The Case Law of the Italian Constitutional Court between Network Theory and Philosophy of Information

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1. INTRODUCTION

Over the past decade work on network analysis and the law has become increasingly popular among scholars. This research includes (not only but also) jurisprudence, legislation and how academic studies quote each other. Here, focus is on the case law of the Italian Constitutional Court and its own citation network. Sect. 2 explains how we built this latter network, so as to illustrate some of its most relevant properties. Sect. 3 deepens these results in terms of information. By distinguishing three levels of analysis, i.e. legal information “for” reality, “as” reality, and “about” reality, special attention is drawn to matters of knowledge and concepts that inform us about the different states of the world and frame the representation and function of the legal system which is under scrutiny. The conclusions indicate the next steps of our research.

2. CONSTRUCTION OF THE CONSTITUTIONAL CASE LAW CITATION NETWORK

In 2013 the Italian Constitutional Court released as open data the complete datasets of the rulings it has delivered from its origin in 1956 onwards. According to the open data principles, data are released in open format (XML) and with an open license (CC-BY-SA-3.0). Documents are annotated with a rich set of machine readable metadata of different nature (bibliographic, temporal, semantic, legal). Furthermore, the availability of the entire documental corpus allows the application in bulk of processing tools to plain texts for additional information extraction and dataset enrichment.

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The construction of the citation network of constitutional decisions requires the proper identification of the rulings (the nodes) and the explicit annotation of the judicial references among them (the edges), which are not available in the released dataset.

The identification of legal sources in general, and judicial documents in particular, is a basic issue in the overall eJustice framework so as to improve the efficiency of justice administration through the construction of interoperable legal information systems. At the European level the Case Law Identifier (ECLI) initiative has tackled the problem through the definition of the ECLI identification standard. The aim is to unequivocally identify the decisions of any court in every EU member State through the adhesion of national jurisdictions to a common identification standard.

The identifier is composed of five fields in the following order: “ECLI” abbreviation, country code (IT for Italy), court code, year of the decision, and the unique ordinal number of the decision, all separated by a colon (“:”). In order to compose the ECLI of the decisions of the Italian Constitutional Court, their metadata have been serialized, so that each decision has its proper standard identifier.

Given the authority code for the Constitutional Court (COST) and the decision year and number, the ECLI is composed as follows:

ECLI:IT:COST:{year}:{number}

On this basis, ECLI offers the identifiers of the nodes in the network, whilst edges are established by judicial references. These are hidden in the documents as textual citations: their explicit annotation requires extraction through linguistic processing tools applied to the texts.

Following the introduction of ECLI, Prudence, a reference parser for Italian case law, has been developed\(^1\). The aim is to extract judicial citations from plain text and serialize them in the ECLI standard format. Originally developed for the extraction of judicial citations in the civil case law of first instance, the parser has been adapted to texts of constitutional judgments, so as to cover more lexical citation forms which are typically used in the constitutional case law.