9.
Trials, Private Arbitration, and Public Arbitration in Classical Athens or the Background to [Arist.] *Ath. Pol.* 53, 1-7

Edward M. Harris

DOI – http://dx.doi.org/10.7359/852-2018-harr

ABSTRACT – One of the most important decisions a litigant could make was the choice whether to submit his dispute to a private arbitrator or to go to trial. Private arbitration had several advantages because it provided a more flexible procedure and afforded the possibility of compromise solutions aimed at promoting good relations between the parties. By contrast, a trial was an all-or-nothing procedure, which created winners and losers. On the other hand, there were disadvantages to private arbitration: the arbitrators might be reluctant to vote against a friend, or one of the parties might not agree to arbitration. Because public officials were not involved, documents might be lost. There was also no way of forcing a witness to testify at an arbitration hearing or to bring a suit for false testimony. The institution of public arbitrators retained the advantages of private arbitration but avoided several of the disadvantages. Above all, it aimed to promote good relations between the parties and to avoid a bitter fight in court.

KEYWORDS – [Arist.] *Ath. Pol.* 53, 1-7; Athenian institutions; Athenian law; Athenian legal procedure; mediation; private arbitration, public arbitration; rule of law – arbitrato privato; arbitrato pubblico; [Arist.] *Ath. Pol.* 53, 1-7; istituzioni ateniesi; mediazione; procedure giuridiche ateniesi; stato di diritto.

One of the most important decisions an Athenian litigant faced was the choice whether to submit his case to a private arbitrator or to bring a formal charge before a magistrate such as the Forty, the Archon, or the *thesmothetai*[1]. If a litigant could persuade his opponent to submit (*epitre-*

[1] I owe my interest in this topic to a suggestion made by Athina Dimopoulou in a very kind review in *Journal of Hellenic Studies* of my book *The Rule of Law in Action*, in which she rightly suggested that I might find additional evidence for my view of Athenian litigation if I were to study arbitration. I would like to thank Mirko Canevaro and Elisabetta Poddighe for the invitation to present an earlier version of this essay to the Cagliari conference.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

pein) the case to a private arbitrator, there were normally two stages in the procedure [2]. The private arbitrator might begin by attempting to reconcile the two litigants. The term for reconcile is *diallattein* [3]. If the two litigants agreed to the solution proposed by the private arbitrator, they swore an oath to abide by its terms. If the litigants could not be reconciled, the private arbitrator then asked them if they would swear to abide by whatever decision he made ([Dem.] 52, 16; Is. 5, 31). If they swore such an oath, the private arbitrator would swear an oath then make a decision – the Greek verb is *gignosko* (Is. 2, 32; *Ath. Pol.* 57, 2), or *apophainesthai* (Is. 5, 33) – which would be binding on both litigants [4]. Once the arbitrator made the decision the dispute could not be brought to court. In fact, the law recognized that decisions made in private arbitration were binding as early as the late fifth century [5]. We do not know what would have happened if a litigant attempted to submit a case to court for which a private arbitrator had made a decision before about 400 BCE. On the other hand, we know that after sometime around 400 BCE the defendant in such a case could bring a *paragraphe* action and state that plaintiff's action was inadmissible (*ouk eisagogimos*) because there had already been a decision by private arbitration (Isocr. 18, 11) [6].

This contribution analyzes both the advantages and disadvantages of private arbitration. Several scholars who have discussed private arbitration, for example Hunter, have claimed that the main motive for resorting to

[2] For the verb *epitrepein* used to denote the act of entrusting to arbitration see Aeschin. 1, 63; Dem. 33, 14; 34, 18; 36, 15; 40, 44; 41, 1; 52, 30; 55, 9; 59, 45, 68; Is. 5, 31; Lys. 32, 2.

[3] For the term *dialattein* see [Dem.] 59, 70; Is. 5, 32. The term is used at Hyp. *Ath.* 5, but this is not a formal arbitration because the parties do not entrust the dispute to Antigone, who just proposes a solution (*pace* Scafuro 1997, 393).

[4] Arbitrator swears oath before making decision: Dem. 29, 58; Is. 2, 31; 5, 31. If the arbitrator did not swear the oath, the decision might not be regarded as valid. See [Dem.] 52, 30. Cf. Wyse 1904, 450; Gernet 1955, 108-109; Harrison 1971, 66.

[5] Decisions reached by arbitration consider binding: Andoc. 1, 88. The inserted laws at Andoc. 1, 87 are forgeries. See Canevaro and Harris 2013, 116-119. The document about this law at Dem. 24, 56 is also probably a forgery. See Canevaro 2013, 142-145.

[6] On the *paragraphe* action see now Harris 2015. The law about private arbitrators inserted into the text of Dem. 21, 94 is a forgery. See Gernet 1939, 391, n. 3; MacDowell 1990, 317-318; Harris in Canevaro 2013, 231-233. Harter-Uibopuu 2002 uncritically treats the document as genuine. Scafuro 1997, 129 claims that «the law did not furnish any specific remedy to ensure the binding quality of the decisions of private arbitrators», but this is contradicted by the use of the *paragraphe* to enforce such settlements. See MacDowell 1998, rejecting Scafuro's view. The list of arbitrations found in Scafuro 1997, 393 is not reliable. For instance, Scafuro claims that there is an arbitration in Is. 1, but there is no arbitration or offer of arbitration in the speech. The same is true for Dem. 38, 3-9, which concerns a release and not an arbitration.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

private arbitration was to avoid the costs of litigation in court [7]. A similar explanation is found in one of the Demosthenic scholia [8]. Cozzo makes some comments about the differences between arbitration and procedure in court, but does not analyze the differences in detail [9]. He also does not perceive the disadvantages of private arbitration [10] and the differences between public arbitration and private arbitration [11]. What I will show is that there were other advantages to using a private arbitrator and that such a procedure was in some ways more satisfactory than submitting a dispute to a court. On the other hand, there were also certain disadvantages to private arbitration, which scholars, especially V. Hunter in her rather idealistic picture of arbitration in *Policing Athens*, have not so far discussed [12]. The final part of this contribution will show that the creation of the system of public arbitrators around 400 BCE was an attempt to combine the advantages and avoid the disadvantages of each system and how the creation of public arbitrators reveals something about the *ethos* of the Athenian legal system.

