A Libertarian Britain Prepares to Leave an Ordoliberal EU

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Post-Brexit Options for the UK
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Variants of neoliberalism

• Ordoliberalism: state constitutes and actively shapes the market economy through private law and antitrust policy (Bohm, Eucken)

• Libertarianism: state supplies the framework for market exchange by supplying contract and property rights but does not otherwise intervene in the economy (Hayek, Friedman)
Ordoliberalism and the EU

• German ordoliberal tradition heavily influenced Treaty of Rome (1957)
• Competition policy and ‘four freedoms’ (internal market law) subsequently evolved under ordoliberal influence
• Monetary policy after Maastricht Treaty (1992) reflected ordoliberal emphasis on price stability
• Fiscal neutrality principle embedded in Stability and Growth Pact (1997), Treaty on Stability, Coordination and Governance (2012) and European semester process
• ‘Structural reforms’ and conditionality inherent in post-crisis MoUs and ECJ judgments in Pringle (2012) and OMT (2015)
The ‘social market economy’

• Social policy compatible with certain elements of ordoliberal thinking
• Social policy as a ‘productive factor’
• Coordinated wage bargaining
• Training and active labour market policy
• But, labour rights subordinate to aims of ‘structural reforms’ and ‘competitiveness’
The UK and the ordoliberal model

• EU competition policy and capital mobility rules not a problem for the UK
• UK’s opt out from monetary policy not in doubt pre-Brexit
• EU social law not a major constraint in practice on UK economic policy
• UK committed to fiscal neutrality and price stability… as is the Eurozone...
• Differences more ideological than practical?
Negotiating a UK-EU FTA

• Possible models: CETA; EU-Ukraine Association Agreement

• UK goal:

  have cake and eat it = single market access – (labour migration + ECJ)

• Relatively easy issues: tariffs, capital mobility, technical standards

• More difficult issues: services, rules of origin, non-discrimination

• Labour migration likely to continue in modified form

• Essentially ‘EEA lite’, but ...
The Parliament ‘regrets the decision by the United Kingdom Parliament not to participate in the Single Market, European Economic Area and Customs Union; considers that a state leaving the Union cannot enjoy similar benefits as an EU Member State and announces therefore that it will not consent to any agreement that would contradict this’ (para. 9)
What will happen to social policy?

- CETA model: ‘non-regression clause’ (CETA Art. 23.4) a likely option
- If this model is followed, the UK and EU would each be bound to maintain the status quo on social rights but the UK would not be part of future EU harmonisation initiatives (although EP draft resolution para. 24 talks of the UK’s ‘continued adherence’ to social policy standards... as they evolve?)
- However, the EU is not currently prioritising the harmonisation of social rights and there is little prospect of this changing after Brexit
Conclusions (1)

• ‘Libertarian’ Britain has become increasingly at odds with an ‘ordoliberal’ EU...

• Even so, if the goal of the FTA negotiation is to ‘have your cake and eat it’, the UK could end up closely aligned with the EU on capital mobility, technical standards, economic policy and social law...

• The UK would still be pooling sovereignty with the EU, the difference being the means used to achieve this, i.e. an FTA rather than full EU membership...

• But this outcome is very far from certain
Conclusions (2)