Pragmatic Aspects of Judicial Discourse: Zooming in on a Nuanced Language Use

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Abstract: Over recent decades, judgments as a legal genre have received increased attention from linguists. Such a trend has contributed to a better understanding of the macro-and micro-linguistic aspects of this highly complex legal genre. However, the pragmatic aspects of judgments as a specific text type remain largely neglected in the current literature. Therefore, this paper aims to contribute to this line of research by discussing the pragmatic effects arising from the use of meta-argumentative verbs in a corpus of judgments delivered by the European Court of Human Rights (ECHR judgments, henceforth). Accordingly, the paper will show that the pragmatic effects of the recurrent meta-argumentative verbs in ECHR judgments can be analysed through the prism of politeness and legitimization strategies. In addition, suggestions will be provided regarding the ways in which corpus data can be used for raising learners' awareness of the nuanced language that is pertinent to juridical settings.

Keywords: judgments, meta-argumentative verbs, politeness strategies, legitimization strategies, nuanced language

Introduction

To date, judgments as a legal genre have received considerable attention in the studies of judicial discourse. Due to their inherent complexity, macro-and micro-linguistic features of judgments have been addressed from different perspectives, including genre-based, comparative, metadiscourse and pragmatic perspectives (Bhatia 1993; Mazzi 2007b, 2007c, 2007d; Ruiz Moneva 2013; Vázquez Orta 2010).

When it comes to pragmatic aspects of judicial discourse, the existing literature points to the fact that they have been given little attention. In other

words, a small number of studies focusing on pragmatic phenomena such as politeness, evaluation, and hedging (Capone and Poggi 2017; Trosborg 1992) suggest that this line of research is still in its infancy. Therefore, the aim of this paper is to contribute to a better understanding of pragmatic aspects of judicial discourse by focusing on pragmatic effects of recurrently used meta-argumentative verbs in the European Court of Human Rights judgments (ECHR judgments, henceforth). More precisely, building on Mazzi's (2007c, 2007d) work on the role of meta-argumentative verbs in the development of judicial argumentation, this paper will examine their pragmatic effects through the prism of politeness and legitimization strategies. In addition, the paper will attempt to provide implications regarding the ways in which corpus data can inform the content of teaching materials, which aim at raising law students' awareness of the interplay between language use, communicative needs, and purposes in juridical settings.

The paper is organized as follows: the Theoretical background section lays out the theoretical foundation for the present study. This section starts with reviewing past research on judgments as a legal genre and meta-argumentative verbs, and then proceeds with discussing the phenomena of politeness and legitimization. Methodology and corpus section introduces the corpus and describes the used methodology. The following section puts forth the hypotheses. The results are presented in the Analysis and results section. The paper also offers pedagogical implications of the obtained results and ends with concluding remarks.

Theoretical background

Judgments and meta-argumentative verbs

In Bhatia's view, written language of the law encompasses various legal genres which occur in the following settings: pedagogic, academic, juridical, or legislative (229). Accordingly, judgments are an instantiation of a legal genre which develops within juridical settings (Bhatia 230).

In recent years, genre-based analyses of judgments have provided valuable insights into both generic structural features of the genre and the intricate interplay between the structure, communicative purpose, rhetorical needs, and expectations of the discourse community, which manifests itself in conventionalized lexico-grammatical patterning (Bhatia 1993; Vázquez Orta 2010, among others). In addition, comparative studies of judgments have shed light on certain intrinsic features of judgments – argumentativity, (im)personal tone, (in) directness and intertextuality – which alongside structural organization can be regarded as points of similarities and differences between judgments rendered within different legal systems (Mazzi 2007b; Ruiz Moneva 2013).

Going back to the conventionalized lexico-grammatical patterning mentioned in the lines above, it is important to note that some authors have iden-

tified a highly conventional use of certain verbs (e.g., *accept*, *acknowledge*, *find*, *hold*, *note*, *observe*, *uphold*, etc.) in judgments (Alcaraz and Hughes 61-71; Zejnilović 184-185). However, in previous analyses of genre-specific features of judgments, references to such verbs do not go beyond their identification as surface-level features of the genre and brief explanations of the contexts in which they occur. In contrast, a more extensive treatment of the verbs conventionally employed in judgments has been provided in metadiscourse studies of judicial argumentation, in which such verbs are labelled as meta-argumentative verbs. For example, Mazzi (394) draws attention to the meta-argumentative verbs as an effective tool for the identification of argumentative voices that judicial narrative is typically interwoven with. This, in turn, points to polyphony as another intrinsic feature of judgments, which surfaces through the interplay of reported argumentation, i.e., parties' submissions and the judge's argumentative voice (Mazzi 395).

