

The State of the European Union's Monarchies

Twilight of the European Monarchy

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Historical overview of monarchies in Europe – Conceptual development of ‘monarchy’ and ‘republic’ – Decline of the hereditary principle for heads of state in Europe – Rise of the constitutional monarchy – Pressure of the European Union on monarchy

INTRODUCTION

In modern parlance the notion of *monarchy* is generally used for a polity with a hereditary head of state. The only exception in contemporary Europe is the papacy. A *republic*, on the other hand, is in this parlance a polity without a hereditary head of state. This has not always been the case. Only gradually, and never completely, has hereditariness become the essence of the contradistinction between the two notions. A brief summary of the complicated and widely ramified history of the notions *monarchy* and *republic* may illustrate this.¹

The original meaning of *monarchy* is undivided power held by a physical person. Often a distinction has been and is made between *monarchy* and *despotism* in order to indicate that a monarch, in contrast to a despot, could not always act as freely without restrictions as he wanted. Many a scholar therefore fosters the opinion that from the beginning, the notion of *monarchy* has included a constitutional

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¹ Many modern dictionaries also show the original meanings. The summary is largely based on the entries *Monarchie* and *Republik* in: *Geschichtliche Grundbegriffe. Historisches Lexikon zur politisch-sozialen Sprache in Deutschland*. Herausgegeben von Otto Brunner, Werner Conze, Reinhart Koselleck, 8 Bände (Stuttgart 1972-1992) Bnd. 4, p. 133-214; Bnd. 5, p. 549-651. See also: Ph. Lauvaux, ‘Les monarchies: inventaire des types’, in 78 *Pouvoirs. Revue française d'études constitutionnelles et politiques* (1996) p. 23-24. D. van der Horst and J.H. Reestman have suggested important additions and kept me from a number of blunders.

element in the sense of limitation of power.² In this context it may be sensible to point to the fact that in the *Corpus Iuris* two different sources legitimising power can be found: a divine one, by which the ruler derives his power from a divinity or divinities and a worldly one, by which the ruler derives his power from a group of mortal persons, first of all of course an aristocracy.³ It goes without saying that in later discussions about the legitimacy of monarchical power, those two sources have frequently been pointed to.

Power could be wielded by a person who is either elected or predetermined according to the currently applying law of inheritance. Several hybrid forms survived till this very day. The notion of *res publica* meant the whole society in all its appearances, but also the power of a group of persons. In this article only the last meaning is relevant.

Although sources are lacking to get absolute certainty, it is highly probable that monarchs from the grey Germanic past of European history were elected, more often than not for a short period of time or for a limited purpose. There did not exist a strict separation between heredity and election by a small group.⁴

From the beginning, monarchy has been associated in one way or the other with divinity. After the conversion to Christianity, monarchy acquired a sacral character, expressed by a coronation accompanied with anointment and an oath, which together constituted the consecration.⁵ Probably from this the formula 'by the grace of God' originated – which in any case is still in use in Great Britain and the Netherlands – for the introduction and enactment of bills and royal decrees. However, the principle of divine right has disappeared from the constitutions of the European countries that still have a hereditary head of state. As far as I know Monaco is the last country to drop the principle from its constitution, in 1962. Originally, the ruler was only formally monarch after consecration, but later on, when the sacral element had faded away, the moment of decease with the formula 'the king is dead, long live the king' or of election determined the moment of succession.

In some early polities, which cannot yet be called states in a modern sense of the word, clans succeeded in allocating the monarchy for their own clan and successively for their own family. The sacral element was essential, because the given family was considered to be chosen by the gods or God. In this way monarchical dynasties originated. The rules of succession varied for a long time. In addition to

² Miguel Herrero de Miñón, 'Monarchie et développement démocratique', 78 *Pouvoirs* (1996) p. 7-21, at p. 9.

³ P. Leupen, *Keizer in zijn eigen rijk. De geboorte van de nationale staat* (Wereldbibliotheek 1998), p. 112.

⁴ B. Guenée, *States and Rulers in Later medieval Europe*, translated by Juliet Vale (Blackwell Publishers 1985), p. 67-69.

⁵ R.C. van Caenegem, *De instellingen van de middeleeuwen*, Vol. 1 (2 Vols) (Story Scientia 1978) p. 62.

primogeniture and gavelkind, it could occur that the oldest brother or sister claimed the throne. Although succession in the male line was without doubt the most common, there existed no absolute certainty about this. In some of the European states with a hereditary head of state, men take still precedence over women. Obviously, the undetermined character of succession has given rise to many conflicts. Monarchies in which heredity had been clearly determined did have more of a chance to develop into a strong state than those which lacked such rules. In a broad sense one can say that the European states emerged not on the basis of the language or the ethnicity of a population, but on the basis of a dynastic principle.

