

THE PRAGMATICS OF SEPARATE OPINIONS: AN ANALYSIS OF HEDGING AND BOOSTING THROUGH THE LENS OF POLITENESS STRATEGIES

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Abstract. In recent years, research on separate opinions has shed some light on the linguistic features of this judicial subgenre, with a focus being placed on formulaicity, stylistic variation, evaluation, and pragmatic aspects of judicial dissents (Boginskaya 2022; Breeze 2016; Goźdz-Roszkowski 2020). However, a scant number of available studies suggests that separate opinions remain an underexplored area within the field of specialized discourse. Therefore, this paper seeks to contribute to this line of inquiry by examining separate opinions through the lens of legal pragmatics. Specifically, it aims to explore the pragmatic aspects of language employed in the construction of argumentation in the European Court of Human Rights' separate opinions. To that end, the analysis focuses on the pragmatic phenomena of **hedging** and **boosting** as manifestations of politeness strategies. Through a combination of quantitative and qualitative analysis, the study demonstrates that hedging and boosting play a significant role in shaping dissenting and concurring patterns.

Keywords: hedging, boosting, politeness, separate opinions, European Court of Human Rights.

1. INTRODUCTION

Research into specialized discourse and professional communication highlights **rhetorical sophistication** as a defining generic feature. In the context of legal discourse, this sophistication is manifested through the **technicality** and **complexity** of its written genres (Gibbons 2004: 2–6; Orts and Breeze 2017: 9). As Gibbons (2004: 2–5) observes, **technicality** is evident in the use of legal jargon, distinct grammatical constructions, formatting, and cohesive devices that diverge from everyday language. **Complexity**, on the other hand, is realized through the use of complex sentences, elaborate phrasal structures, and grammatical metaphors. While there is broad consensus among researchers that the technical nature of legal language stems from the necessity for precision, the linguistic features contributing to both its technicality and complexity are frequently interpreted as mechanisms of **verbal manipulation** or exhibition of supremacy by specialized communities. Consequently, such discourse often becomes **incomprehensible** and detached from lay audiences (Gibbons 2004: 7–8; Orts and Breeze 2017: 12–13). However,

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these discursive practices not only impact lay audiences but also shape professional legal communication, forming part of the **conventionalized repertoire** of legal practitioners. Thus, awareness of these practices is essential both for comprehending legal texts and for constructing them effectively to serve the intended communicative purposes.

This paper explores rhetorical sophistication of judicial discourse, specifically examining **the European Court of Human Rights (ECtHR, henceforth) judgments**. More precisely, it focuses on the language employed in the **construction of argumentation in separate opinions**, with the aim of analyzing the pragmatic phenomena of **hedging** and **boosting** as manifestations of **politeness strategies**, which contribute to the rhetorical sophistication of this judicial subgenre. These phenomena are considered with regard to the **interpersonal nature** of separate opinions—a judicial subgenre that must balance collegiality and nuanced engagement with human rights issues, while also expressing dissent among ECtHR judges (White and Boussiakou 2009). This dual function suggests that separate opinions provide a natural environment for the use of hedging and boosting, serving respectively as strategies for **mitigating face-threatening acts** and **advancing assertive claims**. Accordingly, the research questions underlying this study are as follows:

1. What is the repertoire of lexical hedges and boosters used in the analysed judicial subgenre?
2. What are the communicative functions of these hedges and boosters, when examined through the lens of politeness strategies?

The structure of this paper is as follows: Section 2 introduces the concept of separate opinions and discusses their discursive characteristics. Section 3 outlines the blended theoretical framework, which integrates hedging and boosting as rhetorical strategies with politeness theory. Section 4 presents the corpus data and research methodology. Section 5 reports the findings of the quantitative and qualitative analyses. Finally, Section 6 presents conclusions drawn from the study.

2. SEPARATE OPINIONS: THE CONCEPT

In judicial contexts, *separate opinions* refer to a type of legal writing in which one or more judges express views that diverge from the majority opinion—that is, the official decision of the court (Goźdz-Roszkowski 2020; Nikitina 2025). These opinions may take the form of either *dissenting* or *concurring* opinions. A dissenting opinion arises when a judge disagrees with the majority's decision, whereas a concurring opinion occurs when a judge agrees with the outcome but for different legal reasons.

Separate opinions have a longstanding tradition in common law systems, while their presence in civil law systems remains limited and contested. Nevertheless, in most constitutional courts within civil law jurisdictions, separate opinions are permitted (Goźdz-Roszkowski 2020: 382; Kelemen 2013). The European Court of Human Rights (ECtHR)—widely recognized as possessing features akin to a constitutional court—aligns with the common law approach by allowing both dissenting and concurring opinions (White and Boussiakou 2009: 37–39). The value of these opinions before the ECtHR has often been characterized in terms of aiding legal interpretation, clarifying and reviewing existing law (Rivière 2005 in White and Boussiakou 2009: 45), and promoting openness and transparency (Paulus 2019; White and Boussiakou 2009). However, scholars have also

highlighted the potential drawbacks of separate opinions, including their capacity to undermine collegiality, reduce the Court's authority, compromise legal certainty and predictability, and increase the risk of noncompliance (Helfer and Voeten 2020: 806–807; Rivière 2005 in Nikitina 2025: 199).

From a linguistic standpoint, the existence of separate opinions raises questions regarding their status as a distinct genre or part of judicial opinions or judgments (Goźdz-Roszkowski 2020; Nikitina 2025). In the context of the ECtHR, Nikitina (2025: 202) supports the former view, identifying several distinguishing features—such as communicative purpose, lack of legal effect, absence of a clear structure, and stylistic idiosyncrasy—that differentiate separate opinions from majority judgments. Nevertheless, given their positioning after the closing section of the majority judgment, and their shared legal reasoning style and institutional context with the judgment, the analysed separate opinions can be viewed as a distinct subgenre of ECtHR judgments.

