
Swedish State Property at the King's Disposal: The Historical Development of the Legal Arrangements Concerning the Swedish Royal Palaces and the Financing of the Swedish Royal Family

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TEXTE

1. Introduction

- 1 How to distinguish between state property on the one hand, and the inherited and personal property of a King on the other, has been a much-discussed problem in many old monarchies. Immovable property connected to the King has been divided into crown estates (*bona regalia*) and the King's dynastic or patrimonial property (*bona patrimonialia*).¹ The Crown estates were the state-owned lands, the income of which was used for the King's and other government expenses. Patrimonial estates were the land that belonged to the royal family.
- 2 The development of these concepts was different in different countries, although a distinction was generally, since the Middle Ages, made between estates that belonged to the office of the King (the Crown) and the King's private estates.² In medieval England, *fiscus regius* or *ancient demesne* seem to have meant the same thing, namely the estates which belonged to the office of the King and

which could not be divested.³ In the German-Roman Empire, the *Königspfalzen* existed as a concept for castles and farms that were built and used by the King.⁴

- 3 In the case of royal marriages, marriage contracts were entered into between the heads of state which were at the same time the heads of the royal houses. In these contracts, the dowry and the provision for the bride in the case she would become a widow were regulated.⁵ This type of contracts seem to have been fairly standardized in form and content.⁶ Dowager queens were provided with sustenance and housing through morning gifts, bequests and dowagers' residences. A morning gift included, among other things, a fixed amount with a certain interest that was paid out yearly, and the income from certain castles and lands served as security for the morning gift and as widow support.⁷
- 4 A *fundus instructus* (literally: endowed landed property) was in Roman law one kind of bequest that included all accessories to a landed property such as food, storage, furniture etc.⁸ A *fundus instructus* was more extensive than other similar rights and included also things that were not necessary for the use of the property but had been used by previous holders of the same.⁹ In the current context, the term has been used to describe things such as furniture and carriages that have belonged to a palace, especially when the palace has been claimed as a dowager residence for a future widow.
- 5 The Swedish monarchy has developed from the Medieval elective monarchy, through the Union of Kalmar 1397-1523 and thereafter, since 1544, as a hereditary monarchy. The constitutional position of the King has varied, from more absolutistic Kings around 1700 (Charles XI, r. 1660-97, and Charles XII, r. 1697-1718) and around 1800 (Gustavus III, r. 1771-92, and Gustavus IV Adolphus, r. 1792-1809) to Kings with almost no political power during the Age of Liberty 1719-72. In 1809, a new Instrument of Government (*regeringsform*) was adopted, and the aim was to restore a balance between King and Parliament. At this time, 1809-10, a still valid agreement was reached between King and Parliament about the financing of the expenses of the Royal Family and the Royal Household and of the right of the King and the Royal Family to use and govern the Royal Palaces. In the early

20th century, parliamentarianism developed and the Kings refrained from using their political powers. This was then confirmed in Sweden's present Instrument of Government (*regeringsform*), adopted in 1974. The King has now only a few formal powers (opening the parliamentary year, overseeing a change of government, receiving ambassadors, and granting orders of knighthood). In comparison with other modern European monarchies, the formal tasks of the Swedish monarch are very few. In 1980, an important change took place, as the oldest child of the monarch is heir apparent, irrespectively whether that child is a boy or a girl.

- 6 In this article, I will focus on the historical development and the current status as regards the funding of the Royal family and the King's right to have state property at his disposal. I do so with the purpose of facilitating further comparisons between monarchies in this regard. In section 2, I discuss the distinction between crown estates and the King's personal estates in the Middle Ages and the early modern period, which forms the background to what is in focus: the agreement between King and Parliament in 1809-10. This agreement and its implications are discussed in detail in section 3. In section 4, I discuss the continued application of the agreement from 1809 until today. I conclude with some final reflections.
- 7 Recently, some major books about the history and functions of modern monarchies have been published.¹⁰ However, the financing of royal families and royal households, and the right of Kings and members of royal families to use royal palaces and other crown estates, have not been discussed extensively. There is only one brief discussion about the financing of the royal houses in Belgium, Denmark, the Netherlands, Norway, Spain, Sweden and the United Kingdom.¹¹ It would be of interest to compare the British development of the "Privy Purse", that is the British monarch's private income, primarily from the Duchy of Lancaster, and the right to use royal residences owned by the Crown, with the development in other monarchies. However, in this article, I have space enough to deal with the Swedish development only.
- 8 The state of research regarding the Swedish development was unsatisfactory for a long time. Professor of public law Gunnar Bramstång worked in the mid-1970s with a manuscript on the topic

but it was never printed as a book.¹² Copies of the manuscript have been used for reference anyway. It was based on an earlier printed memorandum¹³ and later formed the basis for some published articles.¹⁴ The importance of an agreement made between King and Parliament in 1809-10 about the King's right to use the royal palaces has been discussed in recent literature; in an article by advocate Jan-Mikael Bexhed in 2000¹⁵ and extensively but with a number of misunderstandings by former state secretary Thomas Lyrevik in 2018 and 2020.¹⁶