In addition to the hereditary monarchies, some elective monarchies survived a considerable time or even till this very day. This was the case in Poland till this state was divided up among its neighbours in the 18th century. The emperor of the Holy German Empire was, at least formally, elected till the liquidation of the empire in 1806. The Roman Catholic church with the Vatican State is still an elected monarchy. In modern European countries with a hereditary head of state, the possibility of election is not altogether lacking. Most European constitutions stipulate that, when no hereditary successor is available, parliament elects a successor and determines the order of hereditary succession. Those parliaments can in such a case also decide to not appoint a successor and by doing so end the hereditary monarchy of the country. As far as I know, nowhere is the appointment of a hereditary head of state by referendum provided for.⁶

Many of the monarchical families not only succeeded in making their power hereditary but also, to legitimate heredity by appealing to the sacral character of their power, they also tried to free themselves from the traditional limitations of what has been called medieval constitutionalism and parliamentarism.⁷ This aspiration led much later to the ideal of *absolute monarchy*. Outward show, ceremony, the 'theatre of the state',⁸ which had been important anyway, increased. In historiography the question is controversial of whether and to what extent the aspiration to create an absolutist monarchy was successful. It is certain, however, that most rulers who pretended to be absolute remained more or less bound to laws, institutions and traditions that came into being during the Middle Ages. As with the 19th century's so-called *nation state*, the absolute monarchy has remained more of an ideal than of a reality.

By creating an impersonal bureaucracy with separation of the financing of the monarchical household and the state, the monarchs tried to strengthen their power, but in the long run made themselves paradoxically superfluous for the

⁶ Relevant articles in: L. Prakke and C. Kortmann (eds.) *Constitutional Law of 15 EU Member States* (Kluwer 2004)

⁷ R.C. Van Caenegem, *De instellingen*, Vol. 2 (Story Scientia 1978) p. 218.

⁸ J. van Osta, *Het theater van de Staat. Oranje, Windsor en de moderne monarchie* (Wereldbibliotheek 1998).

survival of the state.⁹ The gradual shift from the patrimonial to the bureaucratic state, started by the rulers themselves, can therefore be considered as the first encroachment of their power, in spite of the appearance of the opposite. Apart from the study of Roman law, the separation between the personal household of the monarch and the household of the state has contributed to the separation between public and private law.¹⁰ In the eleven still existing European monarchies,¹¹ the constitutionally established rules of hereditary succession differ from the rules pertaining to private law. In Luxemburg, hereditary succession has been provided for by a dynastic Succession Pact, which existed before the country got a written constitution.¹²

Long before the power of most monarchs in Europe reached their zenith, the decomposition and erosion of their power set in. In countries like Switzerland and the Netherlands, the monarchies disappeared forever or temporarily in the 16th century. In England the erosion of royal power, of which the beginning has been dated from the *Magna Charta* of 1215, reached an important milestone in 1689 with the *Bill of Rights*. From that time the king had to share his power with the nobility, and later on with other groups of the population of his state as well. Comparable developments took place in countries like Sweden and Denmark. After the French revolution this led to the spread of what became known as *limited* or *constitutional monarchy*. If one understands the notion of *monarchy* in its original meaning of absolute power by an individual, then the notion of *constitutional monarchy* is essentially a *contradictio in adjecto*. According to the original parlance, this would certainly have been called a *republic*. The second president of the United States, John Adams, did so in so many words: 'The constitution of England is in truth a republic, and has ever been so considered by foreigners, and by the most learned and enlightened Englishmen.'¹³ It is tempting to put next to this quote from a relative foreigner a quote from a famous insider, the learned journalist Walter Bagehot: 'A Republic has insinuated itself beneath the folds of a Monarchy'¹⁴ but probably Bagehot had in mind the stern, businesslike, perhaps even rational element that had penetrated the frivolous and irrational monarchy of his days.

⁹M. Van Creveld, *The Rise and Decline of the State* (Cambridge University Press 1999) p. 137. Van Creveld quotes in this context a diplomat who is said to have snapped at Philip II: 'Vuesa Majesta misma no es sina una ceremonia' [Your majesty is nothing but a ceremony].

¹⁰R.C. van Caenegem, *An Historical Introduction to Western Constitutional Law* (Cambridge University Press 1995) p. 2-3.

¹¹In the contemporaneous meaning of the word with the exception, again, of the papacy.

¹²J. Thill and L. Frieden, 'The Grand Duchy of Luxemburg', in Prakke and Kortmann, *supra* n. 6 at p. 543-587, p. 552.

¹³Quoted in *Geschichtliche Grundbegriffe*, Bnd. 5, p. 592.

¹⁴W. Bagehot, *The English Constitution* (1861; Oxford University Press 1974), p. 44.