Politeness

The present study proceeds from Brown and Levinson's (61-62) interpretation of politeness as avoiding or reducing threat to the face, i.e., the public self-image, the sense of self, of the people that we address. According to the authors (70), when face-threatening acts are unavoidable, the threat can be redressed with negative or positive politeness.

Negative politeness respects the hearer's negative face, i.e., the need to be independent, have freedom of action, and not be imposed by others (Brown and Levinson 61). Brown and Levinson characterize negative politeness in terms of "self-effacement, formality and restraint" (70), which manifests itself through the use of softening mechanisms (indirect language, expressions of deference and apology, hedging, impersonalizing and nominalizing) underpinning negative politeness strategies (Brown and Levinson 1987).

Alternatively, positive politeness redress attends to the positive face, i.e., the need to be accepted and liked by others, treated as a member of the group, and to know one's wants are shared by others (Brown ad Levinson 70). Relevant for the purpose of the present paper are the expressions of agreement and solidarity as linguistic realizations of positive politeness strategies (Brown and Levinson 1987).

With respect to judicial context, politeness has been discussed in a limited number of studies which predominantly focus on courtroom examinations (Berk-Seligson 1988; Jacobsen 2008; Lakoff 1989; Martinovski 2006; Penman 1990). Among rare works devoted to the analysis of politeness in written legal genres is Kurzon's study (2001) of politeness phenomena in American and English judicial opinions. His study shows that politeness effects in the analysed legal genres are achieved through expressing agreement, mitigating disagreement, hedging criticism, showing deference, and paying compliments.

Legitimization

Being a socio-linguistic phenomenon, legitimization, i.e., the process of "explaining" and "justifying" (Berger and Luckmann 92-95), has attracted attention of linguists working within different theoretical frameworks – most notably Critical Discourse Analysis (Hart 2011; Van Dijk 2005; Van Leeuwen 2007; Reyes 2011, among others).

Whereas legitimization has been in the focus of the studies addressing political and media discourse, it has been largely neglected in linguistic studies of judicial argumentation. More specifically, even though legitimization is inherently associated with judgments due to their justifying function (Maley 1994), it has only been hinted at in a small number of studies devoted to evaluative dimension of judicial reasoning and justification (Goźdź-Roszkowski 2017; Mazzi 2010).

In this paper, the issue of legitimization will be discussed in relation to the role of meta-argumentative verbs in providing the basis for "developing a logical, coherent construction of the argumentation, supporting the final decision" (Giner 250). To this end, we proceed from Hart's (757) theoretical framework which proposes a typology of legitimization strategies, involving the following two macro-level speaker strategies – legitimization of actions and legitimization of assertions. Relevant for the scope of this paper is legitimization of assertions which involves epistemic positioning, i.e., an attempt on behalf of the speaker/writer to influence the hearer's/reader's epistemic stance toward a proposition in such a way that the assertion is accepted as true (Hart 757). In addition, Hart (759) identifies two types of epistemic positioning strategies – subjectification and objectification. The former brings to the foreground the speaker's/writer's assessment of the proposition, and "as a legitimizing device relies solely on their reputation as a reliable source of information with perhaps privileged access to certain states of affairs or means of knowing" (Hart 759). The latter concerns making the speaker's/writer's "means of knowing" available to the hearer/reader (Hart 759). More specifically, objectification provides the hearer/reader with the option to "check for themselves" (Hart 759).

Accordingly, our aim will be to examine the role of meta-argumentative verbs in the legitimization of assertions in the analysed legal genre. To this end, this issue will be considered against the backdrop of the pertinent characteristics of the genre, i.e., dialogic interaction between argumentative voices and intertextuality, which in legal discourse refers to "the construction of discourse from a combination of other sources, some of which come from other levels of the law, mainly legislation or codes" (Orts 72).

Methodology and corpus

The present study is based on a purpose-built corpus comprising randomly selected 15 ECHR judgments delivered by the European Court of Human Rights (the Court, henceforth) in the period between 2020 – 2022[1]. The corpus consists of a total of 465, 554 words and was built using the Sketch Engine.

From a methodological point of view, this study is a combination of quantitative and qualitative analysis. It commences as a quantitative study and then moves towards a more qualitative approach. Sketch Engine was used as a corpus management tool. We made use of its two functions – frequency lists and concordances. Frequency lists were used as a starting point for the identification of the range and frequency of meta-argumentative verbs employed in the construction of argumentative narrative in the analysed legal genre. A further step in our research entailed examining words in context. To this end, concordancing in combination with close reading was used for the following purposes:

1) to exclude all those items which were not relevant for the exemplification of pragmatic aspects of the Court's argumentation;

2) to study specific items in their lexico-grammatical, semantic, and pragmatic environment.