- 9 In 2018, the Swedish parliament took the initiative to review the design of the grant to the royal family and the court. This matter was connected to the question about the size of the royal family, the resumption of granting orders of knighthood, and the number of public flag flying days.¹⁷ A committee¹⁸ was appointed to penetrate these questions. The chair of the committee was the former Speaker of Parliament Björn von Sydow, who before his political career was a researcher in political science and has maintained his research interests also during his political career. He and the Ministry of Justice realised the importance of making a thorough legal historical inquiry, and I was appointed to assist the committee with this. My report¹⁹ was published as an annex to the committee's report,²⁰ and I have also published an article with an overview of the 1809-10 agreement about the King's disposal of the royal palaces and its constitutional status.²¹

2. Crown estates and King's estates in medieval Sweden and the early modern period

- 10 In the Kingdom of Sweden, the oldest concept for land that belonged to the crown and whose income was used to support the King is *Uppsala öd*. The word "öd" comes from "auðr" or "öper" which means property or wealth.²² "Uppsala" is in the genitive case; a modern translation would thus be "Uppsala's riches" or "the riches belonging to Uppsala".²³ The concept first appeared in some of the XIII century Nordic sagas,²⁴ but it is difficult to know what conclusions can be drawn from this in terms of actual historical conditions.²⁵

- 11 It is clear, however, that as early as in the XII century, a distinction between the crown's estates and the King's personal estates was actually made in Sweden. In a letter from the 1190s, King Canute Eriksson (r. 1167-1195/96) made a distinction between property that he held due to paternal inheritance (*ex paterna successione*) and property that he disposed of due to royal right (*ex regio iure*).²⁶ On his coronation day in 1276, King Magnus Ladulås (r. 1275-1290) donated one of the crown estates (*de bonis regalibus*) to Uppsala Cathedral and then announced that he had transferred an equal amount of his patrimonial estates (*de patrimonio nostro*) to the Crown.²⁷ This suggests that the property of the crown at that time was protected to its value, but not to its exact composition.²⁸
- 12 At the time when the provincial law books were written down in the XIII century, there can be no doubt that the Kings of Sweden were chosen by the three groups of people in the province of Uppland. When the election had been done, the lawman (*lagman*) of Uppland and then the lawmen of the provinces Södermanland, Östergötland, Tiohärad (Småland), Västergötland, Närke and Västmanland would approve the chosen King. He was then consecrated to the crown in Uppsala Cathedral and received a legal right to *Uppsala öd*. This is clear from *Upplandslagen*, the law book for Uppland, approved by the regency during King Birger Magnusson's (r. 1290-1318) minority in 1296.²⁹
- 13 In the province Västergötland, in a law book written (according to the most recent research)³⁰ in the 1310s, estates belonging to *Uppsala öd* were enumerated.³¹ They should always belong to the King.³² In the law of the province Östergötland, there was no similar enumeration, but there was a sentence referring to the representatives of the King in a similar context.³³ In the law book for northern Sweden, *Hälsingelagen* from the 1320s, there was a list of estates that belonged to *Uppsala öd*, six farms that were located along *Norrstigen*, the medieval road along the coast of Norrland.³⁴
- 14 In summary, *Uppsala öd* appeared as a concept in *Upplandslagen*, approved in 1296, but it is only in the 1310s that it can be proven that *Uppsala öd* was a concept of relevance in Västergötland, and the corresponding time for Norrland's part is the 1320s. Thus, it can be concluded that a concept corresponding to *bona regalia* was

established in Sweden around 1300. This was in the law books for the various provinces, but in the early decades of the XIV century, the law was increasingly unified for the realm as a whole.

- 15 This development starts with a charter regarding the election of Kings, drafted by King Magnus Eriksson (r. 1319–64) around 1335.³⁵ The charter was made part of one of the provincial law books, *Södermannalagen* (the law of Södermanland), and it was then brought into the first law book of the land (*landslagen*), which started to be applied around 1350. According to these rules, one of the King's tasks was to govern “castles and land, Uppsala öd, the King's estates and all royal revenue” (“*borgar och land, Uppsala öd, konungens gods och alla kungliga ingälder*”).³⁶ One King was not allowed to reduce these rights to the detriment of the next King. As a consequence, the phrase “the King's estates” in the charter was replaced by “the crown's estates” in the law of the land.³⁷ This indicates that the idea of the “crown” as a legal entity had taken hold during the period 1335–1350. In his Latin translation from about 1500 of the law of the land, the archdeacon of Uppsala Ragvald Ingemundsson translated *Uppsala öd* as *fiscus regius*. Even though Ragvald Ingemundsson's translations are not always reliable,³⁸ he connected *Uppsala öd* to an internationally known concept.³⁹ In the revised version of the law of the land, confirmed by King Christopher (r. 1441–48) in 1442, the provisions on *Uppsala öd* and the crown's estate were retained.⁴⁰
- 16 The history of these crown estates is difficult to follow in the XVI, XVII and XVIII centuries. There are some estates that were crown estates from the Middle Ages throughout many centuries. One example is the estate Svartsjö near Stockholm. King Magnus Eriksson exchanged three farms in Uppland against Svartsjö in 1345,⁴¹ and Svartsjö is still state property and was until the 1880s at the King's personal disposal. Another example is Djurgården in Stockholm. King Karl Knutsson Bonde (r. 1448–1457, 1464–1465 and 1467–1470) exchanged farms in Uppland against the southern part of Djurgården in 1452.⁴² King Charles XI (r. 1660–1697) made clear in 1676 that Djurgården was to be at his personal disposal,⁴³ and Djurgården is still state property and at the personal disposal of the King. The Royal Palace in Stockholm has always been state property and at the King's disposal. Besides these examples, crown property and the Kings' personal property were intermingled from the XVI century onwards.