It is possible to split the category *constitutional monarchy* into a *chartered constitutional monarchy* and an *accepted constitutional monarchy*, with as its norm the question of whether the constitution had been bestowed on the state by the ruler or had been presented to the ruler by a representative organ of the population to be accepted or refused. King Friedrich Wilhelm of Prussia declared in 1849 to representatives of the Frankfurt parliament, who offered him the throne of emperor of Germany, that a king by divine right could not accept the crown from a popularly elected assembly. An *accepted constitutional monarchy* could also be called a *contractual monarchy*.¹⁵ As a consequence of the bestowing of a constitution, with which the rulers tried to distance themselves from the idea of popular sovereignty that rose to the fore during the French and American revolutions, the ruler could retract the constitution at his will. This indeed happened several times.¹⁶

The erosion of monarchical power continued even when the monarchy was not abolished by a revolution or a *coup d'état*. The *parliamentarian monarchy* with ministerial responsibility made its entry. This category, which of course in turn also might be refined, left not much of the original absolute power of the monarch. Erosion of monarchical power is nearly complete when, as in Sweden,¹⁷ only the skin of ceremony or symbolism has remained. In this case the monarch can, depending on his personal and moral authority, more or less influence political decisions. Where this has occurred, monarchies could be called *ceremonial monarchies*. As the monarchs, moreover, do not make use of any right to vote they might have, in order not to compromise their political neutrality, they possess essentially less formal power than a common citizen who uses his right to vote.¹⁸ Then only the acquired hereditariness, the hereditariness of impotence and frills to be sure, has remained.

As this article is focused on the loss of power of the monarchy, it is not necessary to go into the details of the development of the notion of the *republic*. Only a few remarks will suffice. In the course of time, the meaning of the notion has, depending on place and time, undergone a rather whimsical development. For a long time its core, i.e., power exercised by a group of physical individuals, has

¹⁵ Lauvaux, *supra* n. 1, at p 34, uses the terms 'monarchie autolimitée' and 'monarchie hétérolimitée'.

¹⁶ S.E. Finer, *A History of Government* Vol. 3 (3 Vols.) (Oxford University Press 1997) p. 1583-1588 mentions Spain (1814), Portugal (1828), Hannover (1837), Austria (1848, 1851 and 1865) and Tuscany (1852). Even in 1959 Prince Rainier III of Monaco abolished the constitution but instituted it again in 1962. According to Prakke (Prakke and Kortmann, *supra* n. 6, p. 734) the Spanish constitution of 1812, suspended in 1814, was not a chartered constitution.

¹⁷ J.M. de Meij (translated by Louise Punt-Heyning), 'The Kingdom of Sweden', in Prakke and Kortmann, *supra* n. 6, p. 799-860; p. 817-819.

¹⁸ In the Netherlands the king has active and passive right to vote, but according to Lucas Prakke does not use it.

remained the same.¹⁹ In the course of the French revolution Emmanuel Sieyès used an appropriate metaphor: monarchy ends in a peak, republic in a plateau.²⁰ The well-known German constitutional scholar Georg Jellinek still defined in the beginning of the 20th century *Republik* as a *Nicht-Monarchie* which was ruled by a collegium.²¹

Only in the course of the nineteenth century does the non-hereditary character of the notion *republic* acquire more emphasis and does the element of collective governance fade away. In the 20th century, states with a non-hereditary head of state and even states with an unmistakable despot like the Russia of Stalin and the Germany of Hitler, which without a doubt in the past would have been called monarchies, are called republics. The curious fact crops up that what in Europe by now passes for a monarchy in former times would have been called a republic and that at least some republics of the twentieth century in times gone by would have been called monarchies.²²

After this brief sketch of the development of the notions *monarchy* and *republic*, it is time to have a closer look at the factual decline of power of the monarchs in Europe.²³ In order to present this decline of power, the choice has been made for a somewhat unusual arithmetical periodisation. The period between 1815 and 2001 is divided into five equal periods of 31 years each and one of 39 years, with 7 points of reference, that is to say 1815, 1846, 1877, 1908, 1939, 1970 and 2011.²⁴ On the selected dates, first the number of states is mentioned, divided into monarchies and republics in the modern sense of the words; second, the (sometimes as a consequence of personal unions or a vacant throne) smaller number of monarchs; third, the percentages of territory of the two types of states²⁵ and

¹⁹ In the lemma *Republik* in *Geschichtliche Grundbegriffe* Bnd. 5 made no clear distinction between the development of the notion as *civitas* and as authority of a group of individuals.

²⁰ Originally in the *Moniteur* (8 July 1791). Quoted in German in *Geschichtliche Grundbegriffe* Bnd. 5, 609.

²¹ G. Jellinek, *Allgemeine Staatliche*, 3rd edn. (Berlin 1914), p. 711.

