

Hayek as an Ordo-Liberal

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1. Introduction

Friedrich August von Hayek (1899-1992) is undoubtedly one of the most significant liberal thinkers of the past century. Born and raised in Vienna in the tradition of the Austrian School,¹ he held academic positions i.a. in London, Chicago and Freiburg, thus uniting in his vita the four principal centers of neo-liberalism.² His intellectual development is of special interest, since he shifts the focus of his research agenda several times, most notably from the field of business cycle research towards the broader field of social philosophy. According to this well-known “break” in his œuvre, there is a classical division in secondary literature, “splitting” him into the two phases: Hayek I (the business cycle theorist) and Hayek II (the social philosopher).³

¹ For the combined early influence by Friedrich von Wieser and the later impact by Ludwig von Mises, see Hayek (1994), pp. 54-58 as well as Caldwell (2004), pp. 141-149.

² See Hartwell (1995), pp. 18-20 as well as Plickert (2008), pp. 54-86.

³ See Hutchison (1981), pp. 210-219.

The present paper will try to show that this two-fold division is inadequate, or at least incomplete. Instead, a three-fold division seems more appropriate: here, Hayek I would again be the business cycle theorist, but Hayek II is seen as an ordo-liberal philosopher and Hayek III as the evolutionist philosopher. Regarding the time-span of the latter phases, the paper contends that the ordoliberal Hayek is to be seen in the 1930s and 1940s (the time of *The Road to Serfdom* and the founding of the *Mont Pèlerin Society*), whereas his evolutionist phase starts in the 1950s and continues to the end of his life.

Of course, all such classifications are to some extent arbitrary. The proposal above is, however, not made with the intention of pure systematization. Instead, the reconstruction of Hayek's ordo-liberal phase helps circumventing some misunderstandings concerning his overall political economy. First of all, the common attacks from the anacho-capitalist "camp" which depict Hayek as a covert socialist lose ground.⁴ Secondly, and related to the first aspect, Hayek's intellectual relationship to and emancipation from his early mentor Ludwig von Mises can thus be better understood. Thirdly, it might also prove helpful for the understanding of ordo-liberalism itself, usually principally related to the names of Walter Eucken and Wilhelm Röpke, to reflect its topics in the light of Hayek's work. Without intending to rule out the existing differences between these authors,⁵ it seems worth examining to distinguish between different types of ordo-liberalism and not to confine it to the Freiburg School proper. Such a view on Hayek and ordo-liberalism is not entirely new and has been proposed by authors of the Walter Eucken Institut, most notably Viktor J. Vanberg, Michael Wohlgemuth, Manfred E. Streit, and Andreas Renner.⁶ The current paper is to be seen as a complement to this strand of research (to the first two authors I owe a lot in my own academic development) and will try in addition to expand it towards the interfaces to Ludwig von Mises and Wilhelm Röpke.

The paper is structured as follows: first I would like to outline what is commonly understood by ordo-liberalism in the light of the work of Walter Eucken and Wilhelm Röpke. Next, the biographical nexus in the triangle Eucken-Röpke-Hayek is put forward as an indication to the manifold intellectual relationships between the three authors. Following this, the main section contains the reconstruction of Hayek's ordo-liberal phase with a focus on the role of government which he proposes in this time. In this light, the contrast between the "ordo-liberal Hayek" and the "laissez-faire Mises" is shown. A summary concerning the possible interpretation of Hayek in the light of this paper serves as an outlook.

⁴ See e.g. Hoppe (1994), pp. 68-70.

⁵ See Kolev (2008) as well as Kolev (2009).

⁶ See i.a. Vanberg (2003), Wohlgemuth (2008), Streit/Wohlgemuth (1997) as well as Renner (2002).

2. Ordo-liberalism: Freiburg School and German neo-liberalism

2.1. The various groups: a clarification

As mentioned above, the university town of Freiburg in South-Western Germany constitutes one of the major intellectual centers of the new liberalism of the 20th century. The core of what later becomes known as the Freiburg School came into being in the mid-1930s due to the academic cooperation of the economist Walter Eucken and the lawyers Franz Böhm and Hans Großmann-Doerth.⁷ The group soon grew by attracting many young liberal-minded economists and became seen by less liberal, historicist German economists as a fortress of liberalism and theoretical economics.⁸ In manifold underground circles in Freiburg, Eucken and colleagues of his developed a liberal answer to the challenges of Nazi economics and its foreseeable aftermath.⁹ After 1945, members of the school became seminal for the liberalization reforms of Ludwig Erhard 1948 and the start of the “economic miracle” (which in their eyes was none) of the Federal Republic after 1949.

The Freiburg School is certainly the most important group in the movement of renewing liberalism in Germany. But it was not the only one. 1950, in the year of Eucken’s untimely death, the term “ordo-liberalism” was coined, but already the author of the term included in its definition not only Eucken and his school but also Wilhelm Röpke and, interestingly, Friedrich A. von Hayek.¹⁰ On Hayek, more will be said later in this paper. For the time being, the other groups of German liberals are worth mentioning. First of all, the two exiles Wilhelm Röpke and his close friend Alexander Rüstow played an important role. Both were ousted from Germany 1933, thus quitting the option of becoming “half-exiles” like Eucken and his disciples.¹¹ Röpke moved after difficult years in Istanbul to Geneva, where he remained until the end of his life. He was one of the first who used the term “neo-liberal” in the German context in the late 1930s, thus indicating his ambition to lay new foundations to liberalism for the 20th century. After Eucken’s death, he became the major academic advisor to Chancellor Adenauer and especially to Ludwig Erhard. A similar, less academic and more political role was assumed by Alfred Müller-Armack, a liberal with a difficult past in the Nazi time, who coined the term “social market economy” and later became Secretary in Erhard’s ministry. Müller-Armack is called the “odd man out” in German neo-liberalism¹² and also in this paper he is not viewed as an ordo-liberal due to the specificities of his views on cyclical policy and especially social policy.¹³

Thus the term “ordo-liberalism” is used in the following as a medium classifier, larger than the Freiburg School (due to the inclusion e.g. of Röpke and Rüstow) but smaller than overall German neo-liberalism

⁷ See Vanberg (1998), pp. 172-173 as well as Goldschmidt/Wohlgemuth (2008), pp. 1-14.

