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Grounds and Reasons: Argumentative Signals in Judicial Texts

L'articolo illustra i primi risultati di un progetto di ricerca volto a sviluppare strumenti per un'analisi linguistica dell'argomentazione giudiziale. Gran parte della ricerca sui processi di elaborazione della decisione giudiziale considera l'argomentazione sotto il profilo della teoria e della filosofia del diritto; al contrario, l'enfasi viene qui a porsi sul ruolo del linguaggio nella costruzione dell'argomentazione, ed in particolare su elementi del lessico ausiliare dell'argomentazione quali connettori ed espressioni meta-argomentative. In primo luogo, l'articolo discute la metodologia del progetto di ricerca, condotto su un corpus di 221 sentenze (1.646.182 parole) emesse da tre corti. In secondo luogo, l'uso delle espressioni meta-argomentative *ground* e *reason* verrà analizzato da tre angolazioni: funzione testuale, struttura di genere e voce argomentativa. I risultati presentati nell'articolo mostrano che *ground* e *reason* agiscono come efficaci segnali argomentativi nel testo giudiziale.

1. *Introduction*

The argumentative nature of judicial texts has been pointed out by various authors (see, *inter alia*, Perelman 1980, Jackson 1988, Aarnio 1989, Alexy 1989, Peczenik 1989), since it is common ground that in democratic States based on principles of balanced and accountable powers, courts are expected both to settle disputes and to justify their decisions. This is achieved through argumentation.

Nevertheless, in spite of these widely shared assumptions, the role of language in the construction of argumentation in judicial settings has been largely underestimated. For instance, Aarnio (1989) provides a detailed overview of the standards of reasoning followed by courts, by reminding us of the importance of linguistic factors affecting the interpretation of the legal text, but with no examples of actual, attested occurrences. Likewise, Peczenik (1989) and Alexy (1989) see jurisprudence as part of a theory about legal dogmatics and legal decision-making. According to them, any theory of legal argumentation should not centre

on language, but rather on the domains of legal theory and legal philosophy. More recently, Feteris (2002) proposed an exemplary analysis of pragmatic argumentation, by analysing a judgment issued by the Dutch Supreme Court. However, Feteris still perceives argumentation in terms of a complex reasoning process. As a result, she does not focus upon the linguistic constituents of the argumentative discourse she takes into consideration.

More attention to the linguistic aspects of argumentation has been paid by Anscombre / Ducrot (1988) and Plantin (1990 and 1996). Anscombre / Ducrot (1988) uphold the view of the radical argumentativity of language, and they maintain that in order to express the argumentative force of statements, languages avail themselves of ‘operators’ such as *mais* [but], *au moins* [at least] etc. for French. Plantin (1990 and 1996) is also concerned with argumentation in language. More generally, one of the reasons why his research is of great significance is that he also works on texts, in order to investigate how argumentative discourse takes shape.¹

In the light of the fruitfulness of linguistic studies on argumentation such as those mentioned, this paper is aimed at presenting the first results of a research project, which is intended to provide an answer to the question of the missing links between linguistic theories of argumentation and the use of argumentation in specialised domains like legal discourse. From this point of view, Stati (2002: 63) proves a useful reference. He notes the importance of expressions which, as single word-forms, phrases or even clauses, serve the purpose of indicating the argumentative properties of text propositions and the relationship between propositions provided with an argumentative role. Stati calls these expressions *lessico ausiliare dell’argomentazione* [auxiliary argumentative lexis].

Once a set of specific elements has been identified, their analysis is facilitated by corpus linguistics tools (Sinclair 1991, Biber *et al.* 1998 and Stubbs 2001); more specifically, a study of concordances and collocations in which the selected linguistic elements are found, in combination with qualitative text analysis, is likely to give insights as to their function at the level of text, genre, and argumentative voice.

¹ See, for instance, Plantin (1990) for the analysis of the written draft of a speech by De Gaulle.

The next section will clarify these points methodologically, whereas the third part of the paper will focus on the findings deriving from a first in-depth observation of corpus data. The appropriateness of the approach outlined will be tested on the meta-argumentative expressions *ground* and *reason*, which operate as frequent argumentative signals in judicial texts.

2. *Materials and Methods*

In order to carry out the analysis on a reliable amount of language data, a corpus was built. It is composed of 221 judgments, for a total of 1,646,182 words. Once it was decided that judgments would be a suitable genre for argumentative analysis, two criteria were established for the collection of data.