Focusing on their communicative purpose, it is important to note that, although separate opinions foreground judicial individuality, dissenting and concurring opinions differ in their motivation, style, tone, and rhetorical form (Wald 1995). According to Wald (1995: 1412), dissenting opinions—often stemming from “profound disagreement, frustration, even outrage”—are typically marked by a tone that is “troubled, outraged, sorrowful, and puzzled”. Rhetorically, this manifests in dramatic, personalized, and less constrained expression (Wald 1995: 1413). In contrast, concurring opinions are generally less confrontational in tone and style, aiming instead to present supplementary reasoning overlooked by the majority, to express reservations about the implications of the majority opinion for future cases, or to caution against its overly broad application (Wald 1995: 1415).

In a similar vein, research into separate opinions within civil law traditions reveals a personal tone, a combination of formulaic and stylistically diverse expressions, and rhetorical strategies that temper or reinforce the voice of dissenting and concurring judges respectively (Boginskaya 2022; Goźdz-Roszkowski 2020; Nikitina, 2025).

Building on these observations, the present paper examines the language employed by dissenting and concurring judges at the ECtHR. The analysis seeks to identify patterns of linguistic politeness that emerge in the examined texts. In doing so, this study aims to contribute to a largely underexplored area of research—one in which Nikitina's (2025) analysis of separate opinions through the lens of politeness theory remains a rare exception.

3. THEORETICAL BACKGROUND

3.1. Hedging and boosting as rhetorical strategies

In linguistic research on specialized discourse, *hedging* and *boosting* are widely recognized as key rhetorical strategies. This section explores hedging and boosting as strategies employed by writers to advance their views in accordance with intended communicative purposes.

The literature reflects varying interpretations of *hedges* and *hedging*. In his study on academic discourse, Hyland (1998b: 1) defines hedges as “any linguistic means used to indicate either (a) a lack of complete commitment to the truth value of an accompanying proposition, or (b) a desire not to express that commitment categorically”. Similarly,

Markkanen and Schröder (1997: 5) describe hedges as “modifiers of the writer’s responsibility for the truth value of the propositions expressed or as modifiers of the weightiness of the information given, or the attitude of the writer to the information”. Namsaraev (1997: 64) links hedging to the modification of a statement to soften it, thereby minimizing or pre-empting negative reactions from the reader/listener and protecting the speaker/writer from potential criticism. Skelton (1997: 45) further observes that, in a narrow sense, hedges serve to mitigate responsibility and/or certainty regarding the truth of a proposition.

In a broader sense, hedging may be interpreted as a “genre-specific, interactional, multifunctional phenomenon that integrates semantic, pragmatic, social, and cognitive factors” (Vass 2004: 130). In other words, Vass (2004: 128) contends that hedging should not be viewed merely as a semantic or pragmatic device, but also as one involving social and cognitive dimensions. Moreover, hedging is not exclusively tied to expressions of tentativeness or possibility. Thus, the identification of hedging often depends on the reader’s ability to decode the speaker/writer’s intent and contextual understanding (Salager-Meyer 2000: 177; 180). When used in accordance with prevailing social norms, hedging contributes to socially acceptable linguistic behaviour within a given discourse community (Salager-Meyer 2000: 177). In a similar vein, Hübler (1983 in Markkanen and Schröder 1997: 5) argues that hedging increases the acceptability of statements to listeners, thereby enhancing the likelihood of content ratification. This social dimension underscores hedging as a conventional form of expression and a key component in genre construction (Durán 2000 in Vass 2004: 130).

In legal discourse, Vass (2004: 127) associates hedging with various factors, including macro-level expectations of the discourse community, the author’s micro-level intentions, shared background knowledge between author and reader, and contextual awareness. Particularly, the latter two factors support Vass’s endorsement of Markkanen and Schröder’s (1997) view that hedging is an inherently interactional phenomenon. Effective hedging thus requires engagement from both the writer and reader, with the latter’s ability to recognize and interpret the hedge playing a crucial role (Fraser 2010: 15; Vass 2004: 127). Vass (2004: 127) further emphasizes the importance of intuition in this recognition process, arguing that it is grounded in lexico-grammatical and pragmatic competence shaped by genre-specific expectations.

These diverse definitions underscore the complexity of hedging and reflect scholarly efforts to identify the linguistic devices that function as hedges. According to Clemen (1997 in Vass 2017: 343), no universal set of expressions qualifies as hedges; their status depends on communicative context and co-text—a view also shared by Markkanen and Schröder (1997: 6). Nonetheless, Varttala (2001: 34) observes that central examples of hedging involve lexico-grammatical devices encoding features such as vagueness, indeterminacy, and tentativeness. Hedges are commonly associated with expressions that convey reservation or qualified commitment, allowing writers to comment on conceptual accuracy or moderate illocutionary force (Varttala 2001: 32), thereby linking hedging closely with modality. Similarly, Martín-Martín (2008: 134) notes that hedging typically involves expressions of indeterminacy, imprecision, or mitigated assertiveness. Hyland (1996 in Vass 2017: 340) proposes a distinction between lexical and strategic hedges. Lexical hedges include modal verbs (*would, may, could*), epistemic lexical verbs (*indicate, suggest, appear*), epistemic adjectives (*likely, possible, apparent*), epistemic adverbs (*apparently,*

probably, generally), and epistemic nouns (*possibility*). Strategic hedges encompass questions, conditional clauses, contrastive markers, and formulaic phrases.

In contrast, boosters “allow writers to express their certainty in what they say and to mark involvement and solidarity with their audience, stressing shared information, group membership, and direct engagement with readers” (Hyland 2004: 86). Boosters can thus be viewed as strategic tools for constructing a rhetoric of certainty, enabling speakers to project authority and decisiveness (Hyland 1998a). Several scholars have underscored the functional properties of boosters—epistemic, interpersonal, and social—across various fields of specialized discourse. A comprehensive definition is offered by Peacock (2011: 68), who characterizes boosters as devices that:

increase the force of statements and emphasize certainty, strong commitment, conviction, and accepted truth; persuade readers that their claims are justified and that their observations are facts; ‘galvanise support, express collegiality, and avoid disagreement’; transform claims into knowledge; and imply certainty resulting from the convincing nature of the data itself.

Lexical realizations of boosters typically include words that reinforce the strength of a claim, such as *clearly, obviously, demonstrate*, etc. (Hyland 2005: 52). These can be further categorized as intensity (*extremely, amazing*), extremity (*highest, greatest, most*), and certainty (*definite, prove, show*) boosters (Hyland and Zou 2021: 7–8).

