

MACIEJ JONCA*

THE LAST JUDGEMENT AS *ORDALIUM* HANS MEMLING'S VISION

1. Introductory Remarks

The triptych entitled the *Last Judgement*, Hans Memling's masterpiece, has been subject to many different interpretations. These were produced mainly by historians, art historians and theologians. And yet, the academics who have been working on the *Last Judgement* until now have kindly left a niche for the next generation of researchers. A selective overview of the studies on H. Memling demonstrates that in the research on the *Last Judgement* one can distinguish three trends: the history of the painting, a stylistic analysis, accompanied by occasionally a very detailed investigation of analogies, and finally, theological exegesis.

It is surprising how little attention has been paid in the interpretation of the *Last Judgement* to law. Yet it depicts precisely a scene of judgement and the concepts which theology used in constructing the scene had been taken from positive law.¹ "Understanding a painting whose visual shape

* Dr. habil., Associate Professor, the John Paul II Catholic University of Lublin; e-mail: jonca@kul.pl, ORCID ID: <https://orcid.org/0000-0003-4982-8936>.

¹ The ancient period already prepared solid foundations so that a medieval man could think along legal categories while indulging in eschatological broodings. Saints, especially the martyr saints, who not without effort did away with a plethora of pagan gods and deities (in part adopting their features and without scruples annexing the rituals and celebrations devoted to them) assumed the position of advocates (*patrones*) of those who remained here on earth. They were to represent the people on the earth in the heaven in the same way as professional legal representatives would represent the absent. After death, they were required to give the best evidence in their favour at the Eternal Tribunal. Even the faith in finding protection and favouritism in the other world could find

has been created by visual arts is not possible without taking into account all the factors of the complex culture-making processes, of which the painting is the result," as Polish art historian Jan Białostocki rightly observes.² Therefore, it is even more worthwhile to look at Memling's triptych from the perspective of a lawyer.

2. Law and Theology in the Middle Ages

In the times of Romanesque rotundas and Gothic cathedrals, law and theology were intertwined to such an extent that an average person from the Middle Ages perceived them, not as separate entities, but rather as significant parts of a perfect unity. It is difficult to determine which area is more indebted to the other. The fact remains, however, that the co-existence between these two bodies of knowledge produced benefits for both, which is best illustrated by the following examples.

When the Fourth Lateran Council (1215) prohibited the clergy from participating in practices known as a "judgement of God" (*ordalium*) and the Church took definitive steps to replace the existing procedures (resembling rather primitive sports competitions than fully-fledged trials) with a procedure based on the solid Roman-Canonical grounds,³ it was possible precisely with the assistance of theology.⁴ It was obvious for all that it would be impossible to convince the common people that centuries-old practices, which were even referred to as "God's matter," should

its theological justification, so in consequence, people would seek favour, especially with powerful saints. It was believed that on the day of judgement it will be precisely them who will find themselves closest to God's throne and thus will have the greatest chance to speak a good word to the Creator in favour of their "clients".

² J. Białostocki, *Symbole i obrazy*, in: idem, *Wybór pism estetycznych*, introduction and ed. A. Kuczyńska, Kraków 2008, p. 67. The great scholar did not, however, have much to say about legal motifs present in Memling's work. Cf. M. Walicki, *Hans Memling, Sąd ostateczny. Niedokończony rękopis opracował i uzupełnił Jan Białostocki*, Warszawa 1981.

³ For a detailed characteristic of this form of procedure see: W. Litewski, *Der römisch-kanonische Zivilprozess nach den älteren ordines iudicarii*, vol. 1-2, transl. L. Głowacki, Kraków 1999.

⁴ Cf. K. Pennington, *Władca i prawo (1200-1600). Suwerenność monarchy a prawa poddanych w zachodnioeuropejskiej tradycji prawnej*, ed. J. Pysiak, transl. A. Pysiak, Warszawa 2012, pp. 134-164.

be replaced with the solutions successfully practiced by the Romans. The difficulty in introducing the reform did not merely lie in eliminating the established practices and teaching the judges responsibility. Something which was "God's matter" would always turn out to be perfect and incomparably better than anything that was "Roman". But the Canonists found a way to deal with this obstacle by associating the beginnings of the new procedures with the biblical story of ... Adam and Eve instead of accentuating the antiquity of the Roman procedure.⁵

While analysing the debt owed by theology to law, one must consider what Jean-Claude Schmitt wrote in his brilliant study on medieval gestures:

