

LEGAL REGULATION OF THE ABOLITION OF SERFDOM IN BALTIC GOVERNORATES OF THE RUSSIAN EMPIRE IN EARLY 19TH CENTURY: HISTORICAL BACKGROUND, REALISATION, SPECIFIC FEATURES AND EFFECT

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Abstract

This presentation is devoted to significant reforms - abolition of serfdom at the second decade of 19th century in three Baltic governorates of the Russian Empire. The author analyses the background to the abolition of serfdom noting that in this case not only the struggle of Estonian and Latvian peasants for their rights, but also the activities of liberal circles of Baltic German elite played a significant role. Abolition of serfdom in Baltic governorates was supported by liberally minded Russian emperor Alexander I. Landtag (Diet of knighthood) of every Baltic governorate adopted analogous Peasantry Laws – Estonian in 1816, Courland in 1817 and Livonian in 1819 which then were confirmed by emperor. These laws established terms of liberation of peasants, transitional period regulation, civil and administrative law of peasants, peasant courts and their competence, law of procedure, offenses against rules of administrative law. These reforms had a compromise character, because liberation of the peasants was performed basing on condition that all the farmland remains in the ownership of the landlords. The relationship between landowners and peasants further was regulated on basis of free lease contract. Initially the economic situation of peasants was worsened, because landlords could demand corvée and payments in kind as rent which was not limited by law as it was before. However, peasantry laws issued for Baltic governorates in the middle of 19th century prescribed mandatory selling of farmland to peasants, promoting the formation of the class of Latvian and Estonian bourgeoisie.

Keywords: *abolition of serfdom, liberation of peasantry, peasantry laws, transitional period, lease contract, limited rights*

Introduction

The serfdom was a legal status of majority of peasants in Medieval Europe who were bound to the plot of soil (*glebae adscriptii* - Latin) or to manorial area. They were in feudal dependency of their landlords, be subjected to their administrative and judicial power.¹ The

¹ Valters, P. comp., *Valsts un tiesību vēsture jēdzienos un terminos*. Divergens, Rīga, 2001, p. 50; *Serfdom*. In: Encyclopaedia Britannica. 24.06.2016. URL=<https://www.britannica.com/topic/serfdom>. Accessed 10

institute of serfdom started to form in Eastern Europe later than in Western Europe - in 15th century in Livonian Confederation and Russia. It was codified for the first time in Livonia in the end of 16th century by Riga lawyer David Hilchen.²

Abolition of a serfdom by adoption of the Peasantry Laws of Baltic governorates in the first half of 19th century is a vivid example of the strong impact of the legal reform initiated by a conservative political regime on social transformation of society and birth of Latvian and Estonian political nations through formation of class of rural bourgeoisie. Increasing of a political activity of these nations, put on the agenda the question of their self-determination, the successful solving of which was stimulated by political outcomes of 1917 Russian Revolution and World War I. This historical result of the reform of 19th century was not forecasted neither by Russian imperial elites, nor by German elites of the Baltic governorates, which perceived the reforms as appropriate to their economic and social interests and therefore strongly supported them.

1. Changes in legal status of peasants in Baltic governorates before abolition of serfdom (18th – early 19th century)

After Great Northern War (1700 – 1721) in which Russia triumphed, Sweden as a loser was forced to give up to Russia the territories of Swedish Livonia and Estonia. In 1795 the Russian Empire annexed also a territory of the Duchy of Courland in the course of the Third Partition of Poland. So, all three territories ruled by Baltic Germans from 13th century found themselves under power of the Russian Empire for the next 120 years.

The first half of 18th century under rule of Russia was a hard period for Estonian and Livonian peasants, because their legal status substantially worsened. Baltic German historian Alexander von Tobien had characterised the situation of Baltic peasants of that epoch in the following words: “The power of the landlords over the persons subordinated to them was almost unlimited. (..) Peasant rights to land were unsecured, corvée unlimited. (...) Cases of unfree persons sales without land occurred so often: yes, it occurred even that the serfs were openly auctioned.”³

The deterioration of the legal position of peasants in the Baltic governorates in the first half of 18th century was determined by a number of factors - nearly total lack of rights of serfs in Russia, the reception of Roman law in states of Germany, which facilitated the transfer of Roman slave status elements to the serfs, as well as, the economic conditions after the Great Northern War and aspiring of Baltic German nobility to strengthen its economic and political hegemony in Baltic region.

An important document showing the understanding of the legal status of peasants of that time by the Baltic German knighthood was the so-called “Rosen’s Declaration”.⁴

May 2019; Švābe, A. *Dzimtsbūšana*. In: Latviešu konversācijas vārdnīca. IV sēj., A.Gulbis, Rīga, 1929 – 1930, column 6394 – 6406.

² See Hilchen's code text in: Hoffmann, T., *Der Landrechtsentwurf David Hilchens von 1599. Ein livländisches Rechtszeugnis polnischer Herrschaft*. Peter Lang, Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2007, pp. 185 – 282.

