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To Be King of an Empire. The Notion of ‘Empire’ in the Charters and Letters of the Hohenstaufen King Philip (1198–1208)

In 1198, when Emperor Henry VI died unexpectedly, his son and heir, the future Emperor Frederick II, was only a child of three. Thus, the major part of the princes and nobles of the Holy Roman Empire elected Henry’s younger brother, Philip, Duke of Swabia, king. As the pope rejected his election and denied him to be crowned emperor in Rome, Philip found himself in a tedious and violent struggle for the throne against the Guelph Otto, who was supported by a minor oppositional group, which was backed by the English king, Richard I (Otto’s uncle) and Pope Innocent III. As a result, Philip never attained imperial dignity, although he controlled and ruled large parts of the Holy Roman Empire. This paper aims at investigating if and in what way the divergence between Philip’s claims to the imperial throne and the political reality becomes apparent when taking a closer look at the use – or absence – of the notion of “*imperium*” in Philip’s charters and letters¹.

As far as the charters of the rulers of the Holy Roman Empire are concerned, the titles *imperator* and *rex* are generally not mixed up. This also holds true in Philip’s time: his predecessors who were crowned emperors by the pope appear in his charters as *imperatores*, those who were “only” elected kings, *reges*. So, in general terms, he refers to his predecessors as *predecessores* or *antecessores nostri (Romanorum) imperatores et reges*. Likewise, charters issued by the past rulers are denoted as *privilegia imperatorum et regum*². Sometimes, when Philip uses the word *imperatores* only in this context, it can be assumed that he meant to refer specifically to his immediate predecessors, his father, Frederick I Barbarossa, and his brother, Henry VI, who were in fact both emperors.

Accordingly, in various parts of his charters, Philip invariably calls himself *rex: divina favente clementia / dei gratia Romanorum rex et semper augustus*. The only charter in which Philip appears as *imperator* in the intitutatio, D 209 for the female Canons Regular of St. Augustine at Berich, is a forgery.

As with Philip’s exclusive use of the title *rex*, the congruence with the legal facts is also apparent when Philip refers to his election as king. The kings of the Holy Roman Empire were elected by the nobles of the realm, then anointed and crowned king by the archbishop of Mainz or Cologne at Aachen. They had then to obtain the consent of the pope to be crowned emperor by him in Rome. Although Philip was elected king by the majority of the German ruling class, his election was opposed by a minor group of the German elite, and he had to fight them and his opponent Otto to extend the acceptance of his reign over the whole of the Empire’s territory. Over the years of his reign, he was quite successful in his military and diplomatic attempts; nevertheless, he was not able to win over the pope, who remained a staunch supporter of Otto. When he eventually seemed to succeed in changing the pope’s mind, it proved to be too late: on 21 June 1208, shortly before they reached an official agreement, Philip was murdered.

In his charters and especially in his letters to the pope, Philip repeatedly mentioned his rightful election as king (*in regem eligere, nos in Romanorum regem eligi*) and his anointment (*post regalem unctionem nostram Aquisgrani factam*)³.

All in all, there are only few clues to Philip's self-conception of his rule. As a medieval ruler, he was convinced that he was chosen by God to be king. In a charter for the Cistercian abbey of Clairlieu in Lorraine from 1201, the divine origin of his rule is emphasized: "God who deemed us worthy to be elevated king" (*summus rex, qui nos in regem Romanorum sua dignatus est sublimare gratia*⁴), in another charter he counts himself among those, "whom God decided to decorate with the regal sceptre" (*quos rex regum sceptro regali insignire decreverit*⁵).