To date, research on hedging and boosting in academic and scientific discourse has far exceeded that in legal discourse. However, some studies offer valuable insights into their legal applications. For example, Tessuto (2011) identified lexico-grammatical hedging patterns in legal problem-question-answer genres, emphasizing their pragmatic and interactional roles in argument development. Abbuhl (2006: 153) highlighted the challenges non-native speakers face in using hedges appropriately in legal writing, calling it a “notoriously problematic” area, even at advanced proficiency levels. Vass (2004) examined hedging in U.S. Supreme Court opinions and law review articles, arguing that effective hedging hinges on knowledge of genre conventions, context, and communicative purpose. In later studies, Vass (2017a) explored lexical verb hedging across three legal genres: law journal articles, U.S. Supreme Court majority opinions, and dissenting opinions. Building on Hyland’s (1996: 260) claim that “hedging is predominantly expressed lexically”, she found that patterns of epistemic lexical verb usage reflected differing communicative goals and expectations. In a subsequent study, Vass (2017b) examined how hedging facilitates the balance of power and persuasion in U.S. Supreme Court opinions. Her findings identified key hedging functions such as casting epistemic doubt, presenting alternatives, and mitigating disagreement. Toska (2012) analysed hedging and boosting in judgments of the UK Supreme Court, identifying them as epistemic stance markers vital to the structure of legal argumentation. More recently, Boginskaya (2024) examined closing arguments in criminal trials, revealing attorneys’ extensive use of boosters to influence verdicts. Her earlier study (2022) of dissents in the Russian Constitutional Court highlighted a preference for boosters in challenging majority positions.

In the present study, focus is placed on the ECtHR judicial context, where the functional properties of lexical hedges and boosters are examined through the lens of

face-management strategies that contribute to the rhetorical positioning and image-building of dissenting and concurring judges.

3.2. Politeness theory

Questions regarding the motivation behind the use of hedges and boosters have been addressed in the literature from various perspectives, including politeness theory and genre conventions. Within the framework proposed by Brown and Levinson (1987: 5), politeness is defined as a deviation from an unmarked or socially neutral communicative framework. Their theory centres on the notion of *face*, conceptualized as a binary construct encompassing two dimensions: *positive face* and *negative face*. Positive face denotes the desire for approval, appreciation, and acceptance, whereas negative face reflects the desire for autonomy and freedom from imposition (Brown and Levinson 1987: 13; 61). Communicative strategies aimed at managing these face needs are typically categorized as either positive or negative politeness strategies.

Negative politeness strategies aim to respect the hearer's need for independence and non-interference. These strategies are typically characterized by formality, restraint, and deference, and are realized through linguistic devices such as hedging, indirectness, and the use of passive constructions (Brown and Levinson 1987:70), among others. In contrast, **positive politeness** strategies are oriented toward the hearer's positive face, reflecting the speaker's intent to establish solidarity, rapport, and mutual understanding. Such strategies include expressing agreement, showing interest, minimizing disagreement, and employing hedges to soften assertions (Brown and Levinson 1987: 72; 103), among others.

In the judicial context, studies examining politeness strategies in written legal genres remain relatively limited. For example, Kurzon's (2001) analysis of American and English judicial opinions found that politeness is expressed through agreement, mitigation of disagreement, hedged criticism, deference, and the use of compliments. Similarly, Zejnilović et al. (2022) observed that politeness effects in ECtHR judgments arise from the use of meta-argumentative verbs that serve to express agreement, mitigate disagreement, construct legal knowledge, and foster solidarity with the reader. More recently, Nikitina (2025) contributed novel insights into the linguistic manifestations of politeness in ECtHR separate opinions, exploring their placement along a continuum ranging from non-politeness to politeness and impoliteness.

Given the distinctive features of the subgenre of ECtHR judgments under analysis—marked by the challenge of balancing complementarity with the risks of appearing arrogant or presumptuous (Paulus 2019)—this study proceeds from the assumption that separate opinions provide a natural linguistic environment for the identification of politeness strategies. These strategies are employed by dissenting and concurring judges for face-management purposes, particularly in light of the inherently face-threatening nature of the subgenre.

4. CORPUS DATA AND METHODOLOGY

This study is based on an ad hoc corpus comprising 46 randomly selected separate opinions appended to 15 Grand Chamber judgments delivered between 2016 and 2024. The corpus, totalling 189,809 words, was compiled using **Sketch Engine**. The texts were

retrieved from the **HUDOC** database², which allows users to search ECtHR judgments based on various criteria, including document type, date, importance level, Convention article, finding (violation or non-violation), judge, and language. To identify the separate opinions for analysis, the search term *separate opinion* was used. While this search did not yield a consolidated list of separate opinions as standalone documents, it produced a list of judgments to which separate opinions were appended. All opinions included in the present analysis are part of key cases addressing violations of various articles of the European Convention on Human Rights.

From a typological perspective, the selected opinions include concurring opinions (n = 15), dissenting opinions (n = 10), partly concurring opinions (n = 1), partly dissenting opinions (n = 12), and combined concurring and dissenting opinions (n = 8). Regarding authorship, the majority of opinions (n = 29) were authored individually, while 14 were joint opinions and 3 were joined opinions authored by multiple judges.

Methodologically, this study adopts a mixed-methods approach, combining both quantitative and qualitative analyses. The quantitative component involved identifying the range and frequency of lexical hedges and boosters³, guided by taxonomies proposed in prior research (e.g., Hyland 1998b; Hyland and Zou 2021; Varttala 2001). Frequency lists generated by Sketch Engine were utilized for this initial step. Subsequently, a close reading of the corpus texts was conducted to exclude instances where the identified expressions did not perform hedging or boosting functions in the relevant pragmatic context. This refinement step ensured more accurate frequency counts of genuine hedges and boosters. Finally, a contextual analysis was conducted using concordance lines to inductively identify politeness strategies that emerged through the use of hedging and boosting, thereby shedding light on their role in face-management in judicial discourse.

