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Ecclesiastical Administration of Justice in the Baltic Region of the Russian Empire during the Early State Modernization: The Case of the Province Estland

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I. Introduction

The previous research has quite unanimously pointed to the Baltic provinces Estland, Livland and Kurland between c. 1800 and 1880 as – at least for nineteenth century Europe – anachronistic examples of comprehensive estate privileges. At times when constitutionalism and liberalism had become the modern catchwords in contemporary European politics, on the Baltic soil and under the supremacy of the Russian tsars, the Baltic German noble estates and town elites still enjoyed rights of corporative self-government which partly dated back to the Middle Ages. According to general knowledge, the Baltic corporative privileges in the fields of administration and judiciary were decimated with the major unification reforms of the late nineteenth century (the infamous Russification).¹ Some recent studies, however, have emphasized that these reforms were preceded by interventions of central state power in provincial privileges several decades earlier which should be considered as elements of the same line of development – the modernization of the state administration, especially regarding reforms targeted at the unification of different regions.² This paper follows the same rationale and takes a closer look at the Lutheran ecclesiastical administration of justice in the Baltic provinces in the context of state policies during the early nineteenth century.

The provinces Estland, Livland and Kurland formed a very distinct region of the empire, especially due to their common cultural and historical background of western Christianity and also due to their long-standing institutional traditions. In Estland and Livland the Russian rule had replaced that of the Swedish monarchs during the course of the Great Northern War, in 1710. The capitulations concluded by the local estates and the Russian military leadership guaranteed the domination of the Lutheran confession, the self-government of the noble landlord corporations

¹ As an introduction see for example *Michael Haltzel*, *Der Abbau der deutschen ständischen Selbstverwaltung in den Ostseeprovinzen Rußlands. Ein Beitrag zur Geschichte der russischen Unifizierungspolitik 1855–1905*, Marburg/Lahn 1977; *Gert v. Pistohlkors* (Hg.), *Baltische Länder*, Berlin 1994, esp. pp. 397 sqq.

² See for example *Lea Leppik*, *The provincial reforms of Catherine the Great and the Baltic common identity*, *Ajalooline Ajakiri* [The Estonian Historical Journal] 2012 1/2 (139/140), pp. 55–78; *Andres Andresen*, *Unifying the Periphery of a Conglomerate State: Ecclesiastical Legislation in Estland and Livland (1686–1832)*, in: Marju Luts-Sootak/Sanita Osipova/Frank L. Schäfer (Hg.), *Einheit und Vielfalt in der Rechtsgeschichte im Ostseeraum. Sechster Rechtshistorikertag im Ostseeraum*, 3.–5. Juni 2010 Tartu (Estland)/Riga (Lettland), Frankfurt a.M. u.a. 2012.

(*Ritterschaften*) of Estland and Livland as well as of the town elites in Tallinn (Reval) and Riga, the local legal tradition and court system, and German as the local official language. These terms were later confirmed by Tsar Peter I, by the provisions of the 1721 Treaty of Nystad as well as by later monarchs.³ As a result of the third Polish partition in 1795 Russian supremacy extended over Kurland. Also in this province the privileges of the estates were guaranteed by the monarchs.

The Baltic provincial privileges and historical institutional traditions contributed to the relatively strong institutional particularism in both secular and clerical fields of society. In Estland, Livland and Kurland the early modernizing efforts of the central government were mostly directed at overcoming the secular institutional particularism and unifying the structures of society with the core area of the state. First and foremost this pertained to the fields of province administration and the secular judicial system. During the late eighteenth and early nineteenth centuries the Russian monarchs Catherine II and Alexander I initiated several reform attempts which were targeted at updating various spheres of the state according to the contemporary European examples. For a short while, the liberal-minded Alexander I even took up the idea of transforming the autocratic empire into a constitutional monarchy of the enlightened European type. All through this period of early state modernization the domain of state administration enjoyed the most attention.⁴

At this period of time, until the late 1820s, Lutheran church governance and ecclesiastical administration of justice in the Baltic region were spared of any major coordinated intervention. Although Alexander I had worked on some ideas regarding centralized Protestant church governance, eventually these ideas had no direct impact on Estland, Livland and Kurland. Then finally in 1832 the new Act for the Evangelical Lutheran Church of the Russian Empire comprehensively unified the Lutheran ecclesiastical institutions throughout the Empire.

