

Pragmatic macro-structure and interactive models in statute law¹

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ABSTRACT. For this purpose, I shall refer to and give a more detailed explanation of the notion of a *statutory macro-act* and *statutory speech acts*, as also the classification of statutory speech acts and their direct and indirect linguistic expressions. I shall also propose a classification of *interaction patterns* subsumed from various acts and possible sequences of normative speech acts as suggestions for *pragmatic macrostructures* for statute law or text. In conclusion, I shall contextualise this analysis within a matrix of *socio-contextual, pragmatic and relational features* in order to provide a basis of comparison with other textual or pragmatic classifications.

1. The statutory macro act and statutory speech acts

From the standpoint of the discussion of social action (VAN DIJK 1980) and as a development of the problematics of speech acts (ZUANELLI, 1981, 1990 and 1998), we can define a *statutory text/macrostructure* as an event that transforms the “state of reality” by giving rise to a course of successive events, i.e. changes in the “state of reality”. The subject performing the speech act in the statutory text requests that the explicit/implicit subjects in the text shall perform future actions. In this manner he produces *directive acts*.

The subject performing the speech act is also involved as a source of normative power in a course of future actions both through the laying down of successive normative activities and successive regulation and also as a result of the misplaced or erroneous application of the statute or statutory instrument. He, therefore, realises *commissives*. He commits himself insofar as the “articulator” of statutory power concerning the truth-value of the preceding normative utterances/acts or of the macro-act or act he brings into being. He, therefore, realizes *declarative acts*. He brings into being new states of reality (the setting up of boards, bodies, authorities) or forms of behaviour. By doing so, he performs *declarative/representational acts*²

Statutory speech acts can be defined as a sequence of actions, of *differing* types, aimed at an institutionally objective which can be defined as *exercitive*, to be considered the *distinctive feature* of the statutory macro act. In other words, the statutory macro act in terms of social action is concerned with the practice of power, rights and influence over a range of variability as regards its illocutionary force as evidenced in the following linguistic formulation (ZUANELLI 1998):

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¹ The paper develops a hypothesis on the pragmatic macro-structure of statute laws based on initial analyses by ZUANELLI 1998

² The deontic formula *must/ must not/ can*, according to the interpretation ascribed to it, can be subsumed under the classification of speech acts as proposed here. It is, therefore, neither in contradiction with nor a replacement of such a classification.

1. The President of the Republic
 - 1.1. *Adopts* the following decree-law
 - 1.2. *Adopts* the following regulation
 - 1.3. *Promulgates* the following law
 - 1.4. *Adopts* the following legislative law
2. The Ministry of Finance
 - 2.1. *Issues* the following regulation
 - 2.2. The Ministry of Justice *decrees* (ministerial decree)
3. The President of the Council of Ministers
 - 3.1. *Issues* the following directive.

As shown by Zuanelli 1998 the undifferentiated use of exercitive formulas does not provide a clear formal distinction as regards the *exercitive* force employed either in terms of the type of statutory text (parliamentary law, decree-law, legislative decree, etc) or in terms of the issuing authority/actor (President of the Republic, President of the Council, Minister, President of the Region). For example, the formula “adopts/issues” does not enable us to determine (neither pragmatically nor juridically) in an immediately clear manner either the type of statutory text (decree-law, regulation, legislative-decree, directive) or the issuing subject (President of the Republic, President of the Council, etc).

Therefore, I indicated the need for a better definition of the *illocutionary point/force* of the normative macro-act in order that it may conform to a clear classification of the subjects producing the speech acts (with legislative, statutory powers), the statutory texts issued (laws, decree-laws, regulations, etc.) and the linguistic, pragmatic and juridical formulas for them (“promulgate”, “issue”, “adopt”, etc). Having premised the need for coherence between speech acts and the juridical distinction of the exercitive force regarding the classification of statutory texts, we must make our first attempt to define a relationship between a text and a normative macro act.

The normative macro act realises the conditions of pragmatic appropriateness of the statutory text. In order to understand this definition, we should recall that the text is defined as a sequence of coherent and cohesive phrases in logical-semantic terms. From the pragmatic standpoint, a sequence of phrases should correspond to sequences of speech acts realised as a pragmatically well formed act. In some analyses (ROULET 1980 and SPENGLER 1980) the identification of *illocutionary markers* and *interactivity markers* has been proposed for this purpose.