5. FINDINGS

5.1. Quantitative analysis

Figure 1 below presents the raw frequency of hedges and boosters identified in the corpus. The quantitative analysis reveals notable differences in the distribution of these rhetorical devices, with boosters appearing more frequently than hedges in the analysed ECtHR separate opinions. Among the lexical categories, adverbs are the most commonly used form of boosting, while verbs predominate among hedges. A closer examination of Figure 1 also yields important insights into the communicative function of the analysed subgenre, particularly the need to balance conventional judicial restraint with the individualized expression characteristic of dissenting and concurring opinions.

² <https://hudoc.echr.coe.int/>

³ Modal verbs do not fall within the scope of this study despite being included in Hyland's (1996; 1998b) taxonomy of lexical hedges. Instead, preference has been given to lexical verbs, adjectives, adverbs, and nouns due to their frequently being overlooked as hedging and boosting devices in the analysis of legal discourse.

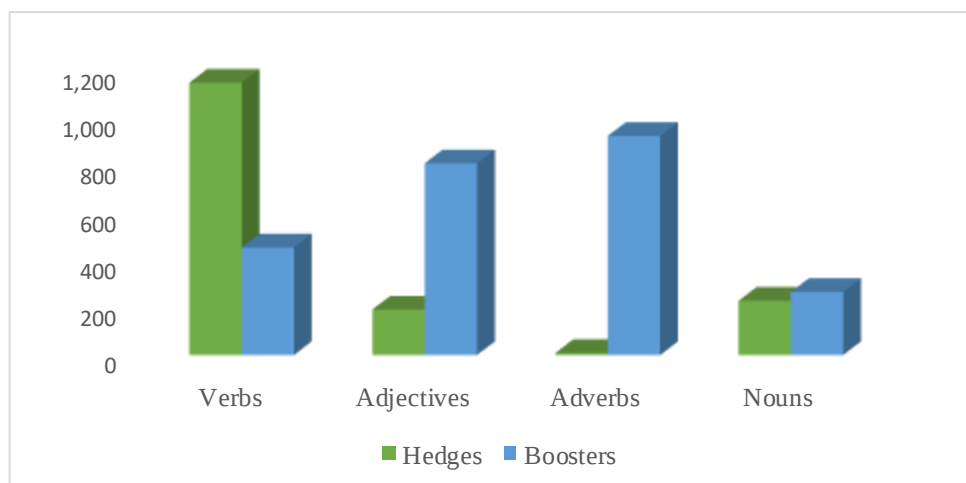


Figure 1.

Raw frequencies of hedges and boosters identified in the corpus

5.2 Qualitative analysis

The analysed data allow for the identification of positive and negative politeness strategies respectively. Both strategies employ hedges and boosters, whose communicative functions reflect an awareness of the face-wants of actors involved in the analysed communicative context. The ensuing lines will introduce the identified politeness strategies and elaborate on the communicative functions of the most frequently used hedges and boosters.

5.2.1. Positive politeness strategies

Research data suggest that three factors contribute to the emergence of positive politeness: polyphony, praise, and self-presentation. In the context of separate opinions, polyphony serves as a platform for integrating the voice of the majority into ‘master narratives’ (Breeze 2013: 352) of dissenting and concurring judges. This integration is achieved through reported argumentation, which introduces the line of reasoning of the majority. This discursive strategy attends to the positive face of the majority by acknowledging its legal authority. In the examples below, the authoritative voice of the majority is signalled by means of meta-argumentative verbs, such as **consider**, **conclude**, **find**, and **hold**, which form part of the language decorum typically associated with the ECtHR judicial setting. In the present analysis, such verbs will be classified as authoritative hedges with a dual function: to invoke respect for plurality of voices and collegial views, but also frame them as opinions rather facts. Consequently, such verbs typically introduce propositions which prepare the ground for challenging the opinion of the majority by putting forth the arguments of dissenting and concurring judges (1–4).

- (1) The majority **considers** that the interference complained of did not pursue any of the legitimate aims listed in Article 10 § 2 (see paragraph 157 of the judgment). *Nonetheless, it examines whether the interference was necessary in a democratic society. Such an approach is problematic, since the necessity of interference can be assessed only in the light of a legitimate aim.* (Baka v. Hungary, dissenting opinion of Judge Wojtyczek)
- (2) The majority simply **concluded** that the temporal element was of central importance for the adverse possession, such that the exclusion or addition of a period of more than fifty years must be seen as changing the substance of the complaint (see paragraph 132 of the judgment). *However, the majority came to that conclusion without ever determining the scope of the case.* (Radomilja and Others v. Croatia, joint partly dissenting, partly concurring opinion of Judges Yudkivska, Vehabović and Kūris)
- (3) In the instant case, the majority **finds** a violation of Article 6 of the Convention because the applicant could not challenge the impugned constitutional provisions before a domestic court. It therefore **finds** a violation because judicial review of those provisions was not available in Hungary. *I note that the Court has hitherto never stated that the Convention requires that judicial review of legislation be introduced. On the contrary, it has endorsed the opposite view.* (Baka v. Hungary, dissenting opinion of Judge Wojtyczek)
- (4) The majority now **hold** that it is sufficient for all the elements of the offence to be made out, thus making it possible for a criminal court to find a person “liable” even if the criminal proceedings are discontinued because of the application of a statute of limitations (see paragraph 261 of the judgment). *This is, for us, a plaster on a wooden leg. It remains to be seen whether this adaptation of the Court's case-law will be sufficient to allow the Italian judiciary to take effective action against unlawful site development.* (G.I.E.M. S.R.L. and Others v. Italy, joint partly dissenting and partly concurring opinion of Judges Spano and Lemmens)

To a lesser extent, the voice of the majority is introduced with quotative verbs such as **say** or **state**, which also leads to the identification of patterns juxtaposing the view of the majority with those of dissenting and concurring judges. In the examples below, dissenting judges build on reported argumentation to question the majority's reasoning (5) and approach to established principles (6) respectively.

