Annex B - Annotation Scheme, Guidelines and Charts

MADON PROJECT

Annotation scheme and guidelines

Introduction

Following scheme and guidelines provide instructions for annotating judgments of the Czech Supreme Court and Supreme Administrative Court for the MADON project (2024-2025).

Annotation Scheme

We are annotating the following argument types (standards):

I. <u>Formalistic Argument Types</u>

1. LIN - Linguistic Interpretation
2. SI - Systemic Interpretation (incl. CCI Constitutional Conforming Interpretation and EUCI EU Law Conforming Interpretation)
3. CL - Case Law
4. D - Doctrine

II. <u>Non-formalistic Argument Types</u>

5. HI - Historical Interpretation
6. PL - Principles of Law and Values (incl. CV - Constitutional Values, Rights, Principles and EUP - EU Values and Principles)
7. TI - Teleological Interpretation
8. PC - Practical Consequences

Additionally, we are storing metadata and other information described below.

Annotation guidelines for Argument Types & Holistic

(incl. Descriptions, Comments and Examples)

Formalism	Argument type	Sub-type	Description and Comments	Examples
A) Formalistic	**1. LI - Linguistic interpretation**		**<u>Description:</u>** … **<u>Subtypes:</u>** 1) Ordinary meaning 2) Dictionary 3) Syntax, grammar 4) Legal definition 5) A Contrario 6) Other **<u>General comments:</u>** Only annotate LI when explicitly or at least implicitly mentioned. If no argument type is mentioned but the court still engages in interpretation, then it may be IWS. Primarily check the sub-types although we do not annotate them anymore. If something doesn't fit into a sub-type, it's likely not LI at all – though some exceptions can fall under the "other" sub-type. When court looks for the meaning in other provisions or statutes, LI might be present with SI, but to indicate SI, there must be some, at least implicit, emphasis on the system.	**Enough:** 1) *"The prohibition formulated in the text of Section 161e(1) of the Commercial Code is unambiguously formulated"* **Not enough:** 1) *"§ 32 o.z. stipulates..."* 2) *"[…] which, together with the advance payment for the insolvency administrator's remuneration, shall be deducted from the proceeds of the realisation for the purpose of determining the so-called "net proceeds of realisation of the collateral" in accordance with Section 298(2) of the Insolvency Act"* 3) - quotation marks alone are not enough *"[…] and their view that the 'third party' against whom an insurer is entitled to recover the costs of medical care for its insured may be a legal or natural person if the damage was caused by its employee or by someone used in its activities" must be considered correct"*
		OM - Ordinary meaning	**<u>Triggers</u>:** 1. Diction ("Dikce") 2. Formulation ("Formulace") 3. Phrasing ("Textace") 4. Restrictive interpretation – "Restriktivní interpretace" 5. Unambiguously worded – ("Jednoznačné znění") 6. Meaning – ("Význam") 7. Wording ("Znění") – not always 8. Quotation marks - not always **<u>General comments:</u>** Any reference to ordinary meaning ("obvyklý význam"). Putting emphasis on the wording. Mentioning that the text is clear. Court mentions that it is employing linguistic interpretation.	**Enough:** 1) *"In addition to the above, the Supreme Administrative Court adds that the wording of Section 87e(1)(i)(1) of the Act on the Residence of Aliens is very unambiguous and leaves no room for a different interpretation."* 2) ***"**It is clear from the wording of that provision that it is very rigid and leaves no room for consideration other than the interpretation given above and adopted by the administrative authorities and the Regional Court."* 3) *"In addition to the above, the Supreme Administrative Court adds that the wording of Section 87e(1)(i)(1) of the Act on the Residence of Aliens is very unambiguous and leaves no room for a different interpretation."* **The word "unambiguous" strongly points to linguistic interpretation** 4) *"It is clear from the diction of that provision that it is very rigid and leaves no room for consideration other than the interpretation given above and adopted by the administrative authorities and the Regional Court."* **The word "diction" strongly points to the**