The aim of this article is twofold. The primary objective is to study the Baltic ecclesiastical administration of justice in the early nineteenth century before 1832. To this end, I shall take up the case study on the province Estland. My secondary intention is to briefly examine the most important changes in the system of ecclesiastical judiciary which were prescribed by the 1832 Lutheran Church Law.

³ *Eduard Winkelmann* (Hg.), *Die Capitulationen der estländischen Ritterschaft und der Stadt Reval vom Jahre 1710 nebst deren Confirmationen. Nach den Originalen mit andern dazu gehörigen Documenten und der Capitulation von Pernau, Reval 1865*; *Carl Schirren* (Hg.), *Die Capitulationen der livländischen Ritter- und Landschaft und der Stadt Riga vom 4. Juli 1710 nebst deren Confirmationen. Nach den Originaldokumenten mit Vorausstellung des Privilegium Sigismundi Augusti und einigen Beilagen, Dorpat 1865*. On religious privileges see *Andres Andresen*, *Formal stipulation and practical implementation of religious privileges in Estland, Livland and Courland under Russian supremacy: researching the core of Baltic regional identity*, *Ajalooline Ajakiri [The Estonian Historical Journal]* 2012 1/2 (139/140), pp. 33–54.

⁴ For a general overview see v. *Pistohlkors*, *Baltische Länder* (supra fn. 1), pp. 287 sqq.

The history of the Lutheran ecclesiastical judicial system in the provinces Estland, Livland and Kurland has been one of the most neglected areas in the Baltic legal historiography. Several church historians have touched upon the system of church courts, but only rather generally.⁵ Legal historians working on the Baltic region have almost entirely abandoned the themes of ecclesiastical courts, ecclesiastical administration of justice and Lutheran church law.⁶ A recent study in the field of historical research examines the influence of state power on church governance, church institutions and church law in Estland during the period of 1710–1832.⁷

The most important archival sources for the study of the ecclesiastical administration of justice in the Baltic provinces are, firstly, the protocols of the church consistories, and secondly, the acts of law issued by the provincial governments. In the case of the province Estland all these sources are preserved in the Estonian Historical Archives in Tartu. Among the published sources the Swedish Church Law of 1686 and the Swedish consistorial code of procedure of 1687,⁸ numerous

⁵ *Hermann Dalton*, *Verfassungsgeschichte der evangelisch-lutherischen Kirche in Rußland*, Gotha 1887; *Juhan Kõpp*, *Kirikuvallitsemisõpetus*, Tartu 1940; *Wilhelm Lenz*, *Zur Verfassungs- und Sozialgeschichte der baltischen evangelisch-lutherischen Kirche 1710–1914. Der Aufbau der Landeskirchen und die Stellung des Pastors in Liv-, Est- und Kurland*, in: Reinhard Wittram (Hg.), *Baltische Kirchengeschichte: Beiträge zur Geschichte der Missionierung und der Reformation, der evangelisch-lutherischen Landeskirchen und des Volkskirchentums in den baltischen Landen*, Göttingen 1956, pp. 110–129.