- (5) Without wishing to analyse that data and the penalogical rationale justifying a difference in treatment between men and women in that respect, the Court **says** it is prepared to accept that in the circumstances of the present case the data in question as well as the above-mentioned elements (taken from the international and European instruments examined above) provide a sufficient basis for the Court to conclude that there exists a public interest underlying the exemption of female offenders from life imprisonment by way of a general rule (see paragraph 82 of the judgment). *With all respect to the majority, we do not think that the arguments drawn from the statistical data are “very weighty” or “particularly weighty and convincing” and can thus justify a difference in*

treatment on grounds of sex (see paragraph 2 above). (Khamtokhu and Aksenchik v. Russia, joint partly dissenting opinion of Judges Sicilianos, Møse, Lubarda, Mourou-Vikström, and Kucsko-Stadlmayer)

- (6) The Court reiterates, however, the principles it usually applies when examining cases of gender-based difference in treatment. It clearly **states** that these “require particularly serious reasons” and that “references to traditions, general assumptions or prevailing social attitudes in a particular country cannot, by themselves, be considered to amount to sufficient justification for a difference in treatment, any more than similar stereotypes based on race, origin, colour or sexual orientation” [88]. *Consequently, the conclusion set out in paragraph 82 of the judgment, according to which the low number of female prisoners and the need to protect pregnant women and mothers constitute sufficient justification for exempting that group from life imprisonment, blatantly conflicts with the aforementioned principles. (Khamtokhu and Aksenchik v. Russia, dissenting opinion of Judge Pinto de Albuquerque)*

A more explicit manifestation of positive politeness surfaces through paying compliments to the majority judges for their legal reasoning:

- (7) The findings of the Chamber in this respect in its two judgments in the applicants' cases are thus **entirely correct**. The Chamber **was right to conclude** that the applicants' claims amounted to “possessions” and thus attracted the guarantees of Article 1 of Protocol No. 1 to the Convention. *(Radomilja and Others v. Croatia, joint partly dissenting opinion, partly concurring opinion of Judges Yudkivska, Vehabović and Kūris)*
- (8) The present case provided an excellent occasion for the Court to run against these strong headwinds and to stand up for the main asset of the European human rights protection system and the foundational guarantee of the Convention system itself, namely the binding force of the Court's judgments. **On the essential point, the Court has not missed the opportunity.** *(G.I.E.M. S.R.L. and Others v. Italy, partly concurring, partly dissenting opinion of Judge Pinto de Albuquerque)*

As illustrated by the examples below, linguistic manifestations of complimenting typically encompass extremity boosters (e.g., **wholeheartedly**, **entirely**, **major**, **fully**) oriented towards the majority's positive face. However, corpus data also reveal that paying compliments is often strategically combined with expressing disagreement, the former functioning as a device for mitigating levelled criticism. By way of illustration, criticism, arising from a need for a more comprehensive reasoning in (9–10), and legal disagreement in (11–12), is mitigated by emphasizing the lines of agreement with the majority judges.

- (9) We share **wholeheartedly** the findings of the Grand Chamber of the European Court of Human Rights (“the Court”) in the present case, and most of its reasoning. *Nevertheless, we consider that much was left unsaid in the written judgment. Some important features of this case were either not dealt with at all or merely touched upon indirectly. (Baka v. Hungary, joint concurring opinion of Judges Pinto de Albuquerque and Dedov)*

- (10) The Court is **entirely** correct when it reproaches the Supreme Court, because “it is not clear from the Supreme Court’s judgment why the procedural breaches it had identified in its earlier judgments (dated 19 December 2017) were not of such a nature as to compromise the lawfulness of the appointment of A.E. and, consequently, of her subsequent participation in the applicant’s case” [49]. *The problem is that the Court does not provide that clear answer either.* (Case of *Guðmundur Andri Ástráðsson v. Iceland*, partly concurring, partly dissenting opinion of Judge Pinto de Albuquerque)
- (11) With the exception of the *unfortunate decision on Article 41*, I **wholeheartedly** subscribe to the judgment of the Grand Chamber, which should be hailed as a **major** step forward in the protection of the human rights of prisoners. (*Murray v. The Netherlands*, partly concurring opinion of Judge Pinto de Albuquerque)
- (12) I **fully** agree with the majority that judicial independence is a fundamental standard for a State governed by the rule of law. *Nonetheless, although in my view there has been an unjustified interference with judicial independence in the instant case, I have voted, for the reasons set forth below, against finding a violation of the applicant’s subjective rights under the Convention.* (*Baka v. Hungary*, dissenting opinion of Judge Wojtyczek)

It is important to note that boosters can also emphasize the importance of the drafters of separate opinions’ own face. Their use seems to be motivated by an image-building strategy aimed at asserting their epistemic authority. To this end, dissenting and concurring judges make frequent use of certainty boosters to reinforce the epistemic status of their arguments, making them more acceptable to readers. For instance, in the examples below, the highlighted certainty boosters increase the chances of ratifying the opposing viewpoints by way of the following: signalling strong and reasoned challenges to the majority’s reasoning (13); indicating epistemic conviction in the presentation of arguments (14) and perceived flaws of the majority’s reasoning (15–16).

- (13) While it is true that the “preliminary observation” in paragraph 155 suggests that the present judgment should be interpreted restrictively, it is also **true** that the majority provide no rationale to distinguish this case from others. We will therefore explore the two alternatives. (*G.I.E.M. S.R.L. and Others v. Italy*, joint partly dissenting opinion of Judges Sajó, Karakaş, Pinto de Albuquerque, Keller, Vehabović, Kūris and Grozev)
- (14) In view of the **clear** interference with the core of an Article 6 guarantee and right, the Court cannot turn a blind eye. It is imperative to assert, as a matter of principle, the judicial review of domestic legislation, including constitutional legislation, for the sake of effective and non-illusory protection of human rights in Europe. (*Baka v. Hungary*, joint concurring opinion of Judges Pinto de Albuquerque and Dedov)
- (15) This interpretation of Article 7 has no basis in the Court’s case-law with the exception of the Chamber judgment in *Sud Fondi*, which the majority of the Grand Chamber now endorse. It **does not, moreover, reflect** in our view a correct reading of this provision. (*G.I.E.M. S.R.L. and Others v. Italy*, joint partly dissenting, partly concurring opinion of Judges Spano and Lemmens)

- (16) At first sight, this may seem to be a strong argument. However, upon closer analysis, we do not believe that this can be an argument at all. First of all, such a conclusion **manifestly** contradicts the consistent interpretation of the nature of the confiscation order by the domestic courts. (*G.I.E.M. S.R.L. and Others v. Italy*, joint partly dissenting, partly concurring opinion of Judges Spano and Lemmens)

In addition, a noteworthy point is the use of meta-argumentative verbs as indicators of certainty. Previously, meta-argumentative verbs—**consider**, **conclude**, **find**, and **hold**—have been identified as authoritative hedges introducing the voice of the majority judges. However, the corpus data further reveal their polypragmatic character, reflective of a ‘strategy of self-presentation’ (Nebot 2017: 143) employed by dissenting and concurring judges. In other words, in developing their argumentation, dissenting and concurring judges use meta-argumentative verbs which evoke the authoritative voice of the judgments, thereby imbuing their arguments with decisiveness, authority, and certainty. Accordingly, the italicized verb forms in the examples below indicate judges’ epistemic conviction in voicing legal disagreement.