But although he knew that the pope alone could crown him emperor, he was also convinced that, in fact, the pope *had* to do so, insofar as he was the executor of God's will that had become manifest in Philip's election by the noblemen of the Empire. This view is expressed in an arenga - the introductory sentence - of a charter for the Benedictine monastery of Benediktbeuern in Bavaria from 8 March 1208 (D 175), the day of the anniversary of his first election, when he talks about "the imperial dignity which we have obtained through the divine consecration and the rightful election of the princes" (*Quia ex officio suscepti regiminis, quod habemus ex imperiali dignitate, quam nos cum ex divina ordinatione tum ex legitima principum electione sumus consecuti*). Earlier, in a charter from 7 April 1200, one of his clerks had phrased the thought that God had chosen Philip to take over the rudder of the Holy Roman Empire (*ad Romani imperii nos misericorditer eligens gubernacula*⁶). In a letter to the pope, Philip (or rather his most experienced and skilled clerk PhC) repeatedly implied that he who had been elected king was indeed also meant to become emperor: *nos per iustam et concordem principum electionem imperium obtineremus* and *nos animum conceperimus ad optinendum Romanum imperium per iustam principum electionem*⁷.

In June 1198, shortly after his election, which had taken place in March, he had confidently written to the king of France, Philip II August, , that he would confirm the agreement which had been reached between the two kings, as soon as he would have become emperor: *Et quando deo volente coronati fuerimus in imperatorem, has conventiones regi Francorum renovabimus et sigillo nostro confirmabimus*⁸.

More than 130 years later, this perception was explicitly expressed in a mandate issued by Emperor Louis the Bavarian, the so-called *Licet iuris* (1338 VIII 6): *postquam aliquis eligitur in imperatorem sive in regem ab electoribus imperii concorditer vel a maiori parte eorundem, statim ex sola electione est verus rex et imperator Romanorum censendus et nominandus*⁹. This thought is also present in the great constitutional law issued by Emperor Charles IV on 10 January 1356 ("Goldene Bulle") when - in chapters I/1 and I/2 - the *electio regis Romanorum in imperatorem promovendi* is mentioned as a matter of course¹⁰.

Even for some time before Philip's reign, the royal title mirrored these concepts: Whereas the attribute *Romanorum* had been regularly used by all newly elected kings of the Empire since Emperor Henry V¹¹, the annexation of the words *et semper augustus* goes back to Philip's great-uncle Konrad III¹². Both additions to the title *rex* were deliberately introduced to stress the fact that the person who was elected king was, in due course, to be promoted to the exalted position of an *imperator*. Undoubtedly, there is an underlying suggestion that the election was not only that of a king but, actually, also that of the future emperor. Having become part of the standard form of the royal title, the mere adoption of these traditions by Philip must not be interpreted as an individual conception of his rule.

However, the fact that in the elaborate (solemn) type of his charters, Philip generally adds the ordinal number *secundus* to his name¹³, offers a revealing insight into the way he viewed his own position. The only Philip before him being the Roman Emperor Philippus Arabs (244-249), as a king Philip was, in fact, the first of his name. By styling himself Philip II he obviously counted himself as a ruler in a line of emperors, not kings.

Imperium vs. regnum

Philip's own rulership is invariably referred to as *regnum*, i. e. the rulership of a king, not an emperor (*imperium*). In his charters, we often find the expression *regnum nostrum*, meaning "our reign" or, more specifically, "the era of our kingship", as in the phrase *anno regni nostri (eius)*, which appears regularly in the dating of the charters. Especially in the introductory sentences (*arengae*) of many charters, we often find reference to Philip's mundane – as opposed to God's eternal – reign by using the phrase: *ad temporalis regni incrementum (or stabilitatem)*¹⁴, once even *regni nostri incrementum*¹⁵. This type of *arenga* had very frequently been used in the charters of Philip's predecessor, Henry VI, who was, of course, emperor, and accordingly, generally used the term *imperii nostri* instead¹⁶.

In contrast, the geographical territory of the Holy Roman Empire is, not surprisingly, mostly referred to as *imperium*, as expressions like *per totum (Romanum) imperium, in imperio (nostro), provincie imperii, partes imperii, dominium/demanium imperii, civitates imperii, principes imperii* and *fideles or homines imperii (nostri)* show, the latter being the standard expression in the publication clauses of Philip's charters, which can, however, frequently be found also in other parts of the charters¹⁷. Sometimes – but very infrequently – the geographical territory of the Holy Roman Empire is also referred to as *regnum*¹⁸.