When the Kings granted land to noblemen and others in the XVI and XVII centuries, it could be the land owned by the crown or by the King's family. There was a power struggle between the King and Parliament over the rights to these estates,⁴⁴ But there were, in the early XIX century, crown estates that remained under the King's personal disposal. Thus, the King, the rest of the Royal family and the Royal household lived off these estates and the revenue from the farming and forestry activities there. It is difficult to define the exact value of this revenue.⁴⁵

- 17 Some of the crown estates were under the disposal of dowager queens and princesses. One example is the palace Ulriksdal, which in 1808 was granted to dowager queen Sofia Magdalena (princess of Denmark) in exchange for another palace, Strömsholm,⁴⁶ which she had the right to according to the marriage contract from 1766 when she married the later King Gustavus III (r. 1771-1792). Strömsholm as dowager palace was to include furniture, household utensils, wagon and "such more, that can belong to a fundum instructum" ("dylikt mera, som till en fundum instructum höra kan").⁴⁷ An inventory was to be made, and Sofia Magdalena was not allowed to impair or embezzle anything. Another example is the palace Gripsholm, which according to the marriage contract from 1744 when Lovisa Ulrika (princess of Prussia) married Adolf Fredrik (r. 1751-1771) was to be at her disposal as dowager queen. The palace was to be furnished with stately furniture and household utensils and there should be a wagon and what else belongs to a *fundus instructus* ("und was sonst noch mehr zu einem fundo instructo gehört").⁴⁸ In 1772, Gripsholm was exchanged for Svartsjö palace and could then be at the disposal for Fredrika of Baden as future dowager queen in the marriage contract when she married King Gustavus IV Adolphus (r. 1792-1809) in 1797.⁴⁹

3. The 1809-10 agreement between Parliament and King

- 18 As a result of the catastrophic war 1808-09 in which Sweden lost Finland to Russia, the 1809-10 parliamentary session had to deal with a constitutional crisis.⁵⁰ King Gustavus IV Adolphus was deposed, a new constitution was adopted, and the state financial crisis required emergency measures. King Gustavus IV Adolphus's uncle, Duke

Charles, became regent. The new Instrument of Government was drawn up in a short time. After it had been adopted by the nobility, the clergy and the burghers (whilst the fourth estate, the peasants, hesitated), Duke Charles could become King Charles XIII (r. 1809-1818) and place his name and seal under the document. The peasants were then persuaded to accept the Instrument of Government.

- 19 The 1809 Instrument of Government was based on a balance of power between King and Parliament. To legislate within general civil and criminal law, the approval of three of the four estates and the consent of the King were required. To change the constitution, the approval of all four estates and the King's consent were required, but a decision had to be made only at the next parliamentary session after the one where the parliamentary constitutional committee had supported the proposal. Administrative regulation was within the King's power, exercised by the King in the Council of State. In this capacity, the King was also the central executive authority.
- 20 Hence, the two constituent powers of state, King and Parliament, distributed the functions of state further to five different constituted powers: the legislative power shared by King and Parliament, the executive power with the King, the adjudicative power with the King through the courts of law, the power of taxation with the Parliament and the power of controlling the government and the executive authorities with the Parliament. As regards the King's and the members' of the royal family disposal of the palaces and their right to financing, an agreement between King and Parliament was made. Although successive changes have taken place since then, the fundamentals of this agreement still apply. Hence, the agreement will be discussed in some detail.
- 21 According to Section 48 of the 1809 Instrument of Government, the King's household was to be under his "private control" ("enskilda styrelse"), and he could regulate his household "as he sees fit" ("som honom gott synes"). This means that the Royal Household was not part of the state administration in general, that household matters were not government matters and thus were not dealt with in the Council of State, and that the household was not part of the state as a legal entity. In Section 77 of the 1809 Instrument of Government, it was stipulated that crown property was not to be disposed of by the

King without the consent of Parliament, which would also prescribe how these properties were to be managed.

- 22 After the adoption of the 1809 Instrument of Government on 6 June 1809, it was time to decide on the state budget. A first budget bill was presented as early as 9 June 1809,⁵¹ but it was soon followed by a more comprehensive bill.⁵² In this latter bill, King Charles XIII declared that he and the government were prepared to accept necessary reductions in the State expenses. He therefore asked what savings the parliamentary budget committee could propose. Savings were needed especially in order to fund the rearmament of the armed forces.
- 23 By 25 August 1809, the budget committee drew up a plan for which part of the state budget would first be subjected to savings, namely the appropriation for the Royal Household and the Royal Mews.⁵³ In its report, the committee stated that it had “presumed that some savings in the hitherto granted annual budgetary sum for the maintenance of the Royal Household and the Royal Mews could possibly take place” (“förmodat någon besparing i den hittills årligen bestådde Stats-Summa til underhållande af Kongl. Maj:ts Hof- och Hof-Stall-Stater möjligen kunna äga rum”).⁵⁴ However, such savings must take place “so that the Royal Majesty on the one hand must not be embarrassed about necessary and sufficient funds for the maintenance of a Royal Household that is pertinent for the high dignity and the reputation of the Kingdom, and on the other, that the State is burdened with the smallest possible expenses” (“så, at Kongl. Maj:t å ena sidan ej må sättas i förlägenhet om nödige och tillräckelige Medel til underhållande af en emot Dess höga wärdighet och Rikets anseende swarande Hof-Stat, och å den andra, Staten med de möjligen minsta utgifter betungas”).⁵⁵ This dilemma had, in the budget committee, caused “an extraordinary consideration and careful deliberation” (“en särdeles omtanka och granlaga öfwerläggning”).⁵⁶
- 24 The solution was, according to the proposal of the budget committee, that the maintenance of the Royal Household was not to be financed through leases and returns from Crown estates and other landed properties, but that these revenues would accrue to the state treasury. In return, the King would receive “a certain annual sum for