³ Tobien, A., *Die Agrargesetzgebung Livlands im 19. Jahrhundert*. Bd. 1. Puttkammer & Mühlbrecht, Berlin, 1899, pp. 106, 110 – 111.

⁴ Ritterschafts Memorial. In: Merkel, G., *Die freien Letten und Esthen*. E.I.G. Hartmann, Riga, 1820, pp. 118 – 128.

Original title of this document prepared on 30th of November 1739 was “*Ritterschafts Memorial*” and it was an answer to question asked by Russian State Justice Collegium on scope of rights of Livonian landlords to their serfs. O. von Rosen as residing Landesraat – representative of Livonian knighthood declared that the native peoples of Baltic region lost their freedom and came under yoke of serfdom with the first conquest of the land by the knights of the German Order, and that vanquished were given to estates as “*homines proprii*”.⁵ In fact, studies of history show that this statement of Rosen was false, because indigenous peoples were personally free not less than two hundred years after conquest. Rosen made a conclusion that “if, in this way, the peasants with their person and body are completely subordinated to their lords and belong to them”, so no doubt that their chattels and belongings belong to their lords as well. The extent of the duties and corvée of the peasants is not an inviolable rule of the government, but only depends on the recognition and pleasure of landlords. “When the knights determine the duties of their serfs on their own discretion, it goes without saying that knights also have the power to increase, reduce, and modify property of their serfs at their own discretion”. Regarding to penalties for peasants, Rosen argued that in former times the knights had the right to sentence on the life and death of the peasants, but these rights have been voluntarily waived by the knighthood, preserving home punishment rights which are recognised by government and applied by landlords with moderation. In fact, Livonian knighthood unlike knighthood of Duchy of Courland never received the privilege to *jus vitae et necis* of their peasants.

Rosen’s Declaration tried to prove that the serfs historically had a legal status liken to status of Roman slave. Acceptable is thought of Latvian historian A.J.Blumbergs that Baltic German knighthood aspired to institutionalization of serfdom by optimal from its viewpoint legal construction.⁶ Highly likely that Rosen hoped that his memorial would be accepted by State Justice Collegium with legal effect, but it did not accept it. Despite of this, the courts of Livonian governorate applied “Rosen’s Declaration” in cases of peasant disputes with their landlords.

One another attempt of Baltic German elite in the thirties of 18th century “to bond the peasants to the land by changing their legal status from that of serf to *de facto* slave”⁷ was made by Livonian landtag (Diet of knighthood) through codification of local law. Legislative commission established on order of Peter II of 1728 completed its work in 1737 by submitting to landtag a draft-code “Knighthood and Land Law of the Duchy of Livonia”. It was adopted by landtag and sent to Senate in St. Petersburg for final approval, but without any success. The codifiers characterized the legal status of the peasants in Part IV of draft-code “Property Law and Law of Obligations” as immovable property of landlord unalienable from the main property – a manor. So, for the first time the serf was characterized as object, that obviously pointed to status of a slave.⁸

From the second half of the century, the impact of Enlightenment ideas on the Baltic and Russian society increased. In the context of the theory of natural law, the notions of inalienable

⁵ Vīgrabs, J., “*Rozena deklarācijas*” *sastādīšanas gaita un viņas vēsturiskā nozīme*, Izglītības Ministrijas Mēnešraksts, No. 12, 1925, pp. 581 – 582.

⁶ See also: Blumbergs, A.J., *The Nationalization of Latvians and the Issue of Serfdom: The Baltic German Literary Contribution in the 1780s and 1790s*. Cambria Press, Amhurst, 2008, pp. 56 – 57.

⁷ Blumbergs, *ibid.*, p. 53.

⁸ Kalniņš, V. *Latvijas PSR valsts un tiesību vēsture. I d. Feodālisma un topošā kapitālisma laikmets. XI – XIX gs.* Zvaigzne, Rīga, 1972, p. 208.

human rights and the right of every person to freedom spread. Liberal humanists of Baltic German circles from Johann Georg Eisen in sixties⁹ to Garlieb Merkel in nineties¹⁰ began their active publicist work, appealing for abolishing of serfdom in Baltics. Regular peasant unrest in the Baltics, which arose mainly due to abuses in tax determination or collection practised by landlords who paid taxes to Crown for their peasants and then instead asked from peasants duties which value was noticeably higher (for 40-50%) than tax, as well as, not fixed working hours of corvée in manor also played a significant role in the reform process.

It is necessary to add, that the will of Russian emperors in system of absolute monarchy was crucial in legal improvement of the conditions of peasantry in Baltic governorates. Emperors of Russia as Catherine II and her grandson Alexander I were inspired to follow the ideas of enlightened absolutism and liberalism and this position gave a real chance for support of monarch to reforms.