- (17) Furthermore, unlike the majority, we would prefer to examine the complaints also under Articles 6 § 1 and 13 of the Convention, which we **consider** to have been violated, largely for the same reasons why we **consider** that Article 1 of Protocol No. 1 has been violated. (*G.I.E.M. S.R.L. and Others v. Italy*, joint partly dissenting, partly concurring opinion of Judges Spano and Lemmens)
- (18) Having regard to these factors, I am not entirely convinced that cogent reasons were put forward to justify a departure from the domestic courts’ and Chamber’s conclusions as regards the “reasonable suspicion” requirement under Article 5 § 1 (c). These circumstances have led me to **conclude** that the applicant’s detention was in pursuance of a legitimate aim that was prescribed by the Convention. It is thus difficult for me to accept the majority’s view that the applicant’s detention was a mere cover for an ulterior purpose. (*Selahattin Demirtaş v. Turkey*, partly concurring and partly dissenting opinion of Judge Yüksel)
- (19) We **find** that conclusion hard to uphold, and we cannot think that the majority intended to endorse it. Even if the Court has previously afforded some latitude to member States in the application of statutory limitation periods, it has never found them to be completely irrelevant for Article 7 purposes. (*G.I.E.M. S.R.L. and Others v. Italy*, joint partly dissenting opinion of Judges Sajó, Karakas, Pinto de Albuquerque, Keller, Vehabović, Kūris and Grozev))
- (20) In view of all these factors, we **consider** it unreasonable for the national authorities to have taken seven years and eight months to reach a final judicial decision in this case. We therefore **hold** that the impugned proceedings were of a length that breached the “reasonable length” requirement and that there was a violation of Article 6 § 1 of the Convention. (*Nicolae Virgiliu Tănase v. Romania*, joint partly dissenting opinion of Judges Raimondi, Sicilianos, Karakas, Vučinić and Harutyunyan)

Lastly, boosting oriented toward the positive face of judges is also identifiable in the use of intensity and extremity boosters respectively. Unlike certainty boosters, intensity boosters “do not concern epistemic assurance” (Hyland and Zou 2021: 8) but amplify the emotive strength of claims (Boginskaya 2022: 270), thereby enhancing the persuasive potential of judicial disapproval (21–23):

- (21) **Unfortunately**, rather than go down this path, the majority has chosen what, in my view, is the worst of both worlds. (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, partly concurring, partly dissenting opinion of Judge Eicke)
- (22) Second, the majority refer to an “acknowledgment” by the Government, in their observations under Article 1 of Protocol No. 1, that the confiscation measure pursued the purpose of punishment (see paragraph 224 of the judgment). We find this an **extremely** weak argument. (*G.I.E.M. S.R.L. and Others v. Italy*, joint partly dissenting, partly concurring opinion of Judges Spano and Lemmens)
- (23) It would be **appalling** if such a backward step were justified by the necessity to execute a judgment of the Court and were even done under the supervision of the Committee of Ministers. This risk is **too great** and **too real** for me. (*Khamtokhu and Aksenchik v. Russia*, concurring opinion of Judge Nussberger)

In a similar vein, extremity boosters contribute to the persuasiveness of separate opinions by emphasizing the relevance of what is being discussed (24–25) or expressing complete (dis)agreement (26–29).

- (24) Firstly, the majority of the Grand Chamber disregard the **crucial** fact that the Supreme Court did not reject the applicant’s claim on the merits, but merely discontinued his case. (*Károly Nagy v. Hungary*, dissenting opinion of Judge Pinto de Albuquerque)
- (25) The measure of confusion of the majority’s reasoning can be perceived in the way they mix law and facts and equate sentencing and enforcement of penalties, in the **pivotal** paragraph 207 of the judgment. (*Ilseher v. Germany*, dissenting opinion of Judge Pinto de Albuquerque joined by Judge Dedov)
- (26) It is of **the utmost importance** that in examining an individual application brought under Article 34 of the Convention, the task of the Court is not to review domestic law in the abstract, but to determine whether the way in which it was applied to the applicant gave rise to a breach of the Convention (ibid., § 96). (*Selahattin Demirtaş v. Turkey*, partly concurring and partly dissenting opinion of Judge Yüksel)
- (27) I **fully** agree with the majority that judicial independence is a fundamental standard for a State governed by the rule of law. (*Baka v. Hungary*, dissenting opinion of Judge Wojtyczek)
- (28) The primary purpose of these two closely interrelated principles is to reinforce the applicants’ autonomy and dominus litis position before the Court. The majority **completely** lost sight of the relevance of these principles. (*Radomilja and Others v. Croatia*, joint dissenting opinion of Judges de Gaetano, Laffranque, and Turković)

- (29) I confess that I sincerely expected that point 3, which is, in my firmest belief, **absolutely** incomprehensible (and unfair to the applicant, who, as is obvious, never presented a "complaint", which the Court rejected), in the end would not appear in the judgment. (*Nicolae Virgiliu Tănase v. Romania*, partly dissenting opinion of Judge Kūris)

5.2.2. Negative politeness strategies

In our corpus of separate opinions, negative politeness surfaces through the use of hedges aimed at mitigating the force of face-threatening acts (FTAs) directed at the majority's positive face. The corpus data reveal that judges' use of epistemic hedges presents them as cautious claim-makers who carefully balance collegial respect with criticism. This is achieved by framing arguments as subjective value judgments to signal alternative interpretations (30–32), raise concerns about future precedents (33), provide reasons or offer clarification on specific points of law (34).

