

Litigational influence on Italian arbitration discourse

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ABSTRACT: In the last few decades, alternative dispute resolution (ADR) – in the forms of arbitration, conciliation and mediation – has been increasingly adopted in trade and commerce to resolve conflicts. As this method of settling commercial disputes is commonly considered an efficient, economical and effective alternative to litigation, the language used in arbitration documents is usually deemed to differ from that of litigation texts. However, in recent years, there has been a narrowing between the two practices as litigation processes and procedures have increasingly been seen to influence arbitration practices. Drawing on documentary data, the paper investigates the extent to which the integrity of arbitration discourse is maintained in the Italian context, pointing out the phenomena of contamination by litigation practices and exploring the motivations for such an interdiscursive process. An additional issue investigated concerns the relationship between the professional identity of the arbitrators and the kind of language used in their texts; the analysis focuses in particular on the use of legal discourse both by legal and non-legal experts. It may be mentioned that although some of the data is based on Italian cases, the process and procedures, and the trials themselves are conducted in international contexts, where participants come from different international backgrounds, and have the freedom to use any of the varieties of world Englishes. Most of these arbitration practitioners from Italy practice internationally and often participate in trials conducted in English.

INTRODUCTION

In the last few decades, alternative dispute resolution (ADR) has become increasingly popular in national and international trade as it has been seen as an efficient, economical and effective alternative to litigation for settling commercial and other disputes without resorting to litigation. Arbitration, conciliation and mediation are examples of ADR processes, which have proved to be very successful and are now employed in many countries where they have become an integral part of the judicial system (Berger 2006).

One of the reasons for the spread of the ADR systems is that they are able to free courts from the burden of small-medium cases that inevitably slow down the judicial process. The access to traditional legal proceedings is also discouraged by the quantity, the complexity and the technical nature of legislative processes and procedures. In particular, this situation is aggravated by a number of correlated factors, such as the enormous amount of material that each case accumulates, the insufficient structures available, and the limited familiarity with a computerised management of disputes. In consequence, the great amount of judicial work still to be processed inevitably hampers the judicial system. In addition, the social cost of litigation is extremely high.

The complexity of the judicial system is particularly problematic in small-medium patrimonial controversies, where single consumers are involved. The average time needed for a legal case to be tried and the costs of a lawyer are often not compensated by the benefits derived from a favourable verdict. Negative consequences also derive from litigation between parties belonging to the same partnership or involved in a positive

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economic relationship; recourse to a judge might lead to a breakdown in the economic relationship, something that is less likely to happen in an extrajudicial resolution of the controversy.

Within this problematic context, ADR instruments have been shown to play an important complementary role as they are not simply an alternative to litigation, but are often more suitable for certain types of controversies. Moreover, in ADR, parties can choose the method of resolution, playing a more active role in the procedure. This consensual approach enables the parties to maintain a good commercial relationship once the issue has been settled.

THE INFLUENCE OF LITIGATION PRACTICES ON ARBITRATION DISCOURSE

As arbitration is commonly considered an efficient, economical and effective alternative to litigation, the language used in this method of settling commercial disputes is usually deemed to differ from that of litigation texts. However, in recent years there has been a narrowing of differences between the two practices as litigation processes and procedures have increasingly been seen to influence arbitration practices, with the result that arbitration discourse itself has been affected by litigation practices, thus threatening the integrity of arbitration genres.¹

Recent studies have pointed out great changes taking place in arbitration procedures, highlighting in particular its 'colonisation' by litigation. In this context, Nariman remarks that "modern International Commercial Arbitration... has become almost indistinguishable from litigation, which it was at one time intended to supplant" (2000: 262). It is in this context that commercial arbitration has attracted pejorative descriptions such as 'arbitigation', or the 'judicialisation' of arbitration. Marriott (2000: 354) also complains about the unfortunate influence of litigation techniques on arbitration, which has led to increases in the cost of settling disputes, thus damaging the arbitration process.