⁸ See e.g. the obituary of Eucken by Preiser (1950), p. 241 or the quote by Historicist economist Carl Brinkmann in Lenel (1991), p. 12.

⁹ See Rieter/Schmolz (1993), pp. 96-103.

¹⁰ See Moeller (1950), p. 224.

¹¹ See Johnson (1989), p. 40.

¹² See Sally (1998), p. 122.

¹³ See Lange-von Kulesa/Renner (1998).

(due to the non-inclusion e.g. of Müller-Armack). The following illustration should clarify the way German neo-liberalism is subdivided three-fold in this paper.

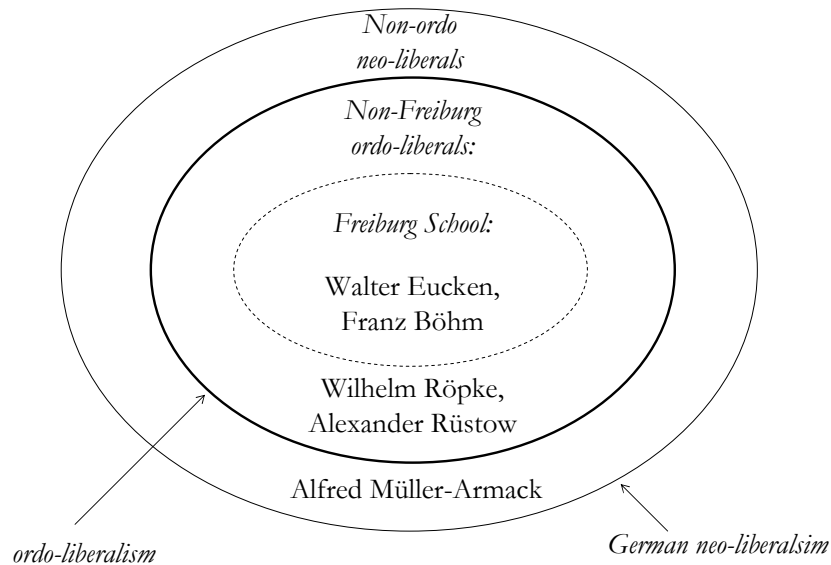


Figure 1: Subdivisions of German neo-liberalism

2.2. The essence of the ordo-liberal program

Having thus personalized the term “ordo-liberalism”, focusing in the following on Eucken from the inner circle and on Röpke from the outer layer, the next step is the question as to what is the seminal content of this school’s teachings.

What is the most important characteristic of ordo-liberalism is the dichotomy which its proponents hold up between “economic order” and “economic process”. Economic order in its positive sense signifies the variety of forms in which the individuals economize. Under the term “forms” Eucken understands a selection out of the possible market forms in combination with the possible types of monetary system, differentiating between a morphology of finite number of ideal types on the one hand and the real types in the concrete situation on the other. Thus the economic order surrounds the economic process, thus constituting the “framework” or, synonymously, the “rules of the game” for the individuals who are free to economize within this framework (autonomous “moves of the game”). This is the positive usage of the term “economic order” (Wirtschaftsordnung). Eucken adds a second, normative usage with the wording “order of the economy” (Ordnung der Wirtschaft). In the first of his major books, the *Foundations of Economics* of 1940,¹⁴ he is preoccupied with the positive analysis, whereas in the second, posthumous book, the *Principles of Economic Policy* of 1952,¹⁵ he commences a search on the normative plane, i.e. the search for an “efficient and humane” order. Unfortunately Röpke is not as explicit on these methodological aspects, but by and large he accepts Eucken’s positive analysis regarding the seminal dichotomy order vs. process.

¹⁴ See Eucken (1940/89).

¹⁵ See Eucken (1952/04).

Also, he agrees with Eucken that the rules of the game are to be set consciously, meaning that they do come about automatically by a process of evolution. The difference between the two authors is on the normative level of the principles/rules of economic policy, which is to be analyzed in the next paragraph. Both Eucken and Röpke develop in their morphologies (despite some minor deviances) a two-fold subdivision between the centrally administered economy (or command economy) and the market economy (or exchange economy). The economics of the interventionist “middle ways”, be it of the market-socialists or of Keynes, are viewed by Eucken and Röpke as unstable and doomed to contradictions and eventually to a conversion into centrally administered economies, very much in the tradition of Mises’ critique of interventionism and the spiral of interventions. Unlike Mises, however, they develop a sub-system of interventions (in Röpke’s wording: market-conformable) which are in line with the market economy and can be “digested” by it without posing serious hindrances.

The normative search of an “efficient and humane” order leads Eucken and Röpke to their respective “third ways” (to be strictly distinguished from the interventionist “middle-ways”), i.e. their specific type of neo-liberalism which later became known as *ordo-liberalism*. These are not “middle ways” since they do not constitute a mix of centrally administered and market economy, but are strictly forms of the market economy only. Eucken finds his solution in a specific type of a market economy which he calls the “competitive order”. For this order, government is to institute a set of (constitutive and regulative) principles which as an overall framework guarantee the “emasculatation” (*Entmachtung*) of the economy. Röpke goes a step further, postulating that also competition is not an autonomous mechanism but rather a coordination process which itself needs a framework. This is necessary to ensure that the economy is “vitaly satisfied” (*vital befriedigt*), that the ethical reserves which society needs for its cohesion and which are consumed by competition are filled up by the outer layer of the framework. Thus, his program goes beyond Eucken’s *economic* policy of order, instead he insists that a *societal* policy of order is needed to ensure that the market economy does not destroy its moral foundations.