- (30) **Personally**, I **doubt** that the severity of preventive detention constitutes a "dynamic" criterion. (*Illseher v. Germany*, partly dissenting opinion of Judge Sicilianos)
- (31) I fully subscribe to the operative part of the instant judgment; I **would nonetheless** like to express **certain reservations** concerning the reasoning. (*Mugemangango v. Belgium*, concurring opinion of Judge Wojtyczek)
- (32) **In my view**, Article 6 is not applicable to the "right" identified by the majority in the instant case and could not therefore have been violated. (*Baka v. Hungary*, dissenting opinion of Judge Wojtyczek)
- (33) The majority reiterate the same reasoning in paragraph 261. **We believe** that this reasoning is legally untenable and sets a dangerous precedent. (*G.I.E.M. S.R.L. and others v. Italy*, joint partly dissenting opinion by Judges Sajó, Karakaş, Pinto de Albuquerque, Keller, Vehabović, Kūris and Grozev)
- (34) **The reason I am setting out a separate opinion** is that I **think** that some clarification is needed in the wording of the general principles set out in paragraphs 202 to 209 of the judgment concerning Article 7 of the Convention. (*Illseher v. Germany*, concurring opinion of Judge Ravarani)

Alternatively, disagreement tends to be softened by showing regret (35) and using impersonal structures with epistemic lexical verb hedging (36–37).

- (35) I **regret** that the present judgment does not provide the answer to my call for clarity in *Varvara*. (*G.I.E.M. S.R.L. and Others v. Italy*, partly concurring, partly dissenting opinion of Judge Pinto de Albuquerque)
- (36) **There is nothing in these standards to suggest** that the principle of irremovability of judges should not apply to the term of office of presidents of courts, irrespective of whether they perform, in addition to their judicial duties, administrative or managerial functions. (*Baka v. Hungary*, joint concurring opinion of Pinto de Albuquerque and Dedov)

- (37) *One could legitimately argue* that a separate civil action was better suited to resolving the applicant's grievance under the Convention, as it would have addressed and decided it with a final, binding judgment. (Nicolae Virgiliu Tănase v. Romania, partly dissenting opinion of Judge Kūris)

Furthermore, there is an observed tendency towards the use of evidential hedges—*see, appear, seem, note*, which allow judges to challenge the validity of the majority's reasoning by framing their disagreement as inferences rather than categorical claims.

- (38) We *do not see* why the absence of an actual danger or of a concrete risk of damage would preclude a measure of a purely administrative nature, aimed at upholding respect for the applicable legal rules. (G.I.E.M. S.R.L. and others v. Italy, jointly partly dissenting, partly concurring opinion of Judges Spano and Lemmens)
- (39) This part of the reasoning *does not appear* to reflect the Venice Commission's recommendations accurately. (Mugemangango v. Belgium, concurring opinion of Judge Wojtyczek)
- (40) In recognising that the applicant had a duty to speak out in defence of the public interest, the majority *seems* to contradict the view that the utterances under consideration were covered by Article 10 of the Convention. (Baka v. Hungary, dissenting opinion of Judge Wojtyczek)
- (41) Finally, I *note* that the majority, in devising its argumentation for the reasoning, decided to ignore the legal issues and arguments raised by the minority. (Baka v. Hungary, dissenting opinion of Judge Wojtyczek)

Finally, negative politeness manifests through the respectful tone and systematic presentation of justification for providing alternative viewpoints, thereby contributing to the objectification of legal reasoning. More specifically, the example below (42) opens with showing collegial deference (*We respectfully disagree*), and proceeds with constructing the dissenting judges' argumentation using the meta-argumentative verbs *argue, show*, and *demonstrate*. These verbs function as hedges that signal negative politeness by transforming what could be perceived as direct challenge into structured, reasoned analysis, thereby showing both collegial and institutional deference.

- (42) *We respectfully disagree* with the majority's finding that there has been no violation of Article 7 of the Convention in respect of Mr Gironda. In the following paragraphs, we will *argue* first that the majority depart from the general rule set out in Varvara (Varvara v. Italy, no., 29 October 2013). Second, we will *show* that it is not clear whether the majority's finding represents a statement of a new, general rule in opposition to the general rule set out in Varvara, or a statement of an exception to this general rule. Finally, we will *demonstrate* that the majority's finding of a violation of Article 6 is intrinsically inconsistent with their own finding of no violation of Article 7 in respect of Mr Gironda. (G.I.E.M. S.R.L. and Others v. Italy, joint partly dissenting opinion of Judges Sajó, Karakaş, Pinto de Albuquerque, Keller, Vehabović, Kūris and Grozev).

6. CONCLUSION

This study has shed light on the pragmatic aspects of language employed in the construction of argumentation in separate opinions of the European Court of Human Rights, with particular focus on hedging and boosting as manifestations of politeness strategies. The analysis reveals several key findings that may contribute to a better understanding of this specialized judicial subgenre.

Firstly, the quantitative analysis revealed a notable predominance of boosters over hedges in the corpus, with adverbs constituting the majority of boosters and verbs forming the predominant category of hedging devices. This distribution reflects the distinctive communicative function of separate opinions as a subgenre of ECtHR judgments that balances conventional judicial restraint with the individual expression of judges' divergent viewpoints. Additionally, the higher frequency of boosters reflects the argumentative nature of separate opinions, in which judges seek to reinforce their epistemic authority while simultaneously maintaining collegiality.

Secondly, the qualitative analysis identified clear patterns of positive and negative politeness strategies through the use of hedging and boosting. Positive politeness strategies were found to stem from three main sources: polyphony, praise, and self-presentation. Polyphony, functioning as a mechanism for integrating the majority's voice into the narratives of dissenting and concurring judges, was achieved through the use of authoritative hedges—meta-argumentative verbs such as *consider*, *conclude*, *find*, and *hold*. These serve the dual purpose of demonstrating respect for collegial views while framing them as opinions rather than facts, thereby preparing the ground for presenting alternative perspectives. Additionally, the use of extremity boosters (e.g., *wholeheartedly*, *entirely*, *fully*) to express praise was identified as a strategy for attending to the majority's positive face while softening criticism. The strategic use of certainty, intensity, and extremity boosters also serves self-presentation purposes, enhancing the persuasive power of dissenting and concurring opinions.