Italian law does not require specific qualifications to become an arbitrator, except for the requirement of impartiality and independence (Section 815 of the Code of Civil Procedure). Arbitrators are usually selected according to their particular area of specialisation and expertise. Professional experience is considered particularly important, and most chambers of commerce require prospective presidents of the board of arbitrators to have been registered in the relevant professional register for a considerable period (for example, ten years). A significant level of experience is also required of most arbitrators in an attempt to ensure their professional competence (and credibility), within the field of the dispute. In addition, a chamber of commerce typically evaluates an individual's previous arbitral experience when making appointments. Obviously the nature of the dispute(s) and the parties involved are also taken into consideration.

Nonetheless, one of the fundamental principles upon which arbitration is based is that arbitrators can be appointed on the basis of their expertise in the area or the subject that has given rise to the dispute. This is particularly important in cases where the nature of the disagreement calls for very specific technical or specialised competence. As Italian law does not specify what kinds of professionals may be appointed as arbitrators, the role could potentially be assumed by any professional, but, in more practical terms, arbitrators belong to a limited number of categories: for example, lawyers, accountants, university professors, architects, chemists and engineers. Allowing the arbitrator to be appointed from within the relevant profession can obviously be advantageous to both parties, because an expert arbitrator can circumvent the need for external consultancy, thereby reducing time

and money. In spite of these benefits, lawyers remain the preferred category from which arbitrators are chosen. This choice, however, is bound to have relevant consequences in both procedural and discursive terms, as lawyers are likely to be influenced by their professional background in the management of arbitration practices, especially processes, procedures, and of course discourses.

In view of these considerations, the paper investigates the nature and the extent of the colonisation of commercial arbitration discourse by litigation language in the Italian context, and explores the motivations for such an interdiscursive process. This investigation is part of a more general project, aiming to determine the extent to which the various sets of complementary textual, narrative and discourse practices used in arbitration have been interdiscursively 'colonised' by litigation, especially in terms of purposes, processes, procedures and shared expertise expected on the part of the participants involved.²

To better understand how and to what extent language forms/functions correlate with the 'colonisation' of arbitration discourse, I will focus on the lexico-semantic elements of the arbitration texts examined here and on the linguistic expression of their rhetorical-pragmatic strategies. In particular, I will examine whether key linguistic features of legal language (Bowers 1989; Solan 1993; Gibbons 1994; Tiersma 1999), are also present in the texts taken into consideration.

THE LANGUAGE OF AWARDS

Given the complexity of legal professional identity, it may be difficult to clearly define how some typical traits of a specific professional community are conveyed in a particular legal field such as arbitration. Nevertheless it is possible to identify certain linguistic conventions that belong to the language used by arbitrators in formulating awards. For this purpose, a corpus has been compiled consisting of 22 arbitration awards written in Italian, available in the archives of different chambers of arbitration in Italy, specifically in Piedmont, Bergamo, and Reggio-Emilia (the composition of the corpus is summarised in the Appendix). These awards are mainly concerned with disputes that have arisen in business and private contexts. The composition of the panel in these cases shows a prevalence of lawyers (14), while the other categories represent a minority: four accountants, three engineers and one surveyor.

The analysis of the texts shows that, in writing awards, arbitrators seem to display a certain level of awareness of the importance of their linguistic choices. The lexical and stylistic differences between various arbitrators are nearly imperceptible; in these kinds of texts the personal style is overcome by the need to respect the textual conventions that belong to the tradition of arbitration. It is not possible to explore new writing styles; it is important to write within a certain traditional and accredited style. Indeed, chambers of commerce organise training courses for both new and experienced arbitrators in order to guarantee uniformity and homogeneity in the procedure. The analysis of our corpus has shown a standardised layout and a highly restricted set of linguistic expressions commonly adopted. The general frame of the award is often identical, and standard clauses are used throughout. This not only allows the arbitrator to make further savings in drafting time and costs, but also ensures that the clauses used are precise and correct.