the maintenance of his household to be distributed according to his Royal Majesty's own high disposal and pleasure" ("en wiss årlig Summa til underhållande af dess Hof-Stat at fördelas efter Kongl. Maj:ts Egen höga disposition och wälbehag").⁵⁷ This would agree well with Section 48 of the 1809 form of government, where it was stated that the King's Household would be under his private control.

- 25 In return, the King would hand over to Parliament the disposal of farms, barns, meadows, and other land that had until then been under the immediate administration of the King. The budget committee believed that "a not insignificant gain in the State's income" ("en icke obetydelig winst uti Statens inkomster")⁵⁸ would arise through improved housekeeping at these properties, and the King would then, in addition to an annual allocation of money, not have to take care of the management of them.
- 26 The budget committee further stated that the court grant according to the 1809 state budget had corresponded to 329,549 *riksdaler*, of which 24,892 *riksdaler* constituted feeding in kind for 202 horses in the Royal Mews. The budget committee wanted to lower the grant to 266,666 *riksdaler*, exclusive of feeding for 150 horses. Hence, it was a cut of 12 percent in the budget and 25 percent in the number of horses. In addition, however, the crown prince—at this time the newly elected but soon deceased crown prince Charles August—would receive an allowance of 24,000 *riksdaler* annually as unmarried or 48,000 *riksdaler* when he married.
- 27 The farms, barns, meadows, and other land that had until then been under the immediate administration of the King, were to be handed over to the "Free Disposal and Management of the Estates of the Kingdom" ("Riksens Ständers fria Disposition och Förwaltning").⁵⁹ However, the palaces as such and the gardens and parks were to be used by the Royal Family and maintenance was to be funded by the state budget. This applied to the Royal Palaces of Drottningholm, Svartsjö, Gripsholm and Strömsholm.⁶⁰ Hence, a division was to be made between the palaces as such with gardens and parks used for pleasure, whilst the income-bringing farming activities went under the decision-making power of Parliament. The palaces Ulriksdal and Tullgarn were to remain under the free disposal of Dowager Queen Sofia Magdalena and Princess Sofia Albertina respectively during

their lifetimes, but thereafter they would follow the same arrangement as the other palaces. The palace Rosersberg was mentioned more briefly, and the management thereof would not change during the lifetime of King Charles XIII and Queen Hedvig Elisabeth Charlotta. All these palaces are located in the provinces surrounding Stockholm. Djurgården would remain under the disposal of the King, but the budget committee considered that the separate purse of Djurgården (*Djurgårdskassan*) “must only be used for the improvement and embellishment of Djurgården, as well as the maintenance of the roads and bridges there and not be used for any separate payments or gratuities to certain persons” (“*Djurgårdskassan måtte endast få användas til Djurgårdens förbättring och Embellissement, samt de derwarande vägars och broars underhåll och icke graveras med några serskilde Aflöningar eller Gratificationer til någre wissa personer*”).⁶¹

- 28 All four estates approved the budget committee's proposal with only some minor adjustments.⁶² The parliamentary committee for drafting the session's decisions tightened some parts of the text,⁶³ most importantly that Parliament would receive the disposal of the Crown estates “as a right reserved for them for all future” (“*såsom en i ewärdeliga tider åt dem förbehållen rättighet*”).⁶⁴ Thereafter, Parliament sent the petition to the King. He gave a rather short answer to the petition. After summarizing some parts of it, he replied: “So I want, in furtherance of your wish, hereby to accept the aforesaid humble offer, in the manner and under the conditions, which your above mentioned document contains” (“*Så vill Jag, till befrämjande af Eder önskan, härmedelst antaga förenämnde underdåniga anbud, på sätt och med vilkor, som Eder berörde skrifvelse i öfrigt innehåller*”).⁶⁵ The Riksdag then ratified the agreement in § 13 of the Riksdag decision.⁶⁶ The palace Haga close to Stockholm became state owned after the deposition of King Gustavus IV Adolphus, but it was handed over, just like the other palaces but through a separate decision, to the King's disposal.⁶⁷