⁶ In the Baltic German overviews of the Baltic history of law, church law has been studied extremely superficially. For example Friedrich Georg von Bunge has written four pages on canon law, but Lutheran church law in Estland has been summarized only in a few lines (*Friedrich Georg v. Bunge*, *Einleitung in die liv-, esth- und curländische Rechtsgeschichte und Geschichte der Rechtsquellen*, Reval 1849, pp. 170–174, 205–206); also the part on the system of Lutheran church courts is very laconic (*Friedrich Georg v. Bunge*, *Geschichte des Gerichtswesens und Gerichtsverfahrens in Liv-, Est- und Curland*, Reval 1874, pp. 170, 175, 177–178, 203). Oswald Schmidt only mentions the church laws of 1686 and 1832 (*Oswald Schmidt*, *Rechtsgeschichte Liv-, Est- und Curlands. Aus dem Nachlasse des Verfassers hg. von Dr. Eugen von Nottbeck*, Dorpat 1895, pp. 174, 277–278). However, F. G. v. Bunge regarded all the acts of law which were applied in a Baltic province as *provincial law* (*Marju Luts*, *Juhuslik ja isamaaline: F. G. v. Bunge provintsiaalõigusteadus*, Tartu 2000, pp. 133–135), thus also ecclesiastical law has to be considered an integral part of the provincial law.

⁷ *Andres Andresen*, *Eestimaa kirikukorraldus 1710–1832. Riigivõimu mõju institutsioonidele ja õigusele* [Church constitution in Estland, 1710–1832. The influence of state power on institutions and law], Tartu 2008. I have used some parts of my monograph for this article.

⁸ In the Baltic provinces and in the Lutheran congregations of Russia proper the German translations were used: *Kirchen-Gesetz und Ordnung, So der Großmächtigste König und Herr, Herr Carl, der Eilffte, Der Schweden, Gothen und Wenden König*, etc. Im Jahr 1686 hat verassen und Im Jahr 1687 im Druck ausgehen und publiciren lassen. Mit denen dazu gehörigen Verordnungen. Stockholm [*sine anno*]; Ihr: Königl. May.t Verordnung, Wie es mit den Gerichts Processen bey denen Thumb-Capituln soll gehalten werden. Gegeben auf dem Schloß zu Stockholm den 11. Februarij Anno 1687, in: *Kirchen-Gesetz und Ordnung*, pp. 175–189.

decrees of the imperial government⁹ and the Act for the Evangelical Lutheran Church of the Russian Empire of 1832 (together with the instruction for the clergy and with the new liturgy)¹⁰ are to be mentioned as the most prominent ones.

II. Lutheran Territorial Church of Estland

Until about mid-nineteenth century Lutheranism formed the solely dominating confession in the Baltic region. Only since the 1840s did Russian Orthodoxy gain ground to a notable extent, as a result of a wide-scale conversion movement among the Estonian and Latvian peasantry in the province of Livland, caused by social and economic reasons.¹¹

Due to the Lutheran Reformation several territorial churches had emerged in the Baltic region, among others the territorial church of the province Estland. The absolutist rule of King Charles XI brought about the unification of the Lutheran ecclesiastical organization throughout the Swedish conglomerate state, mainly as the consequence to the implementation of the 1686 Church Law. This institutional interlude proved to be short-lived, as under the early Russian rule the Lutheran church organization of the Baltic region once again split up into several territorial churches. This resulted from the self-government of the estates in Estland, Livland, Ösel, Tallinn and Riga.

In the early nineteenth century the territorial church of the province Estland was governed by the consistory, situated in Tallinn.¹² The consistory comprised six Lutheran pastors as assessors and a secular president, all of which were life-long posts. The senior pastor of the Cathedral Church on the Tallinn Dome Hill was ex officio a member of the consistory. The vacancies of the other clerical assessors were filled according to the decision of the consistory itself. In case of a presidential vacancy the clerical assessors proposed three candidates from among the *Landräte*, after which the *Landratskollegium* elected the new president.¹³ According to the procedure dating back to the Swedish period only the secretary of the consistory

⁹ Полное Собрание Законовъ Россійской Имперіи (hereafter ПСЗ) [Собрание первое], Т. IX–XLV; Собрание второе, Т. I–VII, Санктпетербургъ 1830–1833.