One of the main advantages of submitting a case to private arbitrators was that this choice provided a way for resolving two or more separate disputes at once. By contrast, the court could only resolve one dispute at a time. A good example of this advantage of private arbitration can be seen in the case of Epaenetus and Stephanus in the speech of Apollodorus *Against Neaera* ([Dem.] 59, 64-70). Epaenetus was a citizen of Andros and used to visit Athens where he carried on a sexual relationship with Neaera. During one of his visits, Stephanus then asked him to come to the countryside for a sacrifice and then caught him making love to the daughter of Neaera. Stephanus forced Epaenetus to promise a payment of thirty *mnai*, that is, three thousand drachmas. To assure payment, Stephanus named two sureties, Aristomachus and Nausiphilus, both Athenian citizens. After Epaenetus got away, he brought a public charge against Stephanus before the *thesmothetai* for wrongfully holding him as a *moichos* or seducer. According to Apollodorus, Stephanus was intimidated by the charge, and submitted the dispute to arbitration, choosing as arbitrators the two men Epaenetus named as sureties. Both men agreed that Epaenetus would with-

---

[7] Hunter 1994, 57.

[8] *Schol. in* Dem. 22.3: ἔθος ἦν παρὰ τοῖς Ἀθηναῖοις τὰς δίκας γυμνάζεσθαι πρῶτον παρὰ διαιτηταῖς τισι πρὸ τοῦ εἰσελθεῖν εἰς τὸ δικαστήριον. τοῦτο δὲ ἐγίνετο, ἵνα μὴ συνεχῶς καθίζωσι δικαστήρια καὶ ἁπλῶς ἐνοχλῶσι τοῖς δικασταῖς.

[9] Cozzo 2014, 45-66.

[10] Cozzo 2014, 104-164.

[11] Cozzo 2014, 73-93.

[12] Hunter 1994, 55-62.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

draw his public charge [13], and that Stephanus would release the sureties. When the two men met with the arbitrators, Stephanus requested Epaenetus to make a contribution to the dowry of Neaera's daughter. In support of his request, he cited his own poverty and the girl's recent divorce from Phrastor. The arbitrators then proposed a compromise solution, which was that Epaenetus contribute one thousand drachmas to the girl's dowry, and this proposal was accepted. From a legal perspective, this was technically mediation because the arbitrators made a proposal, did not pronounce judgment, and reconciled the parties ([Dem.] 59, 70: διαλάττουσι). Apollodorus provides the testimony of the two arbitrators to prove the truth of his account so there is no reason to doubt the essentials of this part of the narrative.

What is striking about the arbitration is that this kind of compromise solution could never have been reached in a case decided by a court [14]. A court could only decide one issue at a time. When an accuser submitted his charge to an official in a private suit, he had to select a procedure, state what statute the defendant had violated and indicate which actions violated the statute [15]. If the defendant had violated several different statutes, the accuser would have to bring a separate action for each statute the defendant had violated. If two men brought charges against each other, it would have been necessary to hear each suit separately as in the case of the trierarch and Theophemus, each of whom brought a charge of assault against the other ([Dem.] 47, 45). If both men had persisted in their pursuit of a trial, Epaenetus would have brought the public charge to trial, and Stephanus would have brought a private suit against each surety if he refused to pay. An Athenian court had no way of taking both charges together and devising a compromise solution. In private procedures in Athenian law, the court had one simple choice: it had either to accept the charges made in the plaint and vote that the defendant had violated the substantive rule of the procedure under which the accuser had brought his case or to reject the charges in the plaint. This decision forced the court to create winners and losers. The judges could not deliver a tailor-made judgment or formulate a

[13] For the possibility of dropping a public charge before the *anakrisis* see Harris 2006, 405-422. Kapparis 1999, 275-276, 313-314 does not comment on this issue and misses its significance. Carey 1992, 114 does not see the difference between dropping a case before the *anakrisis* and after the *anakrisis* and therefore misinterprets this passage and [Dem.] 59, 53.

[14] Carey 1992, 119-120, and Kapparis 1999, 313-315 do not comment on the solution to the dispute.

[15] For the plaint (*engklema*) in Athenian legal procedure see Harris 2013a, 114-136, and 2013b.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

«win-win» kind of decision [16]. In this case, however, the arbitrators came up with a solution that satisfied both parties: Epaenetus did not have to pay the sum of three thousand drachmas and admit to seduction. Instead, he was able to contribute a smaller sum, only a thousand drachmas, to the girl's dowry. The solution also allowed him to save face; what had been a payment of damages for an offense was transformed into a generous contribution to a girl's marriage. Stephanus also gained by evading a public charge, for which a conviction might have imposed a serious penalty, and gained a contribution to his daughter's dowry [17].