It is known that Catherine II discussed with J.G.Eisen on improving the situation of Livonian peasants by abolition of serfdom and initiated to publish his article on this issue.¹¹ She visited Baltic governorates in 1764 for better understanding of the situation personally and gave there instructions to General-Governor of Riga George Browne about necessary steps for improvement of peasants situation.

In 1765 the Livonian landtag was forced to accept the resolution requested by G.Browne, because he threatened that he will ask empress to issue a government law on this account. On this resolution a patent of the General-Governor was issued on 12th April 1765,¹² by which peasants obtained the property rights to their movable property, corvée and taxes of peasants had to be collected on the base of the cadastral value of their land which was fixed in so called “payment books” (*Wackenbücher*) in period of Swedish Livonia, the “home punishment rights” of the landlords to punish their peasants were limited to 30 strokes, the right of peasants to bring the oral complaints on landlord before police court was accepted, the separate selling of serfs without land was prohibited.¹³ The similar rules were adopted for Estonian governorate by regulative of 1802.¹⁴

The serious problem of dissatisfactory implementation of the patent of 1765 was that it was not published in local – Latvian and Estonian languages. So, peasants were not properly informed about its rules, and it gave a chance for landlords to ignore it. Seeing that patent of 1765 was not observed by landlords, emperor Paul I in 1800 even declared to all Livonian nobility that if the duties of peasants will be increased over the limits of payment books the private estates would be taken over by Crown.

The next step to improve and stabilize the status of peasants in Baltic region before abolishing of serfdom was adopting of Livonian Peasantry Law on 20th of February 1804.¹⁵ It was worked

⁹ *Eines Liefländischen Patrioten Beschreibung der Leibeigenschaft, wie solche in Liefland über die Bauern eingeführet ist.* In: Sammlung Rußischer Geschichte. Band 9, Stück 4,5,6. Keiserl. Akademie für Wissenschaften, St. Petersburg, 1764, pp. 491 – 527.

¹⁰ Merkel, G., *Die Letten vorzüglich in Liefland am Ende des philosophischen Jahrhunderts*, H. Gräff, Leipzig, 1797.

¹¹ Stepermanis, M., *Pirmās cīņas par dzimtbūšanas atcelšanu Vidzemē 1750 – 1764*, Izglītības Ministrijas Mēnešraksts, No. 11, 1931, pp. 438 – 453.

¹² *Inhalt der in der rigischen Statthaltschaft emanirten gedruckten Patente bis 1710 bis Ende 1788.* Frölich Erben, Riga, s.a., p. 3.

¹³ Švābe, A., *Latvijas vēsture 1800 - 1914*, I, Avots, Rīga, 1991, p.48.

¹⁴ Iggäüks, kes nouab sannakulik ja öige olla ... J.H. Gressel, Tallinn, s.a.

¹⁵ Положение о крестьянах Лифляндской губернии, 1804. – ПСЗРИ, Собрание 1-ое, т. XXVIII, № 21162.

out on the base of 12 points which were initiated by emperor Alexander I and prepared by rector of Dorpat University Georg Parrot, who supported abolishing of serfdom, and liberally oriented member of Livonian Landesraat Friedrich Sievers.¹⁶ A serious problem for Russia at that time was regular peasant unrest in Livonia, and it was the powerful Kauguri uprising of 1802 that pushed for the expeditious realization of reform. Its aim was to change the institute of serfdom from bondage to landlord person to bondage to manorial area, restricting the arbitrariness of landlord. So, it was an attempt to return to classical understanding of serfdom institute abolishing the elements of slave status. Livonian Peasantry Law was published not only in Russian and German,¹⁷ but also in Latvian¹⁸ and Estonian for better knowledge of its rules by local peasants.

New law did not give peasant the right to leave his manorial area without permission of landlord, but landlord had no more rights to separate the peasant from his farmland against his will. Peasants could be sold with their farmland only. The law had recognised property rights of peasants not only to movable property (Art. 45) but also to immovable property (Art. 17). The Livonian Peasantry Law introduced a new institute - "affiliated inventory" for that part of movable property which was necessary for normal farmer's business – seed-grain for sowing, 2-3 horses for agriculture works, 5-12 cows for cattle breeding, agricultural tools. The affiliated inventory was inalienable from farmland, so it was not considered as a property of peasant. Law abolished so-called "flue pipe right" which was established in Swedish Livonia prescribing that person which started to manage a farm on landlord's land became a serf of his landlord after term of ten years. Henceforth, free person would start to manage a farmland in manor area on lease contract with landlord only in which the term of lease was fixed. In Latvian text of law this change was explained as "a free man is always a free man, although God knows how many years he would live on the land of the manor".¹⁹ (Art. 15).

Livonian Peasantry Law of 1804 recognised the property rights of landlord on land used by peasants, but on farmland of peasant it was *dominium directum* only, because landlord had no more rights to attach farmland or its part to manor land. The peasants had only possession rights on the land of their farms, but the children of peasants (the eldest son traditionally) had the right to inherit these possession rights (Art. 32).