We shall develop this approach by assigning to each speech act an *illocutionary point*³ that consists in the value of the action that the subject performing the act and the subject receiving it associate with the speech act. The request for action made by the speaker to the receiver (orders, commands, impositions) is typical of directives. The “commitment to future action” by the speaker

³ As regards the distinction as between *illocutionary act*, *illocutionary force* and *illocutionary point*, see SEARLE 1976 and 1978. I have extended the distinction to the notion of macro act.

towards the receiver (secondary statutory action, decrees, regulations) is typical of commissive acts. The bringing of new states and bodies into being (the setting up of an authority, a commission, a controlling body, forms of behaviour etc.) is typical of representative-declarative acts.

The statutory macro-act corresponds to the sequence of speech actions realised by the statutory text. The illocutionary force/objective of the macro-act as also the chain of illocutionary points/aims of each act must be clearly recognised as such by the addressees internal and external to the statutory text to whom it is directed in order to bring into being the social action that such aims imply. Thus, by developing the notions of macro act and statutory speech act so far introduced, a pragmatic representation may be indicated as follows:

STATUTORY MACRO ACT

$F(T) = E$, where F = illocutionary force, (T) = text, E = exercitive macro act.

The force and the illocutionary points of the constituent speech acts of the statutory text can be represented in the following manner:

$f(p1) = d$

$f(p2) = c$

$f(p3) = dc$

$f(p4) = dr$

where :

f= the illocutionary force/point of the act

p1, p2, p3, p4 = propositional contents of the act

d, c, dc, dr = directive, commissive, declarative, declarative/ representational acts.

2. The linguistic correlation between the act and the macro act

In the tradition that inaugurated the pragmatic treatment of language on a systematic basis (in particular AUSTIN 1976 and 1978) the notions of speech act as endowed with illocutionary force, i.e. the illocutionary act, coincides with the existence in every natural-historical language of performative verbs that in their standard simple present, first person singular form (or plural) bring into being the actions at the same time as they are uttered: "I bet", "I swear", "I order", "I declare", "I bequeath", "I do" (in matrimony), etc.

However, besides the explicit linguistic mechanisms, the illocutionary act often realises itself in an implicit or indirect manner through the second person plural or singular in the present passive "you are authorised", or in the third person singular or plural of the present passive "is/are authorised", in impersonal forms and in verb tenses/modality: the imperative (write, indicate, etc.), modals "you should make provision for", infinitive (to write, to indicate, with a directive value), elliptical formulas: "outside", "guilty" (meaning "I order you to leave", "I declare you guilty"), and adverbs: "without doubt", "probably" and connectives "for the purpose of".

The possibility of identifying direct or indirect, explicit or implicit linguistic formulas for statutory speech acts enables us to determine the degree of appropriateness of the statutory text with respect to the macro act intended by the legislative authority. This will enable the legislator to verify if the “statutory” intentions of the entire text-macro act and the single statutory speech acts have been correctly formulated so that they can be clearly understood and applied; and in such a manner as to eliminate the malformations and pragmatic implicit acts that often make statutory texts inapplicable or determine their non-implementation (ZUANELLI 1998).

Leaving aside the matter of practical evaluations, an analysis of the linguistic formulas of statutory linguistic acts is necessary in order to lend credibility to the classification and identify possible pragmatic sequences such as the macrostructures of the statutory text.

Let us consider, therefore, the following speech formulas:

Declarative formulas

- *PP past participle* : “premesse che”.... “dato atto che....” “preso atto che...”, “visto”, “sentito..”, “udito...” (“given that...” “stated that...”, “recognised that...” “noted”, “heard...”, “consulted...”).
- *Pr.P prepositional phrases*: “ ai sensi” (“according to...”)

These are formulas that affirm the truth-value of the proposition being stated, usually preceding regulations, opinions and resolutions with respect to the statute law and to which the latter refers. In conformity to these formulas the text acquires a truth-value: they are, therefore, pragmatic preconditions for the statutory macro act.