The term *imperium* is also used – almost without exception – when reference is made to the Holy Roman Empire as a political unit, firstly, as opposed to other political entities, as in the phrase *pacem (et concordiam) inter ecclesiam/sacerdotium et imperium reformare*, which repeatedly occurs in Philip's letters to the pope¹⁹ and, secondly, the Holy Roman Empire as a political organism. The latter kind of meaning is underlying phrases like *Romanum imperium reformare, regimen imperii* (both in D 128), *Romani imperii gubernacula* (DD 41 and 61) and *status/stabilitas imperii* (DD 62, 71, 171, 172). It applies also to the frequently used expressions *ofservicium/obsequium/commodum/utilitates/negotia* and *onera imperii*. Likewise, as an enemy you would always be an enemy of the Empire (*hostis/inimicus imperii*)²⁰, and consideration was to be given to the honour or dignity of the Empire, cf. *honor imperii*²¹. The insignia of the realm were, of course, the insignia of the Empire: *corona, diadema imperii*²².

Exclusively *imperium* is also used for the Holy Roman Empire as a legal entity. This becomes apparent in the expressions (*antiquissimum*) *ius imperii, iurisdictio imperii* and (*prisca*) *consuetudo imperii*²³.

In the same way, when the Holy Roman Empire is referred to as a feudal authority, the term *imperium* is exclusively used. This can be shown by means of expressions that denote certain possessions as belonging to the Empire, like *imperio attinere/pertinere*²⁴, *bona imperii* (D 80) and the frequently used phrases *imperio* or even *nobis et imperio contradere/cedere, imperio et nobis contradere* and *ad imperium spectare*. It is also evident in phrases that were used to describe property that was enfeoffed by the Empire, as *ab imperio et a nobis in feudo/iure feudi tenere* (DD 28, 76, 142), *feudum/bona ab imperio tenere* (DD 80, 82, 83, 124, 142), *ab imperio habere/a manu nostra habere et a imperio* (DD 108 and 123) and *de manu nostra et ab imperio obtinere* (D 82). Further examples of this usage are the phrases *de manu nostra et imperii alienare* or *ab imperio alienare* (DD 38, 40, 53) and *recipere ab imperio regalia* in D 126.

Imperialis vs. regalis / imperatorius vs. regius

With institutions of the Holy Roman Empire, like the *camera/fiscus imperialis*²⁵, generally the adjective *imperialis* is used, mention of the *fiscus regalis/regius* can only be found twice in Philip's charters, one of them formulated by a clerk of his chancellery (D 125), the other a forgery (†D 18).

However, both pairs of adjectives appear with political and administrative functions in the Holy Roman Empire. Whereas with *cancellarius* both adjectives appear – with a stronger tendency towards *regalis* in the second half of Philip's reign – the *protonotarius* appears almost exclusively in

connection with the adjective *regalis*. With other functions, like the imperial judges and envoys and especially those of the traditional court officials, like cupbearer, steward, marshal and seneschal, they are, almost always, denoted as *imperialis* or *imperii*, with very few exceptions. However, in most of the examples given here it is actually not the official himself who is denoted as imperial or royal, but it is rather the court (*aula/curia*) which he belongs to. This might be attributed to the slight ambiguity of the term „court“: With the ruler’s court as his entourage, his personal surroundings, one would rather use the adjective *regalis* in Philip’s case, whereas, on the other hand, these officials could also be regarded as belonging to the court of the ruler as an institution of the Holy Roman Empire, which would therefore be referred to as *imperialis*.