				linguistic interpretation 5) **An edge case:** *"Under the term intervention falls a large number of factual actions of administrative authorities which they are empowered to take by various laws. These are informal acts for which rules may or may not be laid down, [...] i.e., in general, acts which are not taken in the form of a decision, but which are nevertheless binding on the persons against whom they are directed, and who are obliged to do something, refrain from some action, or tolerate some action on the basis of both a written and a factual (oral or otherwise expressed) instruction or order."* ● In general, this does not break the existing rule that we do not mark a definition that lacks a source ● But specifically for a trigger "falls under the term" we make an exception ● This is a similar situation to the distinction "it follows from section 5" vs "it follows from the diction of section 5" 6) *"The phrase "express consent" was also introduced by the amendment into other provisions of the Civil Code."*
		Dictionary	**General comments:** Court consults a non-legal dictionary. If it is a legal dictionary –– mark is as doctrine.	
		Syntax, grammar	**Triggers**: 1) Plural form ("množné číslo") **General comments:** Courts discusses commmas, sentence structure, etc. When courts discuss the "Rules of the Czech language" When you feel like you are attending a Czech language lesson.	**Enough:** 1) *"If Article 28(2) of the regulation were nonetheless applicable in this case, this court holds that the individual parts of the sentences of Article 28(2) cannot be separated, and therefore the subordinate clause of this provision (which is not in accordance with this regulation) relates to the main clause of this provision as a whole."*
		Legal definition	**General comments:** Courts explicitly refer to some legal definition We ask the court to be explicit about the basis for its definition. It is not enough when the court only mentions a paragraph without putting emphasis on the fact that the particular term is defined in the statute. If we are not sure, whether the specific statute contains a legal definition, we will look up the statute to check.	**Enough:** 1) *"We can fully agree with the Regional Court that the complainant committed a misleading omission in this step within the meaning of Section 5a(2) of the Consumer Protection Act; according to the Act, a misleading omission is considered to be, inter alia, if the seller conceals (...) material information (...,). Such essential information is then, according to paragraph 3 of the same provision, also information on the right to withdraw from the contract (...)."*
		A contrario	**Trigger words:** 1) A contrario **General comments:** **Structure of the argument:** If a provision attaches a legal consequence to certain conditions, the legal consequence will not occur without those conditions. Argumentum a contrario is a method of argumentation that relies heavily on what the law does not explicitly state. **Examples:** If the light is green, you are allowed to drive. It	**Enough:** 1) *"It is certainly open to debate whether or to what extent the construction chosen by the legislator, whereby the transformation is partly linked to the certification of the CCI, is appropriate or correct, but in view of the role of the Chamber as such, it cannot be rejected à priori, in the opinion of the Supreme Administrative Court. On the contrary, it should be based on it until the date of entry into force of Act No. 189/2008 Coll., i.e. until 1 July 2008, since the statutory legislation does not provide sufficient support for a contrary interpretation."*

			follows a contrario: if the light is not green, you cannot drive. If a person is 18 years old, they are allowed to vote. It follows a contrario: if a person is not 18 years old, she may not vote. According to the Civil Code, if land and underground structures are immovable property, nothing else is immovable property. We also include the per eliminationem argument here – the prohibition of extending the exhaustive list – if the Civil Code specifies only four grounds for disqualification, a fifth cannot be introduced.	
		Other	**General comments:** When something does not fall within a particular sub-type but you still consider it LI → mark it as LI.	
	2. SI - Systemic interpretation		**Description:** … **Subtypes:** 1) Standard systemic interpretation 2) Collision rules 3) Narrow exceptions 4) CCI – Const. Conforming Interpreation 5) EUCI _ EU Conforming Interpretation **Trigger words:** 1) Context (“kontext”) 2) System (“systém”) 3) Subsidiary (“subsidiární”) 4) Special (“specialní”) **General comments:** SI focuses on the interpretation of a legal norm in the context of the entire legal system, considering its relationships with other norms. The aim is to ensure a 'logical', consistent and non-contradictory interpretation that respects the overall structure and coherence of the legal system. The court typically uses SI when addressing the relationship between a special and a general provision/regulation, when dealing with the *rules of priority*, or when it is considering the structure of the regulation/legal system or avoiding contradictions in its individual parts. **Standard systemic interpretation (SSI):** court reflecting United Legal Order and the Context of the Interpreted Term **Collision rules:** Lex XX derogat Legi XX **Narrow exceptions:** a principle that exceptions are to be interpreted narrowly. **Standard systemic interpretation:** As mentioned, this argument type includes interpretation based on the idea of a united legal order (e.g. order free from contradictions; or avoiding redundant provisions)	**Enough:** 1) *“Just as the law does not regulate the property law between a spouse and a partner, it does not establish their mutual maintenance obligation, whereas between spouses it does so explicitly'.”* 2) *“Since the law does not distinguish between the different types of bills of exchange (legal theory defines differences between bills of exchange for soluto, for solvendo and secured bills of exchange), it must be assumed even in the case of the so-called secured bills of exchange that they are not an accessory obligation in relation to another obligation”* ***an edge case, if less obvious, do not annotate*** 3) *“The list of proceedings on certain issues concerning legal persons within the meaning of Section 85 of the Civil Procedure Code (...) does not coincide with the list of proceedings on certain issues concerning companies, cooperatives and other legal entities persons”* 4) *“Considering that an interference action has, in comparison to other types of action subsidiary nature (...), the applicant's action is inadmissible under Article 85 of the Civil Procedure Code.”* 5) *“In order to solve our own problem, it is necessary to point out that the general regulation of notification of administrative decisions is contained in Section 51 of the Civil Procedure Code. It follows from that provision that a decision is 'notified' and that such notification takes place either by 'service' or - in the presence of the party to the proceedings – by 'publication'. A special provision to this general regulation is then laid down in Article 26 of the Rules of Procedure on* 6) *"In this context, the Regional Court in Brno should have clarified, inter alia, the relationship between the grounds for dismissal from the service under, inter alia, Section 106(1)(c), Section 106(1)(d) and Section 107(1) in fine of the Staff Act"* 7) *'"and from the principle of subsidiarity of the Civil Code to the regulation of labour relations - by the Civil Code."* 8) *an example of "narrow exceptions": "It must be borne in mind, however, that the local jurisdiction of the court which*