Peasants also obtained a freedom of marriage.²⁰ They had no more obligation to ask landlord's consent for marriage, new law indicated that landlord must be only informed about marriage (Art. 10). Change of personal status of peasants established new order for payment of taxes. Henceforth, the peasants themselves as subjects of the Russian Empire paid their taxes to state. Livonian Peasantry Law of 1804 mentioned three legal grounds when the peasant might be deprived from his possession rights on farmland:

- 1) when the debts on his farm were two times bigger than value of the farmland;
- 2) when the old debts were not repaid more than six years and totally with new debts were two times bigger than value of the farmland;
- 3) when the peasant lowered down his farm so that a parish court made a decision that he is incapable to manage his farm (Art. 40).

¹⁶ Švābe, *Latvijas vēsture 1800 - 1914*, pp. 68 – 75.

¹⁷ Verordnung, die Bauern des Livländischen Gouvernements betreffend. Riga, 1804.

¹⁸ Likkumi preeksch Widzemes zemneekem. Riga, 1804.

¹⁹ Švābe, A., *Latvijas tiesību vēsture*. III daļa. LU stud. Padomes grāmatnīcas izdevums, Rīga, 1934, p.57.

²⁰ Švābe, *Latvijas tiesību vēsture*, p.54.

In all these cases the decision was not made by landlord, but by rural municipality court and had to be confirmed by parish court to come in effect. If the parish court found that request to deprive possession rights of peasant to farmland was well-grounded, possession rights were handed over to elder son usually or the next of kin, if peasant had no sons.

Livonian Peasantry Law formed new system of judicial remedy of the peasant in dispute with landlord. The first instance for peasant action was a rural municipality court which had a competence to explain the merits of the case to peasant. Before bringing an action before the court the peasant had an obligation to inform a landlord about complaint and the rural municipality court had to certify that peasant tried to solve dispute with landlord personally, but without success. The second instance was a parish court which competence was to achieve an amicable solution between peasant and landlord by the meditation procedure (Art. 108). If parties were not ready to reach an agreement than peasant might start an action in the third instance – a land court which was a first instance for adjudication of case. If the judgement of this court did not satisfy any party, it had a right to submit an appeal to the Department of the Peasants Cases of the Court of Justice of Livonia (Hofgericht) which was the last instance for the peasant disputes. Peasants had no rights to empower lawyers to act as their representatives in any judicial instance,²¹ because it would ask large expenses for peasant and would delay a litigation.

“The home punishment rights” were retained in Livonian Peasantry Law, but landlord rights to punish peasants with corporal punishment had limited to 15 strokes or arrest for two days and it might be imposed to labourers from farms and to estate servants only, not to farmers (Art. 134-138).

From 27th August 1804 Livonian Peasantry Law was also applied in Estonian governorate, where it was supplemented by "The Rulebook for the Parish Courts".²²

2. Legal regulation of the abolishing of serfdom at the Baltic governorates

It seemed that Peasantry Law of 1804 stabilized the status of peasant and the abolition of serfdom was not a question of near future. When in 1803 small fraction in Livonian landtag initiated the abolishing of serfdom in Livonia till 1822 on the voting of this proposal on 4th of March it was rejected by 40 votes supported proposal against 105 votes.²³

But situation proved to be different in Estonian landtag when there was discussed question of approving of the Supplement Articles of 1809 to Livonian Peasantry Law of 1804 which were approved earlier at Livonian landtag and confirmed by emperor on 28th of February, 1809.²⁴ Estonian landtag decided that more profitable solution for knighthood would be abolishing of serfdom and transition to free contracts with peasants on condition that all the land of manor, including farmland, will be recognised as unlimited property of the landlords. In this case, the landlords would renounce the expensive duty to survey and assess the peasant land for

²¹ Švābe, *Latvijas tiesību vēsture*, p.58.

²² Gesetzbuch für die estländischen Bauern. J.H.Gressel, Reval, [1804]; Eestimaa Tallorahwa Kohto-Seadus ehk Walla-Kohto Kässo-ramat. J.H.Gressel, Tallinn, [1805].

²³ Švābe, *Latvijas tiesību vēsture*, p.54.

²⁴ Дополнительные статьи в пояснении Положения о правах и повинностях Лифляндских крестьян в 20-й день февраля 1804 года, 28 II 1809. – ПСЗРИ, Собрание 1-ое, т. XXX, № 23505; Auszug aus den Bauerverordnungen von 1804 und 1809 die Frohnleistungen betreffend. W.F.Häcker, Riga, [1842], pp. 49 - 64; Pielikti jauni likkumi par eeskaidroschanu un plaschaku isstahstischanu teem likkumiem no 1804.gadda. Riga, 1809.

determining the appropriate amount of duties and corvée from peasants but could set a lease that would be freely accepted by both parties. The landlords also would be free of their previous obligations of supporting their peasants in the years of crop failure, loss of cattle etc. This change of an attitude of Baltic German nobility to abolition of serfdom was partly caused by developments in neighbour states. In 1807 the serfdom was abolished in Prussia and in the Duchy of Warsaw. It was not restored after annexing of the main part of territory of the Duchy of Warsaw by the Russian Empire on the decision of Vienna Congress of 1815. The model of emancipation of serfs in the Duchy of Warsaw without granting them property rights to farmland was the same which was later applied in the Peasantry Laws of Baltic governorates.