There is another example of a compromise solution reached by mediation in the same speech ([Dem.] 59, 41-47). Phrynion helped Neaera to purchase her freedom from Eucrates and Timanoridas and she accompanied him to Athens. When Phrynion treated her abusively, she took items from his house, her clothes and jewelry and went to Megara (35-36). She met Stephanus in Megara and started a relationship with him, then came with him to Athens ([Dem.] 59, 37-39). Phrynion discovered where they were living and with the help of some friends tried to carry her away on the grounds that she was his slave and belonged to him. Stephanus asserted her freedom, and Phrynion retaliated by bringing a case against Stephanus ([Dem.] 59, 40-44). After friends persuaded them to submit their dispute to arbitration, three arbitrators were chosen, Satyrus of Alopeke for Phrynion, Saurias of Lamptrai for Stephanus, and Diogeiton of Acharnai by mutual consent ([Dem.] 59, 46-47). It was usual to choose an uneven number of arbitrators to avoid deadlocks. All the parties met at a temple ([Dem.] 59, 46) [18]. The dispute was resolved by arbitration, and the two men abided by the proposal of the arbitrators [19]. Once more Apollodorus' account is supported by the testimony of the arbitrators [20]. This compro-

[16] On the all-or-nothing nature of a decision in court see Cozzo 2014, 58-66. Cozzo does not however discuss this dispute and its resolution in detail.

[17] I see no reason to believe the views of Carey 1992, 119, and Kapparis 1999, 309 that Stephanus ran no risk of a penalty in Epaenetus' public suit and no reason to doubt that this public charge did not follow the same procedure as other public charges with a trial to determine guilt followed by an assessment of the penalty. The possibility of conviction on a public charge without any punishment would be without parallel in Athenian law. Besides, if there was no risk for Stephanus, why was he so eager to have Epaenetus withdraw the charge?

[18] Cf. Dem. 33, 18; 36, 15; 40, 11.

[19] The language of the passage (γνώμην ἀπεφήναντο) appears to indicate that the arbitrators made a decision and did not mediate the dispute.

[20] Carey 1992, 110-111 believes that both the witness statement and the terms of the decision are genuine (cf. Thür 1987, 473), but Kapparis 1999, 262 considers the first genuine and the second inauthentic.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

mise was more complex than the one between Epaenetus and Stephanus and contained the clauses: first, the woman was to be free with power over herself; second, she should give back to Phrynion all the items that she had had when she left him except the cloaks, the gold jewelry, and the slave girls, which she bought herself. Third, she should live with each man on alternate days [21]. Fourth, if they should persuade each other to make some other arrangement, that arrangement should be binding. Fifth, the person who kept her was to provide what was appropriate (for her maintenance). Sixth, they should remain friends with each other in the future and not recall past wrongs (μὴ μνησικακεῖν) [22]. Like the compromise between Epaenetus and Stephanus, this one resolved several different disputes at once, each of which would have had to be decided separately by a court. Neaera retained her freedom, but Phrynion recovered his property. In the interests of peace and harmony, both men were to share Neaera's favors on alternate days. I hasten to add that Apollodorus does not tell us what Neaera thought of this arrangement. Once more, this kind of compromise could never have been imposed by a court, which would have had to vote for one of the two men in each case.

Finally, the compromise does not just aim at resolving disputes, but also in promoting cooperation between the two men in the future [23]. In fact, several decisions in mediations or arbitrations include a clause requiring that the litigants maintain friendly relations in the future (Isae. 2, 32; Dem. 36, 15). We find a similar clause in interstate arbitrations. For instance, in a decree from Samos about foreign judges sent by the city of Mindos, the judges are praised for reconciling citizens, who granted releases from all charges so that they would conduct their public affairs in a spirit of concord (*IG* XII 6 1, 95, 16-18: διαλυθέντας | ἐν ὁμονοίαι πολιτεύεσθαι ἀπαλλαγέντας τῶν πρὸς | ἀλλήλους ἐγκλημάτων). A decree from Kaunos praises judges for resolving disputes and enabling citizens who were at odds with each other to live in concord (*I.Kaunos* 1, lines 10-11: διέλυσαν … τοὺς δὲ διαφερομένους τῶν πολιτῶν εἰς ὁμόνοιαν κατέστησαν). A decree from Mylasa dated to the Hellenistic period commends Ouliades for acting as an arbitrator, resolving disputes and making the litigants live in concord and friendship (*I.Mylasa* 101, lines 42-44: διαιτητής τε καὶ κριτὴς [αἱ]|ρούμενος [τῶν] μὲν τὰ νίκη διαλύων εἰς σύλλυσιν καὶ φιλίαν ἀποκ[α]

[21] For a similar arrangement see Lys. 4, 1-2.

[22] Neither Carey 1992, 110, nor Kapparis 1999, 260-261 discuss the terms of the decision and how they differed from a decision rendered by a court.

[23] Vélissaropoulos 2000, 24: «La tâche première de l'arbitre est de rétablir les liens d'amitié entre deux personnes». For the meaning of *mnesikakein* see Joyce 2014.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

θίστησ[ιν τοὺς] | διαφερομέ[ν]ους. Cf. *I.Mylasa* 127, lines 8-10). A decree of Priene date to the late fourth or early third century BCE praises the cities of Phocaea, Nisyrus, and Astypalaea for sending judges who decided cases according to the laws or arbitrated disputes so that the people of Priene would live in concord (*Die Inschriften von Priene* nr. 197, lines 10-12; cf. nr. 109, lines 7-10).

A court in Athens could not devise a compromise solution to a dispute or set of disputes. And we know from several cases, the losers might try to get back at the winner by bringing other charges, which would lead to renewed litigation. For example, after Stephanus convicted Apollodorus on a charge of proposing an illegal decree, Apollodorus struck back by charging his mistress Neaera with being a foreigner and living illegally with Stephanus as his wife ([Dem.] 59, 1-16). After Demosthenes charged Aeschines with treason at his *euthynai* and lost, Aeschines retaliated many years later by charging Ctesiphon with passing an illegal decree of praise for Demosthenes [24]. In the language of legal anthropology, the solution reached by mediation or arbitration attempted not just to settle a set of legal issues, but also to end the general social conflict between the two men and thereby to prevent further litigation. A court decision could not do this. In fact, by voting for one litigant and against the other litigant, a court could resolve the dispute but could not end the conflict or compel the two litigants to cooperate in the future. In fact, we have several examples of litigants losing a case and attempting to retaliate by bringing another case against their successful opponent [25].