The declarative formulas introduced in the sections of statute law as preliminary introductions for the semantic and pragmatic development of the text itself are of a different type, and comprise the following expressions:

- *PI simple present - 3rd person plural (or singular)*: “Sono servizi pubblici di trasporto regionale e locale....” (“(they are)....are public regional and local transport services...”, “.....comprise public services..”)
- *IM impersonal*: “si intende” (“it shall be understood that...”)
- *Representative – declarative formulas*

Representative/declarative formulas

They correspond to acts that bring into being the behaviour, activity or entity stated. The most frequent formulas are:

- *IM impersonal*: “si istituisce la commissione...” (“the commission is set up....”)
- *PP Present passive – 3rd person singular or plural*: “il decreto legge..[...] è convertito in legge”, “È istituita l’Autorità..” “Sono conferiti alle regioni e agli Enti locali tutti i compiti e tutte le funzioni...”, “Sono delegati ..[...] i compiti di programmazione..”, “il bilancio di previsione dello Stato è ripartito in unità previsionali di base” (“the decree-law [] is turned

into statute law”, “the Authority is set up...”, “All the tasks and functions are conferred onto the regions and local authorities ...”the tasks of planning are delegated to...”, “the state’s budget is broken down into basic units of expenditure forecast”).

Now let us consider the speech formulas that realise *directive/ commissive acts*. Such acts commit the referent(s) stated or implied in the text (directives) or the subject(s) issuing/stating the text (commissives) to a course of future action.

Directive formulas

- *PI 3rd person- simple present*: “l’attività amministrativa persegue... (“the administrative action follows...”)
- *PP Present passive*: “è retta da criteri..” (“is sustained by criteria..”)
- *IM impersonal*: “E’ fatto obbligo di..” (“there is the obligation to..”)
- *IN infinitive (as imperative)*: “scrivere....”, “inviare...” (“ write...” “send..”)
- *M modal*: “Vorranno procedere a...” (“shall want to proceed to...”)
- *EP past participle ellipsis*: “previo parere delle competenti Commissioni parlamentari (“subject to the opinion of the competent parliamentary commissions..”)

Commissive formulas

- *PP Present passive*: “Entro il 31 dicembre 1993 sono adottati su proposta dei Ministri competenti d’intesa con l’Autorità, uno o più regolamenti governativi emanati ai sensi dell’art 17” (“By 31st December 1993, upon the proposal of the competent ministers and in agreement with the Authority, one or more of the government regulations issued in conformity to article 17 are adopted”).
- *PI simple present - 3rd person*: “il governo adotta misure per la semplificazione..” (“the government adopts simplification measures”)

Let us now summarise in tabular form the speech formulas by correlating them to the classification of acts proposed. It will be noted that directives make use of all the formulas used by the other acts and that they realise themselves, and perhaps in a distinctive manner, with speech infinitive, modal or elliptic past participle formulas. It will, also, be noted that the limited use of speech forms for representative-declaratives could be a distinctive feature with respect to declaratives. (Tab. A)

The specific identification of the typology of statutory speech acts as proposed here poses some problems as regards the following questions:

- a) how to identify the actor-agent, if different from the subject that expresses the speech act, to whom the commitment for the course of future action typical of commissives is to be ascribed;
- b) how to correlate the directive acts to bodies/ organisms/ institutional actors other than the speech-performers/ agents of the text, and especially when they are implicit or generic in the

text or external to it (e.g. “The obligation exists for whoever concerned...”);

c) how to recognise implicit actors/ referents in the statutory macro act text.

Speech formulas	Declaratives	Representative declaratives	Directives	Commissive acts
IP 3 rd person singular, plural	+		+	+
PP past participle	+		+	+
Pr P prepositional phrase	+		+	+
Impersonal	+	+	+	+
P Present passive 3 rd person(s/p)		+	+	+
IN infinitive			+	
M modal			+	
EP elliptic participle			+	

Tab. A – Statutory Speech Acts (Speech Formulas)

A reply, even partial, to these problems can provide a definition of what sequences of acts can be hypothesised as pragmatic macro structures. We can examine the problems one by one while recalling a series of features characterising the statutory macro act.

First of all, a general depersonalisation of actors-agents/referents of directives and commissives contained in the statutory texts along with the nominalisation of the actions announced (“administrative action pursues”, “is sustained...”, “for regions with a special statute the conferment of functions as well as the transfer of the relative resources and assets is established”, “the government adopts...”).

A second typical characteristic is the widespread use of the third person singular/plural, active or passive of verbs (“identifies”, “establishes”, “are conferred”) or the impersonal form “it provides”, “it sets up”, etc.