In 1811 Estonian landtag worked out the main conditions for liberation of peasants – the landlords will renounce their rights on peasant's person and allow them to change their place of residence, all the manor area will become the unlimited property of landlord, and for using of farmland both parties will conclude the free lease contracts, peasants will have no rights to leave Estonian governorate and branch of agriculture. These conditions were accepted by Alexander I and after it a draft-law on abolition of serfdom was approved by Estonian landtag in January of 1812 and submitted to reviewing for Committee of Estonian affairs in St. Petersburg.²⁵ Because of French invasion in Russia in 1812 the procedure of revision of the draft-law delayed. In 23rd of May 1816, the first law on abolishing of serfdom in Baltics – Estonian Peasantry Law of 1816 was signed by emperor and came into force.²⁶

In Part 1 of this law Estonian nobility waived the right on personal dependence of peasants, receiving from the state confirmation of retaining of their property rights to all land of the estate. Part 2 of law declared 14 years long transitional period for emancipation of peasantry which was divided in three main categories – farmers, labourers of farms and servants of the estate. The peasants were freed of their serf status gradually, replacing duties of peasant by lease contracts which had to be concluded for not less than three years term. Payment to landlord for using of land by leaseholder usually was defined as a labour rent or payment in kind. Law also prescribed establishing of new bodies of rural self-government as community of estate with elected officials as elder, his deputy (both were elected from farmers) and other elected representatives, and rural municipality in which several communities of estate were included with elected representatives of rural area inhabitants - elder and his deputies, as well as, officials of police of the community of estate and of rural municipality, and members of the parish police courts and court of magistrates.

Part 3 characterized that rules which were in effect after ending of transitional period. They were devoted to organisation of self-government of rural communities, civil law, administrative law, some criminal regulations on responsibility for offences against administrative regulations, and regulations on judicial system and judicial procedure for peasants. Estonian Peasantry Law limited the freedom of movement for peasants. They had no rights to move to other governorates before increasing of male peasant population of Estonian governorate to 140,000 persons and had no rights to move to cities and towns of governorate before increasing of male peasant population of Estonian governorate to 120,000 persons. So,

²⁵ Švābe, *Latvijas vēsture 1800 – 1914*, p. 114.

²⁶ Учреждение для Эстляндских крестьян. 23 мая 1816 г. - ПСЗРИ, Собрание 1-ое, т. XXXIII, № 26278; Die estländische Bauerverordnung, am 23. Mai 1816. - ПСЗРИ, Собрание 1-ое, т. XXXIII, № 26278, pp. 670 – 849.

the area of economic activities of the peasants was strictly limited by agriculture and craft related to agriculture. This regulation reflected the fear of landlords of exodus of the peasants, especially rural labourers, to cities, where they could hope for better wages, and its possible negative impact on production of estates. The law also retained the system of corporal punishments, but henceforth the penalties had to be sentenced to labourers and estate servants by court of estate community or court of rural community for different disciplinary and administrative offences.

The next Baltic governorate which liberated the peasants from serfdom yoke was Courland. Courland governorate did not demonstrate any previous activities for improving the legal status of the peasants. The only exception was so called “manor laws” which were issued by some landlords to their peasants basing on Article 63 of “Statute of Courland” (1617) declaring that “every lord have a right to lay down special laws to his dependent serfs, yet non breaking the public law”.²⁷ In the second part of 18th century lords of three manors in Courland published their manor laws - of Ugale estate (1770),²⁸ Stende and Renda estate (1780)²⁹ and Strutele estate (1793)³⁰. After incorporating of the Duchy of Courland into the Russian Empire there were issued approximately 10 manor laws. After Courland Peasantry Law coming in effect in 1818 the manor laws became invalid because a power of landlord was replaced by autonomous power of peasant rural community. The manor laws were written in Latvian for applying by the members of the patrimonial peasant court appointed by landlord from administrators of estate and farmers. Characteristic feature of these manor laws was a declaration by landlord on the granting a right for peasants which correctly performed their duties to bequeath the use of their farmland to their sons if they would be with good reputation. In Courland never any regulation was issued on property rights of serfs or on amount of corvée or duties to landlord, the only criterion on amount of duties in estates of Courland was needs of a landlord.