¹⁰ Уставъ Евангелическо-Лютеранской Церкви въ Россіи (ПСЗ II. Т. VII. Nr. 5870); Наказъ Духовенству и Начальствамъ Евангелическо-Лютеранской Церкви въ Россіи (ПСЗ II. Т. VII. Nr. 5871); Gesetz für die Evangelisch-Lutherische Kirche in Russland. Instruction für die Geistlichkeit und die Behörden der Evangelisch-Lutherischen Kirche in Russland. Agende für die Evangelisch-Lutherischen Gemeinden im Russischen Reiche [*sine loco sine anno.*]

¹¹ See *Hans Kruus*, Talurahva käärimine Lõuna-Eestis XIX sajandi 40-ndail aastail [Mit einem Referat: Die Bauernbewegung in Südestland in den 40er Jahren des XIX. Jahrhunderts], Tartu 1930.

¹² The town of Tallinn had its own Lutheran territorial church, completely separate from the Estland church.

¹³ Twelve *Landräte* or councillors composed the *Landratskollegium* – the permanent executive body of the *Ritterschaft*.

was salaried by the state, and thus only in his case the provincial government (i.e. the state) had to appoint him to office.¹⁴

The church of Estland was divided into provost districts, these again into parishes. One of the parish pastors carried out the office of the provost as an additional task. On parish level a number of institutions complemented the office of the pastor. Two *Oberkirchenvorsteher*, elected to the office by the local noble landlords from among themselves for three years, looked after the economic problems of the parish church and fulfilled numerous other tasks related to general administration, communication and police.¹⁵ The pastor and the two *Oberkirchenvorsteher* constituted the *Kirchengericht*, the institution which took care of the ecclesiastical police of the parish. All the landlords of the parish, with the *Oberkirchenvorsteher* presiding, composed the *Kirchenkonvent* (also called *Kirchspielskonvent*). The *Kirchenkonvent* settled various tasks related to the *externa* of the parish church.¹⁶ The *Küster* acted as an assistant to the pastor. At every parish church one or two peasants were appointed to the post of the *Kirchenvormünder*, to carry out the orders of the pastor and the *Oberkirchenvorsteher*.¹⁷

In the early nineteenth century each of the several Lutheran territorial churches in the Baltic provinces boasted its own particularistic system of ecclesiastical law. The law of the Estland church was founded mainly on the legal sources of Swedish origin. The Swedish Church Law (1686) together with the consistorial code of procedure (1687) has been mentioned above with regard to the main sources already. In addition the special supplement to the Church Law for Estland (1692),¹⁸

¹⁴ Eesti Ajalooarhiiv [Estonian Historical Archives, hereafter EAA] [archive] 1187– [series] 2– [record] 47, pp. 26 o.l. [overleaf] 27; 1187–2–326, p. 82 o.l.; 854–2–2891, p. 45; 1187–2–110, pp. 147–148; 1187–2–121, pp. 73–73 o.l. See also *Hugo Richard Paucker*, *Ehstlands Geistlichkeit in geordneter Zeit- und Reihenfolge*, Reval 1849, p. 21.

¹⁵ See *Andresen*, *Eestimaa kirikukorraldus* (supra fn. 7), pp. 161–163.

¹⁶ *Andresen*, *Eestimaa kirikukorraldus* (supra fn. 7), pp. 120–123. On the proposal of the *Landtag* (the diet of the *Ritterschaft*), on March 22, 1809 the provincial government issued a provincial decree which required some improvements concerning the *Kirchenkonvent* (EAA 1187–2–327, pp. 453–453 o.l.).

¹⁷ *Andresen*, *Eestimaa kirikukorraldus* (supra fn. 7), p. 123. See also the special supplement of the 1686 Church Law for Estland: Declaration der Kirchen-Ordnung. Königliche Majestäten gnädigste Resolution und Erklärung derer von Ritter- und Priesterschaft in Ehstland, durch den Bischof Johann Heinrich Gerthius, unterthänigst vorgetragenen Fragpunkte und Erinnerungen, angehende etliche Fälle, so bey der publicirten und in Druck ausgegangenen Kirchenordnung in ihrer Vorstellung an dem Orte in Bedenken kommen. Gegeben Stockholm, den 30sten November 1692, in: *Gustav Johann von Buddenbrock* (Hg.), *Sammlung der Gesetze, welche das heutige livländische Landrecht enthalten, kritisch bearbeitet*, Bd. 2: Aeltere hinzugekommene Landesrechte. Zweite Abtheilung und Anhang. Kirchenrecht und Richterregeln, Riga 1821, pp. 1641–1656, zum Cap. 19. § 31.