Christians find in the Bible gestures which can be described, painted, imitated and which can be meditated over but they do not find their interpretation. On the basis of the Bible one can paint pictures, which Christian art was then to profusely produce, without omitting any of the biblical gestures. However, in order to create their own theory of gestures, Christian writers had to resort to the ancient tradition and Christianise it.⁶

And this is what they did, even though everything that they did not know or did not understand was fitted within the frameworks which they knew from their own experience. That is why innumerable depictions of Pontius Pilate's judgement over Christ are not mirror images of the procedures at work in the 1st century A.D., but a reflection of the times in which the artist lived.⁷

⁵ R.H. Helmholz, *The Bible in the Service of the Canon Law*, Chicago-Kent Law Review 1995, vol. 70, no. 4, pp. 1574–1577.

⁶ J.C. Schmitt, *Gest w średniowiecznej Europie*, transl. H. Zaremska, Warszawa 2006, pp. 60–61. See also: E. Salmann, *Daleka bliskość chrześcijaństwa*, transl. B. Sawicki, Kraków 2005, p. 28: "[...] in almost all texts, also in these stories, which seem to disappear in some epic abyss (let us think about the stories of Jacob and Joseph, Saul and David) there is some strength and willingness to limit oneself to merely the essential, to the framework. One can hardly find there a useless word. Everything is reduced to the minimum."

⁷ This tendency is very clear already in the ancient times. The representation of Christ's trial from the 5th or 6th century Gospel Book from Rossano constitutes in fact a representation of the byzantine court procedure. For a comprehensive analysis of this miniature painting see: W.C. Loerke, *The Miniatures of the Trial in the Rossano Gospel*, The Art Bulletin 1961, vol. 43, no. 3, pp. 171–195. On the subject of other iconographic sources see: R. Rupiewicz, *Sąd nad Jezusem. Studium ikonografii oraz źródeł od chrześcijańskiego antyku do nowożytności*, Warszawa 2018, pp. 133–299.

However, depictions of the Last Judgement were to follow a different route. It is true that the composition of such scenes consists of an interesting combination of the procedural rules at that time and the elements of courtly etiquette. Yet, since the very first visual renderings of that motif, the scene of the Last Judgement in art has rather more in common with the *ordalia* forbidden by the Church, than with the orderly and predictable imagery of the Roman-Canonical procedure.

3. The Last Judgement

Medieval art provided a powerful tool for propagating the Christian faith. In order to achieve the prescribed objectives, it resorted to numerous means which permitted the Church to influence the psyche of the viewers. Occasionally, such means could be brutal or even drastic.⁸ In the society permeated with a deep faith in God's justice, rudimentary knowledge on the rules of law and basic information concerning the simplest mechanisms and legal procedures could be acquired not only at court, at the office or in the courtroom, but virtually any place where the influence of Christian art had been well established.

The motif of the Last Judgement played a key role in the ideology of the medieval justice system. As mentioned above, the Fourth Lateran Council empowered the Church to move away from trial by ordeal in favour of the Roman-Canonical procedure. In the new procedure, the position of the judge has been radically altered. The man whose role had been so far reduced to being a mere arbitrator in a "sports competition" suddenly had to take full responsibility for the fate of a fellow human being.⁹ The imagery of the Last Judgement was to remind the judge that his decisions, even though final and legally binding, would be in some indeterminate future subject to verification. However, before the images of the Last Judgement began to decorate the audience rooms of rulers and the town hall rooms across Europe, people would resort to some other

⁸ Cf. E. Salmann, *Daleka bliskość...*, p. 70: „images are violent towards us, I experience their power.”

⁹ Cf. J.Q. Whitmann, *The Origins of Reasonable Doubt: Theological Roots of the Criminal Trial*, Yale 2008, pp. 51–90.

solutions. Weather permitting, legal proceedings would take place in front of church portals,¹⁰ on which the scenes from the Last Judgement were often a popular motif.¹¹ Paintings and sculptures devoted to this subject were to be found naturally inside churches, which was significant in light of the practices of saying prayers before embarking on dealing with legal matters.¹² It is exceptionally interesting that from a procedural perspective the rules which were preserved during legal proceedings and pseudo-liturgical ceremonies were entirely different from the depictions of the Judgement Day.