Eucken and Röpke both agree, however, on the theorem of the interdependence of orders. This proposition states that the economic order is not to be regarded as an isolated system but rather as a part of the overall social system, which comprises the legal order, the societal order as well as the governmental order. The difference above as to the breadth of the framework and of the necessary type policy of order refers only to the question whether the economist himself has to analyze the “data wreath” (*Datenkranz*): Eucken is rather “modest” in his interpretation, whereas Röpke “immodestly” tries to endogenize the interdependence in a more encompassing manner. A corollary of the interdependence theorem is the notion that for *ordo-liberals* liberty is inseparable, i.e. there a society where there is a lack of e.g. economic liberty cannot be viewed as a free society, even though it may formally have liberty in the governmental order.¹⁶ Of special importance later in the paper will be the relationship between the economic order and legal order in an *ordo-liberal* perspective. Eucken stresses that a legal order in the sense of *formal* rule-of-

¹⁶ On the dispute on the inseparability of liberty between Röpke and Benedetto Croce, see Röpke (1976), pp. 68-69.

law (Rechtsstaat) is not a sufficient condition for the coming up of the proper economic order. Instead, it is specific *substantive* parameters of the legal order that are to be set if an “efficient and humane” competitive order is to arise. As an example, special measures towards liability are necessary, with the goal that limited liability becomes the exception and not the rule. Another example with a special importance for ordo-liberalism is the enactment of competition by the legal order through rules like the prohibition of cartels or institutions like a monopoly supervisory authority for the remaining natural monopolies in the economy. As a summary, the complex interdependence of the legal and the economic order is seminal for understanding the ordo-liberal theory.

The above-mentioned distinctions end into significant differences which the two ordo-liberals assign to government in their reform programs.¹⁷ These will be partially depicted as a contrast to Hayek’s economic policy program. What is more important at this point is the stress of the ordo-liberal authors on the dichotomy of rules of the game (order) and moves of the game (process) and the seminal ideas interdependence of the orders.

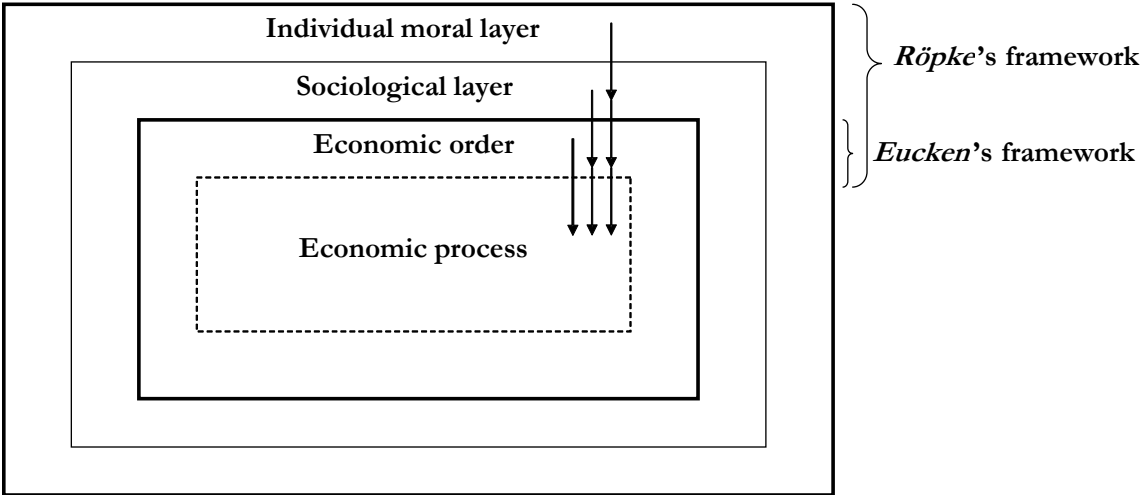


Figure 2: Different ordo-liberal conceptions of socio-economic frameworks

In the next section, an overview of the biographical interrelationships between Hayek and the ordo-liberals Eucken and Röpke will be presented, showing the intense connections in a highly critical time, both for the authors’ own evolution and for neo-liberalism in general.

¹⁷ These are discussed in detail in Kolev (2009).

3. Hayek and the ordo-liberals: the biographical nexus

3.1. Interface Eucken-Hayek

Eucken and Hayek must have met on the meeting of the Verein für Socialpolitik in Zurich 1928, since they present papers in the same session on “Credit and Cycles”, the memorable session which Mises rounds up with his summary that the Austrian theory of the cycle is *the* consensus theory of the German-speaking world.¹⁸ Hayek writes in his memoir notes that he met Eucken via the intermediation of Röpke without mentioning the date of this encounter,¹⁹ so it is possible that they might have met before Zurich.

After Hayek’s move to London, he states that on his travels from London to Vienna he “regularly made a stopover in Freiburg just to visit Eucken and to keep in touch with him”²⁰ and attended the meetings of the “Ordo circle”, as he calls the upcoming school it.²¹ After the war, the relationship intensifies further. In an unpublished, but often quoted letter from Eucken to Hayek on March 12 1946, Eucken is highly laudable of the *Road to Serfdom*, seeing in its germs of his own plea for the “competitive order”, wishing that Hayek would be even more specific on this point.²² 1947, Eucken is the only German scholar living in Germany who is invited and effectively joins the founding meeting of the Mont Pèlerin Society²³ and becomes, in Hayek’s words, “the star” of the conference.²⁴ 1948, Hayek on his turn becomes co-founder of the ORDO yearbook, *the* ordo-liberal journal still existing today which as late as 1991 writes on its cover: “with the cooperation of Friedrich A. von Hayek”.²⁵ Paradoxically, Eucken dies from a heart attack on a lecture tour to the LSE in March 1950, to which Hayek has invited him.

In 1962, Hayek accepts the call from the University of Freiburg to join the faculty of economics and to teach economic policy. Without obtaining Eucken’s former chair directly, he stresses already in his inaugural lecture in Freiburg that he hopes to join the heritage of the “unforgettable Walter Eucken”.²⁶ For several years, he is president and later honorary president of the 1954 founded Walter Eucken Institut.

3.2. Interface Röpke-Hayek

Wilhelm Röpke meets Hayek earlier than Eucken, again at a meeting of the Verein für Socialpolitik, in this case 1926 in Vienna.²⁷ Röpke is one of the few German economists who develops a cycle theory in line with the Austrian theory in the Mises-Hayek strand. As Gottfried von Haberler later states, he was not only seen as an intellectual peer by the Austrians but was a pioneer in the theory of the so-called

¹⁸ See Mises (1928/29), pp. 323-326.

¹⁹ See Hayek (1983/92), p. 189.

²⁰ See Hayek (1983/92), p. 190.

