Part III

Phraseology and English legal discourse

10 "By partially renouncing their sovereignty . . ."

On the discourse function(s) of lexical bundles in EU-related Irish judicial discourse

Davide Mazzi

Introduction: the Republic of Ireland and/in the European Union

The creation and expansion of the European Union has generated wide interest and increasing recognition across disciplinary perspectives. This has been so for a number of reasons, the first and most intuitive one being that the EU legal framework has brought not only speakers but also different and at times heterogeneous legal systems closer together (Maley 1994; Tomkin 2004). Consequently, as the impetus towards the integration of the Member States within the EU gathered momentum, the Union itself progressively increased the range of its activities, so that "friction between the laws of the individual Member States is likely to increase" (Collins and O'Reilly 1990: 322).

In the case of the Irish Republic, a wide array of studies has thoroughly and critically discussed the relationship between the country and the EU, along with any peaks and troughs in the application of EU law within domestic legislation. Going back 25 years, Collins and O'Reilly (1990) pointed out that the incorporation of certain provisions in isolated matters such as intellectual property or product liability may not have been as swift as was desired, but this was very much the exception to the rule.

Roughly ten years on, however, the majority of the Irish electorate (54%) voted No in a referendum to ratify the 2001 Nice Treaty, thereby giving a profound shock to the Government, its partners in the Union and the candidate states eagerly awaiting Membership (Laffan and Tonra 2005). Although the Treaty was eventually approved by a majority of Irish voters in 2002, a sense of tension between ever closer EU integration and the attempt to preserve sovereignty and control over the national legal system has been documented in more than one scholarly work.

First of all, Fahey (2008) deals with the serious repercussions of the implementation of the EU Framework Decision on the European Arrest Warrant (EAW) into Irish domestic law. The EAW was an important provision of EU law designed to replace traditional extradition systems and surrender procedures across Member States. While ensuring that the EAW surrender procedures may satisfactorily protect fundamental rights norms through Section 37 of the European Arrest Warrant Act of 2003, Fahey explains, the Irish State decided not to accept the jurisdiction of the Court of Justice of the European Union in respect of Third Pillar issues, as of Article 35 of the EU Treaty. The so-called Third Pillar concerns judicial review aspects and most importantly, judicial co-operation in criminal matters: the refusal to abide by its rules, Fahey contends, may be symptomatic of the consequences of a somewhat antagonistic stance adopted by the Irish State at a European level.

In the second place, Phelan (2008) points to elements of constitutional disobedience inherent in Irish law with respect to EU legislation. At the outset, the author shows that Article 29.6 of the Irish Constitution underlies the dualist approach taken by the Irish legal order to international treaty obligations such as those deriving from the EU framework. More specifically, Phelan observes that international law has only been effective in the Republic's law as a result of domestic legislation. Accordingly, although EU judges have kept stressing that EU law is in principle directly applicable and therefore binding on national judges, their Irish counterparts have repeatedly disagreed with such views. As Phelan surmises, in fact, Irish judges have constantly tended to conceive of the supremacy and direct effect of EU law as a derivative of successive amendments to the European Communities Act and the norms of the Irish Constitution that introduce EU law into the Irish legal order.

The spate of interest generated by the discussion of the competing pressures on Ireland as an instance of small yet open polity (Laffan and Tonra 2005: 459) – i.e. benefiting from EU integration while at once preserving its sovereignty – is a motivation for this research, too. Expatiating on the growing body of research documented earlier on, the aim of this paper is to bring a corpus and discourse perspective (Hunston 2002; Baker 2006; Römer and Wulff 2010) to bear on the study of the judicial discourse of the Supreme Court of the Republic of Ireland within EU-related disputes. The analysis combined and implemented computer-assisted quantitative methods of language study and qualitative analysis, in the attempt to discern recurrent phraseological patterns and their function(s) in the Court's discourse. In particular, the research questions fielded by the investigation are the following: To what extent can phraseology, as instantiated by lexical bundles, bring insights into the Court's judicial practice and/or stance about EU matters? What, if anything, can it reveal in terms of the judges' own line of argument? How accurate is the reading of judicial texts provided by a corpus study of phraseology, compared to the viewpoint of legal experts?

The relevance of the use of corpora to discourse analysis and the role of phraseology in the study of specialised discourse may be seen as well established traditions of current applied linguistics research. Serving as they do as a background to the present investigation as well, they will briefly be discussed in the following section.

The study of judicial discourse: corpora and phraseology

As a prime example of specialised language in use, judgments are a prominent genre of legal discourse, and they have attracted scholarly attention from a variety of perspectives. From a legal-theoretical point of view, judgments have been studied as the site where the judges' adjudicating power takes concrete form. Emphasis has therefore been laid on the role of justification in judicial decision-making (Alexy 1989), and a large number of works have focused on the methods through which judges weigh and balance the sources of law they rely upon, e.g. statutes, *travaux préparatoires* and prior court decisions (Peczenik 1989; Barcelò 1997; Doyle 2008; Byrne et al. 2014).