Having introduced the methodology applied in this paper, reference will be made to the organisational structure of ECHR judgments as it will be argued that the distribution of the same meta-argumentative verbs within different sections brings about different pragmatic effects. According to White (3-4), the macro-structure of ECHR judgments encompasses the following sections:

(a) List of judges and dates
(b) Procedure
(c) The facts
(i) The circumstances of the case
(ii) Relevant domestic law and practice
(d) The law
(i) Alleged violation
(A) The parties' submissions
(B) The Court's assessment
(e) Application of Article 41 (Just satisfaction) of the Convention (where relevant)
(f) The *dispositif* or judgment, indicating whether the Court is unanimous
(g) Separate opinions – concurring[2] or dissenting[3] opinions.

[1] The texts comprising the corpus were downloaded from the following website: https://hudoc.echr.coe.int/.

[2] A concurring opinion arises when a judge agrees with the majority decision for different reasons.

[3] A dissenting opinion arises when a judge disagress with the majority decision.

Each of these sections, which may include additional headings and subheadings (White 3-4), serve a particular function. Thus, the opening section provides the list of judges composing the Chamber and the date of delivery of the judgment. The following section – Procedure – introduces the parties involved in dispute along with their representatives and advisers and outlines the legal history of the case within the Court (Peruzzo 64). The next section – Facts – comprises two subsections which provide additional information about the following: the applicant(s); the events that led to the legal action before a national court; the legal proceedings before the national courts; national legislation and case-law (Peruzzo 64-65). Peruzzo (67) notes that the Law section is the part of the judgment that reflects the Court's reasoning and argumentation. Typically, this section contains "a subsection devoted to the alleged violation of at least one Article of the Convention as claimed by the applicant" (Peruzzo 66). The Law section also includes the Parties' submissions and the Court's assessment subsections. Furthermore, where appropriate, a subsection devoted to the application of Article 41 of the Convention (Just satisfaction) forms part of the judgment. Lastly, the *Dispositif* introduces the Court's decision, which, if not delivered unanimously, may be accompanied by separate opinions – concurring or dissenting (Peruzzo 58; White 4).

Hypotheses

In this paper, we put forward the hypothesis that, in ECHR judgments, politeness surfaces through the use of meta-argumentative verbs employed in the development of the Court's argumentation. Accordingly, we assume that corpus data will show that, in the given genre, politeness could be associated with the following: a) the Court's agreeing or disagreeing with the line of argumentation of the parties in dispute or with the line of reasoning of national courts; b) judges' expressing separate opinion by way of concurring with or dissenting from the judgment; c) showing solidarity with potential readership. These assumptions have been informed by Vázquez Orta's (270) characterisation of legal reasoning as "inter-subjective positioning, and this involves choice, that is, acknowledging alternative positions and choosing one alternative over another". In addition, the interpretative framework of the paper has been influenced by Bhatia's observation (103) about the expectations of the members of the discourse community in terms of providing guidance through the text processing.

Regarding legitimization, the hypothesis will be as follows: the identification of meta-argumentative verbs as markers of the strategies of subjectification or objectification (Hart 2011) will depend on the communicative functions of the meta-argumentative verbs, i.e., whether they are used as signals of the Court's argumentative voice or reported argumentation respectively. In addition, it is assumed that the meta-argumentative verbs contribute to the legiti-

mization of the Court's assertions by signalling the Court's entering into dialogic interactions with other texts in support of its line of reasoning.

Analysis and results

Figure 1 below shows the raw frequency and range of meta-argumentative verbs used in the corpus texts. The data on the high frequency of the meta-argumentative verbs indicate that they represent a salient lexical feature of the ECHR judgments. A closer look at the Figure 1 also indicates that the repertoire of meta-argumentative verbs in the analysed judgments consists of verbs denoting mental processes and verbal expression, which is reflective of argumentativity and polyphony as inherent features of judgments as a text type.