For any faithful man who eagerly endeavoured to earn eternal life, the representations of the Last Judgement provided exceptional educational material. As a matter of fact, paintings of that kind, especially those on public display, could have and indeed had deep theological and symbolic significance.¹³ However, illiterate addressees of the work did not have to demonstrate a deep theological or philosophical education to comprehend their meaning.¹⁴ Numerous elements of the composition, gestures, objects

¹⁰ Cf. B. Deimling, *Średniowieczny portal kościelny i jego znaczenie z punktu widzenia historii prawa*, in: *Sztuka romańska. Architektura, rzeźba, malarstwo*, ed. R. Toman, transl. R. Wolski, Olsztyn 2000, pp. 324–327.

¹¹ It can be seen, amongst other places, on the façade of the cathedral in Orvieto, western portal of the cathedral in St. Denis or the southern portal of Chartres cathedral, cf. W.H. van der Mülbe, *Die Darstellung des jüngsten Gerichts an den romanischen und gotischen Kirchenportalen Frankreichs*, Leipzig 1911.

¹² The court ceremonial and that of the legal procedure owe much of its form to liturgy. Cf. E. Muir, *Ritual in Early Modern Europe*, Cambridge 1997, pp. 235, 237.

¹³ This is why it seems that it is still justifiable to endlessly demonise and multiply the apparent codes, which were hidden in medieval works of art. Cf. E. Panofsky, *Ikonoğrafia i ikonologia*, in: idem, *Studia z historii sztuki*, Warszawa 1971, pp. 13–14. People who were in constant presence of the works of art long before the appearance of Heinrich Wöllflin, Aby Warburg, Erwin Panofsky or Ernst Gombrich were able to perfectly deal with art without the mechanisms created by those renowned scientists. It did not exclude on the part an individual understanding and a deep spiritual perception of those works. The painting did not constitute then, as E. Panofsky wanted, a mere and only a means of communication for the educated elites. It was an element of everyday landscape and as such it should correspond with the outside reality. At this point, it might be worth referring to the following truism: “no historical phenomenon can be fully explained outside of its time,” M. Bloch, *Pochwała historii czyli O zawodzie historyka*, transl. W. Jedlicka, introduction W. Kula, Kęty 2009, p. 56.

¹⁴ Both theology and art would meet them half way. Saint Thomas Aquinas in all conviction claimed that paintings are useful, amongst others, “for the instruction of simple people, who are taught by them as if by some books” (*ad instructionem rudium, qui quasi quibusdam libris*

and even colours were immediately recognisable and meaningful to them as they reflected their day-to-day life. They would visit courtrooms, dealt with various matters in the offices and most of all they were raised in the atmosphere of the all-pervading hierarchisation of the public and private life. Despite the definitive stance of the Church in this matter, they were also perfectly aware of the nature of trials by ordeal as they provided a substantial part of their cultural landscape.

“Clouds have not changed their shapes since the Middle Ages and yet we do not discern in them a cross or a miraculous spear,” says Marc Bloch in his ironic comment.¹⁵ It also seems that in the Middle Ages the percentage of people operating within the same categories of thinking as contemporary art historians was, to put it mildly, very minute. On the other hand, what the Roman-Canonical procedure was and what it consisted in was common knowledge to everybody. It was the same with trials by ordeal. The experience of the incessant contact with the representations of the Last Judgement, which in its form corresponded perfectly with the course of the earthly judgements of God, not only allowed people to come to terms with their fear of death and prepare themselves for the unavoidable. It also legitimised in their eyes the use of practices forbidden by the Church.

4. Prefigurations

Their leading motif invariably included a specific trial whose subject matter was the eternal fate of humanity. The judge in this exceptional trial was none other than Jesus Christ himself. The prosecutor's role belonged to Satan, whereas Mary had to embark on an uneasy task of defending humankind from eternal damnation.

edocentur). Aquinas argued that “the mystery of incarnation” and the examples of the saints remain more in our memory, as they are represented to the eyes daily (*ut incarnationis misterium et sanctorum exempla magis in memoria essent, dum quotidie oculis representantur*). Moreover, paintings were to “excite devotional feeling, which is stimulated more effectively by things seen than those heard” (*ad excitandum devotionis affectum, qui ex visis efficacius incitatur quam ex auditis*). Cited after: G.B. Lander, *Images and Ideas in the Middle Ages: Selected Studies in History and Art*, Roma 1983, p. 27. See also: J. Białostocki, *Wybór pism...*, pp. 77–78.

