Workshop
"Medieval documentation of court procedure"
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Use of literacy is interpreted in more recent studies as an important feature of medieval rulership (Hagen Keller, M.T. Clanchy et al.). Since medieval rule defined itself mainly through jurisdiction, one might ask how an increasing use of literacy in court procedures also contributed to intensify rulership since the late 12th century.

Canon 38 of the fourth Lateran Council (1215) was the first general rule to make protocolling of court procedures mandatory: all acts relevant to the trial had to be protocolled by a notary or two suitable persons – a rule all important *ordines iudiciarii* of the Roman-canon procedure adopted without exception. This rule provided medieval European legal history with important source material, whose quality and quantity naturally differs regionally within Europe. But with the exception of Kantorowicz´ path-braking analyis of an Italian communal court, the procedural documentation handed down to modern historians almost entirely lacks a profound, structural analysis. Such a structural analysis would have to consider how the normative requirements of the *ordo iuris* are reflected in the archival tradition. So far, first approaches to systematically classify the surviving court records have been undertaken only for the Roman Rota (Hoberg, Meuthen, Paravicini Bagliani), as well as a small amount of the huge number of records surviving from English officialates having been analysed (Helmholz).

However, it is still an open question how medieval court proceedings as a whole on the one hand, which can mainly be reconstructed only through normative sources, relate to the originally existing written court documentation on the other hand: even more so when trying to establish the periodical and geographical differences for this important source type of the practice of the learned law.

Also, a typology of the different types of documentation handed down to modern historians is strongly desirable taking into account its diversity with respect to its provenance and with respect to the respective phase of a trial it documents. For example, in the specialized literature the term "Prozessakten" (records of proceedings) is often used undistinguishably for notarial notes, a notarial concept or a fully transcribed and sealed version (*chirograph*) for the judge and the parties.

Finally, one might ask from the perspective of organizing rulership in the Middle Ages, whether documentation of contentious litigation differed only gradually or significantly from the documentation in inquisitorial trials.

Central questions:

1. Which functions did procedural documentation fulfill in different types of court proceedings or before different courts?
2. Which conclusions can sensibly be drawn in light of the kind of documentation surviving and which questions will have to be left to normative procedural sources for anwer?
3. Which, if any, conclusions are to be drawn from the written documentation dealing with court procedure in the Middle Ages, as to its efficiency, whether and how it was accepted by inhabitants or how they made use of the various possible types of courts?