			We require an explicit expression of the system, or at least a very strongly implicit one. Mere categorization is not enough, there must be at least some consideration of, for example, the system of regulations, structure, and absence of contradictions. **Situations when the court takes into account two (or more) regulations:** 1) if it deals explicitly with specialty/subsidiarity → I mark it as SI. 2) if it is concerned merely with categorization → I do not mark it as SI. 3) if the court uses a different legal provision to help with context, without the different provision being applicable in any way (so that the court is actually concerned with the legal order as a whole and with unity within the legal order) → I mark it as SI. **<u>Structure of the argument:</u>** This argument type also includes reflecting the context of the interpreted term – but it needs to be at least a bit clear that the court cares about the system (e.g. reflecting other provisions and, statutes - court uses neighboring provision X to explain interpreted provision Y; , court reflecting the location of the interpreted provision in the statute- e.g. whether it is in general or specific part of the statute; what heading precedes to the interpreted provisions) **<u>Relation to other argument types:</u>** One span of text can be both SI and TI (they are not mutually exclusive - e.g. purpose can be derived from several different provisions, several purposes can form a system, etc.)	*is to hear the case is a fundamental principle and that any delegation of jurisdiction to another court is merely an exception to that principle which, as an exception, must be interpreted restrictively"* 9) *However, the same judgment, expressed outside the restitutionary framework, does not have similar effects. The essence of this difference lies in the fact that, while the restitution rules, by their specific nature, allow for the redress of certain wrongs without removing the final administrative acts by means of which, inter alia, the nationalisation processes were completed in the 'relevant period', the existence of those acts cannot be disregarded in a dispute brought under the ordinary rules* 10) *"In the present case, however, only ground (e) of the cited provision is relevant, since the complainant challenged the Regional Court's order rejecting the application, i.e. it is a special situation which takes precedence over the other grounds."* 11) *"As an illustration, one can point to the regulation of the running of time and limitation (or prescription) of property claims in other branches of law."* 12) **- combination of SI and AA** *"The complainant very possibly draws a parallel also in relation to other interventions of the state power in the sphere of the individual, such as criminal repression, the application of which is also limited in time. The criminality of an offence is extinguished by the expiry of the limitation period, which is twenty years ... An interpretation according to which, in the period prior to 2002, the customs authorities were not limited by any time limit in the successful enforcement of a customs debt would thus quite absurdly place the customs debt on the same level as the offences listed exhaustively in Article 67a of the Criminal Code, i.e. alongside acts fulfilling, for example, the elements of a war crime ..."* 14) *"This is based on the nature of social assistance benefits, which include material hardship benefits and are characterized by subsidiarity."* **Not enough:** Court mentions that the regulation stipulates two different categories of claims. Only comparing old and new legislation (without referring to system etc.). This will usually be historical interpretation. Court only categorizes something into more general category without reflecting it further. 1) *"The Supreme Administrative Court, in assessing whether it is necessary to use the measure against inaction under the provisions of Section 80 of the Code of Civil Procedure in the case of an action for protection against inaction of a central state administration body, has based itself on the meaning and function of this legal institute and its place in administrative proceedings."* 2) *"As the Municipal Court aptly stated (paragraph 26), it follows from the Law on the Promotion of Sport only that the defendant sets the rules on how and on what basis it will grant subsidies. However, that Act does not lay down specific procedural rules, does not expressly provide for the designation of a promoter for each sport, and does not lay down any further requirements or procedure for*