¹⁵ M. Bloch, *Pochwała historii...*, p. 109.

Those performances which, in their essence, can be clearly seen as prefiguration of the representations of the Last Judgement can only appear as playful games serving the purpose of defusing the heavily charged atmosphere of the last week of the Lent on the surface. None of the renowned¹⁶ Bartolus de Saxoferrato's works brought him such recognition among the wide masses of people as the short text entitled *Trial of Satan against Humankind*.¹⁷ The plot of the work in an exceptionally accurate way corresponds with the rules which governed the Roman-Canonical procedure at this time.

Bartolus and his brothers and sisters in faith were deeply convinced that the last trial in which they would have to participate after death would be to a large degree based on the same principles which they knew from their sojourn on earth.¹⁸ The work of artists such as, amongst others, Stefan Locher, Dirk Bouts, Roger van der Weydern and H. Memling corrected such representations. In accordance with their vision, the Last Judgement was to resemble trial by ordeal.

5. Memling's Judgement

Hans Memling's unique masterpiece collects the majority of canonical motifs regarding the Last Judgement in its central piece, categorises them and presents them in an exclusive form. It is a dark and frightening painting in its expression. The artist was able to capture in a perfect way the apocalyptic climate which will spread over earth when the days are fulfilled.¹⁹ Its composition may seem as unnaturally static (given the crite-

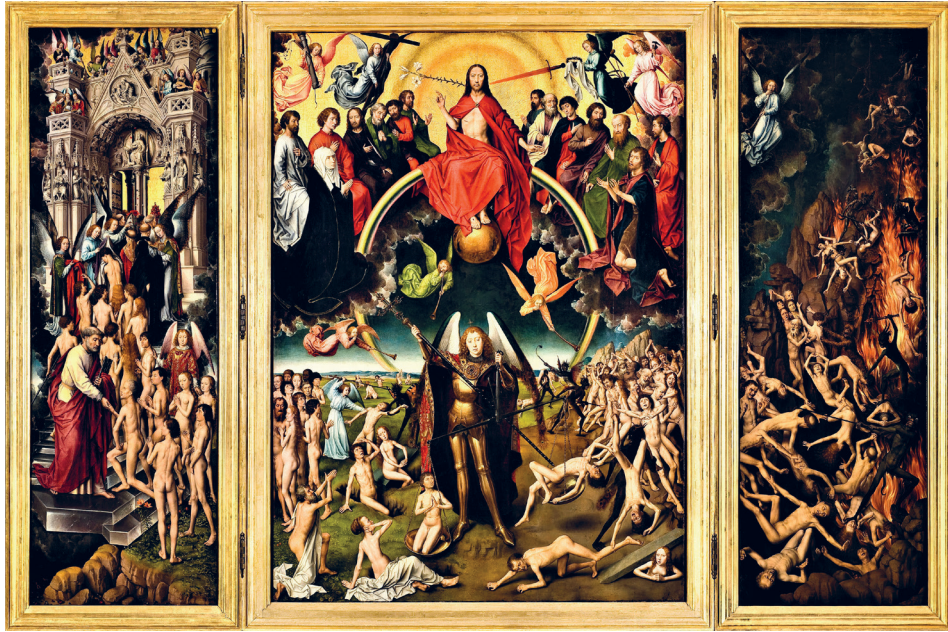
¹⁶ As an interesting anecdote, it is worth remembering that as late as 1914 Rev. Dr. Jan Fijalek published a work in Latin under an expressive title: *Mr Bartolus and His Renowned Respect among the Poles*, cf. idem, *Dominus Bartolus de Saxoferrato eiusque permagna in Polonos auctoritas*, Cracovie 1914.

¹⁷ One of the earliest printed editions: B. de Saxoferrato, *Processus Satanae contra genus humanum*, Memmingen ca. 1500.

¹⁸ In his writings the jurist naturally underscored the "procedural" character of the "trial" of God regarding the perpetrators of the original sin. Cf. K. Pennington, *Władca i prawo...*, p. 199.

