

**GLI ARBITRATI “A MODALITA’ IRRITUALE” NELLE  
CONTROVERSIE DI LAVORO  
ABSTRACT**

The subject of this study is the examination of some models of arbitration in the field of labour law, considering the novelties that have been introduced by the L.183/2010 and the chance to make them flow together into the informal arbitration of the art.808 *ter* according to the Civil Procedure Code.

In the first chapter I have examined the regulation concerning this subject: the L. 604/1966, the L. 300/1970, the L. 533/1973 and the Legislative Decree n.80 e 387 of 1998. These last two decrees have been introduced for the first time in the Code of Civil Procedure of the informal arbitration. The art. 412 *ter* and *quater* c.c.p. used to rule a kind of arbitration *ex contractu* that is different from the one cited in the artt. 806 ss. c.c.p. both for efficacy, for condition of impugnation and execution. It was specifically called “informal”.

The regulations above mentioned have represented until the L. 183/2010 the general pattern of arbitration in the field of labour law, that could be applied to all the labour arbitration forms *ex lege* and *ex contractu*.

In order to understand if the arbitrations described into the Code are truly informal, I examined the art. 808 *ter* c.c.p. to find the real meaning of “formal” and “informal”.

This regulation has been introduced in the code of civil procedure with the Legislative Decree 40/2006 and it provides for a general discipline of the informal arbitration.

From the examination of the new disposition, that is the subject of the second chapter, it came out that the dichotomy formal/informal arbitration is not updated. To the informal arbitration award must be applied not only the dispositions estimated from the regulation that rules it specifically (art. 808 *ter* c.c.p.), but also the disciplines estimated for the formal arbitration award with the title VIII, IV book of the c.c.p.

Formal and informal arbitrations represent a way of realization of the phenomenon of the arbitration that is essentially homogeneous.

With the introduction of L. 183/2010, that I have examined in the third chapter, the idea of unique arbitration seemed to be abandoned. The L. 183/2010 introduces four different kinds of labour arbitrations beyond the foresight of the possibility of drawing up individual provisions that allow the arbitration, for the devolution to the arbitration of the controversy. However, despite the presence of different models of arbitration, each of them quotes to the 808 art. of c.c.p. for the discipline of the impugnation.

Finally, in the fourth chapter I have tried to applied the results reached concerning the meaning of “informal” to the new job arbitrations of the L. 183/2010. Although the Legislator has foreseen a multiplicity of procedures, they are all referable to the arbitration of the art. 808 *ter* c.c.p. therefore, also to the articles 412, 412 *ter* e *quater*, c.c.p. must be applied the regulations of the title VIII, IV code

of the c.c.p., if they are reconcilable both with the informal arbitrations and with them. All things considered, in the conclusion I believe that the new models of labour arbitrations are just a further different way of the homogeneous phenomenon of arbitration: informal arbitration