4. Continued application of the agreement

- 29 The agreement regarding the right for the Royal Family and the Royal Household to have palaces at their disposal, as well as the right to an annual allowance, is fundamentally still valid, but it has been subject to changes during the two centuries that have lapsed. From 1809, the annual allowance formed the first section of the state budget. Before the 1809 reform, this section comprised as much as 15 percent of the cost side of the state budget, but this share fell after the agreement to 14 percent and then during the 1810s to first 13 and then 11 percent. In absolute terms, both the court grant and the state budget's total increased. In the 1820s, the share of the royal grant fell below 10 percent of the state budget, around 1910 below 1 percent and in the 1970s below 1 per thousand.⁶⁸ The proportion must of course be seen in the light of the fact that during the same time period the state undertook significantly increased overhead costs in other areas.
- 30 A very important reform took place at the 1840-41 parliamentary session.⁶⁹ The budget committee considered that it was appropriate to distribute the grants under the section of the state budget for the royal allowance into two sub-sections, one for the allowances to the King and other members of the Royal Family, and another for grants to be used for the maintenance of State property. A novelty was that the state auditors would review these latter grants. The allowances to the King and other members of the Royal Family would continue to be paid to these individuals against a receipt and without review by the state auditors. This forms the basis for the division of the Royal Household in *Kungl. Hovstaterna* (the households of the King and the members of the Royal Family) and *Kungl. Slottsstaten* (the administration and maintenance of Djurgården and the palaces). Both these parts of the Royal Household are under the supervision of the Marshal of the Realm (*Riksmarskalken*). Regarding the grant for the maintenance of state-owned furniture, the budget committee mentioned that it was inconsistent that that grant remained part of the allowance to the King and not became part of the grant for maintenance of palaces. The committee nevertheless considered that the grant should be

exempt from audit.⁷⁰ On suggestion from the budget committee, Parliament asked the King to let a state office keep an inventory of state-owned property kept in the Royal palaces.⁷¹ This was approved by the King, and a lasting result in this regard is that the Royal Household still maintains such an inventory, which is kept at the *Kammarkollegiet* (a central administrative state office) and is updated annually.⁷²

- 31 The inconsistency regarding the grant for the care of the state-owned furniture was not corrected until the 1980s, when the grant to the *Kungl. Husgerådskammaren* (the section of the Royal Household that cares for furniture, etc.) was moved from the King's household to the part of the household that works with administration and maintenance of Djurgården and the palaces (*Kungl. Slottsstaten*). The reason for this was that, according to the opinion of the Royal Household itself, the expenses for the representative functions of the head of state should be separated from the expenses for museums, maintenance of buildings and scientific activities.⁷³ In connection with this, it was clarified that no disruption of the current basic constitutional conditions for the division of the budgetary section regarding the Royal Household into two subsections was intended.⁷⁴
- 32 As regards the palaces, the right of the King and the Royal Family to use them is commonly labelled "the Royal Right to Disposal" (*kunglig dispositionsrätt*). In this context, it means that the King has the right to decide how and by whom the palaces are to be used, but they are still state property, and the King has no right to sell or mortgage them.⁷⁵ According to the 1809-10 agreement, the palaces Drottningholm, Svartsjö, Gripsholm, Strömsholm and Haga were under a perpetual right to have them at royal disposal. However, the King waived the right of disposal of Svartsjö in 1888 and the palace was turned into a forced labour facility and then a prison.⁷⁶ Strömsholm was during the period 1868-1968 used for military purposes, with the permission of the King, who retained his right to have the palace at his disposal.⁷⁷ Haga was during the period 1966-2009 used as a representative residence for the government's guests, but the King retained his right to have the palace at his disposal, and the palace is now used as the residence of Crown Princess Victoria and her family.⁷⁸

- 33 Ulriksdal and Tullgarn were, according to the 1809-10 agreement, to remain under the disposal of Dowager Queen Sofia Magdalena and Princess Sofia Albertina respectively during their lifetimes, but thereafter, these properties would fall under the disposal of Parliament in the same way as the other palaces. This means that the same type of division was to be made between the palaces as such with gardens and parks used for pleasure on the one hand, and the income-bringing farming activities on the other; these latter parts went under the decision-making power of Parliament. This was carried out regarding Ulriksdal after Sofia Magdalena's death in 1813,⁷⁹ and Ulriksdal was then appointed as dowager palaces for Lovisa, Sofia and Margareta⁸⁰ (Queens of Charles XV [r. 1859-72], Oscar II [r. 1872-1907] and Gustavus VI Adolphus [r. 1950-73] respectively).
- 34 According to the 1809-10 agreement, the palace Tullgarn was to be managed in the same way as Ulriksdal, but that did not happen. Instead, after Princess Sofia Albertina's death, Parliament handed Tullgarn over to Crown Prince Oscar (later King Oscar I, r. 1844-59) on the same terms. This happened with the King's consent.⁸¹ Tullgarn was then expressly treated as a *fundus instructus*. According to a decision of the 1823 parliamentary session, Tullgarn, in accordance with the marriage contract, was to be the widow's seat for the Crown Princess, later Queen Josefina.⁸² In 1877, Tullgarn was placed at King Oscar II's disposal on the condition that the palace could be maintained with the help of rental income.⁸³ Hence, the division that was to be made according to the 1809-10 agreement was not carried out. Tullgarn was designated as the dowager residence for Crown Princess Victoria,⁸⁴ and Crown Prince Gustaf (later King Gustaf V, r. 1907-50) received the right to use the palace from his father Oscar II. In 1938, however, it could be established that the financing of the maintenance was not resolved in a sustainable way, and the administration of the palace was arranged similarly to the other palaces, however, the right of disposal only applies for the King's lifetime.⁸⁵
- 35 The right to Rosersberg was formulated differently, compared to the other palaces, in the parliamentary documents of 1809-10.⁸⁶ Parliament must from time to time decide on the disposal of Rosersberg. After the death of Queen Hedvig Elisabeth Charlotta,