First of all, the comparability of sources; texts were collected from the jurisprudence of three Supreme Courts: the Court of Justice of the European Communities, the House of Lords (UK) and Ireland's Supreme Court. This will hopefully prevent the analysis from being arbitrary, because if judgments had been chosen regardless of the court formulating them, one might rightly argue that the language of a court varies depending on whether it is a court of first or of last instance. Thus, for example, the language of a decision pronounced by a court of first instance may be shaped in a way reflecting its attempt to successfully persuade courts higher up in the hierarchy of the legal system of the grounds on which the ruling itself relies. This aspect is obviously far from occurring in judgments issued by a court of last instance, which has the last word in saying what the law is. The choice of three supreme courts, therefore, undermines criticism due to a failure to take account of features such as the one mentioned.²

Secondly, the sameness of the time span, within which judgments were selected: the corpus is composed of all judgments delivered by the three courts between 1st January and 30th June 2003.

² This explains why, for example, the judgments issued by the Court of First Instance of the European Communities were excluded from the corpus. This Court is also a judicial organ of the European legal system, but as its verdicts may be appealed against before the Court of Justice, it is not a court of last instance, and therefore it does not meet the first criterion.

However, it must be noted that the Court of Justice of the European Communities presented a peculiarity with respect to the House of Lords and Ireland's Supreme Court: since the language of the proceedings is always to coincide with that of the parties, only 12 judgments out of the total 148 inserted into the corpus were originally drafted in English, whereas the others were all translated into English from other Community languages, notably German, French, Italian, Dutch, Greek, Spanish, Finnish, Danish, Portuguese and Swedish. A number of judgments (see, for instance, C-265/01, *Pansard et al.*) are not available in English, and they were consequently excluded from the corpus.

No other criteria were set out for compiling the corpus. As a result, the jurisprudential area of judgments was not taken into account, so as not to reduce the reliability of the analysis, which would otherwise be biased owing to an unjustifiably arbitrary choice of judgments related to one or more specific fields (say industrial and intellectual property).

Within the corpus, text and word distribution is as follows: 148 judgments (764,110 words) for the European Court, 39 judgments (562,117 words) for the House of Lords, and 34 judgments (319,955 words) for Ireland's Supreme Court.³ European judgments outnumber those by the two national courts, but this does not threaten the internal balance of the corpus with regard to the distribution of the number of words, because on average English and Irish judgments are much wordier than those by the Community Court.⁴

A first observation of corpus data by means of Wordsmith's Wordlist suggested that among the various features attributed by Stati (2002) to argumentative discourse, connectives and meta-argumentative expressions appear to be most prominent in judgments.⁵ After this preliminary survey, the next step of the research was the identification of the ten

³ All judgments forming the corpus were downloaded from the following websites (for the European, English and Irish courts respectively):

<http://europa.eu.int/jurisp/cgi-bin/form.pl?lang=en>;

<http://www.publications.parliament.uk/pa/ld199697/ldjudgmt/ldjudgmt.htm>;

<http://www.bailii.org/ie/cases/IESC>.

⁴ Another difference between European and English / Irish judgments concerns the disputes which they are called to settle, as the former normally concern international as opposed to domestic issues.

⁵ See Stati (2002: 64-67) for the definition of connectives and meta-argumentative expressions adopted here.

most frequent items of each class within the whole corpus. Browsing through the wordlist displaying every word of the corpus according to its frequency, the ten most widely used connectives and meta-argumentative expressions turned out to be the following:⁶

- a) Connectives: *but, therefore, however, since, because, thus, although, accordingly, moreover, even if.*
- b) Meta-argumentative expressions: *to follow, reason, ground, to hold, argument, to accept, conclusion, to justify, to dismiss, to conclude.*

Subsequently, Wordsmith's Concordance function was used, in order to find recurrent clusters for every item in the whole corpus. In this context, the meta-argumentative expressions *ground* and *reason* were observed to occur in a set of frequent phrases displayed in Tables 1 and 2 below.

GROUND	Frequency
<i>On the ground that...</i>	199
<i>On those grounds...</i>	150
<i>On the grounds that...</i>	52
<i>On the ground of...</i>	221
<i>On grounds of...</i>	122

Table 1. Most frequent phrases including *ground*.⁷

REASON	Frequency
<i>For the reasons given/ set out/ stated/ he gives/ they give etc...</i>	163
<i>By reason of...</i>	145
<i>For these reasons...</i>	52

Table 2. Most frequent phrases including *reason*.