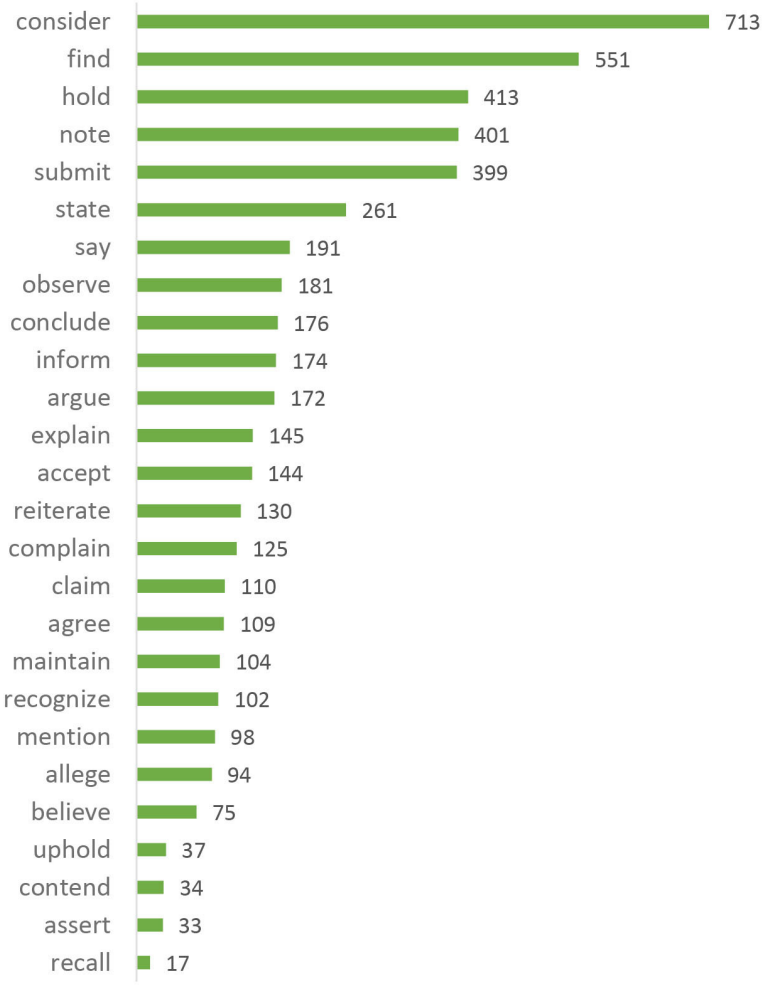

Figure 1. Raw frequency of the meta-argumentative verbs identified in the corpus

Politeness through the lens of corpus data

The corpus data suggest that negative politeness surfaces through the Court's positioning in relation to the arguments put forth by the parties in dispute. For this purpose, the Court, as illustrated by the examples below (1-7), typically makes use of the following meta-argumentative verbs: *consider*, *note*, *observe*, *find*, *conclude,* and *hold*.[4]

(1) *In light of the foregoing*, the Court *considers* it *clear* that *under the section 8(4)* regime international communications (that is, communications crossing State borders) could be intercepted; and that the intelligence services would only use the power to intercept those bearers most likely to be carrying external communications of intelligence interest.

(2) The Court *notes* that, under the legislation in force when the initial decisions were taken to place the applicants in compulsory confinement, a compulsory confinement measure could be ordered on the basis of section 7 of the Social Protection Act where an individual had committed an act classified as a criminal offence and if he or she was suffering from a mental disorder or from a severe mental disturbance or defect making him or her incapable of controlling his or her actions [...]

(3) Having had regard to the reasoning in *those leading rulings* and also taking due account of the above-mentioned *case-law*, the Court *observes* that acts affecting the rights of the shareholders are distinct from measures or proceedings affecting the company in that both the nature of such acts and their alleged effect impact the shareholders' legal rights both directly and personally and go beyond merely disturbing their interests in the company by upsetting their position in the company's governance structure.

(4) The Court *finds* that it cannot be said that the officials who had been tasked with looking after the two companies' interests at the relevant time were unable to apply to the Court with the grievances at issue.

(5) *Having regard to the above considerations*, the Court *concludes t*hat there has been no violation of Article 5 § 4 of the Convention.

(6) *FOR THESE REASONS,* THE COURT

1. *Holds*, unanimously, that there has been a violation of Article 8 of the Convention in respect of the section 8(4) regime;

2. *Holds***,** unanimously, that there has been a violation of Article 8 of the Convention in respect of the Chapter II regime...

(7) *FOR THESE REASONS*, THE COURT,

1. […];

2. *Holds*, by fourteen votes to three, that there has been no violation of Article 5 § 1 of the Convention;

3. *Holds*, by fourteen votes to three, that there has been no violation of Article 5 § 4 of the Convention.

[4] In all examples, italics will be used to signal the focus of our analysis.

