

LOGIKE – LOGOS (ΛΟΓΙΚΗ – ΛΟΓΟΣ) AND JUS DICERE. A PHILOSOPHICAL OUTLINE FOR A JURIDICAL LOGICS

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Abstract: This text is situated on a certain germinal ambiguity of the word logics, insofar caught only as the dominant meaning of the term, that of autonomous discipline with a certain object of investigation, is, without being removed, initially suspended to make room for polysemy, subsequently blurred in order to restore the semantic fullness that occurred on the etymological pathway. Logike (λογική) shows up as a derivative of the Greek logos (λόγος), in this descent the opening to one's own, inner fragments of the meaning of the word becoming possible. Finding out logike (λογική) in the immediate vicinity of logos (λόγος) and the fact that the former comes to call in Greek thinking a particular type of reflection sovereignly oriented towards logos (λόγος) in its many forms fuse the semantic flows of both words, which irrigate each other's meaning, becoming simultaneously navigable by placing them in a single riverbed. Joining the term jus-dicere to the couple logike (λογική)-logos (λόγος), opens a new semantic field and sheds new light on what juridical logics can fully cover, revealing its full vocation.

Keywords: Heraclitus, stoics, theory of forms, pneuma, Plato and Aristotle;

1. Introduction: λογική – λόγος

The pair *logike (λογική)-logos (λόγος)* will be read starting from placing *logos (λόγος)* in the position of the privileged object of *logike (λογική)*, the latter registering internal fluctuations in its own meaning only as a consequence of the cracks in the meaning of *logos (λόγος)* which *logike (λογική)* only traces. A key reading of the pair *logike (λογική)-logos (λόγος)*: map, mapping – landscape, geomorphology, to the extent that *logike (λογική)* is the intelligible discourse on *logos (λόγος)*, referring to the process itself of elaboration of such a map, and *logos (λόγος)* referring to the landscape itself subjected to mapping, with its own process of transformation.

In Greek, the current, amorphous meaning of *logos (λόγος)* was that of utterance, word, rational justification, reason, rational faculty, proportion, by derivation *logike (λογική)* meaning what is uttered, thought. Together with the amorphous meaning, the semantic profile of logics, which logics does mean, consists in the whole landscape formed by all the particular sediments, hollows or fissures occurred in thinking so far under the significant dome of *logos (λόγος)*. Going through this landscape, hovering over us on a certain slope or another, as we descend from the height of the dominant contemporary meaning of logics as science, what seems a simple fissure can deepen into a fault that separates, as significant inside logics, the shores of the different meanings of the word, only one of them being the one of a discipline that cuts from its *logos (λόγος)*,

as object, the establishment of the conditions of correct thinking, forms and general laws of the proper reasoning. The pilgrimage through the semantic landscape of logics constantly intuit, on the horizon, another shore, that of juridical logics, *jus-dicere*, of utterance of law, as a particular field of logics in the full sense of *logike* (λογική).

2. *Logike* (λογική) in Ancient Greek thought

As Deleuze and Guattari noted, from the the presocratic *logos* (λόγος) as reason to the current meaning of reason there is a long way (Deleuze, 2020). An initial fissure in the sense of *logos* (λόγος)-*logike* (λογική) that outlines a first semantic shore bears the imprint of a pre-Socratic, Heraclitus being the one who first conceives his own doctrine centered on *logos* (λόγος), giving it the meaning of organization of the entire universe. World's *logos* (λόγος) is a "harmony of opposing tensions, like the bow and the lyre," as a Heraclitean aphorism states, being connected with the idea of proportion, of harmony resulting from a stable tension of contraries, *tonos*. "Nature loves to conceal Herself", says Heraclitus, and therefore neither it nor *logos* (λόγος) can be directly accessible to the senses. The *logos* (λόγος) of Heraclitus as a hidden ordering principle, intelligible only to the thinking, intellect, spirit, *nous*, acquires material values by identifying with the cosmic fire, omnipresent, under the tutelage of an intellectual force that acts with a purpose and whose knowledge encompasses the entire axis of time – past, present and future. The hidden *logos* (λόγος) of things becomes accessible through *nous*, which can be activated both by senses and contact with the divine *logos* (λόγος) of the universe, contact that is maintained during sleep, even if in an attenuated form, as respiration, *pneuma* (Peters, 2007).