⁶ For the frequency of the features listed, see Appendix 1.

⁷ *On the ground of* and *On grounds of* are written in bold type because even though figures reveal that their frequency is indeed high, their use appears to be restricted to a relatively small amount of texts, thereby calling their overall significance into question. However, in spite of this, they will be analysed in the present paper for the sake of completeness. For a detailed overview of the spread of the frequency of each phrase including *ground* and *reason* over the corpus, see Appendix 2.

The paper will illustrate the first findings of the research project with regard to the utilisation of *ground* and *reason* anticipated by the tables above. In particular, the next section will explore the use of these two meta-argumentative expressions in accordance with the three perspectives of textual function, genre structure and argumentative voice.

As regards textual function, first of all, it will be shown that the phrases in which *ground* and *reason* are employed can be interpreted in the light of the concepts of prospection and encapsulation drawn up by Sinclair (1993).⁸

Secondly, as for genre structure, it will be emphasised that some of the phrases appear to share the global function of organising the whole text in which they occur in terms of arguments supporting a judicial conclusion, whereas others are characterised by the local, more restricted function of providing support for a single argument of the chain.

Finally, as far as argumentative voice is concerned, the various uses of *ground* and *reason* will be explained by ideally situating them on a cline, which stretches from proponent's argumentation to reported argumentation.⁹

3. Results

3.1 *Ground*

To begin the analysis with *ground*, let us take a look at the following examples:¹⁰

⁸ Although Sinclair's model will be adopted here, it must be remembered that the topic of signalling in discourse has also been dealt with by other authors (see, for instance, Tadros 1994, Charles 2003 and Flowerdew 2003). In particular, as regards the use of *reason*, valuable insights are offered by Hoey (1993).

⁹ The concept of 'proponent' has been borrowed from Plantin, who talks about the *proposant* as the speaker who advances a proposition (1996: 20-21). However, even though a high value is placed on Plantin's model, the main aim of the present paper will be different. In fact, it will not deal with arguments that were not drawn up by the proponent under the label 'opponent's argumentation', as Plantin (1996) does. Rather, the broader term 'reported argumentation' (Bondi 1998) will be used, because reported arguments are not necessarily opposed to – indeed they may concur with – the proponent's views.

¹⁰ For every example, I provide the name of the case from which it was taken. For greater convenience, the name of the court which delivered the source-judgment was abbreviated: thus, HL will stand for House of Lords, ISC for Ireland's Supreme Court, and EC for Court of Justice of the European Communities.

- (1) 19. My Lords, the BBC rejected the tape **on the ground that** it infringed the standards of taste and decency with which all the programmes which it transmitted were required by law to comply. (HL, Regina v. BBC)
- (2) [...] the Banks sought an order confirming the decision of the High Court to dismiss the claims of the plaintiffs **on the grounds that** the other issues argued in the trial are a complete answer to the claims of the plaintiffs. (ISC, Bula v. Crowley)
- (3) On 16th June 1999, it [SGS] issued a Notice of Motion seeking an order striking out DEKRA's proceedings *in limine* **on the ground of** its failure to bring the proceedings within the three-month limit provided by Order 84A. (ISC, Dekra v. Minister for the Environment)
- (4) [the Verwaltungsgericht Stuttgart] observed that performance of military service delayed access by men to employment and vocational training and could therefore constitute discrimination **on grounds of** sex within the meaning of Article 2(1) of Directive 76/207. (EC, Dory v. Federal Republic of Germany)

A reading of (1), (2), (3) and (4) reveals that they share a common feature: the use of a phrase including *ground* which has a predictive function with respect to what comes next. More precisely, the verb phrases *rejected the tape*, *dismiss the claims*, *seeking an order* and *constitute discrimination* are all followed by information aimed at justifying them and are introduced by *on the ground that*, *on the grounds that*, *on the ground of* and *on grounds of*. These uses of *ground* serve the purpose of signalling that the following textual elements are indeed the argumentative grounds on which prior assertions rely.

These grounds may either take the form of a clause introduced by *that* – (1) and (2) – or be nominal, as in (3) and (4), when they are preceded by *of* (*its failure... Order 84, sex... Directive 76/207*). The remarks expressed so far suggest that the use of *ground* observed in (1), (2), (3) and (4) may be interpreted in the light of the cohesive phenomenon of prospection, defined by Sinclair (1993: 12) as occurring “where the phrasing of a sentence leads the addressee to expect something specific in the next sentence”. In the present case, the predictive power of prospection does not manifest itself from one sentence to another, but at

an intra-sentential level; yet Sinclair's definition still applies, in that the addressee is actually guided by the argumentative signal at work to interpret the subsequent textual material in terms of grounds reinforcing preceding propositions.