The reference to institutional political actors constitutes an exception to impersonalisation: the President of the Council, the Minister, the Regulatory Authority, etc. These features in part compromise, as already anticipated, the precise identification of the subjects responsible for the action and for whom there is also the need to indicate the full extent of their powers in legal terms as well as the precise assignment of the linguistic formulas to commissive and directive acts.

This is shown from the reading of the “signatories” of the various types of statutory text. For example, in Legislative decree 19 November 1997, n. 422 the subject performing the speech act is the President of the Republic who issues the decree. However, the signature is accompanied by a formal undertaking signed by the Ministers of the Treasury, Transport, Finance and Public Administration.

It is this co-presence of different actors involved in the course of future action that makes it possible to advance, at least for some types of statutory text, the idea of commissive co-acts, subsumed in the exercitive force made explicit by the subject performing the speech act, the President of the Republic, but realised through co-action and the commissive acts of the institutional actors involved.

The question, in other terms, is if the President of the Republic performs a directive when in the statutory text he commits the minister, the government and the parliamentary commissions to carry out successive acts (decrees, sanctions, etc.) or if the force exercised by the subject performing the act (the President of the Republic) subsumes the operating power of the institutional political actors (government, president of the council, ministers, etc.), and in this case the announcement of the action would not constitute a directive but a commissive co-act to which the various political institutional actors involved as part and parcel of the legislative power of parliament, revert.

The situation is different as regards directives concerning different institutional actors such as regions, local authorities, police forces etc., whose mention in the text clearly correspond to directive acts on the part of the subject performing the speech act. The case in which the subject performing the speech act and signing the text are the same, – as in the case of ministerial decrees – is simpler for the identification of directives and commissives.

As a conclusion of these reflections we can attempt to make a primary classification of macro acts into *simple macro acts* (the subject signing the text and the actor with operational competence being identical, such as the Minister in ministerial decrees) and *macro acts/co-acts* implying, with this term, a directive-commissive power with a multiple instrumental self-reference on the part of the subject performing the speech act; that is, the subject performing the speech act represents the formal activation of the statutory text, but the action implies that there is an institutional subject holding legislative power, i.e. Parliament, and subsumes the political subjects responsible for the operativity, that is the government, the president of the council, the ministers as in the case of statute laws, decree-laws and legislative decrees.

3. A possible classification of statutory macro acts

The development of this analysis takes us to a possible classification of macro structures as juridically distinct, pragmatically appropriate sequences of statutory text. In speaking of the declarative formulas we already indicated the preconditions for the truth-value of the statutory macro act, and their division into two types: the reference to prior acts (“seen”, “consulted”, “pursuant to”); and the identifying definitions of the subject-matter – “are public services”.

We have, furthermore, indicated in the representative-declarative formulas, the constituent value of the statutory speech act or the bringing-into-being of the behaviour, body or board announced (“the present decree [...] determines the criteria”, “the decree-law is turned into statute law”).

I shall now attempt to indicate the types of sequence identifiable in the macro act, with reference to the definitions of VAN DIJK 1980. The macro act and the co-act bring about:

- a) sequences of acts, each of which having its own objective, whose success is not a precondition for the success of the following acts;
- b) composite acts, that is successions of acts such that the success of a preceding act is a precondition for the success of the successive act;

- c) interacts, that is concomitant or successive acts by different actors whose success depends on the successful outcome of each act by each subject;
- d) co-operative acts (for the meaning of co-operative speech act as an amalgam of a directive act and a commissive act, see HANCHER 1979) that fulfil themselves in the “negotiated transaction of the act” (for example, “appointing”).

The basic classification calls for verification as regards the two types of identified macro acts and leaves open the possibility of fixed or free sequences of statutory speech acts. By making use of a preliminary scheme we can identify in the linear-temporal sequence of the statute text, the regular presence of declarative speech acts (“given”, “consulted”, “heard”) whose function would refer us back to the pragmatic preconditions that realise the truth-value of the specific statute text, followed by the formulation of the actuating formula “enacts”, “promulgates” that qualify, albeit ambiguously, the statutory power exercised. After these come the representatives – declaratives that make up the subject-matter; followed by declaratives regarding definitions and specifications, sequences of commissive or directive acts, composite acts, interacts and co-operative acts, and, in conclusion, formulas for the signing of the text attesting to their nature as single macro acts and co-acts as indicated in the opening formulas.