The peasantry reform in Courland governorate was started on initiative of emperor Alexander I. By his order of 31st August 1814 to General-Governor of Riga marquis Filippo Paulucci the legislative commission of six members of Courland knighthood had established. Initially, in proposal of legislative commission it was brought before the idea of combination of elements from Estonian (free contracts between peasants and landlord) and Livonian (lifelong farmland using right for peasants without their personal liberation) peasantry laws. Evidently, Courland knighthood did not wish to abolish serfdom.

After review of this proposal Alexander I suggested Courland knighthood to choose one of two options for Courland peasantry draft-code - 1) to follow peasantry law of Estonian governorate and grant personal freedom to their peasants retaining full property rights for landlords to all the land of their estates; 2) to follow peasantry law of Livonian governorate with separation of manor land and farmland and registration of farmland in cadastre for correct calculation of peasants duties in payment books taking in account size and quality of land. Courland landtag on 4th of April 1817 with overwhelming majority decided to follow Estonian

²⁷ See in: Rummel, C., herausgegeben, *Die Quellen des Curländischen Landrechts*. Band I, Lief. 3. F. Kluge, Dorpat, 1848, p. 56, §. 63.

²⁸ Ābers, B., *Tiesa un taisnība Kurzemes un Zemgales privāto muižu likumos*, Tieslietu Ministrijas Vēstnesis, No. 3, 1939, pp. 693 – 697.

²⁹ Ābers, B., *Stendes un Rendas muižu likumi (1780.g.)*, Tieslietu Ministrijas Vēstnesis, No. 5, 1939, pp. 1253 - 1260.

³⁰ Struteles valsts likumi. – In: Blūzma, V., ed. *Latvijas tiesību avoti. Teksti un komentāri*. 2.sēj. Juridiskā koledža, Rīga, 2006, pp. 284 – 289.

pattern, because Courland nobility had no appropriate sums of money for farmland surveying, evaluation and registering in cadastre.³¹ On 25th of August 1817 the Courland Peasantry Law was approved by Alexander I.³² It was published in Russian and German language which was official in the Baltic governorates, and was translated in local - Latvian and Polish languages for using by Courland peasants.

A structure of the Courland Peasantry Law repeated that one of the Estonian Peasantry Law. It was declared in General Regulations (Part 1) that Crown and Courland knighthood waived their personal and hereditary rights on peasants and simultaneously were freed from their duties to peasants related with these rights. Courland nobility rights on land were retained in full amount basing on several historical acts. The further relations between peasants and landlords had to be based on private contracts and regulated by civil law.

Abolishing of serfdom was implemented gradually in transitional period of 14 years (Part 2) with ending this transition from dependent status of serf to free person status for all peasants on St George's Day – 23rd of April 1832. The serfs were also divided in three classes – farmers, their labourers and estate servants with different terms of liberation. Simultaneously with liberation of peasants there were formed new public authority bodies for governing a territory of free rural inhabitants – the community of civil parish (§ 118), district police authority which was under control of landlords (§ 122), parish court (§ 123).

Courland Peasantry Law also established a legal institute of affiliate inventory (§ 125). Farmers had no right to separate affiliate inventory from main property – farmland, if they decided to end the lease of their farm, because otherwise it would be impossible to continue the treatment of farmland for the next leaseholders. Farmer obtained a right to use his farmland on free lease contract with landlord on term not shorter than three years, but because of economic and social reasons he was a weak party in the process of concluding a lease of farmland, and “free equality of parties” was in fact fiction in period of limited rights of peasants to movement (e.g. prohibition to move over the boundaries of Courland governorate or to settle in the cities and towns of Courland governorate before number of male peasants will reach 200,000 in governorate (see § 553, 555)) or choice of occupation which was not related with agriculture (see § 554). Question of lease rent was not regulated by law with one exception, if farmer delivered his previous farmland and concluded new lease contract with another landlord. In such cases the term of lease had to be no longer than three years only and three quarters of rent had to be paid by labour rent and one quarter only – by payments in kind or money (§ 69). This rule evidently shows the efforts of legislator to prevent the changing of landlords by peasants.

Permanent Regulations of Peasantry Estate (Part 3) recognised the rights of liberated Courland peasants to movable and immovable property (§ 93), as well as, their rights to inherit property by law or testament (§ 105), to conclude different contracts.

Irrespective to the new status of free person “the home punishment rights” were retained for farmers to corporal punishment of their labourers for disciplinary offences (no more than 6 strokes by stick or lash) and landlords to their servants, labourers from farms and to farmers as well, if they worked dissatisfactory on manor land (no more than 15 strokes by stick or lash

³¹ Švābe, *Latvijas vēsture 1800 – 1914*, pp. 114 – 117; Lazdiņš, J., *Baltijas zemnieku privāttiesības (XIX gs.)*, Turība, Rīga, 2000, pp. 64 – 65.

³² Учреждение о Курляндских крестьянах 1817. Kurländische Bauer Verordnung. – ПСЗРИ, Собрание 1-ое, т. XXXIV, № 27024; Likkumu Grahmata par Kursemmes Semnekeem. Jelgawa, 1818.

or 2 days of arrest) (§ 170). Punished person had a right to make a complaint on exceeding punishment and if the court recognised that a complaint was well grounded it had a right to make a sentence to fine landlord for 1-5 silver roubles.