The Heraclitean conception of *logos* (λόγος), *pneuma* and *tonos* is taken over in the Stoic thinking. The whole cosmos is a perfect living body, whose parts are imperfect because they cannot function by themselves. What holds the universe together is *tonos*, a certain inner tension, created by *pneuma*, that penetrates the entire universe supporting everything. Just as *pneuma* penetrates the human body, forming its soul, making it a living and organic whole, and making every part of the human body growing in close contact with the rest of the body, so does *pneuma* penetrate the entire universe, being identified with the divinity which, in the creation of the world, turns into its soul. *Pneuma* plays a central role, being considered a compound of air and fire that is also part of the soul. Human *pneuma* is innate and circulates throughout the body along with the blood, *kardia*, in the same way that divinity is scattered throughout the universe, varying only in its tension degrees, *tonos*. For the Stoics, the explanation of the universe is based on the idea of *tonos* in *pneuma*, all the elements of the universe being within one of the four levels: at the lower level of inorganic things is *hexis*, a weak tension that only gives them unity; at the upper level of *physis*, of plants, there is a tension which is manifested by their opportunity of growth; at the next level of *zoa*, of living things, there is a tension that allows them a certain behavior reactive to cognitive and desiderative stimuli; at the last level, that of *logos* (λόγος), stands the strongest and purest tension in *pneuma*, which consists in the possibility of self-induced movement. Taking from Heraclitus the idea of ordering and divine principle of the universe, for the Stoics, *logos* (λόγος), as an active

and creative force in the universe – as in Heraclitus, of material nature and assimilated to fire –, is also identical with nature, *physis*, and Zeus. Ubiquitous in the universe, *logos* (λόγος) is one unit, thus making it possible to substantiate the theory of universal sympathy, *sympatheia*, of natural law and the ethical imperative of life in accordance with nature (Peters, 2007). The Stoics also draw a differentiation between thinking as inner *logos* (λόγος) and speaking as outer *logos* (λόγος).

Plato further breaks up the meaning of the word by elaborating a series of oppositions: on one hand, that between *mythos* and *logos* (λόγος), where *logos* (λόγος) means a true, analytical explanation, opposed to the mythological one; on the other hand, the opposition between *doxa* and *episteme*, where the latter, knowledge, means true opinion accompanied by justification, by *logos* (λόγος) in its sense of reason. The mapping of the Platonic shore for the meaning of *logos* (λόγος) involves the analysis of the relationship between *logos* (λόγος), *doxa* (false knowledge, common opinion, simple naive belief about the material world, unfiltered through *logos* (λόγος), reason) and *episteme* (true knowledge) in the light of the Platonic theory of forms. At the same time, the refinement of the opposition *doxa* – *episteme* with a downstream drive of *logos* (λόγος) as a fundamental element in obtaining knowledge also introduces a problem that will represent a constant interrogation of Western thinking, that of truth – about the nature of reality, in metaphysics, about what exists, in ontology, about knowledge, in epistemology.

The Theory of Forms, also illustrated by Plato in the allegory of the cave, comes to solve a concern of pre-Socratic origin, Thales being the one who – noticing that the visible world, perceptible through the senses, and everything that appears being constantly changing – wondered what really are the objects of this world, since they are constantly changing; what resists in all these things, fundamentally, the flow of changes, what remains unchanged, what lasts unaltered (Nietzsche, 2012). Plato considers that the object in the sensitive material world, with its changing forms, is not what occurs to the senses, its appearance, the phenomenon, but is, in fact, essentially, its ideal form, which the appearance, the form of the physical world, only embodies it in a particular way. The ideal form of an object is singular, and what occurs in the material world, in all its diversity, is only a multiple variation of the ideal form of the object. The ideal forms such as beauty or justice are more real, or the really real ones, compared to the objects, appearances, phenomena from the material world that only embody, represent, or poorly imitate the former ones. If the objects in the material, physical world are bounded, stipulated, permanently subject to change, continuously distorting their appearance and eroding to dissolution under the force of time, their ideal forms are those that resist both time and change, invariable and unconditional. Not only do they resist time by contrasting the ideal form with the transient, material one, of the objects in the physical world, nor are they eternal in the sense that they are mistaken for the temporal axis itself, but they are timeless, meaning lying outside time, providing a formal basis to time itself – the beginning, the eternal, the duration, the end. At the same time, they are aspatial, in the sense that, not having a physical nature, they do not integrate into spatial coordinates, however they are real in the sense that they do not

belong exclusively to the intellect, they exist in reality and are not simple mental projections.

For Plato, true reality consists only of the ideal forms of objects in the physical world, which appears as representation, as phenomenon, as particular material forms, derived from the former, creating a false reality perceptible to the senses. Knowing only this false reality represents *doxa*, the common opinion, a false knowledge. *Doxa* is opposed by *episteme*, the true knowledge, which involves access to true reality, discerning the ideal forms of the objects that form the physical world and which also represent their essence, *ousia* (οὐσία), that something without which an object would not be what really is. The Platonic meaning of *logos* (λόγος) precisely consists in the intelligible formulation of the essence, *ousia* (οὐσία), of an object, exceeding *doxa* and capturing the ideal form of the object, in obtaining the definition of the object in the Aristotelian sense as the end of a process of division into genera and species. This process named *diairesis* assumes that in order to reach the essence, the definition of an object, thinking must start from the general to the specific, from a general concept that is divided into two or more sub-concepts, one of which is eliminated, the process resuming with respect to the remaining division, until the definition or essence is obtained.