Let us now compare the instances above with the use of *ground* characterising (5) below:

- (5) 3. At a special sitting of the court in Dundalk on the 7th October 2002, the Circuit Court Judge heard an application on behalf of the accused to quash the 11 counts in the indictment **on those grounds**. (ISC, *The People v. M.S.*)

In (5), *ground* does not appear to act prospectively; rather, on the basis of preceding co-text that cannot be reported in full here for reasons of space, *on those grounds* can be said to refer to textual material placed before the sentence of which it is part. The combination of *ground* with the anaphoric deictic *those* helps the reader classify and interpret prior propositions in terms of grounds on which the *application* brought before the Circuit Court Judge on behalf of the accused rests. In other words, this use of *ground* corresponds to another process of text cohesion dealt with by Sinclair, notably encapsulation, which “reclassifies a previous sentence by ‘demoting’ it into an element of the structure of the new sentence” (1993: 8).

With regard to the present corpus, the re-classification Sinclair talks about often involves more than “a previous sentence”; for example, the grounds encapsulated by the phrase in (5) stretch over an extended set of sentences. Nonetheless, the function attributed to encapsulation by Sinclair remains, since it can also be argued here that *on those grounds* enables the reader/addressee to discard the linguistic properties of previous sentences as such and to retain just what they express, so that they become part of their knowledge in the form of *grounds* with reference to which the *application* of (5) is to be explained.

From the point of view of textual function, therefore, the use of the meta-argumentative expression *ground* is likely to be accounted for either under the concept of prospection, which appears to prevail, or under that of encapsulation emphasised by (5) above.

Moving on to a different level of analysis – that is, genre structure – let us take the following extracts into consideration:

- (6) [the Tribunale civile e penale di Trento] states that the Court ruled in that judgment on the incompatibility of the provisions of Law No 204 with the Directive in regard to the invalidity of agency contracts **on the ground that** those national provisions infringed a mandatory provision of the Directive. (EC, *Caprini v. CCIAA*)
- (7) There, the Bank's application for planning permission was refused **on the grounds that** the development might prejudice the possible future widening of a road. (ISC, *Ashbourne v. County Council of Cork*)
- (8) 148. It is common ground that the 1975 Act was designed to deal with the mischief of discrimination **on the ground of** sex, in the sense of gender as opposed to sexual orientation. (HL, *Mac Donald v. Advocate General for Scotland*)
- (9) The third control mechanism which the court may impose is in relation to particular heads of damage or finally, they may expressly deny a claim **on grounds of** public policy. (ISC, *Fletcher v. Commissioners of Public Works in Ireland*)

Although it is not possible to reproduce co-text extensively here, it is worth stating that there is much common ground among (6), (7), (8) and (9), as regards their role in the genre structure of the judgments of my corpus. The uses of *ground* documented above are all characterised by a restricted scope, because they appear to meet the discourse requirement of providing local support to a single argument of the chain. Thus, for instance, in (6) the clause prospectively introduced by *on the ground that* signals that the specific argument of *incompatibility* upheld by the *Court* is supported by the fact that *national provisions infringed a mandatory provision of the Directive*. Similarly, in (7), support to the argument that the Bank's application had to be refused is signalled by *on the grounds that (the development... of a road)*. In the following example, instead, an alternative use of *ground* is noteworthy:

- (10) 30. It must be observed, first, that [...].
31. Second, it must be observed that [...]
36. It follows that [...].
On those grounds, THE COURT (Fifth Chamber) [...] hereby rules: [...] (EC, Ulf Hammarsten)

In (10), the function of the encapsulating phrase *On those grounds* is rather different from that associated with the forms employed in (6), (7), (8) and (9). In fact, *On those grounds* acts globally as a meta-textual operator, because it organises the whole of the preceding text in terms of a set of arguments supporting the verdict, the final thesis the Court is on the verge of announcing. *On those grounds* is therefore a signal which indicates the argumentative move from a number of premises introduced earlier, and partly reproduced in (10), to a forthcoming judicial conclusion appearing thereafter.

