

AUTHENTICATION
IN ART



Art arbitration panel in The Hague steps up a gear to tackle complex disputes

Around 170 more arbitrators and mediators appointed to court panel which aims to increase expertise and impartiality

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The Hague, home of the expanded art arbitration panel Photo by Alireza Parpaei on Unsplash

The specialist Court of Arbitration for Art [CAfA] in The Hague is upping its expertise by appointing around 170 international neutrals (arbitrators and mediators) to its panel to tackle complex disputes in the sector.

CAfA was formed in 2019 by the Netherlands Arbitration Institute and the Authentication in Art [AiA] foundation to adjudicate art world matters ranging from chain of title, authenticity and copyright fair use. However,

Last year, the panel appointed around 30 specialists, with arbitrator experience, but this latest round of appointments is more focused (although not exclusively) on qualified art lawyers. The pool was selected by a committee of retired judges and professors, and parties in a related dispute are able to pick the expert they feel is best suited to their circumstances.

This latest step may once again raise the profile of the tribunal, which has been relatively quiet since drawing much attention following its launch last year.

“In a globalised world, disputes are becoming more complex. This is no exception in the world of art,” says Camilla Perera-de Wit, a board member of CAfA and Secretary General of the Netherlands Institute. “Parties with visual art disputes are welcome to submit their matters to the CAfA now, and we have received several inquiries about doing so, despite the pandemic.” She adds that auction house representatives greeted the updates with "enthusiasm" and that she believes the vehicle “is well primed to become the preferred forum for art world disputes.”

With all proceedings taking place behind closed door, questions were initially raised as to the extent to which the decisions will impact the market. The board confirms that confidentiality will continue to be a priority but said the NAI shall be authorised to have the award (decision) published in anonymised form, unless a party objects. Moreover, it is expected that the total number of cases dealt with by the panel will be released.

Friederike Gräfin von Brühl, a Berlin-based art lawyer who is one of the newly appointed neutrals, says: “[The opportunity means] no more need to explain the ABC of the art market in a courtroom. This chance to build on a pool of specialised arbitrators, is a giant step forward.” Other appointees include Steven Schindler, the former Chair of the New York City Bar Association, Art Law Committee.

CAfA is now looking to appoint to its "expert pools", with a particular interest in those with experience in provenance research, material analysis and art history.