²² M. Duverger uses 'monarchie républicaine' for a regime in which a directly elected individual is not dependent on a parliament. M. Duverger, 'Les monarchies républicaines', 78 *Pouvoirs* (1996) p. 107-120.

²³ This part of the article is mainly gathered together from several handbooks like N. Davies, *Europe. A History* (Oxford University Press 1996), J.M. Roberts, *A History of Europe* (Oxford University Press 1996), the already mentioned books by Finer, *supra* n. 16, Van Caenegem, *supra* n. 10 and Prakke and Kortmann, *supra* n. 6, and some specialised reference books like the *Regierungs-Ploetz*.

²⁴ An originally Dutch version of this article, 'De Avondschemer van de Europese monarchie' appeared in L. Prakke and A.J. Nieuwenhuis, *Monarchie en Republiek* (Kluwer 2000), p. 101-114. To make it up to date without disturbing the original periodisation, eleven years have been added to the last period.

²⁵ The percentages are relatively rough estimates. Small border changes have been neglected.

fourth, the types of monarchies that existed at the time. For the latter types, the above-sketched division into *absolute monarchies*, *constitutional monarchies* (*chartered* and *accepted*) has been used. Each time, the numerical data are followed by a brief sketch of the way the new situation came into being. Finally the percentage of the European population that lived under a monarch in 1815 has been compared with the percentage which had a hereditary head of state in 2011.

The computation of the number of states, monarchies, monarchs and republics is somewhat arbitrary as it is dependent on the way the boundaries of Europe are drawn and on what is to be called sovereign. Although Russia and Turkey enclose much territory that is outside the boundaries of a geographically defined Europe,²⁶ the Turkish sultan and the Russian tsar are counted here as European emperors. The notion of *sovereignty* has been used mildly. Not only the mini-states Andorra, Liechtenstein, Luxemburg, Monaco, San Marino and the sometimes very small members of the German Confederation are considered to be sovereign, but also Poland and Finland, which enjoyed very little independence under the Russian tsars.

The starting point is the political arrangement ordained by the Congress of Vienna in 1815 after the chaos caused by the wars of the French revolution and the rise and fall of Napoleon. Quantitatively speaking, this was the zenith of monarchical development in Europe after the disappearance of three of the old republics, Venice, Genoa and the Dutch republic. Switzerland survived as a republican confederation of cantons, each with its own constitution and considerable autonomy.²⁷ It was ominous for the future of the European monarchy that the republican idea had taken firm root at the other side of the Atlantic.

After the Congress of Vienna, Europe counted 64 more or less formally sovereign states. There were 57 monarchies, with 51 monarchs and 7 republics. The monarchies can be divided up in 3 imperia (Austria, Turkey and Russia), the Vatican, 16 kingdoms (Bavaria, Denmark, France, Great Britain, Hanover, the Netherlands, Norway, Poland, Portugal, Prussia, Saxony, Sardinia, Sicily, Spain, Württemberg and Sweden) and 37 monarchies with a ruler without the title of

²⁶The notion of Europe has been disputed since its invention. See my: 'What is Europe', in A. Boxhoorn et al., *Britain in Europe. Yearbook of European Studies*, Vol. 1 (Rodopi 1988), p. 187-204. As geographical boundaries of Europe the since the 18th century more or less accepted but freely interpreted delineation is used of the Atlantic Ocean, Denmark Strait, Arctic Ocean, Ural Mountains and Ural River, Caspian Sea, Southern or Little Caucasus, Black Sea, Bosphorus, Sea of Marmara, Dardanelles, the east and south coast of the Mediterranean, and the Strait of Gibraltar. Iceland, Greenland, Georgia, Azerbaijan, Armenia, Cyprus and Malta are in this definition parts of Europe. These boundaries are also used in *The Times Atlas of the World. Concise edition*. Colonies and overseas territories are not considered. The emperors of Queen Victoria is not mentioned.

²⁷Till the constitution of 1848, the cantons could also be counted as autonomous states. For reasons of simplicity I preferred not do this here.

king. Apart from the monarchies there existed seven small republics, of which Switzerland was the largest and to which belonged Andorra and Monte Casino, and the free German cities of Bremen, Frankfurt am Main, Hamburg and Lübeck. Russia, Finland and Poland formed a personal union (till 1917) as likewise Norway and Sweden (till 1905), The Netherlands and Luxemburg (till 1890), Denmark and Schleswig-Holstein (till 1866) and Great Britain and Hanover (till 1837). There existed only one political umbrella organisation, the German Bund, under permanent chairmanship of the Austrian emperor. This confederation with originally 41 member states did certainly have supranational traits, but in my view cannot be considered as a state and has therefore not been counted as such. At the dissolution of the Bund in 1866, there were as a consequence of dynastic mergers still 34 members. Limburg, which as a nominal duchy became a member of the Bund in 1839, remained an integral part of the Netherlands and even in my mild opinion cannot be seen as a separate state.²⁸