If, then, *on the ground that*, *on the grounds that*, *on the ground of* and *on grounds of* appear to be used more locally, *on those grounds* displays a much more global orientation, as far as genre structure is concerned. However, it would be inappropriate to connect prospection with ‘locality’ and encapsulation with ‘globality’ in a systematic way, as will be seen in the section devoted to *reason* (3.2) as well as in 3.3.

Finally, *ground* might be interpreted in terms of argumentative voice. The following examples may illustrate the issue:

- (11) the Spanish Government disputes the claim put forward [...], **on the ground that** the authorities of Melilla have no jurisdiction over territorial marine waters and that the Autonomous Community of Asturias has no sensitive areas. (EC, Commission v. Kingdom of Spain)
- (12) The plaintiffs submitted that the appeal should be allowed **on the grounds that** they did not accept the decision of the learned trial judge that the order of June 25th did not misrepresent the effect of his judgment delivered on the 20th June, 2002. (ISC, Bula Limited)
- (13) [the applicant] claimed that the defendants had discriminated against him **on grounds of** religious belief in that they had constructively dismissed him. (HL, MacDonald v. Advocate General for Scotland)

In (11) and (12), *on the ground that* and *on the grounds that* introduce a clause setting out a justification within reported argumentation. Thus, *that the authorities... sensitive areas* is intended to provide some backing to an argument put forward by the Spanish Government disputing a certain claim; similarly, *that they did not accept... June, 2002*

grounds the plaintiffs' argument that the appeal should be allowed. Although not in the form of a clause, *on grounds of* in (13) indicates the basis on which the kind of discrimination alleged by the applicant rests. In all extracts presented, the discourse centres on arguments put forward by the parties in the case, and not by the court in question, which is obviously assumed to be the proponent in the genre.

Let us now compare (11), (12) and (13) with (14) and (15) below:

- (14) **On those grounds**, THE COURT (Sixth Chamber) hereby:
1. Dismisses the appeal.
2. Orders T. Port GmbH & Co. KG to pay the costs. (EC, T. Port v. Commission)
- (15) On a realistic view of the facts there was a reasonable likelihood of persecution **on the ground of** race (since he was a Tamil), a member of a particular social group (he was a Tamil from Jaffna) or political opinion (the separatist views predominant among Tamils from the North). (HL, Regina v. Secretary of State for the Home Department)

These two instances differ from those which precede, in that *on those grounds* and *on the ground of* appear to be signals of the proponent's argumentation. In (14), *on those grounds* introduces the European Court's verdict, by underlining that it is the outcome of a process of reasoning based on arguments (*grounds*) previously weighed up by the Court itself; in (15), *on the ground of* is employed by the Lord delivering the speech, and therefore by the proponent's voice, in order to bring in considerations that will uphold his argument that *there was a reasonable likelihood of persecution*.

The figures displayed in Section 3.3 will show to what extent *on the ground that*, *on the grounds that*, *on grounds of* and *on those grounds*, *on the ground of* tend to be signals of the proponent's and reported argumentation respectively; furthermore, they will allow a comparison between *ground* and *reason* to be made on the three levels of analysis followed throughout the paper.

In the next sub-section, the same analytic parameters used so far for *ground* will be applied to the investigation of *reason*.

3.2 Reason

An overview of the textual function of *reason* may once again start with an observation of corpus data:

- (16) 90. **For the reasons stated** in paragraphs 47 to 66 above, which are applicable *mutatis mutandis* to the point under examination, the fact that the use of the PDO ‘Grana Padano’ for cheese marketed in grated form is conditional on the grating and packaging operations being carried out in the region of production may be regarded as justified, and hence compatible with Article 29 EC. (EC, Ravil v. Bellon)
- (17) 57. **For these reasons** I consider that the ESI Order was not ultra vires, either as a matter of construction of paragraph 3(2) or because, as Edison have submitted, the Secretary of State acted irrationally or contrary to Edison’s rights of property under Article 1 of the First Protocol to the European Convention on Human Rights. (HL, Regina v. Central Valuation Officer)

In (16) and (17), *for the reasons stated...* and *for these reasons* can be interpreted as operating in a way close to *on those grounds*; as a matter of fact, they both signal that a conclusion is about to be announced, drawn from reasons stated before and cohesively reformulated here through anaphoric deixis as well. The reader/addressee is once again guided towards classifying and retaining prior textual material in terms of reasons leading to the following thesis: *the fact that... may be justified* in (16) and *that the ESI Order was not ultra vires* in (17). It follows that *for the reasons stated...* – as well as other similar phrases such as *for the reasons given* and *for the reasons set out* listed in table 2 – and *for these reasons* share the function defined in 3.1 as encapsulation.