From a discursive point of view, research has turned to the relationship between the structure of judicial texts and their distinctive rhetorical properties (Mazzi 2007). Within such a context, specialised corpora (McEnery and Hardie 2011; Gabrielatos et al. 2012) as sources of authentic data can be acknowledged to lend remarkable insights into the process of socialising law students and practitioners into the distinctive communicative practices of the judicial discourse community.

This aspect seems central when it comes to the prolific output of corpus investigation to show the recurrence of co-occurring items in text. In that regard, the adoption of corpus

approaches to the study of naturally occurring language has shed light on a large number of discourse regularities. Among these, phraseology as the tendency of words to go together and make meaning by virtue of their combination has been a favourite subject of investigation over the last two decades.

Co-occurring items have been variously termed. For instance, Sinclair (1996) talks about 'units of meaning' as longer sequences to be described in terms of collocation, colligation and semantic preference. These respectively denote firstly the regular co-occurrence of words; secondly, the co-occurrence of grammatical choices; and thirdly, "the restriction of regular co-occurrence to items which share a semantic feature" (Sinclair 2004: 142) as in the case, for instance, of an adjective co-occurring with nouns from the lexical field of sports.

Likewise, in their project aimed at a corpus-driven pedagogic grammar, Hunston and Francis (1998) look at the close association between 'verb patterns' and meaning in the 250-million-word Bank of English. Furthermore, Biber et al. (1999: 990) conduct a cross-register investigation of 'lexical bundles', i.e. "sequences of word forms that commonly go together in natural discourse" regardless of their idiomaticity, while Wray (2002) discusses 'formulaic expressions or sequences' as linguistic units composed of multiple words, which she analyses in the light of different frames of interpretation, e.g. individual motivations for achieving novelty and pragmatic notions of shared knowledge between speaker/writer and listener/reader.

Co-occurring patterns have been variously ascribed to such widespread phenomena as Sinclair's (2004) idiom principle, Hoey's (2005) lexical priming and Goldberg's (2009) construction grammar, and they represent the primary focus of Hunston's recent analysis of 'semantic sequences'. These are defined by Hunston (2008: 271) as "recurring sequences of words or phrases [. . .] more usefully characterized as sequences of meaning elements rather than as formal sequences", and they have been analysed as a clue to the main aspects related to the presentation and discussion of research findings in specialised academic journals (cf. Groom 2010; Mazzi 2015).

The centrality of phraseology to specialised language analysis may well go beyond the realm of academic discourse. Thus, for instance, Pontrandolfo (2013) adopts a contrastive approach focusing on prepositional phrases across English, Spanish and Italian judicial texts. His comprehensive qualitative and quantitative analysis shows that phraseological mechanisms are instrumental to expressing crucial conceptual relations in the drafting practices of criminal judgments by courts of last resort in Spain (*Tribunal Supremo*), Italy (*Corte Suprema di Cassazione*) and England/Wales (Supreme Court of the United Kingdom/House of Lords).

In the attempt to sharpen our knowledge of phraseology as a leading principle of discourse organisation, the analysis proposed here delves into lexical bundles as a suitable candidate for the description of regularity in judicial text. The rest of the paper is organised as follows. In the next section, the criteria of corpus design are discussed, and the methodological tools are introduced: this will allow for a presentation of the dataset as well as a preliminary review of the procedure through which the corpus was interrogated. The findings of the study are then presented and eventually discussed in the light of the relevant literature in the last section.

Materials and methods

The study was undertaken on a small synchronic corpus of 82 judicial opinions by the Supreme Court of Ireland (henceforward, 'the SCI'). The text of the opinions was retrieved from the

Court's official website at www.supremecourt.ie/Judgments.nsf/SCSearch?OpenForm&l=en as of 15 October 2014, when corpus design was completed. On that page, the advanced search function allows one to insert any string in the quest for judgments, in addition to any judge's name one or more cases may be accessed with. For the purpose of this paper, the item *European Union* was used as the search term. The 82 texts displayed as search results cover a time span between 2001 and 2014, and they altogether amount to 742,194 words.

From a methodological point of view, the study was carried out as follows. In order to examine key instances of phraseology in context, emphasis was laid on 'lexical bundles' (Biber et al. 1999; Biber et al. 2004; Pecorari 2009). Lexical bundles are aptly defined by Breeze (2013: 230) as "multi-word sequences that occurred most frequently in particular genres, regardless of whether or not they constituted idioms or structurally complete units". Bundles were taken as a case in point in light of recent scholarly research (Goźdź-Roszkowski 2011), whereby the adoption of corpus-driven methods and multi-dimensional analysis pointed to their frequency as evidence of their operative function in communicating key procedural aspects of judicial decisions.

In order to identify bundles, the linguistic software package *AntConc* (Anthony 2006) was used. More specifically, the on-screen function *Clusters* was launched in the attempt to generate an *n-gram* list. This is a list of the most frequent clusters, i.e. multi-word sequences, in the corpus, and it was used to extract the items of interest to the current work. By virtue of its preliminary nature, the analysis was circumscribed to the top-ten most recurrent lexical bundles. These were identified on the basis of the following criteria: first of all, a minimum size of three and a maximum size of six words per bundle; secondly, a minimum frequency of ten tokens per bundle; finally, a distribution of each bundle across a minimum of five different texts, in order to ensure an adequate degree of generality to the analysis.