At this point three noteworthy observations will be made. To begin with, the reason why the italicized verbs (*consider, note, observe, find, conclude*) in the examples above (1-5) have been identified as signals of negative politeness lies in the fact that these verbs hedge the Court's arguments which, *per se*, could be interpreted as face-threatening acts regarding the face-wants of the parties in dispute. As shown by the examples above, the Court's arguments reflect its reasoning, taking thus the form of inferences which lead the Court to its final conclusion, which is typically marked by the verb *hold* (examples 6-7). Furthermore, the fact that the Court's arguments and final conclusions are hedged through the use of the meta-argumentative verbs under analysis points to their face-saving function with regard to the parties in dispute.

Moreover, the interpretation of the analysed verbs as negative politeness markers can also be done in relation to the Court's face-wants. In other words, the use of the verbs *consider*, *note*, *observe, find*, *conclude* and *hold* could be discussed in terms of threats to the Court's face-wants due to the fact that their conventional use reflects "[...] plausible reasoning rather than certain knowledge, indicating the degree of confidence it is prudent to attribute to it" (Hyland qtd. in Tessuto 301). Accordingly, the corpus data suggest that the variation in the use of the meta-argumentative verbs, which at first sight seems to be a matter of style, points to certain communicative intentions. More specifically, as will be shown in the lines below, the linguistic choices the Court makes seem to correlate with Vázquez Orta's (264) observation that legal reasoning is "an exercise in intersubjective positioning and making choices, although not totally unrestricted choices". For example, the verb *consider* tends to be a signal of a higher degree of tentativeness compared to the verbs *note, observe, find,* and *conclude*. It is its inherent semantics that encodes a lower degree of certainty, even though the arguments this verb introduces in the analysed legal genre are not weak *per se*. As the example (1) shows, the epistemic status of the verb *consider* is strengthened through its co-occurrence with the meta-argumentative expression *in the light of the foregoing* and the adjective *clear,* as well as through making reference to applicable legislation - *under the section 8(4).* However, opting for the verb *consider* in this case reflects the awareness of what Berger and authors (44) refer to as "limitations of knowledge", which is also signalled by the use of the verbs *could* and *would*, indicating theoretical possibility (Williams 141) and hypothetical situation (Williams 137) respectively. Other examples in the corpus also indicate that the verb *consider* is used for mitigating the Court's opposing viewpoints, which can be illustrated by the example below:

(8) Therefore, in a State governed by the rule of law, which is expressly mentioned in the Preamble to the Convention and is inherent in the object and purpose of Article 8 (see Roman Zakharov, cited above, § 228), the Court *considers* that, when viewed as a whole, the section 8(4) regime, despite its

safeguards, including some robust ones as highlighted above (see, for example, paragraphs 412 and 415 above), did not contain sufficient "end-to-end" safeguards to provide adequate and effective guarantees against arbitrariness and the risk of abuse.

In contrast, the verbs *note, observe, find,* and *conclude* encode a lower degree of tentativeness in expressing the Court's standpoint. More specifically, as illustrated by the example (2) above, the verb *note* tends to occur in the contexts where the validity of the Court's inferences is indicated by providing qualifications pertinent to the relevant legislation. In a similar vein, the verb *note* may encode the Court's opposing inferences, which are shaped in relation to the existing regulations (9) and judgments delivered by national courts (10).

(9) Having examined the provisions of the Integration Act, the Civil Code, the parties' observations and also their comments at the hearing, the Court *notes* firstly that it is not in dispute that the Integration Act and its Amendments did not regulate directly, even on a temporary basis, any of the specific legal rights that the applicants as shareholders held under the applicable domestic law, or directly interfere with the exercise of these rights [...] Nor does it appear that the impugned legislation had an adverse impact on the business of the two banks […].

(10) The Court *notes* in this regard that neither the first instance court, nor the Supreme Court provided any reasoning to justify the applicant's complaint concerning the fact that his legal-aid representative was not allowed to communicate with his client, despite repeated attempts on his part, to communicate with his client […].

In addition to being used in similar contexts as the verb *note* (examples 11-12), the verb *observe* also signals the Court's inferences in which reference is being made to the Court's case-law and previous judgments (example 3). Such a tendency strengthens the validity of the Court's inferences by being fitted into the Court's "highly authoritative past jurisprudence" (Mazzi 136).

(11) The Court *observes* that no concrete justification has been provided by domestic courts on the existence of compelling reasons to justify these restrictions.

(12) The Court *observes* that while section 4 of the Foreign Intelligence Act excludes the conduct of signals intelligence within foreign intelligence to solve tasks in the area of law enforcement or crime prevention, one of the eight purposes listed above concerns "serious cross-border crime" such as, according to the preparatory works, "drug or human trafficking of such severity that it may threaten significant national interests" […].