At the same time, a parallel might be drawn between (1)-(4) and (18):

- (18) There certainly appears to be a *lacuna* in the Act **by reason of** the fact that there is no time limit within which the Controller must give his written grounds. (ISC, Procter and Gamble v. The Controller of Patents)

By reason of can be described as a prospective signal, as the clause it introduces actually expresses the reason, on the basis of which it was argued that *there is no time limit... written grounds*. A comparison of the data observed so far suggests that *reason* seems to act more frequently as a encapsulating element, whereas *ground* appears to be more often used with a prospective function.

In order to enlarge the perspective on *reason*, it is appropriate to try and explain its role also with regard to genre structure. Examples (19) and (20) are effective clues for the task:

- (19) My Lords,
51. I have had the advantage of reading in draft the speech to be delivered by my noble and learned friend Lord Nicholls of Birkenhead. I am in full agreement with it and **for the reasons which Lord Nicholls gives** I would allow the appeal concerning children L and C (making the order which Lord Nicholls proposes) and dismiss the appeal concerning child Y. (HL, In Re O and in Re N)
- (20) 145. **For these reasons** and for the further reasons given by your Lordships, with which I agree, I would dismiss this appeal. (HL, *Matthews v. Minister of Justice*)

For the reasons... gives and *for these reasons* share with *on those grounds* the function of introducing the judicial conclusion of cases. In (19), *for the reasons... gives* enables the proponent to point back to and organise a previous section of the text – that is, Lord Nicholl’s speech – in terms of reasons supporting the thesis that will seal his argumentation (*I would allow the appeal*). The same may be said for (20), in which *for these reasons* encapsulates the whole of the previous arguments adduced by the proponent, in order to indicate that the conclusion he is about to present (*I would dismiss the appeal*) was inferred from them in combination with other *reasons given by your Lordships*. Consequently, it can be argued that *for the reasons... and for these reasons* also act as global, meta-textual elements signalling the argumentative move from premises to a forthcoming conclusion.

The predominantly global use of *reason* exemplified above is reinforced by the fact that *by reason of* is the only phrase among those analysed, which may be characterised as inherently local:

- (21) He argued that the Slovak Republic is one of the non-member countries nationals of which are entitled to participate without restriction in competitions under the same conditions as German and Community players **by reason of** the prohibition of discrimination resulting from the combined provisions of the EC Treaty and the Association Agreement with Slovakia. (EC, *Deutscher Handballbund v. Kolpak*)

In (21), the portion of argumentative discourse selected centres on the specific submission by one of the parties that *the Slovak Republic is one of the non-member countries nationals of which are entitled to participate... under the same conditions as German and Community players*. The reason that encourages him to put forward that argument is the prohibition of discrimination laid down by both the EC Treaty and the agreement with Slovakia, and it is signalled by *by reason of*. On this occasion, therefore, as with the phrases highlighted in (6)-(9), the use of the meta-argumentative expression is meant to provide an argument with local support.

As for their role in genre structure, *ground* appears to be used more locally, whereas *reason* is more frequently used with the meta-textual function illustrated by (19) and (20).

To conclude this section, the argumentative voice expressed by *reason* remains to be analysed. Examples (22) and (23) below may shed light on some of the trends revealed by the corpus:

- (22) 4. I have had the advantage of reading in draft the speech of my noble and learned friend Lord Hutton. I agree with it, and **for the reasons which he has given** I too would allow the appeal. (HL, *In Re Kanaris*)
- (23) The respondent argued that **by reason of** the fact that the concerned party was a Ward of Court and by virtue of the provisions of section 9 of the Courts (Supplemental Provisions) Act 1961 the responsibility for the exercise and vindication of the statutory and constitutional rights of the Ward of Court rested on the President of the High Court. (ISC, *C.K. v. Northern Area Health Board*)

Both (22) and (23) embed reported argumentation, albeit in different ways. In (22), the proponent's voice is rendered evident by the reitera-

tion of the first person (*I have had the advantage, I agree with it, I too would allow the appeal*): however, the Lord who is speaking announces his conclusion (*I would allow the appeal*), by clarifying that he drew the arguments eventually leading him to it not from his own reasoning, but from Lord Hutton's. In fact, it is Lord Hutton's argumentation that is encapsulated so as to form the premise, from which the conclusion in (22) is inferred: thus, by means of *for the reasons which he gives*, reported argumentation steps into the proponent's discourse. In (23), *by reason of* is also part of reported argumentation: even though it refers to an objective fact (*that... Ward of Court*) rather than to a simple allegation, it is in fact used in order to introduce one of the arguments leading the respondent, and not the judge, to conclude that *the responsibility... rested on the President of the High Court*.