A good private arbitrator or group of arbitrators could craft a decision in which there were no winners or losers. The most elaborate example of a compromise solution is the agreement reached in the mediation between the two groups of Salaminoi in 363/2 BCE [26]. The Salaminioi from the Seven Tribes and the Salaminioi from Sounion chose five arbitrators (lines 6-8) who proposed a solution that was acceptable to both parties. This dispute was therefore resolved by mediation (lines 2, 81: διήλλαξαν) without the arbitrators making a formal judgment. The settlement was then ratified by a vote the *genos* (lines 80-85), and an entrenchment clause was

[24] For their conflict see briefly Harris 2013a, 85-87 and for more detailed analysis see Harris 1995.

[25] For several such conflicts between Athenians see Harris 2013a, 79-96. One should not call these conflicts feuds nor exaggerate the tendency of Athenians to perpetuate legal conflicts. See Harris 2013a, 76-79.

[26] For a new text see Lambert 1997, with a summary about the views concerning the relationship between the two groups.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

added to ensure that the settlement would endure (lines 95-97). This was a complex settlement with several clauses.

1. The priesthoods of Athena Sciras, Heracles at Porthmus, Eurysaces, Aglaurus and Pandrosus, and Kourotrophos are to be held in common. Provisions are made for succession in case one the priests or priestesses dies (lines 8-16).
2. The land at Heraclium at Porthmus, and the salt pan and agora at Koile are to be held in common (lines 16-19).
3. All sacrificial animals provided by the city and by other officials are to be sacrificed in common with half for each party. Sacrificial animals purchased from income from rents are sacrificed in traditional way (lines 19-27).
4. A list of perquisites to be given to priests and priestesses from each group (lines 27-47).
5. Each will appoint an archon in turn to join with the priestess and herald to appoint *oschophoroi* and *deipnophoroi* in the ancestral way (lines 47-50).
6. The same man is two serve as priest of Eurysakes and the hero at the salt pan (lines 52-54).
7. Each group is to contribute equally for repairs to shrines (lines 54-56).

This kind of comprehensive solution could never have been reached in a court, which would have had to decide each issue one at a time. The solution also created incentives for the two sides to cooperate and avoid disputes in the future [27].

A second advantage of private arbitration was that if both parties cooperated, there could be a speedy resolution of the dispute. In Menander's *Epitrepontes* Syriskos and Daos ask Smikrines to judge their dispute, Daos presents his case in a few minutes (249-292), Syriskos then presents his case in a short time (293-352), and Smikrines immediately gives his decision (353-354). In the arbitrations reported in the Attic orators, there may have been delays between the initial agreement and the decision of the arbitrators, but it does not appear to have been very long. On the other hand, the interval between the initiation of a private case and the decision in court might have taken several months. In the fourth century, there was a special category of cases called monthly suits [28]. It has been claimed that these cases were those that were accepted every month, not just at certain times of the year [29]. The

[27] I see no reason to believe that the dispute continued later (*pace* Scafuro 1997, 129-131.

[28] [Arist.] *Ath. Pol.* 58, 2.

[29] Cohen 1973, 23-36.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

evidence however indicates that these must have been cases decided within thirty days [30]. This would indicate that in normal cases litigants would have to wait over a month if not several months to receive a decision in court. In terms of time spent waiting for a decision, private arbitration clearly had an advantage.

Another advantage was that the parties could select people who knew the relevant facts of the case and could provide an informed judgment without having to rely entirely on the statements of the litigants. For instance, when a litigant in a dispute with a neighbour about damage caused by a watercourse wanted to entrust the case to arbitration, one of the reasons he gave was to let men who know the area decide the case (Dem. 55, 9: τοῖς εἰδόσιν ἐπιτρέπειν). The informal setting of private arbitration also allowed the arbitrator to question the litigants if they needed any additional information beyond what the litigants told them (Is. 5, 32). The judges in an Athenian court had to rely only on the facts presented to them by the litigants in their speeches; they could not request other information after the speeches were delivered.

The main disadvantage of private arbitration was that it required the consent of both parties. If one party refused to enter into arbitration, the other could not force him to do so. There are several examples. When Callias invited Andocides to submit their dispute about the daughter of Epilycus to arbitrators, Andocides refused (Andoc. 1, 122-123). After a trierarch tried to recover naval equipment from a man named Theophemus, they came to blows at his house. The trierarch proposed that they entrust the case to arbitration, but Theophemus refused ([Dem.] 47, 43-45). A man named Diogeiton was invited by one of his relatives by marriage to submit his dispute with another relative to arbitration, but did not cooperate (Lys. 32, 2). After Pittalacus was beaten and his property smashed by Timarchus and Hegesander, he brought a suit against the two men, but was persuaded to entrust the decision to Diopeithes of Sounion as arbitrator. But as a favor to Hegesander, Diopeithes kept on delaying his decision, and Pittalacus was forced to give up (Aeschin. 1, 62-64) [31]. Even if both parties were inclined to have recourse to a private arbitrator or if social pressure encouraged them to resolve their dispute in this way, they might not agree about the issue to be submitted to the private arbitrator. For instance, when Dareius confronted Dionysodorus about the repayment

[30] Vélissaropoulos 1980, 2421-2445; Hansen 1983, 167-170. Hansen relies in part on the document at Dem. 21, 47, but this is a forgery. See Harris in Canevaro 2013, 224-231.