Once the bundles were detected, they were classified by combining the criteria in Biber et al. (2004), Pecorari (2009) and Breeze (2013). As will be clarified in the upcoming section, this essentially amounted to integrating semantic (Breeze 2013) and syntactic (Biber et al. 2004) criteria for a preliminary exploration of the *prima facie* characteristics of the bundles. In addition, *Concordance* – a software function displaying the whole of the occurrences of a search word or phrase on the same page – was operated, with the aim of uncovering and quantifying the main discourse function of each bundle in context (Stubbs 2001).

Lexical bundles: forms and functions in context

By applying the criteria laid down in the prior section to the *n-gram* list of the corpus, the most frequent bundles were identified. These are displayed in Table 10.1 below with their respective raw and per 1,000-word frequency:[1]

Moving beyond mere frequency counts, the items in the table could be classified by following the guidelines provided in the literature. To begin with, Pecorari's (2009) subdivision of bundles into 'content' and 'non-content' forms appears to apply well to a preliminary categorisation. All bundles in Table 10.1 are 'content' in that they "contain one or more words from the specialist register within which [texts] were written" (Pecorari 2009: 96), the only exceptions being *seems to me*, *the fact that*, *in respect of* and *in relation to*.

On the one hand, the latter fall within the scope of Biber et al.'s (2004: 381) chiefly syntactic framework: thus, *the fact that* can be ascribed to Type 2 bundles – namely those that "incorporate dependent clause fragments"; and *in respect of* as well as *in relation to* are definitely to be attributed to Type 3 bundles, which, among others, incorporate prepositional phrase fragments.

Table 10.1 Most frequent lexical bundles and related frequency

Bundle	*Frequency (raw)*	*Frequency (per 1,000 words)*
of the Act	753	1.014
in respect of	560	0.754
European Arrest Warrant	437	0.588
in relation to	435	0.586
the fact that	394	0.530
the purposes of	260	0.350
the European Union	233	0.313
the basis of	227	0.305
seems to me	213	0.286
the principle of	207	0.278

On the other hand, 'content' bundles can be read in the light of Breeze's (2013: 238) semantic categorisation of lexical bundles in case law texts. Accordingly, they may denote 'agents' (*the European Union*), 'documents' (*of the Act* and *European Arrest Warrant*) or 'abstract concepts' (*the purposes of*, *the basis of* and *the principle of*).

Leaving aside such formal properties of lexical bundles, it is by looking at them in context that one manages to know more about the textual functions they fulfil at a broader corpus level. In this respect, the analysis provided substantial evidence that bundles perform three main functions: first of all, defining the relationship between State and EU law; secondly, indicating peculiarities of the Court's argumentation; thirdly, identifying the core element of the dispute, from the Court's own perspective. These functions are reviewed in the remainder of this section.

The first function, i.e. a definition of the relationship and ever shifting boundaries between Irish and EU law, is served by bundles in four main ways. One of these is the expression of the Court's critical stance towards the EU and the implementation of its norms or policies. This takes the form of two phraseological patterns schematised as follows: (a) [Evaluative marker + *purpose(s)* + *of the Act*]; (b) [Evaluative marker + 'objective' + *the European Union*].[2]

The former may also be read as an example of two lexical bundles merging together – chiefly *the purposes of* and *of the Act* – to form a longer phraseological unit. More generally, it concerns 13.1% of the co-occurrences between *of the Act* and the lemma *purpose*, preceded by a marker of the Court's critical attitude, e.g. *it is difficult to decipher* or as in (1) below, *there is great difficulty in attributing any effective meaning to*. As of (b), *the European Union* typically collocates with words sharing a semantic preference of 'objective' – either the word *objective* itself or a lexicalisation of the specific objective discussed in the text, e.g. the enlargement of the Union. In turn, this is again preceded by formulations reflecting SCI Justices' negative perceptions about the putative mismatch between proposed legislation and the goals to be pursued at an EU level – cf. *represents a disproportionate implementation of*, *does not seem to be relevant to* or *problems that would arise from the enlargement of*, as in (2):[3]

(1) That particular part of the section is worth repeating, "a person shall not be surrendered to an issuing state under this Act in respect of an offence unless the offence is

an offence that consists of conduct specified in [paragraph 2 of Article 2]". There is great difficulty in attributing any effective meaning for the purposes **of the Act** to that particular provision.

(Minister for Justice v. Ferenca)

(2) Accordingly, there continued to be a surplus of milk in the community. Various methods were adopted by the EEC of dealing with the resultant problems. Eventually, what was called "Agenda 2000" was adopted by the EEC Commission with a view to preparing the dairy sector for the further problems which would arise from the enlargement of **the European Union** and the liberalisation of trade within the World Trade Organisation. The latter developments would mean, not merely a new threat of surpluses in milk production, but also an undermining of the effectiveness of the quota regime in maintaining milk prices.

(Maher et al. v. Minister for Agriculture et al.)