²¹ See Hayek (1983/92), pp. 189-190.

²² See Eucken (1946).

²³ See Hartwell (1995), p. 33 as well as Plickert (2008), p. 156.

²⁴ See Hayek (1983/92), p. 192.

²⁵ See the front page of the ORDO Jahrbuch, Vol. 42, 1991.

²⁶ See Hayek (1962/69), p. 2.

²⁷ See Hayek (1983/92), pp. 188-189.

secondary depression, an innovation within the Austrian paradigm.²⁸ In an interview later, Hayek comments on his relationship to Röpke that he sent him an own paper on the secondary depression issue which Röpke on his part decided not to publish in Germany.²⁹ 1937 Hayek visits the HEI in Geneva for his lecture tour,³⁰ Röpke joining the Institute at approximately at the same time.

During the war the correspondence continues and 1945 Röpke's wife translates the *Road to Serfdom* into German. In the following years, Röpke and Hayek join their organizational forces to initiate the academy of liberal thinkers which 1947 is founded as the Mont Pèlerin Society.³¹ After many years of harmonious cooperation in the Society, in the course of its "Hunold affair"³² Röpke and Hayek fall apart (despite the highly laudable address by Hayek for Röpke's 60th birthday 1959)³³ and Röpke died soon afterwards. Probably as a late sign of reconciliation, Hayek headed the team which publishes a new edition of Röpke's oeuvre 1979.³⁴

4. Hayek II: the ordo-liberal phase

4.1. Admissibility of phase separations in Hayek's case

After the reconstruction of the intense biographical ties between Hayek and the two leading ordo-liberals, the main part of the paper will be dedicated to the hypothesis whether some notions of Hayek's political philosophy can be subsumed under the term "ordo-liberalism" in the above-mentioned sense of the word.

Hayek has undoubtedly undergone a very significant evolution in his oeuvre, which spans the huge time-span from the early 1920s to the late 1980s. As depicted in the introduction, the conventional division of his work is the Hayek I (business-cycle theorist) vs. Hayek II (social philosopher).³⁵ Such "splits" of an author may perhaps entail the taste of being too schematic or superficial towards the complexity of a personality. Aware of these potential difficulties, I would still maintain that in Hayek's special case, such a procedure is warranted. The obvious shift which he performs in the late 1930s vindicates the separation. I argue that, in the above terminology he shifts from an analysis of the *economic process* (his business-cycle theory) to an analysis of the *economic order* (his social philosophy of markets and their institutional framework).

After the lack of success against the "Keynesian avalanche", he seems to come to the idea (which he later attributes to Röpke in the 1959 anniversary address) that "an economist who is only an economist cannot

²⁸ See Haberler (1979/00).

²⁹ See Hayek (1975), pp. 12-13.

³⁰ See Hayek (1937/08).

³¹ See Hartwell (1995), pp. 29-33 as well as Plickert (2008), pp. 127-137.

³² See Hartwell (1995), pp. 100-133 as well as Plickert (2008), pp. 178-189.

³³ See Hayek (1959).

³⁴ The correspondence in the triangle Hayek-Eucken-Röpke is analyzed in Hennecke (2000) and Hennecke (2005). The highly interesting quotes from the letters in these publications indicate that a more detailed analysis of the extensive correspondence seems worthwhile.

³⁵ See Hutchison (1981), pp. 210-219.

be a good economist”.³⁶ In the introduction to his opus magnum *The Constitution of Liberty* which he finishes at precisely that time, he writes:

“I have come to feel more and more that the answers to many of the pressing social questions of our time are to be found in the recognition of principles that lie outside the scope of technical economics.”³⁷

Thus the Hayek I phase can be classified in his own perspective as a phase at least in need of a complement which it finds in the decades of Hayek II.

4.2. *Hayek II vs. Hayek III: first approximation*

But is Hayek II enough? Is it an intellectually homogenous time-span?

The answer to this question is no. Interestingly, Hayek states in a foreword to a new edition of the *Road to Serfdom* of 1976:

“... a fault which is perhaps pardonable when it is remembered that when I wrote, Russia was our war-time ally – and that I had not freed myself from all the current interventionist superstitions, and in consequence still made various concessions which I now think unwarranted.”³⁸

What is meant by “current interventionist superstitions”? One possible answer is the intellectual heritage of his first mentor in Vienna, Friedrich von Wieser, who was more of a Fabian social democrat than a classical liberal.³⁹ But that is only one possible answer. How about a look at the upcoming ordo-liberal thought as a source for the “interventionist superstitions”?

That might be the case. As mentioned above, Hayek often made stops at Freiburg in the late 1930s what might also be of interest here. His later attitude to “Ordo circle” as he calls it is ambiguous. On the one hand, he is highly laudable of Eucken, mentioning him in *The Constitution of Liberty* as one of the seminal personalities for his own development.⁴⁰ On the other hand, he maintains that the circle (except Eucken himself) was a group of “restrained liberalism”.⁴¹

Can ordo-liberalism be seen as the source of Hayek’s self-proclaimed early interventionism? A tentative positive first answer seems plausible. I would not, however, insist that the influence comes directly from Eucken or Röpke. Instead, the early Chicago School of Frank Knight and especially Henry Simons⁴²

³⁶ See Hayek (1959), p. 26.

³⁷ See Hayek (1960/78), p. 3.

³⁸ See Hayek (1976/94), p. XXIV.

³⁹ For detailed information on Friedrich von Wieser’s vita and œuvre, see Hayek’s obituary of Wieser in Hayek (1926/92), pp. 108-125.

⁴⁰ See Hayek (1960/78), p. 415.

⁴¹ See Hayek (1983/92), p. 190.

⁴² For the special biographical nexus of Hayek to Henry Simons, see Van Horn/Mirowski (2009), pp. 140-158.

deserve a closer look.⁴³ Simons on his part has an influence on Eucken and the upcoming Freiburg School,⁴⁴ so an “ordoliberal Hayek” is coming up at that time, the two channels which form him might be Freiburg and early Chicago. In this paper, Chicago has to stay outside and the focus is on the Eucken/Röpke influence, but in reality Chicago might also have played an important role in the forming of the “superstitions”.⁴⁵

So what are the first germs of ordo-liberalism alias “interventionist superstitions”?

