - way of objectifying: a system of public choice in which all individuals participate but no individual can block the decision. Such a system of public choice seems to be democracy, which is a system of public choice based on simple majority of individuals;
  - discussion: at least three questions should be answered here: (i) why majority but not unanimity? (ii) why about political parties? (iii) why about participativeness vs. representativity vs. deliberativeness?
  - author’s positioning:
    - (i) as said before, it is needed to avoid the dis-functional veto which arises when is required unanimity or quasi-unanimity (like a qualified majority). The single solution for fit majority but avoiding, at the same time, the dis-functional veto is, of course, the simple majority. Such a way to get public choice is, usually, called *democracy*<sup>xxii</sup>;
    - (ii) the ethical flag must be carried by an elite group of individuals; as in any community (with at least two individuals) the politics necessarily emerges – to make the public choice – such an elite is, usually organized and called (political) party. From logical, structural, and functional points of view, the (political) party must be institutionalized as such. Consequently, in the foreseeable future, the (political) parties will continue to be the vehicle of the public decision *ethicizing*;
    - (iii) the participative mode to make the public decision is not anymore possible when the communities are large and very large as today. The common way to provide the *ethicizing* of the public decision is (at least, in practice) the representativeness – the community (directly) elects its representatives which, in turn, ensure the direct participation at public choice; such a way, the representativeness is an indirect participativeness. Recent years, a new approach to objectify the indirect participativeness was proposed by the German social philosopher Jürgen Habermas (1983), namely the deliberativeness<sup>xxiii</sup> – where the vehicle of public choice *ethicizing* is no longer the political party, but the NGO (non-governmental organization as „individual” of the civil society). For the moment, in the concrete contemporary societies, there is an (inextricable) mix between political parties and NGOs, possibly as transition period from the representative democracy to the deliberative democracy<sup>xxiv</sup>.

Consequently, the Smart Governance can be formalized as a logical conjunction as follows:

$$SM = (G)\wedge(F)\wedge(E) = (S)\wedge(I)\wedge(A)\wedge(F)\wedge(E)$$

which means that, logically, the Smart Governance is a predicative pentad.

*Nota bene:* there is an asymmetrical logical rapport between freedom (liberty) and democracy: while from freedom can be inferred democracy, from democracy cannot be inferred freedom (see, for example, Russia or Turkey, where democracy is constitutionally consecrated, but the freedom rather does not exist).

### 3.2 The compatibility between Smart Governance and Ordoliberalism

One can arise the question if the Smart Governance, as it was (logically) described above, is compatible (i.e., simultaneously consistent, and convergent) with the Ordoliberalism as a societal order. The two predicates of the compatibility – consistency and convergence – between Smart Governance and Ordoliberalism (with  $C$  is noted the presence of consistency – that is, of non-contradictoriness, and with  $U$  is noted the presence of convergence – that is, of unique/common finality) can be expressed as follows:

$$S \overset{U}{\leftrightarrow} O; I \overset{C}{\leftrightarrow} O; A \overset{U}{\leftrightarrow} M; F \overset{U}{\leftrightarrow} M; F \overset{C}{\leftrightarrow} G; E \overset{U}{\leftrightarrow} M; E \overset{U}{\leftrightarrow} R; I \overset{C}{\leftrightarrow} R; A \overset{U}{\leftrightarrow} G$$

### 3.3 The synergy between Smart Governance and Ordoliberalism

The synergy (the property of an interaction to generate new properties which would not have existed apart from the interaction – for example, when two systems combine into an integrative supra-system) between Smart Governance and Ordoliberalism is a necessary phenomenon, not a contingent one<sup>xxv</sup>. The main properties arisen as result of this inter-action are:

- ( $P$ ) consecrating and maintaining the *person* as permanent, inalienable, and unique *final cause* of the economic/societal process, as the well-known Kantian maxim required:
  - logical process:  $P \leftarrow (M)\wedge(E)$
- ( $D$ ) favouring representative (and, in the future, perhaps, deliberative) *democracy*, as the best way to make a public choice:
  - logical process:  $D \leftarrow (O)\wedge(F)$
- ( $L$ ) sine die *replication* of the pair: Smart Governance – Ordoliberalism:
  - logical process:  $L \leftarrow (A)\wedge(E)\wedge(F)$

So, in essence, the synergy between Smart Governance and Ordoliberalism is a *PDL* process.