Furthermore, the verb *find*, with its inherently high epistemic value, tends to encode the Court's inferences which are not necessarily prefaced by any meta-argumentative expressions (example 4), although this may be the case:

(13) *In view of the aforementioned shortcomings*, the Court *finds* that section 8(4) did not meet the "quality of law" requirement and was therefore incapable of keeping the "interference" to what was "necessary in a democratic society".

(14) *Accordingly*, the Court *finds* that the scope of the review carried out by the domestic courts was too narrow to satisfy the requirement of seeking a "fair balance" inherent in the second paragraph of Article 1 of Protocol No. 1 […].

The verbs *conclude* and *hold* are another two politeness markers identified in the corpus. The analysis of the corpus data suggests the face-saving function of the verb *conclude*, when used to introduce the Court's inference which contradicts the arguments put forth by the parties in dispute (example 5). The corpus data also show that the verb *conclude* is typically prefaced with meta-argumentative expressions encapsulating the argumentation that went before. In a similar vein, the meta-argumentative expression *for these reasons* typically prefaces the verb *hold*, which mitigates the face-threatening act of disagreement with viewpoints held by national courts and applicants alike (examples 6 and 7 respectively).

On the other hand, positive politeness is signalled through the use of verbs such as *accept*, *agree, recognize* and *uphold* which indicate the Court's agreement with the arguments put forth:

(15) The Court *accepts* that related communications data are an essential tool for the intelligence services in the fight against terrorism and serious crime, and that there would be circumstances in which it was both necessary and proportionate to search for and access the related communications data of persons known to be in the United Kingdom.

(16) For the above reasons, the Court *agrees* with the Government that, on the basis of what was known to the authorities at the material time, there were no indications of a real and immediate risk of further violence against the applicant's son outside the areas for which a barring order had been issued, let alone a lethality risk.

(17) Having examined the relevant provisions of domestic law, the parties' submissions and the course of events in the case, the Court *recognises* that the circumstances of the adoption and entry into force of the Integration Act suggest that the future member institutions may have felt some pressure to join the new integration.

(18) FOR THESE REASONS, THE COURT,

1. *Upholds*, unanimously, the Government's preliminary objection concerning the scope of the case [...]

In addition, the verbs such as *reiterate*, *recall,* and *explain* have been identified as positive politeness markers in relation to the reader's face-wants. It could be argued that the verbs in question contribute to creating knowledge

via providing legal interpretation, which, in turn, leads to showing solidarity with the readers.

(19) The Court *reiterates* that Article 34 of the Convention does not allow complaints *in abstracto* alleging a violation of the Convention.

(20) At the outset the Court would *recall* the relevant part of the recent Lekić judgment (cited above, §§ 111 and 115), explaining the meaning of the principle relating to the lifting of the corporate veil and quoting the leading Agrotexim and others judgment […].

(21) The Explanatory Report to the above-mentioned Convention *explains* that:

Article 9 – Exceptions and restrictions

"55. Exceptions to the basic principles for data protection are limited to those which are necessary for the protection of fundamental values in a democratic society [...]".

Turning now to linguistic realizations of disagreements expressed within Separate opinion section of ECHR judgments, it may be said that this section assumes a less formal tone in comparison with other sections of judgments. As indicated by language data, judges tend to mitigate their opposing views by introducing them via the negative politeness markers – verbs *consider*, *believe*, *appear*, and phrases *to be unable to agree, cannot join,* among others*.* In addition*,* some examples from the corpus show that judges' disagreements may be further downtoned with the "words of regret" (Kurzon 69) and evaluative comments (e.g., *I regret*, *regrettably*, *for good or ill, it is not easy for me, with a disenchanted heart)*, as well as with showing deference (e.g., *my learned colleagues*).

(22) I *regret* that I *am unable to agree* with the Grand Chamber majority's finding that there has been no violation of the applicants' rights under either Article 5 § 1 or Article 5 § 4 of the Convention. For the reasons provided below, I *consider* that both Convention provisions have been violated in this case.

(23) *Regrettably*, the majority *do not appear* to have opted for such an approach.

(24) By contrast, we *believe* that each safeguard labelled as a minimum one can never be offset by any counterbalancing factors provided in respect of some other criterion.

(25) *For good or ill*, and I *believe for ill more than for good*, with the present judgment the Strasbourg Court has just opened the gates for an electronic "Big Brother" in Europe. If this is the new normal that *my learned colleagues* in the majority want for Europe, I *cannot join* them, and this I say *with a disenchanted heart*, with the same consternation as that exuding from Gregorio Allegri's *Miserere mei, Deus.*

(26) *It is not so easy for me* to agree with the conclusion of the Court in paragraph 155 of the judgment that "the acts complained of by the applicants

concerned principally Kinizsi Bank and Mohácsi Bank and did not directly affect the applicants' shareholder rights as such" […].