[31] Of course, Aeschines presents only one side of the story, but Aeschines (1, 65) does present the testimony of witnesses to support his statements.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

of a maritime loan, Dareius insisted that Dionysodorus pay the principal with the interest owed on the voyage from Egypt to Rhodes and offered to submit the dispute about the interest to be paid for the rest of the voyage to an arbitrator. But according to Dareius, Dionysodorus said that he would submit to arbitration only if the document containing the contract was torn up ([Dem.] 56, 11-18) [32]. Because the two parties could not agree on the terms of the arbitration, the case ended up in court. What is interesting here is the role of the crowd, which watches the parties arguing in public. The crowd places pressure on the parties to submit their dispute to arbitration, but this pressure is not sufficient to compel them to use this form of dispute resolution. In some cases one of the parties might just not show up on the day of the arbitration (Dem. 40, 16).

Another disadvantage of private arbitration was that the voting was done openly and not by secret ballot. At an Athenian trial, the judges were selected by lot, and most, if not all, would not have been either relatives or friends of the litigants. But even if a judge were a friend or relative of one of the litigants, he would not have to worry about offending a friend or a relative by voting against him because the voting was done by secret ballot. This was not the case in private arbitration where there were only a few arbitrators whose decision would be revealed to the parties. This might create a problem when one of the arbitrators did not wish to offend a friend or relative by deciding for his opponent. This happened when Chrysippus and Lampis agreed to arbitration about a maritime loan [33]. When the case was about to go to trial, friends persuaded the two litigants to submit the dispute to Theodotus, an *isoteles* or privileged metic (Dem. 34, 18). According to Chrysippus, Lampis had previously stated that he had not received any money from Phormio and that Phormio had not placed any goods on the ship as he had promised to Chrysippus. At the hearing for the arbitration he changed his testimony, and Chrysippus claims that he was able to prove that Lampis was lying (Dem. 34, 19-20). According to Chrysippus, when Theodotus saw that Lampis was lying, he did not wish to give a judgment against him because he was a friend of Phormio, whose interests would have been threatened by a judgment against Lampis. Confronted with a difficult choice, he refused to make a decision (Dem. 34, 21). In a court, the litigants had no control over the selection of judges, but in private arbitration they could choose people whom they knew and trusted. This feature however had a downside because a private arbitrator chosen by a friend or relative might not wish to decide against someone whom he

[32] On the dispute see Carey 1985, 195-205.
[33] Scafuro 1997, 393 misses this case in her list of arbitrations.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

knew. In this regard, a court in which judges were shielded by secret ballot would not have this disadvantage [34].

A similar situation occurred in the case of Menexenus and Leochares (Is. 5, 33). Menexenus brought a suit against Leochares for his failure to perform his duty as surety for Dicaeogenes. Before the case came to trial, Leochares and Dicaeogenes asked Menexenus to submit the dispute to private arbitrators. Each side appointed two arbitrators and swore the oath to abide by whatever decision the arbitrators made. Diotimus and Melanopus, the two arbitrators appointed by Menexenus, declared their readiness to make a decision, but Diopeithes, the brother-in-law of Leochares and an enemy of Menexenus, and Demaratus, who was an associate of Leochares, declined to give judgment, which forced the litigants to go to trial. Once more the open nature of the proceedings and the personal ties between the litigant and the arbitrators made it impossible to come to a decision.

Because the litigants knew the private arbitrators and could learn about their views before their vote, they might also refuse to abide by their decision before they made their decision. This appears to have happened in the case of Demosthenes against Aphobus. Demosthenes was about to bring a private action for mismanaging his estate against Aphobus, but Aphobus convinced him to submit the case to three arbitrators, Archenaus, Dracontides and Phanus (Dem. 29, 58). They apparently openly discussed their opinion of the case, and Aphobus learned that if asked to decide on oath, they would condemn his conduct as guardian. Aphobus therefore refused to allow them to make a judgment. This of course could not happen once a case went to trial before a court. Even if the judges gave an indication of their opinion by shouting (*thorubos*), neither litigant could stop them from voting. The voluntary and informal nature of private arbitration had its drawbacks.

Yet another drawback was that because the procedure was informal and not in the hands of officials, who could deposit documents in their offices or in the public archive in the Metroon, the documents from a private arbitration could get lost. This is alleged to have occurred in an arbitration described in the Demosthenic speech *Against Apaturius* (Dem. 33, 18). The speaker recounts how Parmeno and Apaturius agreed to submit their dispute to arbitration and drew up an agreement, which they gave to Phocritus. Apaturius and Parmeno then chose one arbitrator each to sit with Phocritus. This agreement was given to Aristocles, who later claimed that his slave lost the document. We have no way of deter-

[34] Hunter 1994, 59-60; Scafuro 1997, 117-141, and Cozzo 2014 do not see this disadvantage in private arbitration.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

mining if the document was actually lost, but it is clear that such a situation might occur in private arbitration. Or a document might be forged or tampered with (Isocr. 17, 23-31).

The final weakness of private arbitration was that there was no punishment for someone who provided false testimony before a private arbitrator. In the Demosthenic speech *Against Phormio*, Chrysippus recalls how Lampis lied before a private arbitrator but faced no penalty for doing so. This meant that if one litigant thought that his opponent won a favourable decision from one or more arbitrators, he had no means of appeal (Dem. 34, 19). [35] In a case heard before a court, however, the losing party could bring a *dike pseudomartyrion* against a witness who perjured himself and have the unfavourable verdict annulled [36]. In an arbitration, if a litigant thought that a witness was lying, he could of course try to prove this to the arbitrators as Chrysippus did with Lampis, but if the arbitrators were not convinced by the argument and decided the case on the basis of false evidence, the litigant who lost the case had no means of reversing the judgment, which was binding [37]. If he suspected that an arbitrator might decide against him on the basis of false evidence, his only option was to refuse to allow the arbitrator to make a decision if he had not already sworn to abide by the arbitrator's decision.