A more rigorous definition of pragmatic macro structure could provide us with useful indications for the drafting of statutory texts as well as the minimising of pragmatic malfunctions, as already stated elsewhere (see ZUANELLI 1998). A schematic summary is in Tab. B.

	SEQUENCE OF ACTS	INTERACTS	COMPOUND ACTS	CO-OPERATIVE ACTS
SIMPLE MACRO ACTS (1 signatory actor that coincides with 1 commissive/ directive agent)	±	±	±	±
CO-ACTS (1 signatory actor + various commissive/ directive agents)	±	+	+	+

Tab. B – Macro Act Classification

Standard macro-structure

Declarative acts → formula for operational opening → declarative/representational acts/
 declarative acts → directive and commissive acts → formula for operational closure.

4. Interaction models

We shall now consider the action and interaction flows that the various types of acts realise. I shall indirectly refer to and enlarge the notion of *adaptation direction* as proposed by Searle (in particular SEARLE 1978).

According to Searle the *direction of adaptation* is one of the twelve dimensions that

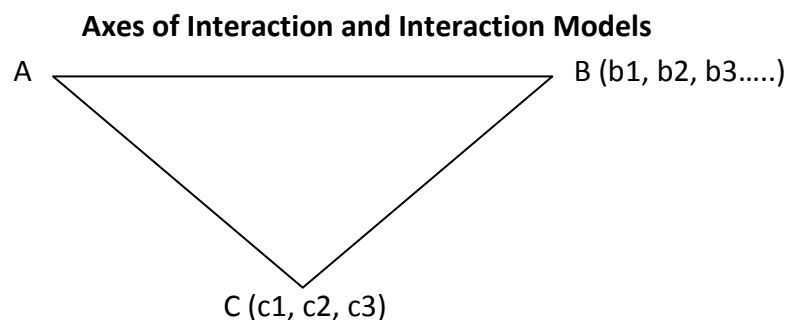
characterise illocutionary acts. It consists in a type of relation that the act establishes between the words and the world (SEARLE 1978: 171). Therefore, the direction of adaptation is from words to the world for the representatives (for us the declaratives) and from the world to words for directives and commissives.

This distinction makes it possible to make a first definition of interaction models for which it is necessary to introduce the notion of *interaction axes*. In order to do this I shall present a distinction that I already introduced in ZUANELLI 1980: 121–127.

We shall propose to define possible interaction axes in relation to:

- i. the subject performing the speech act and/or instigator of the statutory text (the President of the Republic/ “enunciator” and the ministers promoting the laws, decree laws, legislative decrees, the minister performing the speech act and inspiring/promoting the ministerial decree).
- ii. the referents/ recipients of directive/ commissive acts (ZUANELLI 1998) - implicit or explicit in the text B (b1, b2, b3);
- iii. the behaviour, activities, bodies represented in text C (c1, c2, c3).

The proposed classification of statutory speech acts makes it possible to identify the following axes of interaction, which gives rise to possible models of interaction. Schematically:



Where:

A = subject performing the speech act / inspirer (of the statutory text)

B = implicit or explicit referents/ addressees in the text (b1, b2, b3)

C = behaviour, activities, bodies represented in the text (c1, c2, c3)

The possible axes of interaction are:

- I) A → B = directives: Gets B to do
That is, the announcing subject gets B to do something C; realises directive acts.
- II) A → B/C = commissives: Will do
That is the subject performing the speech act commits himself to a course of future actions regarding B (reference subject-matter of text) or C (referent, entity of the text) by realising commissive acts.
- III) A → C: On
That is the subject performing the speech act commits himself as regards the truth-value of

C, the referent/ entity of the text. He realises declarative acts.

- IV) A → C: Makes
That is the subject performing the speech act makes/ brings into being the body/ referent of the text. He realises representative declarative acts;
- V) A → C → B: Together make
The subject A commits itself to making C or getting B (b1, b2, b3), to make C; this is the case of co-acts, interacts and compound acts.

These are some examples of interaction axes.

Example no. 1

Legislative decree 19 November 1947, n. 422

Article 1, Clause 1: «The present decree in *implementation* of ⁽¹⁾ articles 1 and 3 and of clauses 3 and 4 [...] *identifies*⁽²⁾ the functions and the tasks that *are conferred*⁽³⁾ upon the regions and the local authorities [...] and, furthermore, *establishes*⁽⁴⁾ the organisational criteria of the local public transport services».