In spite of the fact that arbitration is a procedure that is simpler and quicker than litigation, the language used in awards still presents the complexity that is typical of legal language. The linguistic differences between awards written by lawyers and non-lawyers are

extremely subtle; lawyers comprise the vast majority of arbitrators, and other practitioners choose to adopt the same style in order to ensure the homogeneity of the genre. Moreover, before awards are actually issued, the chamber of commerce often checks that they comply with all the formal requirements. Consequently, all awards present a style typical of the legal tradition, which uses a highly complex type of language.

THE IMPERSONALITY OF STYLE

The professional identity of the arbitrator is often hidden behind a very impersonal style, which is a feature of awards as well as of other legal documents. The use of impersonal subjects offers a clear indication of the minor role that individual identity plays in these kinds of texts, which conforms to the conventional criterion of impersonality that must be respected. Consequently, the personal pronouns related to the first persons *I* and *We* are never used in awards. The more impersonal expressions *L'arbitro* [The arbitrator] or *il Collegio arbitrale* [the Arbitration Board or Arbitration Panel] (or, simply, *il collegio* [the Board or Panel]), are always used in awards. Furthermore, impersonal structures – a typical element of legal language (Williams 2005: 36–8) – are constantly present in the corpus:

1. Si ritiene opportuno decidere. (RE3: 3)
[It is considered appropriate to decide.]
2. Occorre poi esaminare le eccezioni. (RE3: 4)
[It is then necessary to examine the exceptions.]

Similarly, passive forms are adopted in order to emphasise the result of the action, instead of the role of the agent, as in the following example:

3. La domanda [...] non può essere accolta. (RE3: 7)
[The request [...] cannot be accepted.]

In addition, the expression *il sottoscritto* [the undersigned] is repeated several times, seemingly to further emphasise the individual identity of the writer, as shown in the following examples:

4. Circa la Penale da €3.000,00 al sottoscritto non pare si possano ravvisare questioni di illegittimità o carenze contrattuali che possano inficiare la legittimità della richiesta. (RE10: 4)
[as regards the penalty of €3,000.00, according to the undersigned it is not possible to identify issues of illegitimacy or contractual omissions or oversights that could invalidate the request.]

Even in the case of *arbitrato rapido* [quick arbitration] – a simplified form of arbitration, which aims to further reduce time and costs – despite the theoretical simplicity of the procedure, the award still shows a high level of complexity and formality, a feature that characterises all awards. Although the non-legal profession of the arbitrator is clearly indicated at the beginning of the award, the expression *il sottoscritto* [the undersigned] is widely used, as in the case here:

5. Il sottoscritto dott. Ing. . . . libero professionista iscritto all'Ordine degli Ingegneri della Provincia di . . . al n. . . . e parimenti iscritto all'albo dei Consulenti tecnici del Giudice ed all'Albo dei Periti presso il Tribunale civile e penale di . . . (P2: 1)

[The undersigned... free-lance Engineer member of the Engineers Register of the province... no... member of the Register of Technical Judicial Consultants and of the Register of Expert Witnesses of the Civil and Penal Court...]

LEXICAL AND SYNTACTIC CHOICES

As regards lexical choices, one of the features that characterises the language used by legal practitioners is the use of Latinisms (cf. Mellinkoff 1963 for English; Mortara Garavelli 2001 for Italian), a lexical choice that contributes significantly to the complexity of the language. Latinisms are a typical element of legal language and are widely used in order to specify particular legal terms with a precise meaning; at the same time they also contribute to the overall sense of formality and tradition. The corpus presents a high number of Latinisms, such as *Ex tunc/Inademplenti non est adimplendum/Inter partes/Petitum/Causa petendi/Expressis verbis/Compensatio lucri cum damno*.

Another lexical aspect that characterises the corpus is the presence of words which display a high level of formality and constitute a prerogative of legal language. For example, the expression *all'uopo* [for this reason] used in the following quotation is rare in standard language but is typical of legal discourse:

6. All'uopo va evidenziato che la società convenuta non ha in alcun modo asserito l'inimputabilità del proprio inadempimento al fine di evitare la risoluzione di diritto del contratto di compravendita. (RE1: 6)

[For this reason it must be underlined that the defendant company has in no way established its immunity in fulfilling its duties in order to avoid the legal annulment of the sales contract.]