In (1), Murray C.J. notes that the obscurity of the reported provision of EU law on the surrender of subjects to another State is indeed what makes its implementation in the domestic legal order so problematic. In (2), similarly, Keane C.J. points to the purported discrepancy between the scope of the Commission's *Agenda 2000* and the scale of the problems related to the milk quota regime within the enlarged Union envisaged at the beginning of the new century.

Another aspect relevant to the first function of lexical bundles in context was the Court's reflection upon and appreciation of the impact of EU law on the domestic legal framework. In this regard, it is noteworthy that in 5.6% of its 233 entries, *the European Union* collocates with items sharing a semantic preference of 'consequence' in that they deal with the nature or scope of legislative tools the State had to incorporate into its own legal order by virtue of EU membership, e.g. *was necessitated by the obligations of the membership of* (echoing the exact wording of Article 29.4.6 of the Irish Constitution), *a historic transfer of legislative, executive and judicial sovereignty to*, and *as a consequence of Ireland's membership of* – as in (3).[4]

A similar pattern applies to the bundle *European Arrest Warrant*: the innovative nature of this document is often discussed in the case law sampled through the corpus, as per the collocation of the bundle with items such as *is a novel instrument* or *constitutes a complete change of direction* in (4):

(3) The democratic system in Ireland functions through three branches of government. However, in addition, the State is subject to European institutions and provisions made therein. These regulations are directly applicable. These regulations are part of Irish laws as a consequence of Ireland's membership of **the European Union**.

(Browne v. Attorney General et al.)

(4) The move from extradition to the **European arrest warrant** constitutes a complete change of direction. It is clear that both concepts serve the same purpose of surrendering an individual who has been accused or convicted of an offence to the authorities of another State so that he may be prosecuted or serve his sentence there. However, that is where the similarities end.

(Minister for Justice v. Ostrowski)

In (3), Denham J. addresses the notion of the direct applicability of regulations, which is argued to be due to the country's full EU membership, while in (4) McKechnie J. delves

into the aspects that differentiate prior legislation on extradition from the current regime set up under the EAW.

A context acting as an actual counterpart to the Court's critical stance – as of (1) and (2) above – is represented by those passages where SCI Justices emphasise the value of domestic legislation as a benchmark against which to evaluate EU norms. Interestingly, the bundle *of the Act* recurrently collocates with a specification of the year the legislation at issue was enacted, and an evaluative marker through which the Court expresses its satisfaction with the overall quality of the Act mentioned. In 6.5% of its occurrences, [*of the Act* + year] is followed by such markers as *is stated clearly*, *I find no ambiguity* and *terms are very specific and unambiguous*. In (5), therefore, Denham C.J. does more than simply introduce the content of Section 21A of the European Arrest Warrant Act of 2003: she also stresses that that piece of domestic legislation displays a desirably high degree of quality and explicitness:

(5) Under Irish law, s. 21A **of the Act** of 2003, as amended, ensures persons are not surrendered for the purposes of investigation. [. . .] The national law is clear on the requirements it lays down.

(Minister for Justice v. Bailey)

The finding that the Court attaches fundamental importance to the framework of domestic legislation also appears to be corroborated by the bundle *of the Constitution*. Being mainly confined to judgment Pringle v. Government of Ireland et al., this bundle failed to meet the eligibility criterion of distribution across a minimum of five different texts. Although it was not formally included in the analysis, it is interesting that its main collocates are *Article* (139 entries), *provision* (43) and *breach* (7). As the careful scrutiny of the co-occurrence with *breach* revealed, *of the Constitution* can be found in contexts where Justices assess the effects of adhesion to EU-driven initiatives in terms of their compatibility with the Irish Constitution – cf. *to ratify a treaty that is in breach of the Constitution* (Pringle v. Government of Ireland et al.).

Moreover, *of the Constitution* displays a similar usage pattern when it keeps the company of its two other top collocates. As a matter of fact, 14.4% of [*Article(s) + of the Constitution*] are preceded by such items as *inconsistent with*, *contrary to*, *breach*, *infringe*, *confuse the interpretation of* or *in clear disregard to* – e.g. *Such a transfer would be contrary to Articles 5, 6 and 17 of the Constitution* (Pringle v. Government of Ireland et al.). Furthermore, the collocation of [*provision(s) + of the Constitution*] with the nouns *contravention*, *breach* or *violation* as well as the verb *contravene* amounts to a significant 25.6% of its 43 tokens. In the cases documented here, the passages where the bundle is embedded confirm the emphasis placed on constitutional architecture as the framework for evaluating the viability of prospective EU norms.