¹⁹ *Apocal.* 6,12-17.

ria of perception of the contemporary viewer). Nevertheless, it is kept in the spirit of the epoch.²⁰



Hans Memling, *The Last Judgement*, 1467-1471, painting on the wooden board, the National Museum in Gdańsk

The middle panel was horizontally divided into two sections: the earthly and the heavenly. In the centre of the former one can see Christ sitting on a rainbow, resting his feet on the globe of the earth. He is accompanied by the twelve Apostles, the Virgin Mary, John the Baptist and also angels divided into two groups: bearing the instruments of the Passion (*arma Christi*) and blowing the trumpets. The Apostles, Mary and John the Baptist²¹ do not have the right to speak, even though they have been endowed with

²⁰ J.C. Schmitt, *Gest...*, p. 27: "Regarding gestures, the Middle Ages generally more appreciated the stillness, rather than movement, e.g. the stillness of the prayer, a sign of concentration and listening to God's voice. The medieval painting, still by its nature, necessarily strengthened an ideological primacy of stillness. Gesture, which by definition is only movement ... is presented on miniatures in a way which people from the film industry call a 'frozen frame'."

²¹ Gospel by St. Mathew (19,28) refers only to the presence of the Apostles during the judgement. However, it was possible to extend the formation of the *consilium* thanks to a creative interpretation of this fragment by St. Augustine. The father of the Church

the features of seriousness and dignity. They play the role of the "mute" *consilium*. Inasmuch as they can be treated as the ruler's or bishop's entourage (the hierarchy of the occupied places is preserved!),²² the angels play only a subsidiary role. They comprise Christ's personnel. In this trial the judgement can be either of the two prospects: damnation, symbolised by the incandescent sword and salvation, symbolised by the lily.

The earth, on the other hand, is the stage for a macabre selection performed by Archangel Michael.²³ God's messenger, weighing up human souls, in fact plays the role of a policeman (or actually an official doorkeeper) at court.²⁴ His outstanding physique permits the combining of the two worlds separated from each other: heaven and earth. The souls which are judged too light²⁵ are sent to a hell, which evokes associations with a concentration camp. A special attention should be paid to the fact that Michael, faithful to the tradition, operates the cross in such a way so as to allow the souls to gain weight.²⁶

6. Ordalium

In Memling's painting (as well as in the works by his predecessors and successors) one can be struck by an evident lack of correspondence

explains that even though formally there are twelve thrones, the others will also have a place to seat (*de civ. Dei*, 20,5).

²² Cf. G. Koziol, *Błaganie o przebaczenie i łaskę. Porządek rytualny i polityczny wczesnośredniowiecznej Francji*, ed. and transl. Z Dalewski, Warszawa 2009, p. 109: "In the 11th century, just like in the 9th and 10th century, God was the 'Lord of the lords', 'King of the kings' and an 'eternal Emperor.' All the attributes of the earthly royal power were associated with him ... In a similar way to the great rulers of the world, also God had his own *fideles*."

²³ It is no secret that while composing his work H. Memling borrowed many of his motifs from the *Altar of the Last Judgement* by Roger van der Weyden. A detailed iconographic and theological analysis of the representation of the judgement can be found in: Ch. Lukatis, *Der himmlische Gerichtshof nd der Seelenwäger Michael im Beauner Weltgericht Rogier van der Weydens*, Oud Holland 1993, vol. 107, no. 4, pp. 317-351.

²⁴ The armour which he is wearing has nothing to do with the role he is playing in the trial. It rather refers to the history of his struggle with Satan.

²⁵ Cf. T. Gregory, *Speculum naturale. Percorsi del pensiero medievale*, Roma 2007, p. 93.

²⁶ The noble gesture clearly remains in contrast with an absent expression on his face. Cf. R. Frenken, *Symbol Plazenta: Pränatalpsychologie der Kunst*, Wiesbaden 2016, p. 203.

between the scene of the Last Judgement and the official legal procedures of the High Medieval Era. Indeed, in the Gospel According to Mathew, it is predicted that Christ will embark on a kind of dialogue with both the saved²⁷ as well as the damned.²⁸ Even though the exchange of views takes place after the collective judgement has been passed, however, it was not an obstacle that would stop medieval lawyers well-skilled in the scholastic method. If on the basis of the periscope on the circumstances of committing the original sin medieval canonists and legists were able to convince the faithful far and wide that the steps that God took towards Adam and Eve were, in fact, the initial framework of the Roman-Canonical procedure,²⁹ it might have been expected that the members of the *Last Judgement* on Memling's painting will be endowed with a voice as well.