From what has been said it is clear that in the first years after the Congress of Vienna, Europe for the major part was ruled in a monarchical way. *Monarchical solidarity* was, next to *balance of power*, assumed to be a pillar of what has gone down in history as the 'system of Vienna'. Only 0.5% of the territory as defined in footnote 26 fell within a republic. Of the 57 monarchies, only the Vatican was still a non-hereditary monarchy. The three empires were absolute monarchies, just like the Italian principalities. Most other monarchs ruled on the basis of a constitution, written or not, or were ordered to grant their people a constitution. This concerned the German Bund too, but not all of its members made haste to meet the obligation. Notably the most important members, Austria and Prussia, waited till after the wave of revolutions of 1848. Although in southern Germany a couple of accepted constitutions were adopted, most of the new constitutions were granted to the people by the prince like the French *charte octroyée*.

In the Netherlands the situation was somewhat different. As a consequence of the ideas of balance of power and of monarchical solidarity, the Austrian Netherlands and the Dutch republic were united under a king from the house of Orange. William I accepted sovereignty from the hands of the people on the condition of the representatives of the Estates-General that a constitution would guarantee its freedoms, but he was inclined to consider the constitution as a *charte octroyée*. With variable success he tried to rule as an enlightened despot.

In 1846 the situation was not yet very different. Although the foreign policy principle of monarchical solidarity was applied opportunistically, the idea that a stable state could not exist without a monarchical dynasty remained strong. The revolution of 1830 in France did not result in a republic but in a change of dy-

²⁸ E.R. Huber, *Deutsche Verfassungsgeschichte seit 1789*. 8 Teile (W. Kohlhammer 1957-1990) T.I. Huber (p. 585) considers the Bund as a federal 'Gesamtkörper'.

nasty. Europe had by now acquired three monarchies, which brought the total number of states at 67 and the number of monarchies at 60, while the number of republics remained the same. The number of monarchs rose by 5 to 55. Apart from the three new monarchies, Hanover got a monarch of its own because the personal union between this state and Great Britain broke up. The percentage of monarchically ruled territory did not change and remained at 99.5%. In a number of states, as in France where a parliamentary regime was established for the time being, monarchical authority was curtailed again.

The three new states came into being by rebellions, to wit Greece and Serbia as split-offs from Turkey, and Belgium as a split-off from the Netherlands. Turkey kept *suzerainty* over Serbia till 1878. The great powers took care that the new states did not become republics. In Serbia two indigenous dynasties alternated that were either depending on Turkey or on Austria. Greece and Belgium had to do with dynasties imported from Germany. In 1844, Otto of Bavaria bestowed a constitution upon the Greek state, but ruled highhandedly. From 1863 on the Greeks gave it a try with a dynasty from Denmark. Leopold von Sachsen-Coburg accepted in 1831 the Belgian constitution, with which a parliamentary regime was established that for a time was considered to be the most liberal in Europe. In Great Britain, without a written constitution, a similar change occurred. A ministerial crisis provoked by the king ended in electoral defeat of the *Tories* with the consequence that from that time onward, the monarchs had to abide by a premier who had been appointed by the House of Commons.

Much more sweeping changes were put into effect in the second period to be outlined here. The number of states decreased between 1846 to 1877 from 67 to 27, of which 23 monarchies with 18 sovereign monarchs and 4 republics. The territory over which monarchs ruled was diminished to 94%. Monarchical power declined once more by the increase of countries with a constitution and by the institution of parliamentary regimes. This happened in the following way.

The unification of Italy swallowed up the principalities in a kingdom with a parliamentary regime. San Marino was spared this fate, but for the time being the Vatican²⁹ got the short end of the stick. In contrast to what happened in Italy, the creators of the German empire kept the monarchies and the republican city-states within its territory as members of a federation in existence.³⁰ The king of Prussia became emperor of Germany. As the new empire as a whole adopted a written constitution in 1871, a *Reichskanzler* nominated by and only responsible

²⁹ Of course the Church with the pope as monarch lived on and although in historical literature the Church is sometimes considered as a state, I refrained from this because the pope in his quality of head of the Church did not rule over territory.

³⁰ Four nominal monarchies (Prussia, Bavaria, Württemberg and Saxony), six Grand Duchies, five Duchies, seven principalities and three Free Cities (Lübeck, Bremen and Hamburg).

to the emperor, a parliament elected directly by universal suffrage, a common currency, a uniform legal system, a common army and a common foreign policy, it seems justified from this date onward not to count the member states as sovereign states any longer, despite their kings, arch-dukes, dukes, princes and free city republics.