As a way of expatiating into the relationship between State and EU law, one more aspect worth mentioning is the tendency of SCI Justices to stress the need to make sure that domestic legislation is harmonised with and construed in light of EU objectives and/or principles. This is primarily true of the co-occurrence patterns of the prepositional bundle *in respect of*, which indicate that harmonisation may be invoked about both procedural matters – e.g. *reliefs*, *charges*, *appeals* and *grounds of appeal* – and, even more so, factual aspects of cases. This is apparent in 85.7% of the 21 occurrences of the pattern [*in respect of* + *a person* + relative clause denoting a fact in the dispute] – e.g. *in respect of a person, who falls within one of the prescribed categories, subject to* [. . .] *the Council Framework Decision* (Minister for Justice v. Ciarán) – as well as in 45.4% of the co-occurrence pattern between *in respect of* and the noun *offence*. Similar usage patterns were also documented for a limited amount of the collocation entries of *in relation to* with either *a criminal trial* or *framework*

decisions. In (6) and (7), the Irish Justice delivering the opinion begins by identifying a specific matter around which the dispute revolves, before suggesting an interpretation of the facts of the case consistent with the overarching EU framework, most often in the field of the highly controversial EAW:

(6) By section 44 of the Act of 2003, Ireland adapted into Irish law Article 4.7.b. of the Framework Decision [. . .]. I construe s. 44 as enabling Ireland to surrender a person **in respect of** an offence alleged to have been committed outside the territory of the issuing State in circumstances where the Irish State would exercise extra-territorial jurisdiction in reciprocal circumstances.

(Minister for Justice v. Bailey)

(7) The sole matter which I wish to make clear here is that the mere fact that a trial or sentence may take place in a requesting State according to procedures or principles which differ from those which apply, even if constitutionally guaranteed, **in relation to** a criminal trial in this country does not of itself mean that an application for surrender should be refused pursuant to s. 37(2) of the Act.

(Minister for Justice v. Stapleton)

What the examples show so far is that in critically assessing the impact of EU law on the Irish legal order at various levels, the discourse of SCI Justices is indicative of the tension between the growing pressure to incorporate EU law into State legislation as swiftly as possible, and the willingness to emphasise and preserve the prerogatives of the country's domestic law. This aspect has been singled out by legal scholars (see the introductory section), but it is interesting that it can be documented with corpus analytic tools as well.

The second main function performed by the phraseological patterns of lexical bundles is their capability of bringing insights into the Court's argumentation. In this respect, bundles appear to reflect a pattern of legal text through which they act as signposting or navigating words pointing to specific elements in the reasoning of judges, most notably abstract ideas or principles. To mention but two examples, the bundle *the principle of* mainly collocates with a precise denotation of the specific principle considered by SCI Justices, e.g. *conforming interpretation*, *mutual recognition*, *effectiveness* and *proportionality*. In the vast majority of these contexts, what the collocation shows is the Justice's recourse to 'argument from substantive reasons'. This argument form is observed by Summers (1991: 418) to be common in Supreme Court opinions, where the mode of the argument derives "from an authoritative source of law, such as a statute, or case or legal principle". As far as our opinions are concerned, the most widely mentioned principle appears to be *equivalence*: its use as the basis of the Court's reasoning follows a clear two-part sequence attested for 70.6% of the tokens of the pattern. First of all, a definition of the scope of the principle, testified to by the collocation between [*the principle of* + *equivalence*] and the verbs *meet* and *comply with*, or the nouns *observance* and *breach*. Secondly, an outline of the criteria for the Court to bear in mind while determining whether the principle itself has been complied with (cf. (8) below):

(8) Observance of **the principle of** equivalence implies, for its part, *that* the procedural rule at issue applies without distinction to actions alleging infringements of Community law and to those alleging infringements of national law, with respect to the same kind of charges or dues. [. . .] In order to determine whether **the principle of** equivalence has been complied with in the present case, the national court – which alone has direct

> knowledge of the procedural rules governing actions in the field of employment law – must consider both the purpose and the essential characteristics of allegedly similar domestic actions.
>
> (TD et al. v. Minister for Justice et al.)

In addition, the bundle *(for) the purposes of* includes the verb *assume* among its top collocates. In the greater majority of these occurrences, the discourse of the SCI Justice in question makes use of the larger pattern *even assuming for the purposes of . . . that*, in order to respond to and criticise someone else's – e.g. one of the parties' – causal argumentation. In causal argumentation, "the argument is presented as if what is stated in the argumentation is a means to, a way to, an instrument for or some other kind of causative factor for the standpoint or vice versa"(Van Eemeren and Grootendorst 1992: 97).

In (9) below, O'Donnell J. expresses his own disagreement with the appellant's argument requesting an interlocutory injunction. In order to strengthen his argument, he stretches the potential validity of the plaintiff's case to the extreme (*and even assuming for the purposes of this stage of the argument that*), only to argue that there is no causal connection between the claim that the European law argument can also be framed in domestic constitutional terms, and the standpoint that the Court should issue the requested injunction:

(9) In analysing the issues in this way, I do not lose sight of the argument made on behalf of the plaintiff that a breach of the Treaties is ipso facto a breach of the Irish Constitution. [. . .] It is apparent however that this constitutional point is an entirely consequential one. It is completely dependent on, and follows ineluctably from, the European law argument. The alleged breach of the Constitution occurs because there is an alleged breach of the Treaties. [. . .] In my view therefore, and even assuming for **the purposes of** this stage of the argument *that* there is or may be merit in the contention that a breach of the Treaties is a breach of the Constitution (on which I express no view), it adds nothing to the calculation the court must carry out on an application for interlocutory injunction to say that the European law argument can also be framed in domestic constitutional terms.

(Pringle v. Government of Ireland et al.)