Even the terms used to define the people involved in the dispute *attore* and *convenuto* [claimant and defendant] assume a meaning that is specifically related to legal language. Similarly, specific legal acronyms are widely used in Italian awards, such as *PQM* (*Per Questi Motivi* [for these reasons]), used to introduce a standard section of an award. This is an obvious term for legal practitioners and most arbitrators use it (often without indicating its full version), but it may be unknown to non-experts.

The syntactic level of the awards is characterised by a certain level of complexity, in line with the legal tradition. The number of words per sentence is sometimes over 200, and sentences present very complex co-ordination and subordination structures. However, layout and typographical features contribute significantly to readability and accessibility, and facilitate the identification of different and important points. Decisions, in particular, tend to be subdivided into different sections, a practice that is present across different types of awards, regardless of the professional background of the arbitrator. This rhetorical strategy is being increasingly used in legislation to express complex contingencies. For example, decisions are often presented through the use of bullet points, and this practice tends to increase readability.

As the analysis has shown, these lexical, syntactic and textual features typical of legal discourse are adopted in the awards written by both legal and non-legal professionals, which confirm the high degree of legalisation of the texts used in arbitration practices.

INCLUSION OF LEGAL REFERENCES

A further typical element that characterises a lawyer's style is the constant citation of other legal documents. This intertextual and interdiscursive aspect is another very typical feature of legal discourse. Indeed reference is often made to private documents relating to the dispute, and/or public documents. Statutes, norms and rules of the legal system that are applicable to the dispute are also constantly mentioned. In the following example the contract from which the dispute originated and the Code of Civil Procedure are clearly cited:

7. il contratto di compravendita del 19 dicembre 1998, siccome integrato dall'accordo transattivo dell'1–3 dicembre 1999, deve essere dichiarato risoluto di diritto con effetto retroattivo, ai sensi e per gli effetti dell'art. 1457 Cod. civ. (RE1: 6)
 [The Sales Contract of 19 December 1998, as completed by the Agreement of Sale dated 1–3 December 1999, must be declared legally invalid, and applied retro-actively under the terms of Section 1457 of the Civil Code.]

It is unsurprising that the most frequently quoted legal text in the awards analysed is the Code of Civil Procedure, the main legal text used to rule the world of arbitration in Italy. Another text often referred to is the Arbitral Code applied by the chamber of commerce involved in the proceedings. References to legal documents are particularly present in awards where the arbitrator is a lawyer, because they represent a sort of juridical and linguistic convention that gives the document a greater degree of legal force. For instance, in award RE1 the Code of Civil Procedure is mentioned 13 times. Legal references are clearly used to emphasise the legal validity of the decisions made by the arbitrator, and reflect a lawyer's knowledge of the legal rules and norms that are applicable. Intertextual legal references are sometimes also present in awards written by non-lawyers, but their frequency remains much lower.

THE DISCOURSE OF PROCEEDINGS

The influence of litigation on arbitration practices can also be detected in oral proceedings. This is particularly visible in those cases in which arbitrators belong to a legal profession. In order to analyse this issue, a few examples, drawn from real cases, will be examined in this section. The data analysed derive from five arbitration proceedings held in Italy between 2004 and 2008 concerning business-related disputes.³ The events analysed took place in an office, a setting completely different from a courtroom trial. Although the setting and atmosphere of the arbitration proceedings are friendlier than in court, they however remain formal, as the arbitrators fear that an informal attitude might reduce the degree of detachment which is required by the situation and thus hinder their willingness to show great independence and impartiality. The role played by the arbitrator to guarantee compliance with the rules of the whole procedure is crucial, and is very similar to the role played by a judge in court. Indeed, it is not unusual for arbitrators to remind participants of the need to proceed in an orderly way:

8. A⁴: un momento. Adesso noi dobbiamo procedere con ordine
 [A: one moment. Now we must proceed in an orderly way]

Although the atmosphere in arbitration is friendlier than in court, arbitrators express their power by allowing or refusing specific questions or objections. For example, in the

following extract, although one lawyer considers the question asked by the other party irrelevant, the arbitrator asks the speaker to answer it as he thinks that this information may be useful for a better understanding of the situation:

9. DL: Ritengo che la domanda sia ininfluenta.

A: Però siccome qui siamo in un interrogatorio libero che serve per chiarire i fatti, io piuttosto pregherei l'avv. PL1 di chiarire più esattamente qual è il punto che vuol fare evidenziare.

[DL: I think the question is irrelevant

A: But, as this is an informal examination whose aim is to clarify the facts, I'd ask Ms. PL1 to clarify more precisely what the point she would like to underline is.]

Moreover, it is part of the arbitrators' duty to make sure that questions are answered adequately and to correct participants when they do not seem to report events faithfully:

10. A: no dopo nel*⁵

P: scusi mi ero perso. Questo è precedente ha ragione.

[A: no, later, in*

P: sorry, I was lost. This was before, you are right.]

So as to make sure that facts and events are reported clearly, arbitrators often ask their interlocutors to repeat or to reformulate certain details in a more precise way:

11. A: ritorno su una domanda che le ho fatto prima e desidero se possibile una più precisa risposta.

[A: I'll refer again to a question I asked earlier and I'd like a more precise answer]

In arbitration proceedings arbitrators play a very important role as they are the ones who assign the allocation of turns, clearly selecting the next speaker by calling him/her by name:

12. A: Chiedo ora al dott. P se vuole precisare quando è giunto a conoscenza dell'attività che il sig. D svolgeva.

[A: Now I'd like to ask Mr. P if he would like to specify when he learnt about Mr. D's activity.]

Moreover, arbitrators can interrupt speakers whenever they think that the answers are not complete or faithful or that speakers should clarify certain points that they consider relevant:

13. A: [C]oncorda con quanto ha detto ora il signor P, che aveva questo ruolo di*?

D: penso di sì io|

A: |le chiedo se a lei risulta [. . .]

[A: [D]o you agree with what Mr. P has said, that he had the role of*?

D: I think so|

A: |I'm asking you if you are acquainted with the fact that [. . .]

In order to guarantee impartiality and neutrality, arbitrators maintain a certain level of distance and highlight the authority that they can exert. This is the reason why the participants are expected to ask the arbitrators for permission to take their turn:

14. DL: io avevo solo da fare dei quesiti per precisare l'oggetto delle prime domande. Li facciamo adesso o dopo?
 A: assolutamente sì, io direi di seguito, se voi siete d'accordo.
 [DL: I wanted to ask some questions regarding the subject-matter of the first questions. Shall we ask them now or later?
 A: Absolutely. I would say now, if you agree.]

Another similarity with trial proceedings can be seen in those cases in which the parties interact directly without asking the arbitrator for permission to take their turns; in such cases, the latter immediately intervenes pointing out that this is not the procedure to be followed:

15. DL: * disponeva di una propria rete di agenti?
 P: no, non disponeva di una propria rete di agenti
 DL: di agenti per la vendita [. . .]?
 P: No, [. . .]
 A: Ecco, io chiedo ai colleghi però, per il buon andamento, che le domande le rivolgete al collegio, dopodiché il collegio valuta se darvi corso oppure no, e dopo la persona risponde. Quindi prego, collega, se ha delle altre domande a chiarimento da chiedere su questo fatto dell'attività.
 DL: grazie Presidente. Se può chiedere qual era la forma contrattuale [. . .]
 [DL: did * have their own network of agents?
 P: no, they didn't have their own network of agents
 DL: sales agents [. . .]?
 P: No, [. . .]
 A: Well, for the good running of the proceedings I'll ask the colleagues, though, to address their questions to the panel, then the panel decides whether to accept them or not, and then the person answers. So, please, my colleagues, if you have any more questions about this point
 DL: thank you President. If you can ask what the contractual form was [. . .]]