§ 192 of Courland Peasantry Law declared that the nobility of Courland waived its rights of civil and criminal jurisdiction of peasants preserving “the home punishment rights” and governing of district police only. In fact, although the civil parish court was elected for term of three years by farmers and labourers on parity grounds, indirectly landlords retained control over it because the parish meeting had to nominate three candidates to the post of parish elder, who simultaneously was the president of the parish court, and the posts of parish court assessors, but finally acceptable candidatures of the nominated ones were approved by the district police, which was under the administration of the landlord.

Parish court had a competence to adjudicate civil cases between peasants. If the defendant was a noble person, the application of plaintiff was sent to the court which had a jurisdiction to adjudicate cases of nobles. In hearing of cases, the local language (mainly Latvian) was used and the record of proceedings also was written in local language. Appeals on judgements of parish court had to be sent to the second department of Captain (*Hauptmann*) court. However, not every peasant who was not satisfied with the judgment of the parish court risked appealing it, because if the appellate court found that appeal was groundless the appellant could be sentenced to corporal punishment.

The last Baltic governorate which abolished the serfdom institute was Livonia where the appropriate draft-law was adopted by Livonian landtag in December of 1818 only. This relative delaying with liberation of Livonian peasants may be explained by discussion of Livonian nobility about which one of the peasantry laws – Livonian of 1804 with warranted possession rights of peasants on their farmland or Courland of 1817 with liberation of peasants without any rights on farmland would be the better effect on agrarian relations in Livonia. The last alternative had a strong support from Russian emperor Alexander I. Acting in his interests, General-Governor of Riga F.Paulucci made a pressure on Livonian landtag threatening with his resignation, if landtag will not follow to the lead of two other Baltic governorates. The efforts of Paulucci were successful and on 2nd of July 1818 landtag with common acclamation decided to grant personal freedom to Livonian peasants on the same principles as in Courland and Estonia. The draft-law, prepared by commission headed by Dorpat judge Reinhold Samson von Himmelstjerna, was adopted by landtag on 21st of December 1818 and approved by Alexander I on 26th of March 1819.³³

The codification of Livonian Peasantry Law was of better quality than previous two – Estonian and Courland peasantry laws. It also consisted of three parts, but unlike to previous codifications the general regulations and special regulations of transitional period were both included into Part 1. Part 2 was devoted to regulation of rights of peasants after their liberation and establishing of new authorities of administrative and judicial control of free rural inhabitants – meetings of rural community, two elders of rural community and their deputies, peasants court of rural community, police of estate under governing of landlord, parish court,

³³ Положение о Лифляндских крестьянах. Высочайше утвержденное 26 марта 1819 года. Liefländische Bauer-Verordnung. – ПСЗРИ, Собрание 1-ое, т. XXXVI, № 27734 – 27736; Likkumi Vidsemes Semneekem dohti. J.Steffenhagen und Sohn, Mitau, 1820; Lihwlandi-ma Tallorahwa Seadus. Schünmann, Tartu-Linnas, 1820.

district court and peasant department of Court of Justice (*Hofgericht*) of Livonian Governorate.

The Book 1 of Part 3 regulated procedure law in civil cases of peasants and in cases where one of the parties was landlord. The Book 2 was devoted to civil law branches which might be significant for peasants as family law, guardianship and trusteeship, property rights, succession law, contract law, especially, labour contract and lease contract regulations. The Book 3 of Part 3 regulated different subjects of administrative (police) law – order of recruitment of new soldiers for Russian army, magazines for peasant harvest storage, the chest of rural community, schools of rural communities and parishes, treatment of beggars, agent of rural community, fighting against fire and animal diseases, regulation of inns, as well as, offences against public order and public morality.

Continuous numbering of all the paragraphs of Livonian Peasantry Law of 1819 was more convenient for using than separate numbering of paragraphs in different parts of Estonian and Courland Peasantry Laws. Due to better codification technique the Livonian Peasantry Law had a smallest number of paragraphs – 658 only comparing with 773 paragraphs of the Estonian Peasantry Law of 1816 or 738 paragraphs of the Courland Peasantry Law of 1817. In common, these three acts were quite similar, but there were also some specific differences. So, Livonian Peasantry Law was the only one that contained a rule which asked all the freed peasants to obtain surname for themselves and their families for more effective police supervision over their movement (§ 11). The registration of surnames for peasants of Livonian governorate was started from 1822, but in Courland governorate a patent of Governor on this account was issued in 1834 only.³⁴