¹⁸ See fn. 17.

the Priest Privilege Act of 1675, regulating the personal rights of the clergy¹⁹ as well as the decree of Estland's governor on the income of rural pastors (1645)²⁰ should be mentioned in this context.

During the period of Russian rule the provincial government of Estland complemented the local ecclesiastical law with numerous decrees. State authority regulated various aspects of church and religion: issues concerning the whole Russian empire, such as state holidays, general peace and order; issues concerning all Lutherans in the empire, such as relations between different confessions; and issues concerning individual provinces, such as church property, church roads, church discipline, ecclesiastical holidays and ceremonies, the judicial subordination of the clergy, the tasks of the pastors concerning communication, and the tasks of the *Oberkirchenvorsteher*.²¹

The ukase of the empress Anna from February 23, 1734 ordered the Council of Justice of Livland and Estland Matters²² to act as the highest imperial authority in all affairs related to the confessions other than Russian Orthodoxy, proceeding from the "main regulations" of these confessions.²³ Consequently this Council used the 1686 Swedish Church Law together with the 1687 consistorial code of procedure as its legal basis concerning the Lutheran confession.²⁴ For the Baltic territorial churches the Council performed mostly the functions of the high court of appeal.

The early period of the reign of Alexander I (1801–1825) was marked with extensive reforms of imperial governance. Since 1810 the newly-founded central institution, the General Administration of the Religious Matters of Foreign Confessions (*главное управление духовных дел иностранных исповеданий*) took

¹⁹ Privilegia, zuerst von Ihre Königl. Majest. der Königin Christina; nachgehends aber von dem Großmächtigsten Fürsten und Herrn, Herrn CARL dem Elften, der Schweden, Gothen, und Wenden König, etc. Im Jahre 1675, auf dem Reichstage zu Upsal übersehen, und auf das neue confirmiret, vor denen Bischöfen und sämtlicher Priesterschaft in Schweden, und darunter gehörigen Landschaften, in: *Heinrich Johann Derling* (Hg.), *Auswahl derer wichtigsten in denen Landes- und Stadtgerichten des Herzogthums Ehtland, auch noch jetzt geltenden Königl. Schwedischen Verordnungen*, Reval 1777, pp. 144–166.

²⁰ See the later copy of the decree Interims Verordnung angehende der Land-Priesterschaft nothdürftigen Unterhalt, in: EAA 1187–1–1, pp. 5–11 o.l. The decree has been published: *Einige in Ehtland ergangene, die Prediger-Einkünfte, wie auch die Bauer-Heirathen, betreffende, ältere Verordnungen*, in: *August Wilhelm Hupel* (Hg.), *Von den Kosaken. Nebst andern kürzern Aufsätzen. Der nordischen Miscellaneen 24stes und 25stes Stück*, Riga 1790, pp. 439–448.

²¹ *Andresen*, *Eestimaa kirikukorraldus* (supra fn. 7), p. 193.

²² This institution was called the Council of Justice of Livland, Estland and Finland Matters during the period 1763–1812.

²³ ПСЗ I. Т. IX. (supra fn. 9) Nr. 6548; *Hermann Dalton* (Hg.), *Urkundenbuch der evangelisch-reformirten Kirche in Rußland*, Gotha 1889, pp. 28–31.