Thus a number of monarchies in the Italian and German territories vanished, but two new monarchies made their entry in the Balkans. Romania came into being in 1859 after Wallachia and Moldavia were set free from Turkey under an autochthonous *hospodar*. In 1866 he had to make way for Karl von Hohenzollern-Sigmaringen, who in 1881 was allowed to accept the title of king as constitutional monarch. Montenegro, too, split off from Turkey in 1852 under a prince from an autochthonous house. Both countries obtained full sovereignty in 1878.

The Austrian Empire which partly in 1848³¹ and again in 1860 acquired a constitution, broke up in 1867 into two states which both were ruled by the emperor. As far as foreign policy of this so-called dual monarchy was concerned, the emperor held the reins strictly in his own hands, but in internal affairs the premiers of both countries were inclined to abide by the majority in their respective parliaments.

In France, after the intermezzo of the Second Republic and the Second Empire in the years between 1848 and 1870, the Third Republic was born. In spite of its original weak and controversial character, the republic took roots. For monarchical power in Europe it meant a strong drain, because it appeared that even a great power could hold its own as a democratic republic. In the Netherlands, too, the parliamentary system with ministerial responsibility ended the period of monarchical arbitrariness in 1848.

Compared with the many and rather important changes that characterise the period from 1846 to 1877, the period between 1877 and 1908 was relatively quiet. One state was born, a monarchy, which brought the number of states to 28 and the number of monarchies to 24. The number of republics remained the same, at four. The percentage of territory ruled by a monarch did not change while the number of monarchs increased with three to 21 because, apart from the new monarchy, the personal unions between the Netherlands and Luxemburg and between Sweden and Norway broke up respectively in 1890 and 1905.

The only new state that appeared on the scene was the principality of Bulgaria. This country, too, split off from Turkey and got a German prince who in 1887 was exchanged for another German prince. Formally he ruled as a constitutional monarch, but in 1908 he assumed the title of tsar. Turkey, which for a short time in 1877 had experimented with a constitution, again got a constitution after the

³¹This constitution was not valid for Hungary and Lombardo-Venetia. See L. Prakke, 'The Republic of Austria', in Prakke and Kortmann, *supra* n. 6, p. 3-71, at p. 8.

loss of its main territories on the Balkans, in 1908 with formally a parliamentary regime. The hereditary sultanate was stripped of most of its power, by which it began to assume a republican character without being formally a republic.

The revolutionary disturbances in Russia in 1905 forced the tsar to bestow a constitution on his people, but the newborn parliament could not send the government home and only had a tiny bit of legislative power.

If one takes the measure of monarchical authority in Europe in 1939 it becomes immediately clear that a sharp break occurred in this fourth period. Like a storm which takes down old, mouldered trees, the First World War wreaked havoc among the ruling dynasties. In the beginning of this period twelve new states appeared, of which in 1939 eight were still in existence. Two states joined with some parts of the dual monarchy to form one state. Owing to this the total came to 35. Three new states and the fusion of the two states were monarchies. Five states saw the light of day as republics. Six monarchies were abolished and one state became a monarchy without a monarch. In sum the number of monarchies came to eighteen, the number of monarchs to sixteen and the number of republics to seventeen. The monarchies still surpassed the republics in numbers, but the amount of territory ruled by a monarch was diminished enormously, from 94 to 23%. The monarchies existing in 1939, with the exception of Italy, the re-established Vatican, Albania and Monaco had a parliamentary regime. Italy remained in form a hereditary monarchy, but in 1922 had actually become a dictatorship under the *duce* Mussolini.

The four empires disappeared from the map. From that moment on Europe had to do without emperors. Austria, Russia and Turkey fell apart and Germany did not escape unscathed. The rump states of the four old empires, with the exception of Hungary, became republics after some lingering. After a short intermezzo as a soviet-style republic, Hungary, landlocked and without a fleet, turned out to be a monarchy with a vacant throne, highhandedly ruled by an admiral. The Czechoslovak republic emerged on territories from the former Austria and Hungary. The princedoms Serbia and Montenegro fused with some territories from Austria and Hungary to form the kingdom of Yugoslavia. Finland, the three Baltic states and Poland freed themselves from the Russian embrace, by which Poland regained the territories that it lost to Prussia, Austria and Russia in the 18th century. During the Russian revolution Finland pondered for a while if it wanted to be a monarchy under a German prince, but after the German defeat the chosen prince declined the honour. Ukraine and three Trans-Caucasian countries, Georgia, Armenia and Azerbaijan, tried for some years to live on as independent republics, but were violently incorporated again into Russia as parts of the Soviet Union. In Portugal the king was chased away in 1910 and in 1931 the fugitive

Spanish king was forbidden to return. Albania, independent since 1912, first got a German king who had to leave the country two years later. A republic was proclaimed in 1925, but the president assumed the title of king in 1928. Ireland freed itself from the United Kingdom in the 1920s and adopted in 1937 a constitution with republican traits without mentioning the notion. In 1929 the Vatican rose from the ashes in a strongly trimmed shape by the Lateran treaty between the Pope and Mussolini. And Iceland acquired nearly full sovereignty in 1918 but remained tied to Denmark in a personal union till 1944.