Conversely, negative politeness strategies emerged through hedging techniques intended to mitigate the face-threatening acts directed at the majority's reasoning. These included framing arguments as subjective value judgments, expressing regret, the use of impersonal constructions with epistemic lexical hedges, and employing evidential hedges to indirectly challenge the validity of the majority's reasoning.

Thirdly, a particularly significant finding concerns the use of meta-argumentative verbs—*consider*, *conclude*, *find*, and *hold* in the ECtHR separate opinions. The fact that they occur in both hedging and boosting patterns suggests that these verbs acquire hedging or boosting functions depending on their specific communicative contexts.

The findings presented above contribute to the field of legal pragmatics by offering insights into how hedging and boosting intersect with politeness strategies in the ECtHR separate opinions. They demonstrate that separate opinions constitute a rich site for observing rhetorical sophistication and the competent management of interpersonal dynamics. Along these lines, it may be argued that the identified hedges form part of a conventionalized repertoire that promotes orderliness in the presentation of legal knowledge and socially acceptable linguistic behaviour. In contrast, the use of boosters marks a departure from the "formulaic style of judicial reasoning" (White and Boussiakou 2009: 60), foregrounding a more persuasive and assertive rhetoric. Together, hedging and

boosting significantly shape the subgenre of ECtHR separate opinions and point to the principles underlying face-management strategies. From a pedagogical perspective, these results underscore the importance of familiarizing legal professionals and law students with the pragmatic conventions of this specific type of judicial discourse. Raising awareness of hedging and boosting as politeness strategies can enhance their ability to tailor language for rhetorical effectiveness and image-building, while maintaining collegial relations.

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Appendix

Dissenting and concurring opinions comprising the corpus

Case of Baka v. Hungary (2016)

- (a) joint concurring opinion of Judges Pinto de Albuquerque and Dedov;
- (b) concurring opinion of Judge Sicilianos;
- (c) dissenting opinion of Judge Pejchal;
- (d) dissenting opinion of Judge Wojtyczek.

Case of Lhermitte v. Belgium (2016)

- (a) joint dissenting opinion of Judges Raimondi, Lazarova Trajkovska, Laffranque, Sicilianos, Lubarda, Grozev et Harutyunyan

Case of Murray v. the Netherlands (2016)

- (a) concurring opinion of Judge Silvis;
- (b) partly concurring opinion of Judge Pinto de Albuquerque;
- (c) joint partly dissenting opinion of Judges Spielmann, Sajó, Karakaş and Pinto de Albuquerque.

Case of Khamtokhu and Aksenchik v. Russia (2017)

- (a) concurring opinion of Judge Sajó;
- (b) concurring opinion of Judge Nußberger;
- (c) concurring opinion of Judge Turković;
- (d) concurring opinion of Judge Mits;
- (e) joint partly dissenting opinion of Judges Sicilianos, Møse, Lubarda, Mourou-Vikström, and Kucsko-Stadlmayer;
- (f) dissenting opinion of Judge Pinto de Albuquerque.

Case of Károly Nagy v. Hungary (2017)

- (a) dissenting opinion of Judge Sicilianos;
- (b) joint dissenting opinion of Judges Sajó, López Guerra, Tsotsoria et Laffranque;
- (c) dissenting opinion of Judge Pinto de Albuquerque ;
- (d) dissenting opinion of Judge Pejchal.

Case of G.I.E.M. S.R.L. and Others v. Italy (2018)

- (a) concurring opinion of Judge Motoc;
- (b) partly concurring, partly dissenting opinion of Judge Pinto de Albuquerque;
- (c) joint partly dissenting, partly concurring opinion of Judges Spano and Lemmens;
- (d) joint partly dissenting opinion of Judges Sajó, Karakaş, Pinto de Albuquerque, Keller, Vehabović, Kūris and Grozev.

Case of Ilmseher v. Germany (2018)

- (a) concurring opinion of Judge Ravarani;
- (b) partly dissenting opinion of Judge Sicilianos;
- (c) dissenting opinion of Judge Pinto de Albuquerque joined by Judge Dedov.

Case of Radomilja and Others v. Croatia (2018)

(a) joint partly dissenting, partly concurring opinion of judges yudkivska, vehabović and kūris

Case of Nicolae Virgiliu Tănase v. Romania (2019)

(a) joint partly dissenting opinion of Judges Raimondi, Sicilianos, Karakas, Vučinić and Harutyunyan;

(b) partly dissenting opinion of Judge De Gaetano, joined by Judge Vučinić;

(c) partly dissenting opinion of Judge Kūris;

(d) partly dissenting opinion of Judge Grozev.

Case of Gestur Jónsson and Ragnar Halldór Hall v. Iceland (2020)

(a) concurring Opinion Of Judge Spano;

(b) concurring opinion of Judge Turković;

(c) joint dissenting opinion of Judges Sicilianos, Ravarani and Serghides.

Case of Guðmundur Andri Ástráðsson v. Iceland (2020)

(a) partly concurring, partly dissenting opinion of Judge Pinto de Albuquerque;

(b) joint partly concurring, partly dissenting opinion of Judges O'Leary, Ravarani, Kucsko-Stadlmayer and Ilievski;

(c) partly dissenting opinion of Judge Serghides.

Case of Mugemangango v. Belgium (2020)

(a) joint concurring opinion of Judges Turković and Lemmens;

(b) joint concurring opinion of Judges Lemmens and Sabato;

(c) concurring opinion of Judge Wojtyczek.

Case of Selahattin Demirtaş v. Turkey (no. 2) (2020)

(a) partly concurring, partly dissenting opinion of Judge Wojtyczek;

(b) partly dissenting opinion of Judge Chanturia;

(c) partly dissenting opinion of Judge Yüksel joined by Judge Paczolay;

(d) partly concurring, partly dissenting opinion of Judge Yüksel.

Case of Fabbri and Others v. San Marino (2024)

(a) concurring opinion of Judge Schembri Orland;

(b) joint partly dissenting opinion of Judges Bošnjak, Pastor Vilanova, Kūris, Jelić, Felici, Guerra Martins and Derenčinović

Case of Verein Klimaseniorinnen Schweiz and Others V. Switzerland (2024)

(a) partly concurring and partly dissenting opinion of Judge Eicke