Indeed, the typical turn-taking sequence is similar to that used in court (Goodrich 1988): it starts with a party's request to the chair to intervene in the interrogation; the chair then addresses the question to the other party, without repeating the question but simply asking the party to answer it:

16. A: Bene, qualche chiarimento?
 DL: Sì, Presidente. Vogliamo chiedere al dott. D se in questa sua attività ha utilizzato materiale o qualsiasi altro elemento proveniente da o comunque appartenente a *
 A: Prego, il dott. D risponda
 D: allora, [. . .]
 [A: Good, any questions?
 DL: Yes, President. We would like to ask Mr. D if he has used any material or other element coming from or belonging to * for his business
 A: Mr D, please answer
 D: Well, [. . .]]

The similarity between a trial and arbitration proceedings is sometimes explicitly underlined by the arbitrator, who makes a direct reference to procedures commonly used in court. In the following extract the arbitrator clearly refers to the principle on which the

conduction of the hearing is based, namely, the right of cross-examination, which guarantees that both parties have an equal possibility of taking their turns:

17. A: Allora adesso, per diritto di contraddittorio, chiederei a * di riproporre la domanda di prima.
[A: Now, owing to the right of cross-examination, I would ask * to ask the previous question again.]

As Atkinson and Drew (1979: 66) remark, this procedure is typical of court examinations: “Whereas in conversation the competition among possible next speakers to self-select can inhibit long turns, in examination that pressure is relaxed, given that each speaker is assured of a next turn”.

As we can see, these instances confirm a great similarity between the role of the arbitrator and that of the judge in court. Transcripts of proceedings frequently show cases in which arbitrators signal their strong loyalty to the legal profession, often underlying the membership of the same professional community to which the parties’ lawyers also belong. This expression of commonality of experience is visible in the following quotation, where the arbitrator confesses his limited competence in technical matters, which he considers typical of legal professionals:

18. A: questi documenti francamente sono di quelli che sono in lingua greca per noi arbitri e avvocati, quindi bisognerà poi rivederli [...]
[A: frankly, these documents belong to that category of papers which are all Greek to us arbitrators and lawyers, and therefore they need to be examined again [...]]

In this quotation, solidarity is increased by the adoption of the first person plural pronoun in the expression *per noi arbitri e avvocati* [to us arbitrators and lawyers] used to underline the same kind of technical background. In other cases the belonging to a common professional community sharing the same legal competence is explicitly emphasised by the arbitrator:

19. A: Questo non per anticipare nessun giudizio, ma perché siamo tra avvocati e quindi è inutile fare come il giudice che sta muto ecc. La mia opinione è, a meno che poi voi mi dimostrate che è sbagliata, che l’insegnamento più recente della Cassazione sembrerebbe non applicare neppure all’Arbitrato rituale queste scansioni dolenti del processo civile.
[A: What I am going to say does not anticipate any judgment, but since we are among lawyers and therefore there is no point in behaving like a judge who doesn’t open her/his mouth, etc. My opinion is – unless you can demonstrate that it’s wrong – that it may seem that even the most recent lesson learnt from the Court of Cassation does not apply these deceitful interpretations of the civil process.]

This insistence on commonality is adopted by the arbitrators in order to promote the establishment of a more co-operative context in which their work with the counsels can be carried out smoothly and guarantee the achievement of a successful outcome in a friendly atmosphere.

CONCLUSION

As has been seen in the analysis above, arbitration texts show several instances of influence from litigation, as they clearly display a high level of formality, conform to a standard format and present linguistic features that belong to the legal tradition. This

'colonisation' of arbitration texts by litigation language is confirmed by the presence of those same elements also in awards written by arbitrators with non-legal professional backgrounds. Even when the arbitrator is not a lawyer, he/she will tend to produce texts that follow closely the traditional legal style. This may appear paradoxical, as the aim of the arbitration procedure is to simplify the process of resolving a dispute and, therefore, one might expect linguistic choices to be made with the objective of creating a document that is less complex than other forms of dispute resolution (most notably, of course, litigation). However, the advantages of using the conventionalised style typical of legal documents are so self-evident that they have led to an increasing adoption and consolidation of the traditional linguistic features that characterise 'legalese' even within arbitration awards.