Because in the period between 1939 and 1970 3 states appeared and 3 disappeared the total number remained the same at 35. Seven monarchies were transformed into republics, while one monarchy changed into a monarchy without a monarch. The number of monarchies came at 12 with 11 monarchs and the number of republics at 23. The percentage of monarchically ruled territory decreased to eighteen. In nine of the twelve monarchies there existed a parliamentary regime.

In the forties the Soviet Union incorporated again the three Baltic states, but as a result of the German defeat and the Cold War, the German Democratic Republic appeared on the scene. In 1960 and 1964 Cyprus, deeply troubled by civil strife between the Turkish and Greek parts, and Malta freed themselves from Great Britain as republics. Iceland, still tied to Denmark in a personal union, went its own republican way in 1944. The monarchy in Italy was abolished in 1946 by a referendum and through the establishment of people's democracies in Eastern Europe the monarchies of Albania, Yugoslavia and Romania disappeared. In Spain Franco decided in 1947 that the country would be a monarchy again in the future without as yet taking a decision about who would be king.

The last period, of 38 years to be sure,³² reveals the enormous changes that have taken place in recent decades. Yet seen in the perspective of monarchical power, the changes were not spectacular. Seventeen new states took shape but two states merged, which brought the total to 51. As one monarchy changed into a republic, the total of monarchies diminished to eleven. The number of monarchs remained the same because one monarchy without a monarch got a king. The number of republics increased by 17 to 39. The percentage of monarchically ruled territory declined by 1.5% to 16.5%. Of the eleven monarchies only the Vatican is still an absolute monarchy, while the regime in Monaco is by now constitutional but not parliamentary.³³ The Swedish monarchy lost its last vestiges of power and became completely ceremonial in 1974.

³² See supra n. 24.

³³ J-P. Gallois, *Le régime international de la principauté de Monaco* (Paris 1964), p. 61-64.

The increase in the number of states was caused by the falling apart of Cyprus, the Soviet Union, Yugoslavia and Czechoslovakia. Montenegro and Kosovo are the last splinters off of Yugoslavia. The two Germanies, on the other hand, merged. In Greece, the monarchy was replaced by a republic in 1973, while Spain at last got its promised king in 1975 after the death of Franco.

In this article, it has been described how in Europe in the period from 1815 to 2008, the percentage of monarchies, the number of monarchs and the percentage of monarchically ruled territories declined drastically. If one considers the European population, it becomes clear that in 1815 more than 99% were subjects of a monarch, while in 2008 only 20% of Europeans are citizens of a country with a hereditary head of state. By fits and starts Europe changed in nearly two centuries from a monarchically ruled continent into a preponderantly republican continent. Apart from Great Britain and Spain, the remaining ten monarchies are small or even tiny states.

War and revolutions were instrumental in causing this change. Notably the First World War was disastrous for the power of monarchs. In those areas where the gradual political development has not been interrupted by strong shocks, as mostly in north-western Europe, the dynasties managed to hold their own by adapting step by step to the demands of the representatives of the people. That adaptation never took place wholeheartedly or on the initiative of the monarchs themselves, but was motivated by the enforced survival strategy.

Although it is impossible to quantify power, it can be determined that what in 1815 was still considerable formal and factual power of the monarchs has been reduced to very little formal power and some informal influence. In most European monarchies, with the exception of Sweden, the signature of the monarch is still required for bills and certain decisions. As long as a popular monarch can hesitate or even refuse to sign in order to threaten with a constitutional crisis, which most of the time will not be welcome for a government, he has still some power. A Belgian example shows that in such a case a dubious (un)constitutional trick can bring relief.³⁴

The reduction of the number of monarchies and the decline of monarchical power varied from country to country with different tempos and, as said, sometimes with strong percussions. Although it occurred here and there that monarchs voluntarily made room for a successor, as the Dutch queens Wilhelmina and Juliana did, or refused the throne, nowhere, as far as I know, has a dynasty as such left the scene. Perhaps this is even legally impossible, because the one who is considered to be the head of a dynasty does not have the right to speak for all his possible

³⁴L. Prakke, 'Swamping the Lords, Packing the Court, Sacking the King. Three Constitutional Crises', 2:1 *Eur. Const. Law Rev.* (2006), p. 116-146, p. 141-145.

successors if this is not established in a dynastic covenant. Only when all those members of a dynasty who are entitled to the throne assent to the renunciation can the discontinuance of the monarchy take place without monarchical displeasure. One can imagine, however, that when the first successor refuses to take his place, the other members of the dynasty will also refuse to ascend the throne out of solidarity.