²⁴ For matters of the Lutheran congregations in Russia proper, a special institution – the *Consistorial Session* (*Konsistorialsitzung, Консисториальная заседания*) was established at the Council of Justice of Livland and Estland Matters.

over the supervision of all confessions except the Russian Orthodoxy.²⁵ In 1817 this institution was merged with the Ministry of National Education. The new central institution, based on a Prussian model, was called the Ministry of Religious Matters and National Education (*министерство духовных дел и народного просвещения*).²⁶

III. The Consistory of Estland as a Judicial Institution in the Early Nineteenth Century

According to the Swedish 1686 Church Law and the 1687 consistorial code of procedure, the bishop or the superintendent together with the consistory formed the ecclesiastical court. All cases related to religious life, doctrine, duties of the clergy and school teachers²⁷ and social care of the poor and ill belonged to the jurisdiction of the ecclesiastical court. Likewise the ecclesiastical court sentenced on lawsuits concerning marriage.²⁸

The Estland consistory was involved in administering justice on two regular sessions a year – the winter and the summer session. Only for these sessions did the consistory convene in a body. In the meantime the senior pastor of the Cathedral Church and the secretary dealt with the routine business, in more important cases the president decided the questions. The regular session lasted for two or three weeks, six days a week, according to the number of the pending cases. During the session the consistory administered justice, but also dealt with the more important problems of church governance, like the revision of several treasuries, inspection of various protocols and reports of the pastors and the provosts, the election of

²⁵ Главное управление духовных дел иностранных исповеданий, in: Государственность России. Государственные и церковные учреждения, сословные органы и органы местного самоуправления, единицы административно-территориального, церковного и ведомственного деления (конец XV века – февраль 1917 года). Словарь-справочник. I. Составители О. Ф. Козлов, В. Ф. Янковая, Москва 1996, pp. 182 sq.

²⁶ Министерство духовных дел и народного просвещения, in: Государственность России. Государственные и церковные учреждения, сословные органы и органы местного самоуправления, единицы административно-территориального, церковного и ведомственного деления (конец XV века – февраль 1917 года). Словарь-справочник. III. Составители О. Ф. Козлов, В. Ф. Янковая, Москва 2001, pp. 75 sq.

²⁷ In the consistorial code of procedure the term *persons of the ecclesiastical and school estate* is used (*Priester- und Schulen-Standes Personen*) (Gerichts Processen bey denen Thumb-Capituln [supra fn. 8], § XV).

²⁸ Kirchen-Gesetz und Ordnung (supra fn. 8), Cap. XV. § I; Cap. XVI. §§ I, III, VI; Cap. XIX. §§ XVIII, XXXII, Cap. XXII. § IV, Cap XXIV. § II; Gerichts Processen bey denen Thumb-Capituln. §§ IV, XV. In like manner, the lawbook of the Estland Knight and Land Law stipulates, that the bishop and the consistory have the jurisdiction over matters related to the ecclesiastical office (Des Herzogthums Ehsten Ritter- und Land-Rechte. Erstes Buch. II. Tit. Art. 5).

provosts or members of the consistory.²⁹ On request of the nobles to divorce their marriage, the consistory sometimes arranged an extraordinary session.³⁰

For the everyday life of the common man, administering justice in the field of marriage – especially the divorce cases – made up the most important part of the activities of the ecclesiastical court. Marriage cases also formed the lion's share of all judgments passed by the ecclesiastical court.

According to the Church Law of 1686 the marriage cases were divided between secular and ecclesiastical jurisdiction. The secular court passed judgments in “secular” cases: if a person was at all (*von Natur wegen*) suited for marriage; questions related to the parents of the married couple and their rights; problems related to the engagement presents and adultery; in case of a divorce, the subsistence of the children and division of the property – all in all everything related to the financial and economic rights and obligations of the married couple and their parents.³¹ The consistory and the bishop (in the actual case of Estland in the early nineteenth century only the consistory), i.e. the ecclesiastical court, had jurisdiction over the following cases: the determination of the degree of kinship; if the couple can get engaged or get married in a certain case; the divorce of the engagement and marriage; if the married couple can live separately (*vom Bett und Tisch geschieden*); if the adulterer may marry again – all in all cases related to “the Word of God and conscience”.³² Family law and cases concerned with guardianship are also regulated to some extent in the Second Book of the Estland Knight and Land Law (*Des Herzogthums Ehsten Ritter- und Land-Rechte*).