Nonetheless, the figures reported in the next section show that the use of *for the reasons...* and *by reason of* as signposts of proponent's argumentation is also statistically significant.

As far as proponent's argumentation is concerned, (24) might be chosen as the counterpart to (22) and (23) above:

- (24) Firstly, [...].
Secondly, [...].
In the present case, the applicant has not satisfied the first requirement. [...]
For these reasons, I would allow the appeal. I would set aside the High Court order granting the extension of time and would substitute an order dismissing DEKRA's application. (ISC, Dekra v. Minister for the Environment)

In (24), a partial reproduction of the proponent's arguments has been provided. The Lord considers three main arguments, the linguistic formulation of which opens with *firstly*, *secondly* and *In the present case* respectively. These arguments lead him towards a conclusion signalled by the meta-textual *for these reasons*, which encapsulates the whole of the argumentative chain constructed by the Lord himself. It can therefore be suggested that *for these reasons* echoes the use of *On those grounds* described in (10) above, not least because they are both characterised by the presence of an anaphoric deictic.

The figures in 3.3 indicate that *for the reasons...* and *by reason of* are

more recurrently used as markers of reported argumentation, whereas *for these reasons* is more widely used in proponent's argumentation. On the basis of the main uses of the meta-argumentative expressions *ground* and *reason* investigated so far on the three analytical levels proposed, the next section will provide a quantitative and comparative perspective for our analysis.

3.3 Comparative results

The data presented in Sections 3.1 and 3.2 indicate first of all that the characterisation of *ground* and *reason* through the two-fold cohesive phenomenon of prospection v. encapsulation proves particularly effective, in order to account for the textual function of these meta-argumentative expressions. Table 3 summarises this finding, by grouping the phrases according to their prospective or encapsulating use:

Prospection	Encapsulation
<ul style="list-style-type: none"> ■ <i>On the ground of</i> ■ <i>On grounds of</i> ■ <i>On the ground that</i> ■ <i>On the grounds that</i> ■ <i>By reason of</i> 	<ul style="list-style-type: none"> ■ <i>For the reasons given/ set out/ stated/ he gives/ they give etc.</i> ■ <i>For these reasons</i> ■ <i>On those grounds</i>

Table 3. Phrases used for prospection or encapsulation.

The data have shown that *ground* seems to be preferred when prospection is involved; instead, *reason* is the more frequent option when a relation of encapsulation is established.

Secondly, *ground* and *reason* were examined from the point of view of their role within the generic structure of judgments. It has been pointed out that some of the phrases analysed tend to be used as devices providing a specific argument of the chain with local support – see *On the ground that*, *On the grounds that* and *by reason of* – whereas others should be more appropriately associated with the global, meta-textual

function of organising the whole text in the particular form of arguments supporting a conclusion – *On those grounds, For the reasons given/ set out/ stated/ he gives/ they give* and *For these reasons*. However, it has not been possible so far to provide a quantitative background for such empirical observations.

Table 4 shows the frequency of the items with regard to their local and global uses:

Phrase	Local %	Global %
<i>On the ground that</i>	100	0
<i>By reason of</i>	100	0
<i>On grounds of</i>	100	0
<i>On the ground of</i>	98.6	1.4
<i>On the grounds that</i>	98.1	1.9
<i>For the reasons...</i>	32.5	67.5
<i>For these reasons</i>	26.9	73.1
<i>On those grounds</i>	1.4	98.6

Table 4. Local and global use of phrases in percentage.

A careful reading of the Table reveals that prospective phrases – from *on the ground that* to *on the grounds that* – are strongly oriented towards a local use, while encapsulating items display an increasing rate of meta-textuality, which goes from 67.5 per cent of *for the reasons...* to 98.6 per cent of *on those grounds*. In order to explain this, it could be useful to link this second level of analysis to the third.