Aristotle uses the term *logos* (λόγος) in this sense, of defining an object, and especially in ethics, with the meaning of reason, rationality, but also with that of mathematical proportion or ratio. Aristotle is also the first to study what is understood today by logics, but using the term analytics, without being interested in naming the discipline as such: Analytics (Apodictics) is the part he dedicates to the theory of demonstrative reasoning, being concerned with formulating conclusions from true premises, Dialectics – the part he dedicates to probable reasoning, and Eristics – the one that deals with reasoning that uses seemingly probable premises. The name Logics for a discipline appeared later in the post-Aristotle logic schools, at the same time also being used the terms Canonics in Epicurus, Dialectics in Zeno, Cicero (Ist century BC); however, later, his contemporary Roman world used the present fixed term meaning only by the commentator Alexander of Aphrodisias in the IInd century AD (Botezatu, 1997).

Going through the successive meanings of *logike* (λογική) in Greek thinking, we notice that, in the original sense, logics involved reflection on *logos* (λόγος), *logos* (λόγος) itself being related to reality, to the objects of reality. The type of reflection practiced by pre-Socratics, crediting reality itself with *logos* (λόγος), made logics not exclusively belonging to thinking itself in its formal development, but to be related both to the structure or organizing principle of the world and to the thinking oriented towards unraveling such structures. To the extent that *logos* (λόγος) was originally attributed to the world, logics was tasked to adapt thinking to what belonged to reality. The world itself was the one that revealed itself in its own principle and in its inner coherence, logical thinking being only that type of thinking that was setting itself and able to capture and formulate in a language such a revelation. With Plato and Aristotle, there is a transfer of *logos* (λόγος) from the world itself that reveals itself to thinking, to statements about reality, driving downstream the mutation of the meaning of logics

from the reflection on *logos* (λόγος) of the world to the rules of correct formulation of statements about reality and rational thinking (Heidegger, 1979).

Following these semantic shores and the fundamental declination of *logike* (λογική) according to the inner meanings of *logos* (λόγος), where the first term implies the latter-oriented thinking, it seems inappropriate to topographically outline a field of logics understood as a reflection of this kind. As a reflection, logics has a vocation to the whole, to everything that *logos* (λόγος) means in all its forms, thinking, reason, reasoning, language. But to the terms of field and ground, eminently landed, implying the possibility of usurpation and taking possession of what is proper to other disciplines, the benign one will be preferred, only with transgressive resonance, of alley, which allows a disproportionate passage of what is scattered today in various fields of investigation of some particular sciences: formal logics as a science of the thinking organization, philosophy of subject, language, and epistemology as a philosophy of knowledge and truth.

3. *Logike-logos* (λογική-λόγος) - *jus dicere*. The meaning of juridical logics

If *logike* (λογική) shows up as a derivative of *logos* (λόγος), taking from the latter the semantic profile and naming the particular type of reflection oriented towards *logos* (λόγος), whenever the former will be invoked in its power of meaning, even if the registered *logos* (λόγος) will not be present, its entire semantic field will be evoked. The significant formula of juridical logic, transposing the reunion of *logike* (λογική) with *jus dicere*, has as meaning the triad *logike* (λογική)-*logos* (λόγος)-*jus dicere*, the sublimated scriptural term, *logos* (λόγος), the neuralgic one, being also the one that confers aura to the authentic meaning of the *logike* (λογική)-*jus dicere* pair. What is intriguing in this concealment of the middle term of the triad and what it refers to the meaning of juridical logics is the ambivalence of the process by which *logos* (λόγος) is hidden by transforming the triad into a pair: either absorbed into *logic* (λογική) or abandoned to *jus dicere*.

Establishing the meaning of juridical logics, of *logike* (λογική)-*jus dicere*, involves rehabilitating the triad, bringing to the surface what is removed in writing by going through the two disjunctive processes of concealment, by analyzing the two pairs that agglutinate *logos* (λόγος): *logike* (λογική)-*logos* (λόγος) and *logos* (λόγος)-*jus dicere*. If the concealment of *logos* (λόγος) takes place through two disjunctive processes, either the absorption into *logic* (λογική) or the abandonment to *jus dicere*, the restoration of the triad *logike* (λογική)-*logos* (λόγος)-*jus dicere* by resuming the two disjunctive processes reveals the significance of juridical logics as the two pairs in conjunction.