4.3. Ordo-liberal germs in the 1930s

The “Years of High Theory”, as G.L.S. Shackle calls the 1930s, are the most important decade in Hayek’s vita. 1931 he obtains his position at the LSE and starts the (eventually unsuccessful) battle against Keynes and Cambridge economics. Then in 1935 his volume on socialism ignites the second phase in the socialist calculation debates. In 1936 his presidential address to the London Economic Club, published 1937 as *Economics and Knowledge*, marks both his methodological split with Mises and his new skepticism towards general equilibrium theory. During the late 1930s, he intensely works on capital theory, *The Pure Theory of Capital* of 1941 being the first and only volume of an uncompleted work on this field and simultaneously his last large work on “technical economics”. Afterwards, the long journey towards his classical liberal social philosophy begins.

Amid these highly complicated years of intellectual battle on manifold fronts, some first traces of ordo-liberalism can be identified in Hayek’s widespread work. Two publications deserve special interest: Hayek’s editorship *Collectivist Economic Planning* of 1935⁴⁶ as well as his relatively unknown, short brochure *Freedom and the Economic System* of 1939.⁴⁷

The 1935 volume is seen by a contemporary as “a formidable counter-attack by laissez-faire on all forms of planning, and in particular on Socialism”.⁴⁸ What is certainly true about this statement is that it was a formidable attack, since it took more than 10 years (if counted by *The Use of Knowledge in Society*’s appearance 1945) of debate between Hayek and his intellectual enemies. However, the continuation of the sentence contains two improper claims: firstly that Hayek sees himself as a laissez-faire proponent and

⁴³ A colleague of mine from the Walter Eucken Institut in Freiburg, Ekkehard Köhler, is working currently on this topic. His research results seem to corroborate the Eucken-Hayek-Simons intellectual connection.

⁴⁴ For positive mentionings of Simons in Eucken’s *Principles*, see Eucken (1952/04), p. 255, p. 260 as well as p. 269.

⁴⁵ Also, the upcoming Hayek-Popper relationship in the 1930s might bear some additional explanatory power. For this hint I am grateful to the participants of the PhD seminar at the University of Erfurt where I presented a preliminary version of this paper. I will consider the Hayek-Popper connection in further research on this complex issue of neo-liberalism in the 1930s.

⁴⁶ See Hayek (1935). Since Hayek’s own essays from this edited volume are reprinted in his *Individualism and Economic Order* which is better available today, the quotes will be based on the pagination from the latter volume.

⁴⁷ See Hayek (1939). The essay is reprinted in the Collected Works volume “Socialism and War” (Hayek (1997)), pp. 189-212.

⁴⁸ See Dobb (1935), p. 532.

secondly that it is an attack on *all* forms of planning. Let me thus quote the key passage of Hayek's introductory essay to the volume:

“To say that partial planning of the kind we are alluding to is irrational is, however, not equivalent to saying that the only form of capitalism which can be rationally advocated is that of complete laissez-faire in the old sense. There is no reason to assume that the historically given legal institutions are necessarily the most “natural” in any sense.”⁴⁹

and further:

“The question as to which is the most appropriate permanent framework which will secure the smoothest and most efficient working of competition is of the greatest importance and one which, it must be admitted, has been sadly neglected by economists.”⁵⁰

These passages and the following paragraphs can in my opinion be seen as Hayek's “third way” of the 1930s, which in both wording and content is decidedly *ordo-liberal*. The term “framework” is, as mentioned above, the hallmark of the Freiburg paradigm. Besides, the framework must be “permanent” in Hayek's words, i.e. not a play-ball of special interests but instead a durable construction. Its main purpose is to institutionalize competition, precisely as seen by the German *ordo-liberals*. This is the type of “planning” which Hayek not only accepts but emphatically requires at this point of time and distinguishes it both from socialist planning and from the laissez-faire credo. Regard the closing sentences of this section of Hayek's essay:

“It is important to realize in any investigation of the possibilities of planning that it is a fallacy to suppose capitalism as it exists today is the alternative. We are certainly as far from capitalism in its pure form as we are from any system of central planning. The world of today is just interventionist chaos.”⁵¹

Besides, it is noteworthy that in this phase Hayek seems skeptical of the appropriateness “historically given legal institutions”, which I see as *the* major difference between Hayek II and Hayek III. This will be detailed later in section 4.5.

Is the conscious setup of a permanent, competition-enhancing framework what Hayek later terms “interventionist prejudices”? Possibly, but if yes, then his early economic philosophy of the 1930s and especially the 1940s is to be seen as highly interventionist. Interestingly, just before the above quoted paragraph, he is citing Mises' *Kritik des Interventionismus* of 1929.

Looking now at the second publication of the 1930s, *Freedom and the Economic System* of 1939, one can fully agree with H. D. Dickinson's review which starts with the words:

⁴⁹ See Hayek (1935/48), pp. 134-135.

⁵⁰ See Hayek (1935/48), p. 135.

⁵¹ See Hayek (1935/48), p. 136.

“This pamphlet is a manifesto, at once concise, cogent and eloquent, of individualistic individualism. It is a fundamental challenge to doctrine of liberal socialism”.⁵²

The brochure is indeed a manifesto, and seen from the retrospect of Hayek’s following decades, it contains the core of many ideas which will be seminal for Hayek’s own evolution. In the end, the author of the review expresses his assessment that Hayek is at the beginning of a project in search for a “positive programme”:

“It is greatly to be hoped that Professor Hayek will follow up... with a blue print for a liberal classless society”⁵³

This assessment proves correct, Hayek dedicates the next half century precisely to this task. But what is the essence of the 1939 publication (note that it appears briefly after the 1938 Colloque Lippmann) and what of it can be interpreted as close to ordo-liberalism?