The third step followed in the discussion of results was aimed at interpreting *ground* and *reason* as signals of either proponent's or reported argumentation. As regards this aspect, the findings may be summarised, by representing the uses of the phrases analysed on a cline that ideally stretches from the pole of reported argumentation to the opposite pole of proponent's argumentation:

Reported Argumentation



<i>On the ground that...</i>	88.9%
<i>On the grounds that...</i>	86.5%
<i>For the reasons given/ set out etc.</i>	64.4%
<i>By reason of...</i>	55.2%
<i>On grounds of..</i>	52.5%
<i>On the ground of...</i>	51.2%
<i>For these reasons...</i>	98.1%
<i>On those grounds...</i>	98.6%

Proponent's argumentation

The diagram shows that four items are radically polarised: on the one hand, *On the ground that* and *On the grounds that* signal reported argumentation in 88.9 per cent and 86.5 per cent of their occurrences respectively; on the other hand, *For these reasons* and *On those grounds* act as signals of proponent's argumentation in as many as 98.1 per cent and 98.6 per cent of their total occurrences respectively. *For the reasons given/set out etc.* is also quite clearly oriented to reported argumentation (64.4 per cent), whereas there appears to be a certain balance between reported and proponent's argumentation in the case of *By reason of*, *On grounds of* and *On the ground of*, although with a slight preference for reported argumentation for the former two (55.2 per cent and 52.5 per cent), and for proponent's argumentation for the latter (51.2 per cent).

4. *Conclusion*

A combination of the figures reported above may help formulate some tentative suggestions. First of all, regardless of the specific legal case, the court is the subject called upon to settle disputes, by deriving a

conclusion from reliable premises, either in the form of collective assertions – see the repetitive use of *the Court* in European judgments – or in that of more personal statements – note the use of *I* by English Lords and Irish judges. Therefore, the court may be assumed to be the proponent in the genre exemplified by the corpus.

As a result, global, meta-textual moves from the arguments to the judicial conclusion may be expected to be signalled by an element encapsulating prior textual material and belonging to the proponent's argumentation. The quantitative data provided in this section confirm that this is the case for both *On those grounds* and *For these reasons* in the vast majority of their attested uses. Conversely, when reported argumentation occurs in the text, we may expect argumentative signals to operate locally and mainly prospectively, in order to introduce a reason supporting an argument of the parties or of another adjudicating body as to a specific issue debated in court. Once again, the data show that this holds true for *On the ground that*, *On the grounds that*, *By reason of* and *On grounds of*.

In the next stage of the research project, the collocations of all auxiliary argumentative lexical elements will be studied, so as to identify the semantic patterns to which their use appears to give rise. The essential premise to this stage of the research is the creation of a sub-corpus within the broader corpus taken as a reference so far, and indeed a sub-corpus of 40 judgments already exists, consisting of 20 judgments by the European Court, and 10 judgments from each of the other two courts for a total 425,502 words. The texts forming this corpus were randomly selected: first of all, all judgments were ordered according to the date in which they had been delivered. In the second place, one judgment in every seven was selected for the EC Court of Justice, whereas one judgment in every three was chosen for both the House of Lords and Ireland's Supreme Court. This criterion was applied, until the number of 20 texts was reached for European judgments, and the threshold of 10 for English and Irish judgments was attained. The aim of the study is to use the sub-corpus in order to carry out a qualitative analysis capable of relating the use of auxiliary argumentative lexis to the analytical dimensions of textual function, genre structure and argumentative voice.

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Appendixes

Appendix 1

Connectives	Frequency
<i>But</i>	3,199
<i>Therefore</i>	1,374
<i>However</i>	1,292
<i>Since</i>	1,277
<i>Because</i>	1,041
<i>Thus</i>	674
<i>Although</i>	516
<i>Accordingly</i>	452
<i>Moreover</i>	298
<i>Even if</i>	280

Table 5. Frequency of connectives.

Meta-argumentative expressions	Frequency
<i>To follow</i>	2,103
<i>Reason</i>	1,829
<i>Ground</i>	1,794
<i>To hold</i>	1,351
<i>Argument</i>	980
<i>To accept</i>	776
<i>Conclusion</i>	617
<i>To justify</i>	599
<i>To dismiss</i>	581
<i>To conclude</i>	507

Table 6. Frequency of meta-argumentative expressions.

Appendix 2

Phrase	Frequency	Spread
<i>On the ground that</i>	199	94
<i>For the reasons...</i>	163	55
<i>On those grounds</i>	150	149
<i>By reason of</i>	145	73
<i>For these reasons</i>	52	29
<i>On the grounds that</i>	52	28
<i>On the ground of</i>	221	26
<i>On grounds of</i>	122	37

Table 7. Frequency and spread of phrases.