Parliament granted the right of disposal to King Charles XIV John (r. 1818–44). The palace then became the dowager residence for Queen Desideria, but after that, in connection with royal succession, the palace has come under the disposal of every King.⁸⁷ However, they in turn have entrusted Rosersberg to first the Infantry Shooting School, then the Civil Defence Agency and finally, until 2006, to the National Rescue Service.⁸⁸

- 36 In 1944, it was established that according to the “still essentially valid parliamentary decision” (“alltjämt i huvudsak gällande riksdagsbeslut”)⁸⁹ of 1809–10, the palaces with parks and gardens would be at the disposal of the King. At this time, a change was made so that the responsibility for maintenance of the palaces was moved to the National Building Board (*Byggnadsstyrelsen*), which would carry out the maintenance in consultation with the Office of the Marshal of the Realm as head of the Royal Household (*Riksmarskalksämberet*), which would be responsible for “the immediate care and maintenance of the palace buildings and what pertains thereto” (“den omedelbara vården och skötseln av slottsbyggnaderna med vad därtill hör”).⁹⁰ The King could decide on letting apartments and other accommodation in the palaces and in houses nearby.⁹¹ In the 1990s, the National Building Board was replaced by the new National Property Board (*Statens Fastighetsverk*), but that did not change the agreement.⁹² Hence, the changes during the XX century have explicitly been made with respect for the King’s rights according to what was decided in 1809–10. The agreement between King and Parliament is not only a technical budgetary arrangement but a constitutional relationship; a kind of agreement under public law between Parliament and King that cannot be unilaterally revoked.⁹³ In recent decades, the basic agreement between King and Parliament has been filled out in details through agreements between the Royal Household and the National Property Board representing the state’s ownership rights.⁹⁴
- 37 A palace that was not mentioned in the 1809–10 agreement was the Royal Palace in Stockholm, probably partly because it was obvious that it would be the King’s residence, and partly because the palace did not generate any income (apart from certain rental of cellar storage)⁹⁵ that Parliament was interested in. At the 1844–45 parliamentary session, the costs for maintenance of the palace

became part of the grant under the budgetary section for the Royal Household. It was also clarified that some other buildings in Stockholm were under the King's disposal, such as the Royal Mews.⁹⁶

38 As mentioned, Djurgården has been under the King's disposal at least since the XVII century, and the right can even be traced to the Middle Ages. This was not to be changed by the 1809-10 agreement, but the purse pertaining to Djurgården (*Djurgårdskassan*)—in modern terms a kind of legal entity for Djurgården's finances—was only to be used for Djurgården's maintenance. Other types of use need permission from Parliament, and such permissions have also been issued from time to time, for example have certain repairs of palaces been paid for with funds from Djurgården.⁹⁷ In 1882, when the city of Stockholm adopted a plan for the regulation of part of Djurgården, the parliamentary budget committee took an initiative that the compensation for sold land should constitute a special fund, *Djurgårdsfonden*, the return of which would accrue to *Djurgårdskassan*.⁹⁸ More transactions of this type have occurred, and the King has then personally declared in the minutes of cabinet meetings that he has waived his right of disposal.⁹⁹ If the King has waived his right of disposal to an area of land for a certain purpose, he regains the right if the purpose ceases.¹⁰⁰ There is, most recently, an example of such a transaction from the parliamentary session 2005-06.¹⁰¹

39 To sum up: The King retains the right of disposal of the Royal Palace in Stockholm and other buildings connected to the palace, such as the Royal Mews. He also has the right of disposal of Djurgården. As regards palaces outside of central Stockholm, the palaces Drottningholm, Gripsholm, Strömsholm, Haga and Ulriksdal are perpetually at the King's disposal, and Tullgarn and Rosersberg are under the disposal of King Carl XVI Gustaf (r. 1973-) for life.¹⁰² All these palaces are owned by the state.¹⁰³

40 By 1 January 1975, the 1809 Instrument of Government was replaced by a new Instrument of Government, adopted in 1974. The formal role of the King in governing the state was very much reduced, leaving only a few ceremonial responsibilities left as part of the formal power of the Head of State. The most important of these is that King opens the parliamentary session once a year and chairs the Council of State

meeting when a new government accedes.¹⁰⁴ In other, more representation-related respects, the King and the other members of the Royal Family function as holders of the highest dignities of the realm; it is then the function as “head of nation” rather than “head of state” that comes to the fore.¹⁰⁵

- 41 Perhaps surprisingly, there were in the 1970s no significant changes as regards the right to disposal of the palaces and Djurgården and of the right of the King to govern the Royal Household. The Royal Household was only mentioned quite briefly in the government bill proposing the new Instrument of Government. The Minister of Justice, Lennart Geijer, wrote: “Finally, I would like to mention that I [...] believe that the Royal Household should remain outside the state administrative organisation. No change in the current order is intended. No constitutional provision on the subject is needed.” (“Slutligen vill jag nämna att jag [...] anser att hovet bör stå utanför den statliga förvaltningsorganisationen. Någon ändring i nuvarande ordning åsyftas inte. Någon grundlagsbestämmelse i ämnet behövs inte”).¹⁰⁶ The disposal of state property by the King and the Royal Family was not mentioned at all, despite the fact that there are provisions in chapter 9 of the 1974 Instrument of Government providing that the government disposes of state property but is thereby bound by what Parliament has decided, something which confirms that a renegotiation of the 1809-10 agreement ultimately would require the involvement of Parliament.

