

ORAL ADVOCACY (6): CITING LAWS

SL: Hi, welcome back. I'm Sabrina and this is the Quick Guide to Oral Advocacy. In the last episode, you learnt how to cite facts. And today, you'll learn how to cite laws, which, after facts, are probably the second most important source that you draw upon as you argue.

SL: As you'll see later on, there are various sources of law that can be referred to, for example, statutes (laws) and regulations, case law, and, in our sample problem, which is based in international law, international treaties or conventions (like the CISG – Convention on Contracts for the International Sale of Goods) and so-called 'soft law', which includes codes of conduct, resolutions or guidelines of behavior like the IBA Rules of Evidence that are not binding in themselves but which the parties may choose to apply.

SL: After watching this video, we hope you'll learn: the four elements you should include when citing laws – article number, clause number, source and provision; prepositions commonly used when citing laws – *pursuant to* and *under*.

SL: When you're citing laws, remember to provide information like the article number, clause number, source and provision clearly and accurately.

SL: Let's take a look at Heather's example together:

HC: Pursuant to Article 79 of the CISG, the Respondent will be exempt from their failure to perform their obligations if their failure was due to an impediment which was unavoidable and unforeseeable.

SL: You can see that Heather cites the law explicitly using the compound preposition *pursuant to* as the sentence opener. She then provides the relevant article number of the CISG, that is, the United Nations Convention on Contracts for the International Sale of Goods.

SL: Let's zoom out to the bigger picture and see how Mansi actually uses different laws to support her argument. Observe the flow:

MS: We first note that the Tribunal does in fact have jurisdiction to allow this brief to be admitted. There is nothing within the CIETAC Rules of Arbitration which explicitly prevents any such brief from being admitted, and in fact under Article 33 of the CIETAC Rules, the Tribunal may itself decide upon the particular procedure for the arbitration itself. Furthermore, under Article 3, Clause 11 of the IBA Rules of Evidence, any supplementary evidence which is relevant and material before the Tribunal may in fact be admitted.

SL: In this excerpt, Mansi is asserting that the Arbitration Tribunal has jurisdiction to allow the brief to be admitted. After announcing her stance, she then makes use of different laws to support it. Everything is clear and consistent with the preposition *under* as the sentence opener, followed by the article number, clause number and source.

EN:

- *Under* Article 33 of the CIETAC Rules
- *Under* Article 3, Clause 11 of the IBA Rules of Evidence

SL: It is also worth noticing from Mansi's example that the use of modal *may* is quite common in this context.

EN: The Tribunal *may* itself decide upon a particular procedure for the arbitration itself.

SL: Here, *may* indicates that the Tribunal has power vis-à-vis the Respondent.

SL: When you cite laws, you either read them aloud or paraphrase them as accurately as possible.

SL: So remember, provide the clause number, article number, source and provision as you cite laws; use prepositions such as *pursuant to* and *under*. For example: *Pursuant to Article 79 of the CISG, the Respondent will be exempt from their failure to perform their obligations.*

SL: In the next episode, we'll turn our attention to how to cite cases. See you very soon!