As regards the third function fulfilled by the phraseology of bundles, notably the identification of the core element of the dispute from the Court's own perspective, this is primarily shown by *seems to me*. As an indicator of "stance expression" (Breeze 2013: 245), the bundle tends to collocate with evaluative markers such as *it is important to keep in mind that* or *significant weight needs to be attached to*. In 4.7% of these cases, characterised by the deployment of meaning elements intensifying the Court's attitude in reading the case, what underlies the pattern is the Justices' emphasis on what they single out as the key issue in the dispute. In (10) below, it is significant that in pronouncing judgment in a sensitive case on asylum applications, Hardiman J. points out that public interest is a parameter of paramount importance in securing a rational and effective immigration system (*seems to me to constitute a grave and substantial matter of high importance*):

(10) All these considerations emphasise the social and legal need for a proper discretion in these cases to be exercised with due regard to the individual circumstances of applicants (including applicant families) and the common good of the Irish community. This includes the public interest in a fair rational and effective asylum and immigration

> system. This interest **seems to me** to constitute a grave and substantial matter of high importance.
>
> (Minister for Justice v. Osayande et al.)

In a further 10.4% of attested occurrences, the Court's reasoning takes on an inherently axiomatic character. More specifically, the form taken by the related pattern was identified as being [*seems to me + to be + beyond argument/clear/elementary/obvious + that*], typically within contexts where the SCI sets about to settle the dispute through the "overly literal interpretation" of an Act of Parliament or EU norm, based on the principle that "plain words must be given their plain meaning save where this would lead to an absurdity, whether in the light of common sense or of the policy of the instrument" (Morgan 2001: 93). In (11), therefore, Fennelly J.'s stance is that the prohibition against the High Court issuing an arrest warrant requested by Germany pursuant to the Extradition Act 1965 stems from the wording of Article 32 of the new EU Framework Decision prevailing upon prior legislation on the matter:

(11) It **seems to me** to be clear beyond argument that the High Court cannot issue a warrant pursuant to Part II for the arrest of a person for extradition to a country to which that part does not any longer apply, even if the request has been received at a time when it did. What then is the effect of Article 32 of the Framework Decision? It reads:

> "Extradition requests received before 1 January 2004 will continue to be governed by existing instruments relating to extradition. Requests received after that date will be governed by the rules adopted by Member States pursuant to this Framework Decision."
>
> (Attorney General v. Abimbola)

An idea of consistency between the judge's stance and the wording as well as the enactment itself of relevant legislation also emerges from the use of *the fact that*. Interestingly, there is a correlation between the function of the bundle in the present corpus and the findings in Goźdź-Roszkowski and Pontrandolfo's (2014) analysis of *fact that* along with its Italian equivalent *fatto che* across US Supreme Court opinions and judgments from the criminal division of the Italian *Corte di Cassazione*. In those two corpora, the *fact that* is often established to be the ground on which judicial reasoning rests, mainly in a collocational environment where *fact that* is preceded by a preposition. In SCI opinions, 12.4% of the occurrences of *the fact that* keep the same kind of collocational company, as it were – cf. *the order was invalid by reason of the fact that* (Dublin City Council v. Williams); *the interim legal protection which Community law ensures for individuals before national courts must remain the same* [. . .] *in view of* the fact that (Dowling et al. v. Minister for Finance); *the grant of planning permission is invalid by virtue of the fact that* (Arklow Holidays Ltd. v. An Bord Pleanála).

Such entries suggest that their surrounding contexts may be covertly evaluative, in so far as the fact ascertained by the Court serves as the basis for judges to express their stance and thereby determine the outcome of their reasoning. This is illustrated by (12), where both the words and the very approval of a draft proposal by the *Oireachtas* [the Irish Parliament] allow Murray C.J. to conclude that the contested passages of the European Arrest Warrant Act of 2003 did in fact enjoy full constitutionality:

(12) The Act of 2003 benefits, in any event, from the normal presumption of constitutionality. The resolutions of the Houses passed on 12th December 2001 benefit from the

> same presumption. [. . .] It follows from **the fact that** the resolutions of 12th December approved a draft proposal for a Framework Decision that the Houses approved any reasonable and usual drafting changes, amendments to improve and clarify the document.
>
> (Iqbal et al. v. Minister for Justice et al.)

Discussion and conclusions

The findings presented over the whole of the last section may be read at various levels. First of all, they provide evidence that corpus tools can be a rich source of insights about the texts under investigation, as far as the study of lexical bundles is concerned. In spite of their lack of inherent idiomaticity, these were observed to act as significant "lexical units that cut across grammatical structures" and "have identifiable discourse functions, suggesting that they are important for the production and comprehension of texts" (Biber 2006: 155). Although Biber's research mainly focuses on university classroom teaching and textbooks, its value can fruitfully be extended to judicial texts, too, where bundles form an integral part of the 'legal grammar' postulated by Goźdź-Roszkowski and Pontrandolfo (2014) to consist of a wide array of stylistic conventions at the heart of the judges' discourse strategies.