It should be noted that the abolition of serfdom was more rapid in Livonia than in Estonia or Courland. The transitional period there was only seven years in common, but the liberation of serfs in Livonian governorate was started on 23th of April 1823 and was ended in 1827, in period of four years. We need to take in account that freedom of movement was limited for Livonian peasants as it was limited for peasants of Estonia and Courland. The first three years after liberation they had rights to move in territory of their parish, the next three years – in territory of their police court (*Ordnungs-Gericht*) and after these six years peasants obtained a right to relocate freely at territory of all the Livonian governorate (§ 13 – 14). The unlimited right for movement at all territory of the Russian Empire had conferred them by the Livonian Peasantry Law of 1860 only which came in effect from 1863 (see § 242 – 245).³⁵

Some conclusions

The laws of abolition of serfdom in the Baltic governorates (1816 – 1819) may be characterized as a compromise between the goals of Russian government and the interests of Baltic German nobility. Apparently, these reforms were a pilot project of Alexander I, for the preparation of the abolition of serfdom in Russia, as well as, possibility to demonstrate for Europe a liberal ruling of Russian autocracy.

³⁴ Upelnieks, Kr., *Uzvārdu došana Vidzemes un Kurzemes zemniekiem*, Tieslietu Ministrijas Vēstnesis, No. 2, 1936, pp. 237 – 249.

³⁵ Положение о крестьянах Лифляндской губернии. 13 ноября 1860 г. – ПСЗРИ. Собрание 2-ое, т. XXXV, отд. 2-ое, № 36312; Likkumi Widseemes semneekem. W.F. Häcker, Rihga, 1862.

The abolition of the serfdom opened new opportunities for Baltic German nobility for the development of the economy of their estates, using a free contract system with leaseholders as a tool for ensuring the higher efficiency of manor production. Proposals of several Baltic German liberal thinkers to emancipate peasants with granting them ownership or hereditary lease to farmland were ignored.

The peasants of the Baltic governorates could not take an active part in the preparing of the peasantry laws of 1816 - 1819 because they were not recognised as free persons with any political rights. However, they expressed their attitude to personal oppression, the unfair regulation of agricultural relations and practices in unrests and riots, which strengthened the position of reform supporters of liberal wing.

However, after the liberation of the peasants, several elements of the time of serfdom were preserved by law, which put the farmers in unequal condition in relations with the landlord. These elements included the restriction on freedom of movement, prohibiting peasants from settling in cities and towns, choosing non-agricultural jobs, prohibiting them to relocate to other governorates of the Russian Empire with the hope to obtain a cheap farmland there, etc. These restrictions were finally abolished in early sixties of 19th century. One another restriction was limitation of self-government of peasants, of competence of the bodies of rural communities by manor police even in procedure of the formation of these bodies, as well as, in procedure of making decisions. The further using of so-called "home punishment rights" by landlord was one another example of limitation of personal freedom of peasants. The home punishment rights as element of patrimonial power of landlord were finally abolished by law of 4th of June 1865 only.³⁶ Although the lease relationship between the landlord and the farmer was based on free contract principle, however, taking into account the constraints imposed on farmers which sharply limited the principle of free competition, the equality of the parties could not be ensured in any way.³⁷ The landlord was able to ask a labour rent from the farmer in amount that threatened the farmer's ability to manage the leased land successfully. The law for Estonian governorate on rights of every party of lease contract to replace the labour rent by money payments was adopted in 1865 only.

Considering that the economic situation of peasants in the Baltic provinces had not improved after the liberation of peasants, the Russian government decided to return to strict separation of the peasant farmland from estate land. Livonian Provisional Peasantry Law of 1849³⁸ and similar laws adopted at that time for other Baltic governorates prescribed that landlords of estates will be obliged to farm out or to sell farmland to every member of rural community. Adding of the plots of farmland to estate land was prohibited. This decision provided a way for full emancipation of peasants, who became independent farmers through buying the farmland. Also, Livonian nobles after the abolishing of labour rent in 1868³⁹ were forced to use paid workforce on estate land and so they were stimulated to sell farmland for its leaseholders.

The peasantry laws of the Baltic governorates of 1816 - 1819 gave peasants limited freedom, but they eliminated their personal dependence of landlords, which was the first step towards

³⁶ Высочайше утвержденное положение Остзейского комитета. – Об отмене телесных наказаний в Прибалтийском крае. 4 июня 1865 г. – ПСЗРИ, Собрание 2-ое, Отд. 1-ое, т. XL, № 42162.

³⁷ Егоров, Ю., *История государства и права Эстонской ССР*. Валгус, Таллин, 1981, pp. 108 – 109.

³⁸ Лифляндское крестьянское поземельное уложение 1849 года. - ПСЗРИ, Собрание 2-ое, т. XXIV, Отд. 1-ое, № 23385.

³⁹ Kalniņš, V., *Op. cit.*, p.284.

full acquisition of their personal rights. The landlords that acquired ownership of the farmland used by peasants as a compensatory measure for liberation of serfs were forced after few decades to sell farmland to peasants following the amendments of the land reform. These social changes stimulated the formation of national consciousness of free Latvians and Estonians.

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