5. Concluding remarks

- 42 Since the Middle Ages, there has been a distinction between crown estates (*bona regalia*) and the King's dynastic or patrimonial property (*bona patrimonialia*). Crown estates have been used by the King and the Royal Family but have been owned by the state. In 1809-10, an agreement was made to the effect that the properties that had been under the King's disposal and that yielded returns were handed over to the disposal of Parliament, whilst palaces, parks and gardens remained under the disposal of the King. The state would pay for maintenance of these palaces, parks and gardens and would also pay a yearly allowance to the King and the Royal Household. This agreement remains in force, although some changes have been made;

especially in 1840–41 when the grants for maintenance of palaces was to be subject of state audit and in 1944 when the distribution of responsibilities between the National Board of Buildings and the Office of the Marshal of the Realm was changed. The 1974 Instrument of Government provided many changes as regards the formal involvement in government of the Head of State, but the King's power as regards the Royal Household and his right to disposal of the Royal Palaces and Djurgården was left unchanged. In the most recent inquiry, no changes were made as regards this system, except that the Office of the Marshal of the Realm undertook to give an account of how the allowance for the Royal Household was spent for the members of the Royal Family carrying out official duties.¹⁰⁷ This followed a decision by the King about the use of the title Royal Highness and about which members of the Royal Family that were expected to carry out such duties.¹⁰⁸

- 43 The arrangement as regards the King's and the Royal Family's right to have state-owned palaces at their disposal and other buildings is unique; there are almost no general legal rules applicable to it except the rules valid for all property owners—it is an arrangement *sui generis*. It goes together with the fact that the Royal Household is not part of the state as a legal entity; the two are separate and agreements can be made between the King (through the Marshal of the Realm), and the Government or Parliament on behalf of the state as a legal entity.
- 44 The agreement is complex and could—as is seen from the more detailed agreements made between the Royal Household and the National Property Board¹⁰⁹—cause problems as regards which of these entities has the right and duty to act in a certain way. The arrangement is also difficult to explain to journalists and the general public.¹¹⁰ However, the double rights, by the state and the King, to the palaces and cultural heritage in the form of furniture etc. make the property very unlikely, almost impossible, to be sold. The pieces of furniture are registered both by the Royal Household and the *Kammarkollegiet*. The preservation of cultural heritage has in recent decades been mentioned increasingly as an important task of the Royal Household.¹¹¹ This gives reason to believe that the arrangement helps preserving the cultural heritage for future generations.

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83 Statsutskottets betänkande, no. 1877:14; Riksdagsskrivelse, no. 1877:43; Kungl. Maj:ts proposition, no. 1878:29; Statsutskottets betänkande, no. 1878:53; Riksdagsskrivelse, no. 1878:30. Cf. G. BRAMSTÅNG, *op. cit.*, p. 194-203.

84 Kungl. Maj:ts proposition, no. 1885:9; Statsutskottets betänkande, no. 1885:7; Riksdagsskrivelse, no. 1885:53. Cf. G. BRAMSTÅNG, *op. cit.*, p. 205-206 and 247.

85 Kungl. Maj:ts proposition, no. 1938:257; Statsutskottets betänkande, no. 1938:121; Riksdagsskrivelse, no. 1938:244. Cf. G. BRAMSTÅNG, *op. cit.*, p. 208-212.

86 Statsutskottets memorial den 25 augusti 1809, 1809-10 års riksdag, ridderskapet och adelns protokoll (1809-10 parliamentary session, minutes of the House of Nobility), vol. 2, August 1809, p. 1413.

87 1817-18 års riksdag, bihang (1817-18 parliamentary session, annex), vol. 10; Riksdagsskrivelse, no. 245, p. 253; 1862-63 års riksdag, bihang (1862-63 parliamentary session, annex), coll. 4, part. 1, vol. 1; Statsutskottets betänkande, no. 38, p. 8-10, coll. 10, part. 1, vol. 1; Riksdagsskrivelse, no. 67, p. 8; Kungl. Maj:ts proposition, no. 1873:1, p. 9; Statsutskottets betänkande, no. 1873:3, p. 5; Riksdagsskrivelse, no. 1873:45; Kungl. Maj:ts proposition, no. 1908:1, p. 4; Statsutskottets betänkande, no. 1908:2; Riksdagsskrivelse, no. 1908:1, p. 3; Kungl. Maj:ts proposition, no. 1951:1; Första huvudtiteln, p. 5-6; Statsutskottets betänkande, no. 1951:1, p. 3-4; Riksdagsskrivelse, no. 1951:1; Regeringens proposition, no. 1975:1, annex 3, Kungl. hov- och slottsstaterna, p. 4-5; Finansutskottets betänkande, no. 1975:FiU4; Riksdagsskrivelse, no. 1975:33.

88 J.-M. BEXHED, *art. cit.*, p. 236-237.

89 Kungl. Maj:ts proposition, no. 1944:228, p. 2.

90 Kungl. Maj:ts proposition, no. 1945:1, annex, Första huvudtiteln, p. 2.

91 Kungl. Maj:ts proposition, no. 1945:1, annex, Första huvudtiteln, p. 3.

92 Regeringens proposition, no. 1991/92:44, p. 22-23; Finansutskottets betänkande, no. 1991/92:FiU8, p. 12-14 and 17-18; Riksdagsskrivelse, no. 1991/92:107; Regeringens proposition, no. 1992/93:37, p. 15-16; Finansutskottets betänkande, no. 1992/93:FiU8; Riksdagsskrivelse, no. 1992/93:123.