More specifically, bundles were described earlier on as keys to judicial discourse as a practice and system of statements that systematically construct the object of which it speaks (Baker 2006). In the case of the study undertaken here, that 'object' was the EU, or even more precisely the underlying tension between State and EU law, a critique of the Union or the implementation of its policies and a genuine appreciation of domestic legislation, coupled with an assessment of the impact of EU law and the inevitable need to harmonise the Republic's legal order with EU objectives and/or principles. The findings may be indicative of the oft taken for granted yet at times problematic relationship between the EU and its Member States, especially when it comes to traditionally pro-EU countries such as Ireland: hence the potential interest of replicating an analysis such as that proposed here to other comparable national contexts.

Predictably, some legal commentators might suggest that the centrality of cases such as those instantiated by the corpus could be easily grasped even without recourse to corpus tools. On the one hand, for instance, Cahill (2014) thoroughly discusses case Pringle v. Government of Ireland et al.as a landmark decision that documents the revival of the doctrine of implied amendment in the Irish system. In addition, Noonan and Linehan (2014: 129) propose that "the judgment reveals much that is of interest about the nature of legal reasoning, in particular the blend of text, background purpose, and teleology that constitutes the very essence of legal discourse". In this vein, they delve into what they see as the major procedural aspects of the case, e.g. the tight timescale for the Irish courts to examine the issues raised, and the composition of the EU's Court of Justice as it sat for a preliminary ruling on the case.

On the other hand, it should first of all be pointed out that the study of the procedural matters and technicalities of jurisprudence is neither offset nor questioned but rather profitably integrated by the application of quantitative and qualitative methods to the investigation of phraseology in judicial texts. In fact, corpus linguistics needs not only and not necessarily be seen as a primary source of insights – as it has been in this paper – but also as a handy tool and a flexible instrument to check and support the trained analyst's first-hand intuition. Secondly, the fact that corpus findings may either integrate or indeed overlap with the legal scholars' research skills should neither surprise nor disappoint anyone. In

keeping with Stubbs's (2001: 143) views, although "the method seems to add little to what an intelligent reader knows already", the fact remains that "we would be rightly suspicious of a technique which was completely at odds with the interpretations of trained readers".

By using corpus methods, we may indeed "have the beginnings of an explanation of the human reader's interpretation, because we can make explicit some of the textual features which a human reader (perhaps unconsciously) attends to" (Stubbs 2001: 143). If that is the case – as it was with lexical bundles like *in respect of* or *in relation to* providing the 'frame' that encloses the key 'slot' of the legislative item to be harmonised with EU law (Biber 2006: 172), as well as *the principle of* providing the frame whose slot is the Court's substantive argumentation – then legal scholars' expertise is likely to benefit from a sound textual basis enriching or consolidating their specialised profile.

Notes

1 As can be noted straight away, the table only includes three-word bundles. In this respect, the implementation of the methodological criteria laid down in the prior section led to homogeneity rather than variety. However, the fact that the bundles eventually investigated in the paper were chosen as the most frequent was considered a benefit, because that secured proper generality to the findings.
2 By 'patterns', reference is made here to the larger sequences in which bundles were observed to be embedded upon the achievement of the distinctive communicative purposes illustrated throughout the section.
3 In all numbered examples, the realisation of the patterns is signalled by the use of bold typeface for the lexical bundle involved, and an underline for the rest of the pattern. In addition, the case passages are taken from is reported in parentheses at the end of each example.
4 Here as well as elsewhere, co-occurrence percentages are not as high as one might expect. This is not simply correlated with the overall small size of the corpus. In fact, it should be borne in mind that the interest was less in collocation per se than in the occurrence of extended patterns. While these may be quantitatively less significant, their role as sequences instrumental to the achievement of specific goals in the Court's discourse was considered qualitatively worth pointing out as occurring across the bundles in Table 10.1.

References

Alexy, R., 1989. *A Theory of Legal Argumentation: The Theory of Rational Discourse as Theory of Legal Justification*. Oxford: Clarendon.

Anthony, L., 2006. *AntConc 3.2.1*. <www.laurenceanthony.net/>

Baker, P., 2006. *Using Corpora in Discourse Analysis*. London: Continuum.

Barceló, J., 1997. Precedent in European community law. In N. MacCormick and R. Summers (eds.), *Interpreting Precedents: A Comparative Study*. Aldershot: Dartmouth, 407–436.

Biber, D., 2006. *University Language: A Corpus-Based Study of Spoken and Written Registers*. Amsterdam: Benjamins.

Biber, D., Conrad, S., and Cortes, V., 2004. *If you look at . . .*: Lexical bundles in university teaching and textbooks. *Applied Linguistics*,25(3): 371–405.

Biber, D., Johansson, S., Leech, G., Conrad, S., and Finegan, E., 1999. *Longman Grammar of Spoken and Written English*. London: Longman.

Breeze, R., 2013. Lexical bundles across four legal genres. *International Journal of Corpus Linguistics*, 18(2): 229–253.

Byrne, R., McCutcheon, P., Bruton, C., and Coffey, G., 2014. *The Irish Legal System*. Dublin: Bloomsbury.

Cahill, M., 2014. *Crotty* after *Pringle*: The revival of the doctrine of implied amendment. *Irish Journal of European Law*, 17(1): 1–25.