But an entirely different scene unfolds in the central panel of the triptych. Even though the procedure during which the eternal fate of the resurrected is decided upon is called the Last Judgement, already at a glance it can be observed that it has little in common with the Roman-Canonical

²⁷ Matt. 25,34–40: "Then the king will say to those at his right hand, 'Come, you that are blessed by my Father, inherit the kingdom prepared for you from the foundation of the world; for I was hungry and you gave me food, I was thirsty and you gave me something to drink, I was a stranger and you welcomed me, I was naked and you gave me clothing, I was sick and you took care of me, I was in prison and you visited me.' Then the righteous will answer him, 'Lord, when was it that we saw you hungry and gave you food, or thirsty and gave you something to drink? And when was it that we saw you a stranger and welcomed you, or naked and gave you clothing? And when was it that we saw you sick or in prison and visited you?' And the king will answer them, 'Truly I tell you, just as you did it to one of the least of these who are members of my family, you did it to me'."

²⁸ Matt. 25,41–46: "Then he will say to those at his left hand, 'You that are accursed, depart from me into the eternal fire prepared for the devil and his angels; for I was hungry and you gave me no food, I was thirsty and you gave me nothing to drink, I was a stranger and you did not welcome me, naked and you did not give me clothing, sick and in prison and you did not visit me.' Then they also will answer, 'Lord, when was it that we saw you hungry or thirsty or a stranger or naked or sick or in prison, and did not take care of you?' Then he will answer them, 'Truly I tell you, just as you did not do it to one of the least of these, you did not do it to me.' And these will go away into eternal punishment, but the righteous into eternal life."

²⁹ Cf. K. Pennington, *Władca i prawo...*, p. 144: "Étienne de Tournai (circa 1165) provided an in-depth analysis of the story of Adam and Eve. He indicated that in a sense Adam raised a formal objection (*exceptio*) against God's accusation (*actio*) and placed the guilt on Eve or the serpent. *Exceptio* and *actio* were technical terms which constituted the inherent elements of the *ordo iudiciarius* and Étienne was the first canonist to define the *ordo iudiciarius*."

procedure.³⁰ No *interrogatio in iure* is visible. The procedure is simplified to the extreme. There are neither parties nor their representatives at the trial. There are no speeches and no evidence is presented (all these elements are present in the mysteries of the Passion!), and the scenes such as the struggle between an angel and a devil (*psychomachia*) do not contribute to the picture of professionalism and order. The common people perfectly understood such scenes. This is what the medieval trials by ordeal looked like: chaotic, loud, full of spontaneous acts of violence.

Hans Memling is not the author of the formula replacing a solid trial with a mechanical weighing up of the souls. The artists referred here to a long, well-established tradition which was commonly accepted.³¹ What is interesting, he could count in this matter on the full endorsement of the Church and even though the Church condemned the use of the judgement of God on earth, it did not rule out its application in future life. It made use of the arts to consequently confirm the faithful in their belief that everyone would be weighed someday as the biblical Belthazar.³² The Church relied in this on the assumption that the Almighty is not bound by the prohibitions of this world and God's authority guarantees a complete justice of all arbitrarily accepted procedures. Indeed, not so much justice, but rightness and mercy! It is indeed Michael who with a stone face operates a long pole with a cross at its end in such a way so as to move the rising scale with the sinner a bit down.

7. Mercy above the Law

In order to understand the above-mentioned stylistic manoeuvre, one should return to the elements of medieval theology. The theologians did their utmost to mitigate Roman law, which in many cases might appear excessively categorical and uncompromising. In the Middle Ages it was Ulpian's definition that gained outstanding popularity. In accordance with

³⁰ In opposition to the narration from the above-mentioned mystery plays. Indeed, H. Memling refers to them in his work, for instance indicating the symbolism of the stairs.

³¹ On the subject of the genesis and evolution of this motif cf. L. Kretzenbacher, *Die Seelenwaage. Zur religiösen Idee vom Jenseitsgericht auf der Schicksalswaage in Hochreligion, Bildkunst und Volksglaube*, Klagenfurt 1958.

³² Dan. 5,27: "you have been weighed on the scales and found wanting."

his take on justice, "it is the constant and unceasing wish of rendering to everyone his right."³³ However, theologians experienced a serious problem with how to fit God's omnipotence within a rigid framework of *quasi* legal principles. To make matters worse, they had to take into account the competitive understanding of justice as "doing the most for those who can the least." Ivo of Chartres was one of the first to place an equation mark between justice and mercy at the field of canon law.³⁴ From then on, God's grace had a place outside all law in the legal order of the Church.