The main reasons why the Estland consistory divorced an engagement or a marriage can be summed up as following: slovenliness, adultery, lack of love, discordance, excessive drinking, bad treatment, irreconcilable enmity (*odium implacabile*).³³ On one occasion a tavern girl wished to divorce her engagement because she had become afraid of the hard work of a peasant wife.³⁴

The investigation process of the consistory is not described separately in the consistorial code of procedure. The procedure of the consistory in civil cases was verbal, if the parties did not demand otherwise, and summary. In some single cases, though, the treatment of a case could last for a longer period of time, also longer than a year.³⁵ In case of need the clarification of the facts took place by the means

²⁹ EAA 1187–2–107, p. 189 o.l.

³⁰ See for example EAA 1187–2–110, pp. 63 o.l.–64.

³¹ For the marriage, the consent of the parents was needed (Kirchen-Gesetz und Ordnung [supra fn. 8], Cap. XV, § VI).

³² Kirchen-Gesetz und Ordnung (supra fn. 8), Cap. XV, § I; Cap. XVI, §§ I, VI.

³³ EAA 1187–2–109, pp. 226 o.l., 227 o.l.

³⁴ EAA 1187–2–109, pp. 28 o.l.–30.

³⁵ EAA 1187–2–109, p. 227.

of correspondence.³⁶ According to the consistorial code of procedure the consistory had to try to reconcile the parties in the beginning of the process.³⁷ In practice the reconciliation attempt took place in front of the consistory after the hearing of both parties. According to the consistorial code of procedure the judgment of the consistory could be appealed to the royal Court of Appeal (*hovrätt, Hofgericht*). In especially important cases of religion and church matters, the monarch in person was the highest authority.³⁸ As mentioned earlier already, during the period of Russian supremacy the Council of Justice of Livland and Estland Matters served as the court of appeal.³⁹

It was compulsory for the members of the consistory to take part in the sessions, but in case of a motivated excuse non-attendance was allowed. For example, the president of the consistory in 1787–1802, Otto Friedrich von Stackelberg, used this privilege quite often during his last years at office.⁴⁰ In some cases the role of the president was limited to signing the documents compiled in his name.⁴¹ The session workday began with the revision of the judgments which were passed on the day before.

What were the main lines of consistorial procedure? After the complaint had arrived at the consistory, the summons (*Citation*) was sent to the defendant, with the content of the complaint, the date for the court session and the warning that in case the defendant does not show up, upon request of the plaintiff the trial can still take place. The call (*Notification*) to turn up to the court at a given date was also sent to the plaintiff.⁴²

If the defendant did not show up on the given date without any excuse, a new summons was sent with a new date and a warning that a fine has to be paid if the summons is ignored.⁴³ If the location of the defendant was unknown, then the consistory sent an order to all the provosts to be relayed to all the pastors that the summons might be announced at all the churches of the province Estland (*Edictal-Citation*). If the defendant still did not show up at the court, then the judgment could be passed in absentia.⁴⁴ The consistory could also request help from secular authorities to bring someone to the court.⁴⁵

³⁶ Gerichts Processen bey denen Thumb-Capituln (supra fn. 8), § XIX.

³⁷ Gerichts Processen bey denen Thumb-Capituln (supra fn. 8), § XVIII. See also Kirchen-Gesetz und Ordnung (supra fn. 8), Cap. XVI, § 1.

³⁸ Gerichts Processen bey denen Thumb-Capituln (supra fn. 8), § XXIV.

³⁹ See also *v. Bunge*, Geschichte des Gerichtswesens (supra fn. 6), p. 203.

⁴⁰ See for example EAA 1187–2–106, p. 205.

⁴¹ See for example EAA 1187–2–107, pp. 39 o.l.–41.

⁴² See for example EAA 1187–2–109, pp. 5 sq.

⁴³ See for example EAA 1187–2–109, pp. 20 o.l., 21.

⁴⁴ See for example EAA 1187–2–109, pp. 21 o.l.–22 o.l.

⁴⁵ Gerichts Processen bey denen Thumb-Capituln (supra fn. 8), § XVII.