93 For a more detailed analysis, see M. SUNNQVIST, *op. cit.*, p. 282-291.

94 Överenskommelse 2000-03-01, Statens fastighetsverk dnr 220-89/99; Överenskommelse 2007-06-27, Statens fastighetsverk dnr 220-1859/07.

95 G. BRAMSTÅNG, *op. cit.*, p. 258-261.

96 1844-45 års riksdag, bihang (1844-45 parliamentary session, annex); Kungl. Maj:ts proposition, no. 1, p. 6-9, coll. 1, part. 1; Statsutskottets betänkande, no. 34, p. 1-5, coll. 4, part. 1, vol. 1; Riksdagsskrivelse, no. 30, p. 50-52, coll. 10, part. 1, vol. 1. See also Kungl. brev den 19 november 1844 till Riksmarskalksämberet, P. E. BERGFALK, *op. cit.*, p. 45-46.

97 See in detail M. SUNNQVIST, *op. cit.*, p. 254-257.

98 Kungl. Maj:ts proposition, no. 1884:23; Statsutskottets betänkande, no. 1884:29; Riksdagsskrivelse, no. 1884:22.

99 See e.g. Kungl. Maj:ts proposition, no. 1926:173; cf. also Kungl. Maj:ts proposition, no. 1947:248.

100 Regeringens proposition, no. 1991/92:44, p. 23; Regeringens proposition, no. 1992/93:37, p. 15.

101 Regeringens proposition, no. 2005/06:100, p. 165; Finansutskottets betänkande, no. 2005/06:FiU21, p. 24-25; Riksdagsskrivelse, no. 2005/06:370.

102 To these eight palaces, further three can be added, and sometimes it is mentioned that there are eleven royal palaces in Sweden (e.g. Regeringens proposition, no. 2021/22:1; Utgiftsområde 1, p. 12). Then *Gustav III:s paviljong*, *Kina slott* and *Rosendals slott* are added, but from a legal historical point of view, they belong to Haga, Drottningholm and Djurgården respectively.

103 There are also buildings owned privately by the King, such as the summer residence Solliden. The King also leases the property Stenhammar from the state; it was bequeathed to the state under the condition that it would be leased to a member of the Royal family. I leave these properties outside the discussion in this article.

104 Chap. 3, § 6, § riksdagsordningen (The *Riksdag* Act; and act concerning the work procedures of Parliament); chap. 6, § 6 regeringsformen (Instrument of Government). See Kungl. Maj:ts proposition, no. 1973:90, p. 171 and as regards the political background M. SVANBERG, *Partierna och demokratin under författningsdebatten 1965-1980*, Göteborg, Daidalos, 2020.

105 This distinction is a recurring theme in R. HAZELL and B. MORRIS (eds.), *op. cit.*

106 Kungl. Maj:ts proposition, no. 1973:90, p. 176.

107 *Ett modernt belöningssystem, de allmänna flaggdagarna och redovisningen av anslaget till hovet*, SOU 2021:74, p. 149-150; Regeringens proposition, no. 2021/22:232, p. 4; Regeringens proposition, no. 2022/23:1; Utgiftsområde 1, p. 12.

108 Decision by H.M. The King 7 October 2019, Protokoll i hovärenden, no. 13/2019 H.D., with annexe, <<https://www.kungahuset.se/arkiv/nyheter/2019-10-07-forandringar-inom-kungl.-huset>> , last accessed 15 June 2023.

109 See footnote 94.

110 See, most recently, SVT Uppdrag granskning, “Kungens bostäder”, broadcast 16 Maj 2023.

111 E.g. Konstitutionsutskottets betänkande, no. 1996/97:KU1, p. 8-9; Regeringens proposition, no. 2001/02:190, p. 73; Regeringens proposition, no. 2006/07:1, Utgiftsområde 1, Rikets styrelse, p. 76.

RÉSUMÉS

English

Since the Middle Ages, there have been Crown estates in Sweden that were to be used by the King. In 1809-10, an agreement was reached between King and Parliament about the financing of the expenses of the Royal Family and the Royal Household and of the right of the King and the Royal Family to use and govern the Royal Palaces. This agreement is still in force, although it has been amended as regards details over the last two centuries. In the article, the historical development and current status of the King's right to have state property at his disposal is discussed.

Français

Depuis le Moyen Âge, il y a eu des domaines de la Couronne en Suède dont l'usage a été réservé au Roi. En 1809-10, un accord a été conclu entre le Roi et le Parlement sur le financement des dépenses de la famille royale et de la maison royale, et aussi sur le droit du Roi et de la famille royale d'utiliser et de gouverner les palais royaux. Cet accord est toujours en vigueur, bien qu'il ait été modifié dans les détails au cours des deux derniers siècles. Dans l'article, l'évolution historique et l'état actuel du droit du Roi de disposer des biens de l'État sont discutés.

INDEX

Mots-clés

Suède, chef d'État, palais royaux, bona regalia, le droit du Roi de disposer des biens de l'État

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