- (1) A makes → C representative – declarative “in implementation of..”
 (2) A makes → C representative – declarative “identifies..”
 (3) A makes → C representative – declarative “are conferred..”
 (4) A makes → C representative – declarative “establishes..”

(1-4 bring a statutory provision into being)

Article 1, Clause 2 : «Are⁽⁵⁾ local and regional public transport services».

- (5) A on → C declarative (“are services”)

(5 commits itself to the truth-value of the speech-act)

Article 1, Clause 3: «For regions with special statutes and the autonomous provinces of Trento and Bolzano, the *conferment* of functions as well as *the transfer* of the relative assets and resources are carried out ⁽⁶⁾ with full respect for the statutes and through special implemental provisions».

- (6) A on → C declarative (“are set out... through special implemental provisions”)

(the subject performing the speech act, the President of the Republic, refers to the constitutional provision on legislative autonomy for regions with special statutes)

Article 2 (Definitions), Clause 1: «By virtue of ⁽⁷⁾ the present decree, for law n.59 shall be understood ⁽⁸⁾...»

- (7) A on/by virtue of → C declarative

(the subject performing the speech act commits himself to the truth-value of the provision in question, i.e. the present decree)

- (8) A on → C declarative (“shall be understood”)
 (*the subject performing the speech act commits himself to the truth-value of law n.59*)

Example no. 2

Law 21 October n. 532

Article 1, Clause 2: “[...] is an obligation for whoever must observe and enforce the law as a law of this state”

- (9) A make do → B(b1, b2, b3) directive (“is an obligation to whoever”)
 (*the subject performing the speech act orders*).

Article 1, Clause 3: “The present law [...] shall be included in an official register of statutory provisions”

- (10) A will do → C commissive
 (*the subject performing the speech act commits himself to...*)

5. Conclusions

The five axes of interaction indicated above enable us to qualify the potential pragmatic content of the statutory text/ macro act by adding the relational data missing to the pragmatic structure. We shall conclude this analysis by proposing some textual pragmatic aspects (taken from ZUANELLI 1990, as a non sociolinguistic extension of DURANTI 1977, CARDONA 1976 and MARTIN 1966), which may be useful for providing a contextual connotation for the text/ macro act.

As can be seen schematically, the statutory macro act can be placed among the class of public-institutional social interactions in which asymmetrical social and communicative roles prevail, and which are realised by written/printed legal language (Tab. C). From the pragmatic standpoint, the classes of acts that realise the communicative purpose(s) are basically the foregoing four: directives, commissives, declaratives, representative-declaratives (Tab. D). The pragmatic sequence is exclusively verbal and excludes the physical presence of the interacting parties while the communicative function is asymmetrical/monologic.

In conclusion, the relational axes are substantially of four types: allocation as the main reference for the recipient/interlocutor; the reference axis as the dominance of the subject-matter with respect to the performer of the speech act/instigator; the traversal axis as the dominance of the relationship between interlocutor and subject-matter and the axis of co-action as the dominance of the relations between reference subjects/agents in the text (Tab. E).

The series of relational features is concluded with the presence or absence of the transactional object (ZUANELLI 1990 chapter 2.5), whether or not defined, as a condition for differential linguistic formulas.

Type of social interaction	Public - institutional
Symmetry/ asymmetry of social roles	Asymmetrical social roles
Symmetry/ asymmetry of communicative roles	Asymmetrical communicative roles
Language register	judicial
Codes used	written
Means used	printed

Tab. C – Social-contextual features of statutory text.

Illocutionary force	Exercitive
Communicative purpose	<ul style="list-style-type: none"> • Directive • Commissive • Representative • Declarative/ representative
Pragmatic sequence	Only verbal
Physical presence/absence of interacting parties	Physical absence of initiator/ interlocutor of speech act (1), Instigator/ recipient (2)
Symmetry/ asymmetry of communicative function	Asymmetrical/ monologic communicative function

Tab. D – Pragmatic-contextual features of statutory text

Interaction axes	<ul style="list-style-type: none"> • Axis of allocation – reference to interlocutor/ recipient • Axis of reference – dominance of subject-matter with respect to initiator/ instigator • Traversal axis – dominance of relationship between interlocutor and subject-matter • Axis of interaction – dominance of the relations between subjects/ referents in the text
Subject matter/ transactional object Defined or undefined	±

Tab. E – Relational features

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