Collins, A.M. and O'Reilly, J., 1990. The application of Community Law in Ireland. *Common Market Law Review*, 27: 315–339.
Doyle, O., 2008. *Constitutional Law: Text, Cases and Materials*. Dublin: Clarus Press.
Fahey, E., 2008. How to be a third pillar guardian of fundamental rights? The Irish Supreme Court and the European Arrest Warrant. *European Law Review*,33(4): 563–576.
Gabrielatos, C., McEnery, T., Diggle, P.J. and Baker, P., 2012. The peaks and troughs of corpus-based contextual analysis. *International Journal of Corpus Linguistics*, 17(2): 151–175.
Goldberg, A., 2009. The nature of generalization in language. *Cognitive Linguistics*,20(1): 93–127.
Goźdź-Roszkowski, S., 2011. *Patterns of Linguistic Variation in American Legal English: A Corpus-based Study*. Bern: Peter Lang.
Goźdź-Roszkowski, S. and Pontrandolfo, G., 2014. Facing the facts: Evaluative patterns in English and Italian judicial language. In V.K. Bhatia, G. Garzone, R. Salvi, G. Tessuto, and C. Williams (eds.), *Language and Law in Professional Discourse: Issues and Perspectives*. Newcastle upon Tyne: Cambridge Scholars Publishing, 10–28.
Groom, N., 2010. Closed-class keywords and corpus-driven discourse analysis. In M. Bondi and M. Scott (eds.), *Keyness in Texts*. Amsterdam: Benjamins, 59–78.
Hoey, M., 2005. *Lexical Priming: A New Theory of Words and Language*. London: Routledge.
Hunston, S., 2002. *Corpora in Applied Linguistics*. Cambridge: Cambridge University Press.
Hunston, S., 2008. Starting with the small words. Patterns, lexis and semantic sequences. *International Journal of Corpus Linguistics*, 13(3): 271–295.
Hunston, S. and Francis, G., 1998. Verbs observed: A corpus-driven pedagogic grammar. *Applied Linguistics*, 19(1): 45–72.
Laffan, B. and Tonra, B., 2005. Europe and the International dimension. In J. Coakley and M. Gallagher (eds.), *Politics in the Republic of Ireland*. London: Routledge, 430–461.
Maley, Y., 1994. The language of the law. In J. Gibbons (ed.), *Language and the Law*. London: Longman, 11–50.
Mazzi, D., 2007. *The Linguistic Study of Judicial Argumentation: Theoretical Perspectives, Analytical Insights*. Modena: Il Fiorino.
Mazzi, D., 2015. Semantic sequences and the pragmatics of medical research-article writing. In M. Gotti, S. Maci, and M. Sala (eds.), *Insights into Medical Communication*. Bern: Peter Lang, 353–368.
McEnery, T. and Hardie, A., 2011. *Corpus Linguistics*. Cambridge: Cambridge University Press.
Morgan, D.G., 2001. *A Judgment Too Far? Judicial Activism & the Constitution*. Cork: Cork University Press.
Noonan, J. and Linehan, M., 2014. Thomas Pringle v. The Government of Ireland, Ireland and the Attorney General. *Irish Journal of European Law*, 17(1): 129–137.
Pecorari, D., 2009. Formulaic language in biology: A topic-specific investigation. In M. Charles, D. Pecorari, and S. Hunston (eds.), *Academic Writing: At the Interface of Corpus and Discourse*. London: Continuum, 91–105.
Peczenik, A., 1989. *On Law and Reason*. Dordrecht: Kluwer.
Phelan, W., 2008. Can Ireland legislate contrary to EC Law? *European Law Review*, 33(4): 530–549.
Pontrandolfo, G., 2013. La fraseología como estilema del lenguaje judicial: El caso de las locuciones prepositivas desde una perspectiva contrastiva. In L. Chierichetti and G. Garofalo (eds.), *Discurso profesional y lingüística de corpus. Perspectivas de investigación*. Bergamo: CELSB, 187–215.
Römer, U. and Wulff, S., 2010. Applying corpus methods to written academic texts: Explorations of MICUSP. *Journal of Writing Research*,2(2): 99–127.
Sinclair, J., 1996. The search for units of meaning. *Textus*,9(1): 75–106.
Sinclair, J., 2004. *Trust the Text: Language, Corpus and Discourse*. London: Routledge.
Stubbs, M., 2001. *Words and Phrases: Corpus Studies on Lexical Semantics*. Oxford: Blackwell.

Summers, R., 1991. Statutory interpretation in the United States. In N. MacCormick and R. Summers (eds.), *Interpreting Statutes*. Aldershot: Dartmouth, 407–459.

Tomkin, J., 2004. Implementing Community legislation into national law: The demands of a new legal order. *Judicial Studies Institute Journal*,4(2): 130–153.

Van Eemeren, F.H. and Grootendorst, R., 1992. *Argumentation, Communication, and Fallacies*. Hillsdale, NJ: Lawrence Erlbaum Associates.

Wray, A., 2002. *Formulaic Language and the Lexicon*. Cambridge: Cambridge University Press.