### 3.4 A possible evolutive chreode of pair: Smart Governance – Ordoliberalism

According to the logical process  $L$  above, it seems that the pair Smart Governance – Ordoliberalism ( $SG - O$ ) is able to follow a (co)evolutive chreode, in which each of them works as selector environment for the other. Although a (co)evolutive model of the pair  $SG -$

$O$  requires a much large elaboration, here I shall only mark the critical „ingredients” to be considered, as any evolutionary approach claims. Basically, these (co)evolutive elements will be extracted from the sufficiency predicates or starting from them.

(a) genotype and phenotype

- regarding Ordoliberalism

It seems that the genotype (i.e., the structural entity where a mutation can arise (either internally or externally) could be the predicate  $M$  (the final cause: person flourishing), while the phenotype (i.e., the entity on which is exerted the selection pressure) could be the predicate  $R$  (the state as legitimate regulatory instance).

- regarding Smart Governance

It seems that the genotype could be the predicate  $E$  (societal ethicizing), while the phenotype<sup>xxvi</sup> could be the predicate  $F$  (individual freedom).

(b) mutation, transcription, and translation

Mutations occur at the genotype level (as genetical<sup>xxvii</sup> mutations), through a model of *ontological* rationality ( $MOR$ ), and they are then transcribed into a model of *epistemological* rationality ( $MER$ ). With respect to translation, this operation means to modify the phenotype, namely the predicate  $R$  for Ordoliberalism, respectively the predicate  $F$  for Smart Governance.

(c) fitness

The fitness is the acceptable (*Nota bene*: not the best) compatibility, i.e., consistency and convergence, of the phenotype change with its environment. Obviously, in the (co)evolutive chreode  $SG - O$ , the fitness of Smart Governance is obeyed to the selection pressure of Ordoliberalism, and, symmetrically, the fitness of Ordoliberalism is obeyed to the selection pressure of Smart Governance.

(d) selection

The selection is the result of exerting the reciprocal selection pressure by the two symbolic species (Ordoliberalism and Smart Governance, respectively) on the occurred fitness. Such a way, a (co)evolutive process of the pair: Smart Governance – Ordoliberalism could be built up, within the territory of symbolic species (as artifacts).

## 4.0 MAIN CONCLUSIONS

It seems that Ordoliberalism can be considered as the theory of Smart Governance. Both concepts – Ordoliberalism and Smart Governance) can and must be examined in a logical key, in order to identify their sufficiency predicates. Based on the sufficiency predicates can be, then, established (in a non-ambiguous way) the compatibility, i.e., consistency and convergence, between Ordoliberalism and Smart Governance. Also, based on the sufficiency predicates can be examined the synergy emerged from the pair Ordoliberalism – Smart

Governance. Finally, it is, perhaps, relevant, to develop an analytical model (theory) of the (co)evolution of the pair: Ordoliberalism – Smart Governance, in the current trend in the scientific research in the social sciences, namely the trend of evolutionary approach of the societal phenomenology (*Nota bene*: it seems that the institutionalism can be, logically, integrated into the evolutionarism).

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## NOTES

<sup>i</sup> Democracy (see point 3.1 below), with its generalized right of the individual's freedom, does not except from the systemic organization of the society. In fact, the majority's decision for the whole society – the inalienable mark of democracy – works as follows: a small minority (the elite) elaborates the social/societal model (from the position of leading component), while a large majority (the ordinary individuals) approve or reject, after the case, the societal model proposed (from the position of executive component).

<sup>ii</sup> Even in the so-called natural state of humanity (see here, Hobbes, Locke, Rousseau), in a tacit way such organization is underlying the functionality of the community in the case.

<sup>iii</sup> The globalization process (which has stooped, for the moment, with debatable chances to be resumed based the same enthusiasm)

<sup>iv</sup> To be operated the distinction between responsibility (duty towards moral principles) and accountability (duty towards positive laws).

<sup>v</sup> Of course, *causa sui* convokes only the functionality (internal relationships) but, as the structure generates the functions, the behaviour (external relationships) is a necessary consequence of the functionality. Besides, the (co)evolution of governance inside its environment is impossible without the behaviour.

<sup>vi</sup> A question arises here: why the artifactual nature of the governance is not one of its defining sufficiency predicates? The answer is: because any construct (either material or ideal) of humans within the society is, necessarily, an artifact, so such a sufficiency predicate would be logically redundant (*Nota bene*: the set of sufficiency predicates mandatorily must be minimal – according to Ockham's razor principle).