Freedom and the Economic System can be seen as true intellectual forerunner of *The Road to Serfdom*. In fact, it contains the major ideas of the latter in a compact form. Hayek’s critique of National Socialism as the twin-brother of socialism proper, his overall discard of socialism and central planning, his ideas on the compatibility of democracy and capitalism are all to be found in this small booklet. And apart from that, the continuation of the thesis of the liberal economic framework from the 1935 is present and expanded. After the exposition of his socialism critique, Hayek indeed endeavors what Dickinson calls for, a “positive programme” for liberalism. It is a type of planning as “the application of reason to social problems in general”⁵⁴ that Hayek opts for, or in other words “planning for freedom” as opposed to socialist or interventionist “planning for constant interference”. And this planning is again concentrated on the central issue of ordo-liberalism, the institutional framework:

“We can “plan” a system of general rules, equally applicable to all people and intended to be permanent (even if subject to revision with the growth of knowledge), which provides an institutional framework within which the decisions as to what to do and how to earn a living are left to the individuals.”⁵⁵

Thus precisely the ordo-liberal paradigm about the setup of the economic order as a permanent framework and the freedom of the economic process within this framework becomes directly visible. Note that in a later passage Hayek uses the term “construction of a rational framework”,⁵⁶ a term he would certainly no more use later when he criticizes rationalistic constructivism. But here, 1939, a construction seems not only to be possible but also necessary and can be seen as his main answer to the

⁵² See Dickinson (1940), p. 435.

⁵³ See Dickinson (1940), p. 437.

⁵⁴ See Hayek (1939), p. 10.

⁵⁵ See Hayek (1939), p. 8-9.

⁵⁶ See Hayek (1939), p. 10.

objections by (market) socialists that he is only negative on their concepts but not inventive of a positive program.

Also noteworthy in *Freedom and the Economic System* is Hayek's criticism of classical liberalism on the issue of the institutional framework, precisely on the lines of Eucken's critique of the classics that not any rule-of-law automatically generates the competitive order:

“Now it must be admitted that this task of creating a rational framework of law has by no means been carried through consistently by the early liberals... Yet it should have been obvious that the question of the exact content and the specific limitations of property rights, and how and when the state will enforce the fulfillment of contracts, require as much consideration on utilitarian grounds as the general principle.”⁵⁷

Besides the plea for utilitarianism, still in the line of Mises, which he later rejects, the above quote clearly shows his proximity to the Freiburg stance that only specific types of rule-of-law are compatible with the proper economic order. Also, Hayek stresses that obviously the answers to these questions have not been discovered yet in his generation. The huge importance of the institutional framework question becomes visible in the end of this section on “planning for freedom”:

“A certain dogmatism in this respect, which often had the appearance of an unwillingness to reason on these problems, brought the development of this kind of planning to an early standstill and has tended to throw the whole liberal doctrine into discredit.”⁵⁸

This is ordo-liberalism at its best, both in the institutional content and in the critique of dogmatic laissez-faire political economy of the 19th century. What happens to it later in Hayek's evolution?

4.4. *The ordo-liberal climax in the 1940s*

Whereas the 1930s are the theoretically most challenging time in Hayek's vita, the 1940s are seminal for his more “practical” or “political” mission to popularize liberalism to broader circles. Leaving technical economics almost entirely, he spends years on the manuscript of the small book which would make him famous: *The Road to Serfdom*. As he recalls later in the mentioned 1976 preface to a new edition:

“But though I tried hard to get back to economics proper, I could not free myself of the feeling that the problem on which I had undesignedly embarked were more challenging and important than those of economic theory, and that much that I had said in my first sketch needed clarification and elaboration.”⁵⁹

⁵⁷ See Hayek (1939), p. 11.

⁵⁸ See Hayek (1939), p. 11.

⁵⁹ See Hayek (1976/94), p. XXII.

I argue that there is an ordo-liberal nucleus in *The Road to Serfdom*. First, Eucken's idea of the interdependence between the legal and especially between the political and economic order can be seen as a foundation for Hayek's main thesis: The tendency towards illiberty which planning causes in the economic order and which overburdens democracy in the political order can be seen as an implementation of Eucken's interdependence thesis.

But also regarding the role of government, Hayek holds on to the stand of thought which was identified in the 1930s papers. Again he maintains that a state as a rule-setter for the institutional framework of the economy is *the* seminal function which he attaches to the state in a liberal society. Imbedded in Hayek's discourse with the socialist planners, he claims:

“According to the modern planners, and for their purposes, it is not sufficient to design the most rational permanent framework within which the various activities would be conducted by different persons according to their individual plans.”⁶⁰

He, just as the ordo-liberals, does not want to be seen as a defender of laissez-faire. Instead, “effective competition” is to be “created”⁶¹ by way of a framework. Note:

“It [the liberal argument, SK] does not deny, but even emphasizes, that, in order that competition should work beneficially, a carefully thought-out legal framework is required and that neither the existing nor the past legal rules are free from grave defects.”⁶²

Summing up his conception on the institutions necessary from a liberal perspective, he claims:

“The functioning of competition not only requires adequate organization of certain institutions like money, markets, and channels of information – some of which can never be adequately provided by private enterprise – but it depends, above all, on the existence of an appropriate legal system, a legal system designed both to preserve competition and to make it operate as beneficially as possible.”⁶³

A last quote, this time regarding the older liberalism and its relationship to institutions:

“The systematic study of the forms of legal institutions which will make the competitive system work efficiently has been sadly neglected.”⁶⁴

As noted in the introductory sections of the paper, it is precisely the combination of economic and legal expertise which is the “trademark” of the Freiburg School. Thus Hayek, who holds also a legal degree from Vienna University, obviously sees the symbiosis of legal and economic scholars as the prerequisite

⁶⁰ See Hayek (1944/94), p. 40.

⁶¹ See Hayek (1944/94), p. 41.

⁶² See Hayek (1944/94), p. 41.

⁶³ See Hayek (1944/94), p. 43.

⁶⁴ See Hayek (1944/94), p. 43.

for a renewal of classical liberalism. And thus, together with Röpke, he founds the Mont Pèlerin Society as precisely such a club.