Also the recent reform in arbitration practice in Italy (Legislative Decree 40/2006; cf. Cutolo and Esposito 2007 for a discussion), seems to have strengthened this process of colonisation, as large samples of legal discourse are present in the texts used in recent procedures too (Maci 2010; Sala 2010). This trend derives, at least in part, from the need to emphasise crucial characteristics and qualities of the award; first and foremost its legal validity and enforceability. A different and less standardised approach would lose the advantage of consolidated meaning-making, and, consequently, would be more likely to be controversial and thus run the risk of arousing further disputes.

NOTES

1. This threat to the integrity of arbitration genres has been the object of analysis of an international research project entitled *Generic Integrity in Legislative Discourse in Multilingual and Multicultural Contexts* (<<http://gild.mmc.cityu.edu.hk/>>). The project, led by Professor Vijay Bhatia of the City University of Hong Kong, has investigated the linguistic and discursive properties of a multilingual corpus of international arbitration laws drawn from a number of different countries, cultures, and socio-political backgrounds, written in different languages, and used within and across a variety of legal systems. Some of the results of the project are presented in Bhatia, Candlin and Gotti (2003) and Bhatia, Candlin and Engberg (2008).
2. The project referred to here (led by Professor Vijay Bhatia of the City University of Hong Kong) is an international research project entitled *International Commercial Arbitration Practices: A Discourse Analytical Study*. For further details of this project see the webpage at <<http://enweb.cityu.edu.hk/arbitrationpractice/>>. Some of the results of the project are presented in Bhatia, Candlin and Gotti (2010).
3. The cases analysed here are part of a study of arbitration discourse carried out by the Bergamo Unit (led by the present writer), of the international research team working on the project presented in note 2. The analysis is based on the official transcripts of the arbitral panel sent to the parties' counsels. The examples reported here are drawn from Anesa (2009) and Maci (2009). Dr Patrizia Anesa and Dr. Stefania Maci are members of the Bergamo Unit.
4. A: arbitrator (sole arbitrator or president of the panel) / AB: arbitrator (member of the panel) / D: defendant / DL: defendant's lawyer / P: plaintiff / PL: plaintiff's lawyer.
5. An asterisk indicates that sensitive data has been deleted for confidentiality purposes.

APPENDIX: COMPOSITION OF THE CORPUS

Code	Chamber of commerce/arbitral chamber	Professional category of the arbitrator	Year
RE1	Reggio-Emilia	Lawyer	2000
RE2	Reggio-Emilia	Board: lawyers	2003
RE3	Reggio-Emilia	Board: lawyers	2004
RE4	Reggio-Emilia	Lawyer	2004
RE5	Reggio-Emilia	Board: lawyers	2004

Code	Chamber of commerce/arbitral chamber	Professional category of the arbitrator	Year
RE6	Reggio-Emilia	Board president: Engineer. Members: two Lawyers	2004 2004
RE7	Reggio-Emilia	Lawyer	2004
RE8	Reggio-Emilia	Accountant	2005
RE9	Reggio-Emilia	Accountant	2005
RE10	Reggio-Emilia	Accountant	2005
P1	Arbitral Chamber of Piedmont	Lawyer	2006
P2	Arbitral Chamber of Piedmont	Engineer	2002
P3	Arbitral Chamber of Piedmont	Accountant	2004
P4	Arbitral Chamber of Piedmont	Lawyer	2006
P5	Arbitral Chamber of Piedmont	Lawyer	2005
B1	Bergamo	Lawyer	2006
B2	Bergamo	Lawyer	2005
B3	Bergamo	Lawyer	2006
B4	Bergamo	Lawyer	2006
B5	Bergamo	Lawyer	2001
B6	Bergamo	Engineer	2002
B7	Bergamo	Surveyor	2004

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