<sup>vii</sup> The term *ordo* connotes an order of procedure (for example in the ecclesiastical procedures). The term Ordoliberalism comes from the publication *ORDO* (Eucken and Böhm), credited also by Hayek.

<sup>viii</sup> The founding fathers were Walter Eucken, Wilhelm Röpke, Alexander Rüstow, Friedrich Hayek, Alfred Müller-Armack, Franz Böhm. Subsequently, Hayek deviates to the right (till libertarianism), while Müller-Armack deviates to the left (till social market economy – the current economic ideology of the European Union).

<sup>ix</sup> It is without doubt that the two processes are necessarily engaged into a (co)evolutionary chreode. But there is an older dichotomy – already exhibited by Adam Smith – which grounds the Ordoliberal ideology, namely the conflict between egoism (generating the processes) and justice (generating the order).

<sup>x</sup> The third way is not considered as a result of the social contract, however.

<sup>xi</sup> To be mentioned that Ludwig von Mises rejected even a moderate interventionism, while Hayek did not go so far (*Nota bene*: to be mentioned that Hayek did not think that Economics is a science, although in last years of his life accepted the Darwinism in society's dynamics). In his turn, Eucken saw the interventionism as the chance of *ordo* political thought: the gradual, permanent shaping of the ruling classes. Even the (fundamentalist) positivist Milton Friedman accepts that the state must protect market competition, and so he adopts Ordoliberalism (he was followed in this matter by Henry Simons and Frank Knight).

<sup>xii</sup> The term base has the meaning of the economic base, i.e., production relationships (do not be confused with the concept base used by the theories of social justice, where the base is positioned also within the supra-structure).

<sup>xiii</sup> From this is extracted the necessary hierarchical order of the society (see the *S* sufficiency predicate of the concept of governance in the present study). Of course, in this context arises the question of a possible anti-pluralism in the hierarchical societies – but this question will be ignored here.

<sup>xiv</sup> This principle was introduced by Röpke. It is to be mentioned that Röpke requires the value judgment in economy and society (by contrast with Weber or Robbins), but a value judgment is very different from the ideological judgment (the last is unavoidable).

<sup>xv</sup> This precaution is expressed by Carl Schmitt. Besides, Carl Schmitt said that general state interventionism (i.e., always, and in all fields) is the expression of a weak not strong state because this way the state will be captured by the groups of (exclusively) private interests.

<sup>xvi</sup> Symmetrically with Smith's the invisible hand (the force of free market), the state is called visible hand (the force of regulation).

<sup>xvii</sup> Thus, Leibniz's concept of the pre-established harmony could be objectified.

<sup>xviii</sup> Thus, the proletarianization, suggested by Marx, is avoided.

<sup>xix</sup> Freiburg School: unlike Hayek and Mises (who pleaded for binarity), there are three possibilities: laissez faire, compatible interventions, incompatible interventions.

<sup>xx</sup> To be observed that liberalism, which seems to put in front the person, as well, this a very fetishism, because, in fact, in the last instance, the profit is the final purpose, not the person's flourishing. The current capitalism has completely taken over this final purpose of economic activity.

<sup>xxi</sup> The collective freedom seems to be a non-sense *per se* but it can occur if and only if the individual freedom occurs – so, the collective (or group, based on any criterion) freedom is a derivative concept, not a primary one.

<sup>xxii</sup> Some thinkers (as, for example, Karl Popper) assert that the democracy must be perfectly symmetrical in the matter of public choice: it must be able to overturn a public decision with the same right with which it originally made it.

<sup>xxiii</sup> So, in the case in which democracy is the master-form of the public choice ethicizing, there are three forms of democracy: (a) participative democracy; (b) representative democracy; (c) deliberative democracy.

<sup>xxiv</sup> Habermas tinde spre impunerea unei justiții deliberative (un exemplu ar fi, aici, fenomenul medierii care, din punct de vedere instituțional, se dezvoltă în societățile contemporane).

<sup>xxv</sup> I remind that the contingent is the conjunction between non-necessary and possible.

<sup>xxvi</sup> To be mentioned that both Smart Governance and Ordoliberalism are symbolic species; in such case, the phenotype arises directly in the adult stage, without growing process (as happens in the biological species).

<sup>xxvii</sup> There are, also, *epigenetic* mutations which appears directly at the phenotype level.