Legitimization through the lens of corpus data

In the analysed legal genre, legitimization transpires through the dialogic interaction between argumentative voices and intertextuality. The former is evident in the use of meta-argumentative verbs which have the function of conveying objective information in the transmission of which the Court is a mere intermediary. This contributes to a sense of a balanced representation of all parties involved in a dispute, for which we provide some examples from the corpus:

(27) The applicants *argued* that the right to determine and influence the company's decision-making and strategic direction was an essential element of governance rights, which were realised through the right to vote at general meetings "to elect directors, to approve the sale of certain company assets, and to amend the articles of association or memorandum".

(28) The applicants *complained* about the impact of the Integration Act and the Amendments on their right to influence the conduct and policy of the banks in which they held shares.

(29) The Government *contended* that the interception of communications under the bulk interception regime would only have resulted in a meaningful interference with a person's Article 8 rights if his or her communications were either selected for examination (that is, included on an index of communications from which an analyst could potentially choose items to inspect) or actually examined by an analyst.

(30) Having considered the United States' intelligence activities under section 702 of FISA and Executive Order 12333, the High Court *concluded* that the United States carried out mass processing of personal data without ensuring a level of protection essentially equivalent to that guaranteed by Articles 7 and 8 of the Charter [...].

(31) Against this background, the Supreme Court *finds* that the restriction on the eligibility for family reunification is justified by interests to be safeguarded under Article 8 of the Convention.

(32) The Court of Cassation *held* that to interpret section 66 of the Compulsory Confinement Act otherwise, that is, as implying that an individual in compulsory confinement who satisfies the condition regarding stabilisation of his or her mental state could only be granted final discharge on expiry of this probationary period, would be contrary to Article 5 §§ 1 and 4 of the Convention.

Additionally, the corpus data reveal that the variation in the use of the verbs in the examples above (27-32) is not a matter of stylistic choice, despite their shared communicative function. Namely, the examples in the corpus point to the Court's tendency of using meta-argumentative verbs referring to verbal

expression for the purpose of signalling the voice of the applicants and institutions, whereas meta-argumentative verbs referring to mental processes – *find*, *hold,* and *conclude* are predominantly used to signal the voice of national courts, which in itself reflects the conventions of ECHR judgment as a type of legal genre. In other words, it is courts that are entitled *to find*, *hold,* and *conclude* in juridical settings.

More importantly, these examples point to the fact that the same meta-argumentative verbs, i.e., *find, hold* and *conclude* can serve different communicative functions depending on whether they introduce the Court's argumentative voice or reported argumentation. In the former case, these verbs mark the legitimizing strategy of subjectification (Hart 2011) since the Court's inferences and conclusions are subjective and their acceptance by the readers will greatly depend on the credibility of the Court as a reliable source of legal interpretation. However, in the latter case, the verbs *find*, *hold,* and *conclude* reflect the strategy of objectification (Hart 2011) or "authorial distancing" which presupposes that the Court distances itself from the "reported value position and provides a signal that alternative or contrary viewpoints may be valid" (White qtd. in Marín-Arrese 793).

In the light of the aforementioned, it could be argued that politeness and legitimization strategies overlap to a great extent in ECHR judgments. Such a view can be further substantiated with the examples (33-34) in which meta-argumentative verbs not only mark positive (*recall*) or negative politeness (*observe*), but also signal the Court's entering into dialogic interaction with other texts, which allows for legitimization of the Court's argumentation through intertextuality. More specifically, the identified markers of politeness signal that the Court engages in a dialogue with applicable legislation (*Convention, Compulsory Confinement Act 2014, Social Protection Act 1930*) and previous judgments (*Grubić v. Croatia, no. 5384/11, §§ 36-38, 30 October 2012*) in support of its line of argumentation.

(33) The Court *recalls* that it is well-established case-law under Article 5 § 1 of the *Convention* that any deprivation of liberty must, in addition to falling within one of the exceptions set out in sub-paragraphs (a) to (f), be "lawful", that is in compliance with national law, and should also be in keeping with the purpose of protecting the individual from arbitrariness (see, for example, *Grubić v. Croatia, no. 5384/11, §§ 36-38, 30 October 2012*).

(34) In addition, the Court *observes* that although the *Compulsory Confinement Act 2014* applies in principle to all pending cases (see paragraph 87 above), it does not set out a specific transitional measure for persons who were placed in confinement on the basis of the *Social Protection Act 1930* and who committed acts which do not reach the new threshold required by section 9 of the *Compulsory Confinement Act* (see paragraph 89 above).