It is important to draw attention to the weaknesses of arbitration because there has been a recent tendency among some scholars to idealize informal means of dispute resolution and view them as inherently superior to the formal procedures of the courts [38]. One cannot deny that there were certain advantages to private arbitration, which was more flexible, but private arbitration depended to a large extent on the good will of the parties, something one could not take for granted litigation in Classical Athens any more than one can take it for granted today. The coercive power of the state is always needed when informal methods of dispute resolution fail.

The institution of public arbitrators around 400 BCE was an attempt to combine the advantages of both types of dispute resolution while avoiding the pitfalls of each [39]. The public arbitrators were men in their sixtieth year who had been enrolled as ephebes and had been enrolled in their age

[35] See Calhoun 1915.

[36] For the *dike pseudomartyrion* see Harrison 1971, 127-131, 192-197.

[37] Is. 12, 11-12 describes a case in which one side is accused of lying and the arbitrators realize this and vote against them.

[38] Tendency to idealize informal dispute resolution: Hunter 1994, 55-63, and Scafuro 1997, 117-141.

[39] For the date of the introduction of public arbitrators see MacDowell 1971.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

group according to their tribe ([Arist.] *Ath. Pol.* 53, 4) [40]. Everyone who was in this age group was required to serve as an arbitrator; if he refused, he could lose his rights as citizen. The only valid excuse was service in another office or absence abroad ([Arist.] *Ath. Pol.* 53, 5). The age requirement meant that every arbitrator had probably served as a judge in the courts and as a member of the Council, which ensured that the arbitrators had a good knowledge of Athenian law [41]. When an accuser brought a case before the Forty, these officials assigned the case by lot to one of the arbitrators ([Arist.] *Ath. Pol.* 53, 5). It appears that only cases brought before the Forty would go before public arbitrators. This excluded several types of cases such as inheritance [42].

Like private arbitrators, public arbitrators started by attempting to mediate and only gave a decision when they could not reconcile the parties ([Arist.] *Ath. Pol.* 53, 2: ἐὰν μὴ δύνωνται διαλῦσαι, γιγνώσκουσι). On the other hand, a public arbitrator could not refuse to give a decision unlike the private arbitrator [43]. But the public arbitrator was chosen by lot and would not be a friend or relative chosen by the litigants. A public arbitrator would therefore not feel constrained by any personal ties to either side. If both parties found the arbitrator's decision acceptable, it would be binding and the case would be finished ([Arist.] *Ath. Pol.* 53, 2: κἂν μὲν ἀμφοτέροις ἀρέσκῃ τὰ γνωσθέντα καὶ ἐμμένωσιν, ἔχει τέλος ἡ δίκη). If one of the litigants was not satisfied with the decision, he could refuse to accept it and have the case sent to a court to be tried by judges selected at random ([Arist.] *Ath. Pol.* 53, 2: ἂν δ' ὁ ἕτερος ἐφῇ τῶν ἀντιδίκων εἰς τὸ δικαστήριον) [44]. All the documents presented to the arbitrator (witness statements, the challenges, the laws, etc.) would be placed in a jar (*echinos*) and sealed so that neither litigant could introduce new evidence at

[40] This would mean that arbitrators would be drawn from the top three property classes and not from the theses, who were no eligible for the *ephebeia*. See Harrell 1936, 11-12. Pollux 8, 126 gives the age as over sixty, and a scholion on Dem. 21, 83 give the age as over fifty, but this information must be wrong. See Harrison 1971, 67, n. 1. Public arbitrators did not undergo a *dokimasia*. See Harrell 1936, 12.

[41] For the legal knowledge of the average Athenian see Harris 2006, 425-430, and 2010, 1-3.

[42] For kinds of cases heard by public arbitrators see Bonner 1907 and Harrell 1936, 36-38.

[43] Harrell 1936, 14-15.

[44] One should not call this an «appeal». In a modern court, one can appeal a decision only when there are legal grounds for declaring the decision invalid. In this case, all the litigant had to do was to declare that he did not like the decision; he did not have to justify his opinion by proving that it violated either procedural or substantive rules. See Pelloso 2016.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

the trial in court ([Arist.] *Ath. Pol.* 53, 2; Dem. 52, 31). The judgment of the arbitrator would be attached so that there would be a written record of his decision. There was no risk of losing documents as there was in private arbitration. And if one party thought that the decision rendered by these judges was made under the influence of perjured testimony, he could try to have the decision overturned by bringing a *dike pseudomartyrion* [45]. Another advantage of public arbitration was that if a witness had agreed to show up at the hearing and give testimony for one of the parties but did not attend, the party to whom he made the promise could bring an action for failing to testify (Dem. 49, 19: *dike lipomartyriou*) [46]. There was no way of punishing a recalcitrant witness in a private arbitration.

Finally if someone thought that a public arbitrator had done him an injustice, he could bring a charge before the entire board of arbitrators. If the arbitrator was convicted, he lost his citizen rights ([Arist.] *Ath. Pol.* 53, 5; Dem. 21, 87, 91). On the other hand, the arbitrator convicted by the board could have his case heard in court ([Arist.] *Ath. Pol.* 53, 5; Dem. 21, 91). This is what happened in the case of Strato, who was an arbitrator for Demosthenes and Meidias. Meidias accused him before the board of arbitrators and won a conviction. When Strato had the case heard before the court, he was convicted again, and his loss of rights was confirmed (Dem. 21, 81-101) [47].