On one hand, if *logos* (λόγος) is analyzed as a link of the pair *logike* (λογική)-*logos* (λόγος), where the latter, as a privileged object of reflection assumed by the former, is absorbed by it, logics fully acquires its meaning, being in connection and fully taking over the fluctuations of *logos* (λόγος), having vocation to its entire semantic profile and justifying the crossing of several epistemic grounds that *logos* (λόγος) implies today. Therefore, the meaning of juridical logics appears at the confluence of the semantic riverbed of the pair *logike* (λογική)-*logos* (λόγος) with that of *jus dicere*, where the first

term signifies the particular type of reflection oriented towards *logos* (λόγος), absorbing the latter, with a nuance brought by the second term which, through an additional qualification, regulates the reflexive angle assumed by the first – we are on the inner shore of *logos* (λόγος), of utterance, thinking, reason, but all this of the juridical, of the law, with all the declinations in relation to the subject, the object, the form and the content of such a thought; juridical logics in the sense of reflection filtered by *logos* (λόγος) on the juridical, reflection on *logos* (λόγος) of what is juridical, of everything that is *logos* (λόγος) in juridical. The shore of *jus dicere* being inside *logos* (λόγος), *logike* (λογική) as thinking of the whole *logos* (λόγος), even with an adjacent qualification by *jus dicere*, maintains its vocation of the whole described today by the fields of formal logics, philosophy of the subject and language, and epistemology.

On the other hand, if *logos* (λόγος) is analyzed within the *jus dicere-logos* (λόγος) pair, where the latter is abandoned to the former, the meaning of logics is drained by the meaning given by the privileged connection of *logike* (λογική) with the whole *logos* (λόγος), acquiring the austerity of the particular meaning of logics as formal logics, which cuts a certain shore of *logos* (λόγος) by no-change assimilation with the thinking itself in its abstract mechanics. Juridical logics, from which it could mean the reflection of what is *logos* (λόγος) in *jus dicere*, is reduced, by a similar gesture, to the reflection on *jus dicere* in its formal structure. If logics would mean, by pairing to *logos* (λόγος), the reflexive impulse that today underlies the fields not only of formal logics, it should lose the vocation to the whole by unpairing from *logos* (λόγος) – if formal logics analyzes the thinking in its structure, in its internal development detached from both the subject and the object of thought, juridical logics will either symmetrically cut a field of juridical investigation in its internal, abstract determinations, subsumed to the positivist perspective on law, or will be limited to the applications of formal logics in the juridical field. This last reduction, by which judgment is a simple field of application for logics, would justify, at the limit, a logics specific to any field of knowledge only because the rules of valid thinking are used and prove to be useful in all those fields.

4. Conclusion

Without removing the importance of formal logics in the field of law, the meaning of juridical logics is revealed by placing *logos* (λόγος) as the missing link of the triad of *logike* (λογική)-*logos* (λόγος)-*jus dicere*, and by the cumulative reading of the pairs *logike* (λογική)-*logos* (λόγος) and *logos* (λόγος)-*jus dicere*. Thus, the whole vocation of juridical logics is maintained by the pair *logike* (λογική)-*logos* (λόγος), and the formal logics by the pair *logos* (λόγος)-*jus dicere*, the latter being only part of the whole, along with what belongs to philosophy of the subject and language and epistemology. The whole issue of the vocation of logics, which allows an *iter* over all these fields without taking them into control, is transposed, in conjunction, into the realm of *jus dicere*: the analysis of syntax, form, as well as the structure of thinking, presumed by formal logics, in conjunction with the analysis of law as a formal structure; but also the recovery of the withdrawal of logics within syntax from the field of meaning at the same time with the classical Greek thinking, involving the analysis of the way in which law corresponds to certain

representations (moral, axiological) of reality, the content analysis of thinking in conjunction with the analysis of juridical content, the supposed truth of epistemology in conjunction with the problem of juridical knowledge and juridical truth.

All these directions of investigation assumed by juridical logics are retained by the current meaning of the term logics:

1. science of demonstration initiated by Aristotle, with the role of establishing the conditions of correctness of thinking, meaning that aims at thinking in terms of formal logics;

2. internal coherence, organization, structure of forms and types of existence, meaning that aims at reality and objects from this reality, with own internal logics;

3. way of thinking, understanding, aimed at the subject with its own logics.

Thus, juridical logics must imply:

1. syntactically – formal logics and logics of law as positive law

2. semantically – meaning of law, the way in which law corresponds to reality or to cultural, moral, axiological representations

3. pragmatically – the way in which subjects interact with law.

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