In 1998 the Venice Court of National and International Arbitration (Venca) was established. It offers its services to the business community and also organizes conferences.\footnote{1} In September 2000 the Third Conference was devoted to Arbitration of Art Trade and Cultural Property Disputes.\footnote{2} Apart from lectures on international arbitration in general (Antonio Crivellaro, Milan) and in administrative law (Renato Laschena, Rome), the conference concentrated on different problems of art trade: on problems of substantive law in cultural property disputes, on problems of arbitration concerning such disputes, and on a mock trial of a hypothetical dispute.

### I. Problems of International Art Law

1. \textit{John Henry Merryman}, Professor of Stanford University, founder of the International Cultural Property Society and its first president as well as doyen of the cultural property scholars,\footnote{3} stated that international art law is still a young field “riddled with conflicts, lacunae, infirmities and obscurities.”\footnote{4} Three of these conflicts arise from different attitudes with respect to good faith purchases, export controls and their constitutional validity and with respect to national ownership laws. The conflicting policies towards the protection of good faith purchasers could be mitigated by the Art Loss Register and obligations to register own losses and to ask the register whether a traded object has been registered as lost, stolen, looted or

\footnote{1} Cf. the Rules of the Venice Court of National and International Arbitration may be obtained from the Foundation – The Venice Court of National and International Arbitration. Calle Longa dell’Accademia dei Nobili 605/G, Giudecca/Venice Fax: 0039-041-2775848, e-mail: venca@venca.it

\footnote{2} Una Corte per le controversie nel mercato dell’arte: \textit{Il Giornale dell’Arte}, September 2000, p. 4.


illegally exported. Many problems of international trade might be more easily solved by arbitration tribunals than by state courts because arbitrators are extranational and can avoid cultural nationalism and because they are likely to have more expertise than judges of state courts.

2. Marc-André Renold of the Art-Law Centre in Geneva recalled the various legal problems to be solved in art trade and cultural property disputes. They range from questions of a purely private law character to difficult problems of public international law. Manlio Frigo of Milan, one of the Italian experts in cultural property law, analysed the several international treaties on cultural property, their impact on art trade disputes and referred to national statutes implementing these treaties.

3. Special problems of art trade were presented by Fabrizio Lemme, Rome/Siena, the “Avvocato dell’Arte” of “Il Giornale dell’Arte”. He presented problems with respect to authenticity and the liability of experts who are asked for an attribution of a work of art or who accept or decline to place a piece of art in a catalogue raisonné of all works of a certain artist. What he said about the Italian civil law is also true for other legal systems. The expert makes use of his right of free exercise of opinion and he will only be liable for damages if he acts fraudulently in order to infringe somebody’s rights. Lemme also pointed out that the artist his or her heirs have no exclusive right to authenticate the artist’s works.

4. Julian Radcliffe, president of the Art Loss Register (ALR) in London (with branches in New York, Cologne and St. Petersburg) explained the objectives of the ALR: identifying and recovering stolen art, providing a central “checkpoint” to prospective purchasers and lenders, deterring art theft and unauthorized sale of works of art, and reducing trade in stolen art. Search certificates confirm that a specific work of art not registered with the ALR is a lost object. Today 100,000 stolen items are registered. In the future art objects looted during the holocaust shall also be registered. Gerard Champin (Paris) informed the audience of special problems of intellectual property and on the forthcoming European directive on the droit de suite.

---

5 Manlio Frigo, La protezione dei beni culturali nel diritto internazionale, Milano: Giuffrè 1986.
6 Cf. the lecture of Fabrizio Lemme, Diciamocelo chiaro: quanto è responsabile un critico delle sue expertise? Il Giornale dell’Arte, September 2000, p. 35.