Yet the most important feature of the new system was that it incorporated the advantages of mediation and arbitration into formal private legal procedures without several of the disadvantages of private arbitration. In this way public arbitration encouraged litigants to compromise instead of fighting it out in court. It also gave the arbitrator the chance to question the litigants and elicit all the information he needed to make a decision (Dem. 27, 50-51) and allowed him to meet with the litigants several times before making a decision (Dem. 21, 84; [Dem.] 49, 19) [48]. The new system attempted to promote co-operation and the reduction of social tensions [49].

---

[45] For the *dike pseudomartyrion* see Harrison 1971, 127-131, 192-97. This action would only be brought after the trial in court, not during the arbitration. See Harrell 1936, 28-29.

[46] See Harrell 1936, 25.

[47] For translation and notes see Harris 2008, 115-123.

[48] Litigants could also request a delay: Dem. 47, 14; 21, 84.

[49] Harrell 1936: 23 observes that there is «no case on record in which the arbitrator brought about a reconciliation for the parties before rendering a decision» and doubts that this happened very often because if they were inclined to settle, they would have resorted to private arbitration. But the absence of any examples of a reconciliation in public arbitration may be caused by the nature of our sources, which are mostly orations delivered in court for cases that were not settled by mediation or the decision of an arbitrator.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

There was an inherent risk in entrusting the decision to a single person, but this was offset by the possibility of having the case tried again. Some scholars see the Athenian courts as an arena for elite competition and for the pursuit of honor and feuds, a place where social tensions would not be reduced but perpetuated if not actually exacerbated [50]. The institution of public arbitrators who were tasked first and foremost with reconciling litigants and promoting social harmony provides additional evidence showing that this agonistic view of the Athenian courts is highly questionable [51].

Edward M. Harris
Durham University; The University of Edinburgh
edward.harris@durham.ac.uk

Bibliography

Bonner 1907	R.J. Bonner, The Jurisdiction of Athenian Arbitrators, *ClPhil* 2 (1907), 407-418.
Bonner 1916	R.J. Bonner, The Institution of Athenian Arbitrators, *ClPhil* 11 (1916), 191-195.
Bonner - Simith 1930-1938	R.J. Bonner - G. Smith, *The Administration of Justice from Homer to Aristotle*, Chicago 1930-1938.
Calhoun 1915	G.M. Calhoun, Perjury before Athenian Arbitrators, *ClPhil* 10 (1915), 1-7.
Calhoun 1919	G.M. Calhoun, *Paragraphe* and Arbitration, *ClPhil* 14 (1919), 20-28.
Canevaro 2013	M. Canevaro, *The Documents in the Attic Orators: Laws and Decrees in the Public Speeches of the Demosthenic Corpus*, Oxford 2013.
Canevaro - Harris 2012	M. Canevaro - E.M. Harris, The Documents in Andocides' *On the Mysteries*, *CQ* 62 (2012), 98-129.
Canevaro - Harris 2016 [2017]	M. Canevaro - E.M. Harris, The Authenticity of the Documents at Andocides' *On the Mysteries* 77-79 and 83-84, *Dike* 19 (2016 [2017]), 7-48.

There is one case of a decision by a public arbitrator that was not rejected by the losing party: Dem. 40, 31. If the successful mediation caused restored friendly relations between the parties, there would have been no further litigation and therefore no need to write speeches for cases in court.

[50] E.g. Osborne 1985; Cohen 1995.

[51] For the agonistic view of the Athenian courts see Cohen 1995 with the criticisms in Harris 2013, 60-98, with references to previous scholarship.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

Carey 1985	C. Carey, *Demosthenes: Selected Private Speeches*, Cambridge 1985.
Carey 1992	C. Carey, Apollodoros, *Against Neaira [Demosthenes] 59*, Warminster 1992.
Cohen 1995	D. Cohen, *Law, Violence and Community in Classical Athens*, Cambridge 1995.
Cozzo 2014	A. Cozzo, *«Nel mezzo». Microfisica della mediazione nel mondo greco antico*, Pisa 2014.
Dimakis 1983	P. Dimakis (hrsg.), *Symposion 1979. Vorträge zur griechischen und hellenistischen Rechtsgeschichte*, Köln - Wien 1983.
Ferguson 1938	W.S. Ferguson, The Salaminioi of Heptaphylai and Sounion, *Hesperia* 7 (1938), 1-74.
Gabba 1983	E. Gabba, *Tria corda. Scritti in onore di Arnaldo Momigliano*, Como 1983.
Gernet 1939	L. Gernet, L'institution des arbitres publics à Athènes, *REG* 52 (1939), 389-414.
Gernet 1955	L. Gernet, *Droit et société dans la Grèce ancienne*, Paris 1955.
Hansen 1983	M.H. Hansen, Two Notes on the Athenian *dikai emporikai*, in P. Dimakis (hrsg.), *Symposion 1979. Vorträge zur griechischen und hellenistischen Rechtsgeschichte*, Köln - Wien 1983, 167-175.
Hansen 2015	M.H. Hansen, Is Patrokleides' Decree (Andoc. 1.77-79) a Genuine Document?, *GRBS* 55 (2015), 884-901.
Hansen 2016	M.H. Hansen, Is Teisamenos' Decree (Andoc. 1.83-84) a Genuine Document?, *GRBS* 56 (2016), 34-48.
Harrell 1936	H.C. Harrell, *Public Arbitration in Athenian Law*, Columbia (MO) 1936.
Harris 2006	E.M. Harris, *Democracy and the Rule of Law in Classical Athens*, Cambridge 2006.
Harris 2008	E.M. Harris, *Demosthenes 20-22*, Austin (TX) 2008.
Harris 2013	E.M. Harris, *The Rule of Law in Action in Democratic Athens*, Oxford 2013.
Harris 2013-2014	E.M. Harris, The Document at Andocides 1.96-98, *Tekmeria* 12 (2013-2014), 121-153.
Harris 2015	E.M. Harris, The Meaning of the Legal Term *Symbolaion*, the Law about *Dikai Emporikai* and the Role of the *Paragraphe* Procedure, *Dike* 18 (2015), 7-36.
Harrison 1971	A.R.W. Harrison, *The Law of Athens: Procedure*, Oxford 1971.
Harter-Uibopuu 2002	K. Harter-Uibopuu, Ancient Greek Approaches toward Alternative Dispute Resolution, *Willamette*

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

Journal of International Law and Dispute Resolution 10 (2002), 47-69.