Helgard of Fleury argued that the measure that God will take during the Last Judgement will be not the weight of guilt but the scale of humility and repentance demonstrated by the sinners.³⁵ The Highest Judge will divide in this way not so much the sinners from the righteous, but rather the "proud" from the "humble". In his decisions, the Creator was to be absolutely autonomous and sovereign and the people – as they had already received everything from God anyway – should not have any claims upon Him. Gerard of Cambrai wrote in this context about "God's free will" (*voluntaria divina voluntas*).³⁶ Anselm of Laon would add that in view of the sin committed by Adam, it was only to God's grace that humanity owed the possibility of participating in the Last Judgement.³⁷

The rigid rules of the Roman-Canonical procedure, its legal theory of assessment of evidence, presumptions, order and logic were in stark contrast with the idea of God's omnipotence, which, if need being, would eagerly give up the "legal formalism" (*rigor iuris*) in favour of the idea of "equity" (*aequitas*) and mercy (*miserericordia*). Trials by ordeal were a different matter. This is where everything was to be decided on a set of scales. Thus, the choice was obvious.

³³ D. 1,1,10: *Iustitia est constans et perpetua voluntas jus suum cuique tribuendi.*

³⁴ *Decretum* 47.

³⁵ *Vie de Robert* 78, c. 13.

³⁶ *Acta synodi Artebatensis* 1310.

³⁷ *Sententiae* 35.

Conclusion

The *Last Judgement* provides a fantastic source for research on law and the way it was perceived towards the end of the Middle Ages. Sometimes a wrongly-perceived academic accuracy excludes from research the works which might have been entirely taken over by representatives of other disciplines. It is a pity, since a lawyer's perspective on the works of art such as H. Memling's triptych allows one to ask interesting questions. How is it possible – one of them might begin – that despite the fact that trials by ordeal had been prohibited by the Church, the practice of referring to the judgement of God survived until the mid-17th century? Making associations between the composition of H. Memling's *Last Judgement* with the selected legal and theological concepts brings us closer to the solving of this academic puzzle.

Bibliography

- Białostocki J., *Wybór pism estetycznych*, introduction and ed. A. Kuczyńska, Kraków 2008.
- Bloch M., *Pochwała historii czyli O zawodzie historyka*, transl. W. Jedlicka, introduction W. Kula; 2nd ed. transl., introduction and ed. H. Łaskiewicz, Kęty 2009.
- Deimling B., *Średniowieczny portal kościelny i jego znaczenie z punktu widzenia historii prawa*, in: *Sztuka romańska. Architektura, rzeźba, malarstwo*, ed. R. Toman, transl. R. Wolski, Olsztyn 2000.
- Fijałek J., *Dominus Bartolus de Saxoferrato eiusque permagna in Polonos auctoritas*, Cracovie 1914.
- Frenken R., *Symbol Plazenta: Pränatalpsychologie der Kunst*, Wiesbaden 2016.
- Gregory T., *Speculum naturale. Percorsi del pensiero medievale*, Roma 2007.
- Helmholz R.H., *The Bible in the Service of the Canon Law*, Chicago-Kent Law Review 1995, vol. 70, no. 4.
- Koziol G., *Błaganie o przebaczenie i łaskę. Porządek rytualny i polityczny wczesnośredniowiecznej Francji*, transl. and ed. Z. Dalewski, Warszawa 2009.
- Kretzenbacher L., *Die Seelenwaage. Zur religiösen Idee vom Jenseitsgericht auf der Schicksalswaage in Hochreligion, Bildkunst und Volksglaube*, Klagenfurt 1958.
- Lander G.B., *Images and Ideas in the Middle Ages: Selected Studies in History and Art*, Roma 1983.