Before we come to the last text of Hayek's "ordo-liberal 1940s", it is worth mentioning that he had interesting correspondence with Eucken and Keynes on *The Road to Serfdom*, and it seems interesting that it is precisely the aforementioned aspect of the competition-enhancing framework which both Eucken and Keynes comment on. Both authors are generally laudable of Hayek's book. But they are diametrically opposed to each other in their assessment of the role of the rule-of-law framework which Hayek proposes: Whereas Eucken presses for more elaboration of the framework idea to the Freiburg leitmotif of the competitive order, Keynes sees in it no effective possibility to delimit the scope the role of government.⁶⁵

In 1947, shortly after these turbulent years, the Mont Pèlerin Society is founded as a club of economists, jurists, philosophers and historians in order to reflect on the renewal of liberalism. Jokingly termed later by George Stigler as "The Friends of F.A. Hayek", the Mont Pèlerin Society was founded as a rather heterogeneous group of scholars, ranging from the social democratically inclined Maurice Allais and Karl Popper over the ordo-liberals Eucken and Röpke to free-market libertarians like Mises. This club has lived through a notable evolution since, many ordo-liberals exiting the society after the so-called "Hunold affair" of the late 1950s and early 1960s. After talking to Röpke's nephew Professor Hans Willgerodt on this issue and re-reading the histories of the MPS, I tend to see this as a personal quarrel between liberal individualists, and not as a substantive dispute. It seems far-fetched that Hayek, after leaving his ordo-liberal years to the past, went for an adjustment of the society away from German ordo-liberalism.

Here, however, the founding of the MPS is of interest, and more specifically Hayek's lecture entitled "*Free Enterprise and Competitive Order*".⁶⁶ The similarities to the philosophies of Eucken and Röpke are significant, starting with the title itself: Hayek has obviously internalized Eucken's advice towards the wording of the program as "competitive order". Then, the following quotation can be seen as the essence of Hayek's ordo-liberal neo-liberalism:

"While it would be an exaggeration, it would not be altogether untrue to say that the interpretation of the fundamental principle of liberalism as absence of state activity rather than as a policy which deliberately adopts competition, the market, and prices as its ordering principle and uses the legal framework enforced by the state in order to make competition as effective and beneficial as possible – and to supplement it where, and only where, it cannot be made effective,

⁶⁵ See Eucken (1946) and Keynes (1944).

⁶⁶ Hayek addresses the founding meeting (at least) twice. To what I refer here is not his formal opening address from April 1st which is reprinted i.a. in *The Fortunes of Liberalism*, but the substantive (unfortunately undated) input reprinted in *Individualism and Economic Order*.

is as much responsible for the decline of competition as the active support which governments have given directly and indirectly to the growth of monopoly.”⁶⁷

A truly long sentence. But its essence, that laissez-faire in the sense of non-action is responsible for the decline of competition (and thus to the decline of the attractiveness of liberalism) might sound insulting to e.g. the attending Mises. The whole presentation (I will spare further quotations) is a sign of reverence of Hayek to Eucken and, as he mentions explicitly, to the late Henry Simons.⁶⁸ Hayek in 1947 can be seen as a thorough ordo-liberal of the Freiburg type.

4.5. *Ordo-liberal traces in Hayek III*

Seen from the 1970s, Hayek can be perceived in a rather different manner. Erich Streissler in 1972 e.g. tries to discredit Freiburg-type ordo-liberalism and its perception of competition policy precisely by contrasting it to Hayek.⁶⁹ Paul Samuelson, in one of his last publications, characterizes Hayek outright as an “extremist”.⁷⁰ What happened in the meantime? Obviously Hayek III must be different.

I must be brief on analyzing this part of Hayek’s transformation since this will be the next step in my research. For the time being, I can only formulate tentative hypotheses. Of them, I have two.

The first guides to Hayek’s increasing involvement in the analysis of the Scottish Enlightenment and its proponents. Already in the quoted essay volume *Individualism and Economic Order* from 1948, Hayek appraises highly Scottish philosophers like Smith, Hume and Ferguson and seems fascinated by their “true individualism”. It could be that his reading of these authors, but also of Burke, brought him to the “twin ideas” which then prevail in Hayek III: spontaneous order and cultural evolution. Besides, it might be that it is the course of this reading that, after *Economics and Knowledge*, leads him to sharpen his notion of competition to what later became the well-known metaphor of the “discovery procedure”. Traces of this notion of competition as a highly dynamic process are already discernible in his Princeton lecture *The Meaning of Competition* of 1946.⁷¹ Such an idea of the market process with the key element of the time factor makes the question of the appropriate framework, the core of the ordo-liberal Hayek II, a much more complicated issue. Thus, after the new stress on such a dynamic perspective on competition, a dynamized theory of order (i.e. of the framework surrounding competition) seems indispensable, and this is precisely the point where he re-invents the Scottish concepts of the spontaneous order and cultural evolution. So the first hypothesis is that it is the departure of static equilibrium (after 1936 and especially after 1946) and the new formulation of the dynamic notion of competition that lead him to the necessity to also dynamize his theory of order towards a spontaneous development of the framework instead of conscious setup.

⁶⁷ See Hayek (1947/48), p. 110.

⁶⁸ See Hayek (1947/48), p. 117.

⁶⁹ See Streissler (1972/73), pp. 1396-1402.

⁷⁰ See Samuelson (2009), p. 1.

⁷¹ See Hayek (1946/48).

The second source of departure from the early positions on the rational feasibility of the framework might be his involvement into neurobiology, the result of which was *The Sensory Order* of 1952. In this treatise, based on early ideas from the 1920s but formulated anew after the turbulent times of *The Road to Serfdom*, he develops his theory of human perception mechanisms and their boundaries. These new foundations for his upcoming social philosophy might have lead him to two other concepts seminal for his later projects: the rule-following behavior of individuals⁷² and the theory of complex phenomena. If *The Sensory Order* can be seen especially as the beginning of Hayek's theory of complex phenomena, then its results might be an additional reason to depart from the idea of a designable framework for such phenomena.⁷³

Hayek III is different, "more evolutionary" and undoubtedly more dynamic than in the 1930s and 1940s, possibly due to the two reasons/channels above. Is he in this sense not an ordo-liberal any more? I argue that he still can be seen as affiliated to ordo-liberalism, here however not any more as a Freiburgian but as an "extreme"⁷⁴ or an "evolutionary"⁷⁵ ordo-liberal. The argument that still some affinity to the ordo-liberal program can be discerned is the rôle of rules which is overarching in the late Hayek. Certainly they are not any more to be consciously/rationally designed or constructed, as in Hayek's above writings of the 1930s and 1940s: that would be, in Hayek's later wording, "constructivism". But rules remain seminal, and thus the legal framework for the economy remains an important topic, both for *The Constitution of Liberty* and for *Law, Legislation and Liberty*. Interestingly, even in his "most evolutionary" years in which the denationalization of money is on his agenda, he sticks to the role of government in the denationalized monetary field as a guardian of rules for the private money-issuers. Note that its task is:

"...to provide a framework of legal rules within which the people can develop the monetary institutions that best suit them."⁷⁶

That bears, despite all the transformations in the meantime, still some considerable proximity to Freiburg and Hayek II.