Humphreys 1983 — S.C. Humphreys, The Evolution of Legal Process in Ancient Attica, in E. Gabba, *Tria corda. Scritti in onore di Arnaldo Momigliano*, Como 1983, 229-256.

Hunter 1994 — V. Hunter, *Policing Athens: Social Control in the Attic Lawsuits, 420-320 B.C.*, Princeton 1994.

Joyce 2014 — C. Joyce, Μὴ μνησικακεῖν and «all the laws» (Andocides *On the Mysteries* 81-82): A Reply to E. Carawan, *Antichthon* 48 (2014), 1-18.

Just 1968 — M. Just, Le rôle des *diaitetai* dans Isée 12, 11, *RIDA* 15 (1968), 107-118.

Kapparis 1999 — K.A. Kapparis, Apollodoros, *Against Neaira [D.] 59*, Berlin - New York 1999.

Lambert 1997 — S.D. Lambert, The Attic Genos Salaminioi and the Island of Salamis, *ZPE* 119 (1997), 85-106.

Leão - Thür 2016 — D. Leão - G. Thür (hrsgg.), *Symposion 2015. Vorträge zur griechischen und hellenistischen Rechtsgeschichte*, Wien 2016.

Lipsius 1905-1915 — J.H. Lipsius, *Das attisches Recht und Rechtsverfahren*, Leipzig 1905-1915.

MacDowell 1971 — D.M. MacDowell, The Chronology of Athenian Speeches and Legal Innovations in 401-399 B.C., *RIDA* 3, 18 (1971), 267-273.

MacDowell 1990 — D.M. MacDowell, Demosthenes, *Against Meidias*, Oxford 1990.

MacDowell 1998 — D.M. MacDowell, Review of A. Scafuro, *The Forensic Stage*, Cambridge 1997, in *G&R* 2, 45 (1998), 227-228.

Osborne 1985 — R.G. Osborne, Law in Action in Classical Athens, *JHS* 105 (1985), 40-58.

Pébarthe 2006 — C. Pébarthe, *Cité, démocratie et écriture. Histoire de l'alphabétisation d'Athènes à l'époque classique*, Paris 2006.

Pelloso 2016 — C. Pelloso, Ἔφεσις εἰς τὸ δικαστήριον: Remarks and Speculations on the Legal Nature of the Solonian Reform, in D. Leão - G. Thür (hrsgg.), *Symposion 2015. Vorträge zur griechischen und hellenistischen Rechtsgeschichte*, Wien 2016, 33-48.

Piccirilli 1973 — L. Piccirilli, *Gli arbitrati interstatali greci. Introduzione, edizione critica, commento e indici*, Pisa 1973.

Rhodes 1981 — P.J. Rhodes, *A Commentary on the Aristotelian Athenaion Politeia*, Oxford 1981.

Roebuck 2001 — D. Roebuck, *Ancient Greek Arbitration*, Oxford 2001.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi

Scafuro 1997	A. Scafuro, *The Forensic Stage*, Cambridge 1997.
Simon 1987	D. Simon (hrsg.), *Akten des 26. Deutschen Rechtshistorikerstages (Frankfurt am Main, 22. - bis 26. September 1986)*, Frankfurt am Main 1987.
Sommerstein 2014	A.S. Sommerstein, The Authenticity of the Demophantus Decree, *CQ* 64, 1 (2014), 49-57.
Steinwenter 1925	A. Steinwenter, *Die Streitbeendigung durch Urteil, Schiedsspruch und Vergleich nach griechischem Recht*, München 1925.
Thür 1987	G. Thür, Neuere Untersuchungen zum Prozeßrecht der griechischen *Poleis*. Formen des Urteils, in D. Simon (hrsg.), *Akten des 26. Deutschen Rechtshistorikerstages (Frankfurt am Main, 22. - bis 26. September 1986)*, Frankfurt am Main 1987, 467-484.
Todd 1993	S.C. Todd, *The Shape of Athenian Law*, Oxford 1993.
Vélissaropoulos 1980	J. Vélissaropoulos, *Les nauclères grecs. Recherches sur les institutions maritimes en Grèce et dans l'Orient hellénisé*, Genève - Paris 1980.
Vélissaropoulos 2000	J. Vélissaropoulos, L'arbitrage dans la Grèce ancienne, *Revue de l'arbitrage* 1 (2000), 9-26.
Wolff 1946	H.-J. Wolff, The Origin of Judicial Litigation among the Greeks, *Traditio* 4 (1946), 31-87.
Wyse 1904	W. Wyse, *The Speeches of Isaeus*, Cambridge 1904.

Athenaion Politeiai tra storia, politica e sociologia: Aristotele e Pseudo-Senofonte
A cura di C. Bearzot - M. Canevaro - T. Gargiulo - E. Poddighe - Milano, LED, 2018 - ISBN 978-88-7916-852-6
http://www.ledonline.it/index.php/Erga-Logoi/pages/view/quaderni-erga-logoi