- Litewski W., *Der römisch-kanonische Zivilprozess nach den älteren ordines iudicarii*, vol. 1-2, transl. L. Głowacki, Kraków 1999.
- Loerke W.C., *The Miniatures of the Trial in the Rossano Gospel*, *The Art Bulletin* 1961, vol. 43, no. 3.
- Lukatis Ch., *Der himmlische Gerichtshof nd der Seelentwäger Michael im Beauner Weltgericht Rogier van der Weydens*, *Oud Holland* 1993, vol. 107, no. 4.
- Muir E., *Ritual in Early Modern Europe*, Cambridge 1997.
- Mülbe W.H. van der, *Die Darstellung des jüngsten Gerichts an den romanischen und gotischen Kirchenportalen Frankreichs*, Leipzig 1911.
- Panofsky E., *Ikonografia i ikonologia*, in: E. Panofsky, *Studia z historii sztuki*, Warszawa 1971.
- Pennington K., *Władca i prawo (1200–1600). Suwerenność monarchy a prawa poddanych w zachodnioeuropejskiej tradycji prawnej*, ed. J. Pysiak, transl. A. Pysiak, Warszawa 2012.
- Rupiewicz R., *Sąd nad Jezusem. Studium ikonografii oraz źródeł od chrześcijańskiego antyku do nowożytności*, Warszawa 2018.
- Salmann E., *Daleka bliskość chrześcijaństwa*, transl. B. Sawicki, Kraków 2005.
- Saxoferrato de B., *Processus Satanae contra genus humanum*, Memmingen ca. 1500.
- Schmitt J.C., *Gest w średniowiecznej Europie*, transl. H. Zaremska, Warszawa 2006.
- Walicki M., *Hans Memling, Sąd ostateczny. Niedokończony rękopis opracował i uzupełnił Jan Białostocki*, Warszawa 1981.
- Whitmann J.Q., *The Origins of Reasonable Doubt: Theological Roots of the Criminal Trial*, Yale 2008.

Summary

Hans Memling's *Last Judgement* was created at the moment when the dominant form of legal proceedings over the whole European continent was that of *ordo iudicarius*. This procedure was based on the principles drawn as far back as Roman law, that is why at present it is described as the Roman-Canonical procedure. It is surprising that the composition of the *Last Judgement* does not in any way refer to the said procedure, since the imagery of the Last Judgement over the centuries had been shaped on the basis of the solutions practiced in the earthly courts. However, *ordo iudicarius* was too rigid and predictable. Its rules did not fit the idea of God's immeasurable mercy. That is why the artist presented the Last Judgement as *ordalium*. In this procedure, in turn, God, in accordance with his nature, is not bound by anything, so he can bestow his grace in a sovereign way even upon those who do not deserve it.

Key words: Hans Memling, Last Judgment, *ordo iudicarius*, legal iconography, *ordalia*

SAĐ OSTATECZNY JAKO *ORDALIUM*. WIZJA HANSA MEMLINGA

Streszczenie

Tryptyk Hansa Memlinga znany jako *Sąd Ostateczny* powstał, kiedy na kontynencie dominowała forma procesu zwana *ordo iudiciarius*. Procedura ta opierała się na prawie rzymskim, dlatego często nazywa się ją obecnie „procesem rzymsko-kanonicznym”. To zaskakujące, ale przedstawienie Sądu Ostatecznego w ujęciu H. Memlinga w najmniejszym nawet stopniu się do niej nie odwołuje. Powodem tego jest fakt, że *ordo iudiciarius* był zbyt sztywny i przewidywalny. Jego jasno sprecyzowane zasady pozostawały w wyraźnej sprzeczności z ideą nieskończonej Bożej łaskawości. Dlatego H. Memling ukazał Sąd Ostateczny jako *ordalium*. W tej „procedurze” wszystko spoczywało w rękach Stwórcy, więc łaskę zyskiwali niejednokrotnie również ci, którzy w ludzkim odczuciu na nią nie zasłużyli.

Słowa kluczowe: Hans Memling, Sąd Ostateczny, *ordo iudiciarius*, proces rzymsko-kanoniczny, *ordalia*

СТРАШНЫЙ СУД КАК *ORDALIUM*. ВИДЕНИЕ ГАНСА МЕМЛИНГА

Резюме

Триптих Ганса Мемлинга, известный как *Страшный суд*, был создан, когда на континенте доминировала форма процесса под названием *ordo iudiciarius*. Эта процедура была основана на римском праве, поэтому ее часто называют «римско-каноническим процессом». Это удивительно, но представление Мемлинга о Страшном Суде не ссылается на нее ни в малейшей степени. Причина в том, что *ordo iudiciarius* был слишком жестким и предсказуемым. Его четко определенные принципы находились в явном противоречии с идеей бесконечной благодати Бога. Вот почему Мемлинг показал Страшный Суд как *ordalium*. В этой «процедуре» все было в руках Творца, поэтому благодать часто получали те, кто этого, в человеческом восприятии, не заслуживал.

Ключевые слова: Ганс Мемлинг, Страшный суд, *ordo iudiciarius*, римско-канонический процесс, ордалии