Till the First World War new states that came into being by splitting off from other states got a dynasty usually originating from Germany. Very seldom has this been a success for either these countries or for the dynasties. Belgium and the house of Saxe-Coburg have been somewhat more lucky with each other than most other states with their dynasties. After the First World War, this habit was broken with some hesitation. With the exception of Albania, where the president had himself proclaimed king, which did not lead to the birth of a new dynasty, no new monarchies were created. In Greece and Spain, monarchical and republican regimes alternated. In Greece the monarchy disappeared in 1973, while Spain regained its monarchy in 1947 and in 1975 also its king. It is and remains an exceptional case.

Should new states arise as split-offs from for instance Belgium, Great Britain, Italy, Russia or Spain, where at least some form of devolution is perceptible, it is not obvious, to say the least, that these would become monarchies. Despite the favourable example of Spain, a country with a long although not always happy monarchical tradition, monarchy was not tried to keep Czechoslovakia, the former Soviet Union or Yugoslavia together, nor did any of the new states opt for a monarchy. Here and there monarchical sentiment bubbles up³⁵ but one would have to be an incurable monarchical optimist to believe that monarchy can be a solution for the constitutional problems of our time.

As against the general decline of monarchical power in Europe stands the fact that the eleven remaining monarchies succeeded in maintaining at least some remnants of their authority by adapting to the wishes of the representatives of the people. The most recent adaptation is the acceptance of the ceremonial monarchy in Sweden. An adaptation that more belongs to the private sphere but nevertheless has some constitutional aspects is the marriage of persons who are entitled to the throne with persons who do not belong to princely or even noble families without disturbing the hereditary succession. This seems not to be without risk, because it erodes the sacral aura that still is used by monarchs to emphasize their distance to the people. A descendant of mainly bourgeois families as hereditary head of state is not impossible, but seen in the light of monarchical tradition nevertheless remains a somewhat strange phenomenon. But perhaps the sacral character of

³⁵ R. Häusler, *Rückkehr der Mitte. Königtum zwischen Mythos und Moderne. Ein Beitrag zur Theorie der Monarchie im Zeichen des wiedererstarkenden Royalismus in Ostmittel- und Südosteuropa* (Frankfurt am Main 1993), p. 50.

monarchy has already been replaced sufficiently by an ascendant worldly tradition to make it acceptable and even desirable. The tricks of history, also of constitutional history, are inexhaustible. Meanwhile the strongest force of the monarchs still existing in Europe seems to be the fact that on the one hand very little power has remained in their hands, while on the other they still enjoy a considerable popular support. Hardly any politician dares to forfeit votes by questioning the position of the monarchies. It seems not to be worthwhile.

More worrisome for the future of the European monarchies is the increasing interweaving of the states and in particular the development of the European Union. In an era of globalisation and redefinition of the characteristics of what once have been the sovereign states the existence of monarchies have become questionable. A confederation between monarchies and republics did exist in the past, the German Bund, but it was headed by a monarch, the Austrian emperor. The president of the European Union, whatever the Union will become as a hybrid form between an international organization and a constitutional polity, is not likely to be a hereditary monarch. Although the treaties on which the European Union has been built only mention that a member state ought to be democratic, whatever this may be, the existence of monarchies within the framework of the Union is certainly problematic.³⁶ On the one hand the undeniable loss of power of decision, the once proudly maintained sovereignty, of the member states will inevitably bring about again a loss of monarchical power. On the other hand, the unremitting emphasis on mending the much debated democratic deficit of the Union will sooner or later raise questions about how to fit hereditary heads of states into a constitutional system in which equality of all the citizens – every citizen should in principle be entitled to be head of state – is a core principle. Constitutionally this seems something like squaring the circle. Politicians will without doubt pussyfoot around for a long time and *subsidiarity* may be a temporary firewall against the intrusion of the EU into the constitutional structure of the monarchical member states. But isn't it feasible in the long run that the Court of Justice on request will judge that the continuation of this internal contradiction is undesirable? Or will the monarchs and the monarchs-to-be by that time have already come to the conclusion that a perhaps glamorous but essentially politically empty function is not worth the troubled life in the spotlights of a partly affectionate, partly unctuous and very often cynical public opinion? In any case it is almost certain that the once brilliant sun of European monarchy will sink below the horizon at some point in the future.



³⁶H.U. Jessurun d' Oliveira, 'Introductory remarks': *EU Monarchies in perspective* (Leiden 19 October 2007) p. 1.