Another field in which our adjectives were employed is with descriptions or attributes of the ruler’s dignity or virtues. It is a field where the adjective *regalis/regius* is almost exclusively used, as opposed to *imperialis/imperatorius*, the reason for which seems to be that the epithets and virtues are related to the ruler’s person rather than to the political entity, and in Philip’s case, the ruler was king, not emperor²⁶. This group includes expressions indicating the ruler’s dignity like *maiestas*, *eminentia*, *excellencia*, *munificentia*, *magnificentia*, *magnitudo* and *sublimitas*. Also *auctoritas* appears almost invariably as *regalis/regia auctoritas*, sometimes deliberately in modification of an earlier charter on which the texts are based²⁷, whereas the few instances of *imperialis auctoritas* were mostly copied from older charters or formulated outside the chancellery²⁸. The adjective *regia* is also used in connection with *potestas* and *dignitas*²⁹. The ruler’s virtues, which are regarded as his personal features, are always denoted as *regalis/regia: clementia*, *benignitas*, *benivolentia*, *mansuetudo*, *pietas*, *rectitudo*, *equitas*, *largitio*, *liberalitas* and *iudicium*. Whenever these expressions were copied from earlier imperial charters, the adjective *imperialis* is generally substituted by *regalis*. In reference to the punishment in which transgressions of the dispositions of a charter will result – like the exclusion from the royal grace and the threat of royal vengeance or outrage (*ultio/indignatio*)³⁰ – or committing the lèse-majesty³¹, we also exclusively find the adjective *regalis*.

For expressing the ruler’s legal and political authority, as with the provisions or sanctions made by him, in accordance with the fact of Philip being a king, the adjectives *regia/regalis* are used rather than *imperialis*. Examples of this usage are the expressions *iusticia/iurisdictio* (DD 24 and 90)³² and the nouns used for dispositions laid down in the charters, such as *edictum*, *mandatum*, *districtum*, *sanctio*, *constitutio*, *concessio*, *confirmatio* and the related phrase *regie maiestatis nostre pagina*. Furthermore, the seal in Philip’s case, of course, was that of a king (of a *regia maiestas*), as is reflected by frequently used phrases like *regie maiestatis karactere (signo) consignare*, *regie maiestatis sigillo communiri* and *sigillo regio communiri*.

As a last point, mention has to be made of the way of denoting the special protection of the ruler. Here, usage is rather mixed, both adjectives occur, although there is a small tendency towards defining it as royal rather than imperial. Again, there is an inherent ambiguity: on the one hand, the ruler could be regarded as being personally responsible for the protection of his subjects, on the other hand, he was so, of course, only as the head of the political entity he ruled. Thus we find *regia /regalis defensio* (DD 39, 97 and 169) besides – although infrequently – *defensio imperialis* (D 80) and *protectio regia* (DD 40 and 45), *regalis tuitio* (D 38) besides *protectio / tuitio imperii* (DD 80 and †88 and †208, although the last two are forgeries, parts of their texts are based on lost authentic charters).

To sum up, in Philip’s charters, differentiation between the notions „empire“ and „kingdom“, between „imperial“ and „royal“ seems to be quite precise, which is proved by the frequent adaptation of the wording of earlier charters that were confirmed to the actual situation, thus replacing the term *imperium* or *imperialis* for *regnum* and *regalis* or *regius*. Whereas the Holy Roman Empire as a geographical, political or legal entity or as a feudal authority is generally referred to as *imperium*, the reign of the ruler who holds the title king consequentially is denoted as *regnum*. In the same way, whenever reference was made to the person of the ruler, his qualities, his legal and

political authority or his image (like on the seal), the adjectives *regalis* or *regius* are almost always preferred to *imperialis*. Deviations can very frequently be explained by being due to clerks from outside the chancellery or unreflected copying of formulations of earlier charters.

1 Cf. Andrea Rzhacek, Renate Spreitzer (ed.), Die Urkunden König Philipps von Schwaben (Monumenta Germaniae Historica. Die Urkunden der deutschen Könige und Kaiser 12, Wiesbaden 2014). Charters and letters of Philip of Swabia will be denoted as D and the according number in this edition throughout the paper. Specific evidence of commonly and very frequently used words and phrases has been omitted here, but can be found in the word index to this edition.

2 E.g. DD 24 and D 62. In these general terms he also refers to his successors as *successores nostri imperatores et reges*.

3 DD 128 and 147.

4 D 58.

5 D 33.

6 D 41 (the text of this charter was later copied in D 61).

7 D 128. In the same letter Philip repeatedly spoke of his endeavours to obtain imperial power without special reference to his election by the nobles or his coronation by the pope, but without doubt meaning due to take place consecutively (cf. the phrases *nos non audere recipere imperii dignitatem; si nos non reciperemus imperium, ut nos laborare vellemus pro imperio; ut nos ambiciose laboraremus pro imperio obtinendo*).