Pedagogical implications

Designing teaching materials, mostly based on authentic materials which meet learners' needs, is one of the key concepts in English for Specific Purposes (ESP) theory and practice. Spelleri claims that there are three main reasons why authentic materials are relevant for learning: language learning, cultural insights, and practical application (1). The results obtained in this study could significantly inform the content of teaching materials aimed at law students learning English as a second language at advanced level. More specifically, the corpus findings could be used to raise learners' awareness of the forms which make up the "argumentative apparatus of judgments" (Mazzi 136). This would then provide room for drawing learners' attention to their pragmatic functions by way of exposing them to the contexts in which adjusting the language to the communicative purpose is strongly related to the conventions of the genre and the macro-level expectations. Accordingly, the corpus findings could be employed for pointing to what meta-argumentative verbs typically contribute to the "tone of reservation on the part of the judge" (Kurzon 64). For instance, learners could be presented with the examples in which meta-argumentative verbs signal a varying degree of certainty towards a proposition. This, in turn, could be used as a basis for discussing their semantic and pragmatic differences as well as the motivation behind the given linguistic choices. Moreover, the examples employing meta-argumentative verbs could be contrasted with categorical assertions with the aim of highlighting the pragmatic effects arising from the former and latter, respectively.

Another way in which corpus findings could be used is for pointing to the forms which are appropriate for expressing (dis)agreements in judicial context. Furthermore, learners could benefit from learning what meta-argumentative verbs can be used effectively for marking intertextual links which, in themselves, are an intrinsic feature of judgments and significantly contribute to the legitimization of the Court's line of argumentation.

Lastly, the corpus findings could be used for drawing learners' attention to the fact that the same forms can serve different communicative functions in this legal genre. By doing so, learners will also become more aware of the difference between the Court's argumentation and reported argumentation, which, in turn, could enhance their reading and interpretation skills.

Concluding remarks

To date, pragmatic aspects of judicial discourse have largely been neglected in the existing literature.

In the present paper, a corpus-based analysis of ECHR judgments was conducted with the aim of identifying what pragmatic effects could be associated with the meta-argumentative verbs recurringly used in the analysed legal genre.

The results of the analysis show that meta-argumentative verbs do not only contribute to the development of the Court's line of argumentation, but also function as politeness markers when the Court positions itself with regard to the arguments put forth by the parties in dispute. In a similar vein, the analysed meta-argumentative verbs perform a face-saving function in the contexts in which judges express separate opinions, by way of mitigating their disagreements. Moreover, some examples from the corpus have pointed to the use of meta-argumentative verbs as positive politeness markers when they contribute to creating knowledge via providing legal interpretation which, in turn, leads to showing solidarity with the readers. In addition, positive politeness surfaces when the Court employs meta-argumentative verbs to express its agreement with the argumentation put forth. The present research also suggests that meta-argumentative verbs can be interpreted in terms of legitimization devices in that they contribute to the dialogic interaction between argumentative voices and objectification of argumentation.

In line with the aforementioned, the paper provides insights into how research findings could be used for raising law students' awareness of the rhetorical conventions and pragmatic constraints of ECHR judgments as a legal genre.

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PRAGMATIČKI ASPEKTI SUDSKOG DISKURSA: JEZIČKE NIJANSE U FOKUSU

Poslednjih decenija, presude kao pravni žanr zaokupljaju sve veću pažnju lingvista. Takav trend je doprinio boljem razumijevanju kako makro, tako i mikrolingvističkih aspekata ovog izuzetno složenog pravnog žanra. Međutim, pragmatički aspekti presuda kao posebne vrste teksta ostaju uglavnom zanemareni u trenutno dostupnoj literaturi. Stoga, ovaj rad ima za cilj da doprinese pomenutoj oblasti istraživanja kroz analizu pragmatičkih efekata koji proizilaze iz upotrebe meta-argumentativnih glagola u korpusu presuda Evropskog suda za ljudska prava (u daljem tekstu: presude ESLJP). Shodno tome, rad će pokazati da se pragmatički efekti meta-argumentativnih glagola ,koji se ponavljaju u presudama ESLJP, mogu analizirati kroz prizmu strategija učtivosti i legitimizacije. Osim toga, u radu će se iznijeti prijedlozi u vezi sa načinima na koje se podaci iz korpusa mogu koristiti za podizanje svijesti učenika o jezičkim nijansama koje su relevantne za pravni kontekst.

Ključne riječi: presude, meta-argumentativni glagoli, strategije učtivosti, strategije legitimizacije, jezičke nijanse