⁷² For a recent extensive discussion of rule-following behavior in the light of *The Sensory Order* by a former PhD student of Viktor J. Vanberg, see Sprich (2008).

⁷³ For an estimation of the rôle of *The Sensory Order* as the birth and the foundation of Hayek's theory of complex phenomena, see Streit (2004), p. 115.

⁷⁴ See Becker (1965), pp. 46-47.

⁷⁵ See Renner (2002), pp. 192-217.

⁷⁶ See Hayek (1976), p. 22.

5. *New look at the “curious relation” of Hayek and Mises*

The relationship of Hayek to his Viennese mentor Ludwig von Mises, a nexus which Hayek calls a “curious relation”,⁷⁷ has been covered extensively in literature: Both biographers of these prominent Austrian economists and secondary literature on their respective theories have dedicated a lot of attention to this complex tie.

I believe, however, that the argument of an “ordo-liberal Hayek II” with remnants in Hayek to the end of his life can shed a very interesting new light on the “curious relation”. Adherents of Mises (sometimes peculiarly closer to Rothbard and anarchism than to Mises himself) often claim that Hayek represents an entirely different strand in the Austrian tradition, go beyond the legitimate Böhm-Bawerk/Wieser separation and argue that Hayek is a covert social democrat.⁷⁸ Such interpretations are true to the extent that Hayek explicitly opposes the minimal state.⁷⁹ But they appear thoroughly absurd if one analyzes Hayek’s economic policy œuvre, his opposition to the ideal of social justice and his personal political involvement, be it in the *Mont Pèlerin Society*, in think tanks and as author of numerous letters to the editor of major European newspapers.

Apart from these misinterpretations, the secondary literature on the comparison of two authors suffers from an additional weakness: Especially in recent comparative publications, the stress is rather isolated on the Mises’ and Hayek’s positions within the socialist calculation debates. The question of the role of government in their liberal programs, in contrast, seems to play a much less prominent part in literature. If this is analyzed in detail, sizable divergences between the two authors can be identified.⁸⁰ These divergences certainly also call for an explanation and the truly necessary “de-homogenization” of Mises and Hayek in this respect. I have tried to work out this distinction by stressing that the topos in the respective œuvre is rather different: Whereas Hayek stresses the problem of the constitutive lack of knowledge and signifies what institutions (most notably prices and general rules) are necessary to overcome this problem in a free society, for Mises individual transactions cannot be improved by any interference by government so that no freedom-enhancing rules can exist.⁸¹ The prism of Hayek being an ordo-liberal and contrasting him to Mises as an adherent of laissez-faire, analyzing from the perspective of the two topoi, might thus bear considerable explanatory power for holding the two Viennese apart, leaving absurd accusations of Hayek being a covert social democrat and Mises being a covert anarchist aside.

⁷⁷ See Hayek (1994), p. 68.

⁷⁸ The most prominent proponent of this line of thought is Hans-Hermann Hoppe, see the above quoted statements in Hoppe (1994), pp. 68-70.

⁷⁹ See Hayek (1979/81), p. 41.

⁸⁰ I have discussed this comparative topic in a part of my PhD thesis which will soon be published as a discussion paper at HWWI/Wilhelm-Röpke-Institute Erfurt.

⁸¹ This is absolutely not to say that Mises (unlike students of his) is an anarchist. He often refers to the necessary rôle of government being to guard “life, liberty and property” and distinguishes strictly liberalism from anarchism. Unfortunately, he to my knowledge never expresses what he precisely understands e.g. under property rights and how he delimits them.

6. Outlook and further research

I hope to have shown in the preceding sections that a new prism for viewing Friedrich von Hayek's political economy might be helpful to clear several misunderstandings. If seen from an ordo-liberal perspective, his "interventionist" works in the 1930s and 1940s can be interpreted in a new light; but also his later studies on spontaneous orders and the cultural evolution of rules might win if his early ideas on the necessity of a framework are worked out, so that e.g. interpretative deadlocks as the accusation of being a "social Darwinist" could be clarified. Last but not least, the divergences in the relationship Hayek-Mises might to some extent be explained by their deviating attitude towards ordo-liberalism, which Mises pejoratively calls "ordo-interventionism".

The present paper could of course not answer all questions. Most importantly, (at least) three areas remain which will be targeted in further research. First the complex interdependencies within early neo-liberalism seem worthwhile exploring, i.e. the mutual influences between Hayek and the early Chicago School or between Hayek and Karl Popper. Such an analysis might shed some additional light on the formation of the ordo-liberal Hayek II. For this, also a detailed look at the correspondence of the involved protagonists seems necessary. Secondly, the reasons for the transformation from Hayek II to Hayek III must be elaborated, which here could only be formulated as hypotheses as to the influence by the Scottish Enlightenment and the rôle of *The Sensory Order*. Thirdly, the interaction of the ordo-liberal phase and Hayek's knowledge topos needs an additional clarification since Hayek II is also the time-span in which *Economics and Knowledge* and *The Use of Knowledge in Society* appear.

"Eucken must come to America", a German professor of economics claimed recently,⁸² meaning that a seminal answer to the current global crisis might be found in the philosophy of ordo-liberalism. With this paper I tried to argue that not only Walter Eucken but also his close friend Friedrich von Hayek, especially in his ordo-liberal phase, definitely deserves a new reading. Historians of economic thought seem to suit well as the forerunner here.

⁸² See the statement of Professor Hans-Werner Sinn in the German weekly *Wirtschaftwoche* on March 30 2009.

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