8 D 17.

9 Ed. Weinrich, Lorenz, Quellen zur Verfassungsgeschichte des römisch-deutschen Reichs im Spätmittelalter (1250-1500) (=Ausgewählte Quellen zur deutschen Geschichte des Mittelalters 33, Darmstadt 1983), p. 292.

10 Die Goldene Bulle Kaiser Karls IV. vom Jahre 1356 (Bulla aurea Karoli IV. imperatoris anno MCCCLVI promulgata). Herausgegeben von der Deutschen Akademie der Wissenschaften zu Berlin, Zentralinstitut für Geschichte. Bearbeitet von *Wolfgang D. Fritz*. (Weimar 1972), p. 46.

11 Schwarz, Jörg, Herrscher- und Reichstitel bei Kaisertum und Papsttum im 12. und 13. Jahrhundert (Forschungen zur Kaiser- und Papstgeschichte des Mittelalters. Beihefte zu J. F. Böhmer, Regesta Imperii 22, Köln–Weimar–Wien 2003), p. 17–46.

12 Ibid. p. 83–85.

13 Cf. Rzhacek – Spreitzer (ed.), Urkunden (see note 1) p. LXXVII.

14 Cf. e.g. DD 26, 28, 34, 35, 41, 46, 61, 164.

15 D 97.

16 There are only few exceptions, cf. Die Regesten des Kaiserreiches unter Heinrich VI. 1165 (1190)–1197, nach Johann Friedrich Böhmer neu bearb. v. Gerhard Baaken (Köln–Wien 1972) Nr. 54, 277, 300, 354, 420 and 438 (see Alfred Gawlik – Friedrich Hausmann, Arengenverzeichnis zu den Königs- und Kaiserurkunden von den Merowingern bis Heinrich VI. [Monumenta Germaniae Historica. Hilfsmittel 9, München 1987] p. 2–9, n. 10–52). Once, in D 73, even in one of Philip’s charters the term imperium is used (*nostrum imperium temporale*).

17 For evidence of these expressions cf. the word index to Philip’s charters: Rzihacek – Spreitzer (as in note 1) p. 509–634.

18 DD 84, 86, 99, 104, 192 and 213.

19 DD 77, 78, 128 and 174.

20 E.g. DD 33, 69, 101, 132, 148.

21 E.g. DD 45, 110, 113, 121, 128, 138, 167.

22 E.g. DD 103, 105, 111, 112, 128. There is, however, one exception: in D 111 we read *coronam ac dyadema regni suscepimus*.

23 E.g. DD 81, 113, 142, 145, 146, 151, 156, 158, 170, 171.

24 E.g. DD 21, 63, 82, 155, see also *esse imperii* in DD 96 and 140.

25 E. g. DD 45, 56, 62, 81, 113, 151.

26 Most of the few exceptions were formulated by persons from outside the chancellery, cf. DD 60, 62, 77, 122, 145.

27 E.g. DD 31, 51, 90 and 96: instead of „imperiali auctoritate“ in the earlier charters of emperors Frederick I (DD 31 and 90) and Henry VI (DD 51 and 96).

28 E.g. D 29 (copied from an older charter of Emperor Fredrick I) and D 145 (and D 146, which has an identical text) was formulated outside the chancellery.

29 For *regia potestas* cf. DD 104, 145 (based on its text is D 146), 192 and also the forgery D 209. *Regia dignitas* appears in DD 24 and 29, the “propagandistic” use of *imperialis dignitas* in D 175 (see also above).

30 Cf. DD 52, 54, 71, 104, 120, 127, 130 and 149.

31 Cf. *regiam maiestatem offendere/ledere* (DD 84 and 109) or *regie maiestatis (sublimitatis) nostre (ira et) offensa* (DD 18, 24, 155).

32 There is an interesting case in which one of Philip's clerks obviously wanted to make sure that the ruler's jurisdiction was included in the donation on all accounts, so he wrote: *concedimus in rectum feudum cum imperiali et regali per omnia iurisdictione villas ...* (D 143).