				that act. In such a situation, the only possible conclusion is that it is not an administrative decision within the meaning of the Administrative Procedure Code and that the defendant cannot attribute the nature of a decision to this act on the basis of internal rules (paragraph 27 of the judgment of the Municipal Court). 3) *"Moreover, at the time when the accused was alleged to have committed the offence, the legal order of the time did not provide an alternative to the performance of basic military service in cases where its performance led to a denial of the individual's religious beliefs."*
			Collision rules: (left here separately for clarity, but it no longer exists as a separate subtype). Cases: 1) Lex superior derogat legi inferiori 2) Lex posterior derogat legi priori 3) Lex specialis derogat legi generali We require at least a minimum level of use in an argument. Don't annotate this sub-type when the court just mentions existing law without real reasoning. This usually happens at the start of the merits section. In other sections of the decision, we will usually mark it. If the following passage were in the context that there was a dispute about whether the CPR applied, we would take it as an argument, otherwise we would not: "Pursuant to the provisions of Section 52(1) of the Enforcement Procedure Code, unless the Enforcement Procedure Code provides otherwise, the provisions of the Code of Civil Procedure shall apply to enforcement proceedings mutatis mutandis. If a court applies **the earlier provision instead of the latter (the opposite of *lex posterior derogat legi priori*), it is not a collision rule.** This situation fall under no argument type at all unless the court adds reasoning e.g. prohibition of retroactivity (then it would be a principle	**Enough:** 1) *"Since the provisions of Section 281 of the Criminal Procedure Code do not contain special provisions for decisions pursuant to Section 288(3) of the Criminal Procedure Code, the general provisions on the subject matter and local jurisdiction of the court (Sections 16 to 22 of the Criminal Procedure Code) apply. The jurisdiction of the court is therefore governed by the general provisions of Sections 16 to 22 of the Code of Criminal Procedure."* 2) *"Since the ordinance is a subordinate legislation, it must, as the Constitution requires, be issued 'under and within the limits' of the law. This is merely a republication and constitutional expression of the old principles that flow from the nature of the separation of powers, which can be succinctly characterized: the ordinance must be issued secundum et intra legem."* **Not enough:** 1) "*For the sake of completeness, the Insolvency Court adds that the amendment to the provisions of Section 298(7) of the Insolvency Act made effective as of 1 June 2019 by Act No.31/2019 Coll. (consisting in the deletion of the regulation on the service of the resolution on the insolvency administrator's proposal for the release of the proceeds of the realisation separately to the persons listed therein) has no effect on the conclusions formulated below, which are thus also applicable in the context of the Insolvency Act as amended with effect from 1 June 2019 (the circle of persons entitled to appeal against the said decision remained unaffected by the amendment)."* 2) *"Since the limitation period began to run before 1 January 2014, when Act No.89/2012 Coll. entered into force, the question of limitation must be assessed in accordance with the existing regulations, i.e*
			Constitutional Conforming Interpretation **General comments:** The court needs to explicitly talk about constitutional conforming interpretation or interpretation in accordance with the Constitution. **EU Conforming Interpretation** **General comments:** The court needs to explicitly talk about euro-conform interpretation or interpretation in accordance with EU law. Usually, it will not be enough when the court simply refers to case law or legislation. To mark	**EU Conforming interpretation** **Enough**: 1) *"The fact that the regulation of consumer contracts has its origin in European Union law (see Article 51a of the Civil Code) affects the position of the contracting parties, inter alia, in that the national regulation, although not implementing or insufficiently implementing the Directive, must be interpreted to the greatest extent possible in the light of the wording and purpose of the Directive in order to achieve the result set out in the Directive (indirect effect)"* *2)* *Section 9(1) of the Consumer Credit Act does not specify whether the consequence is relative or absolute nullity. Since the statutory regulation transposes Articles 8 and 23 of Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008, the court is obliged to*

			EUCI as present, the court would need to also consider the need to fulfill the objectives of EUCI etc. When court mentions objectives of EU law in this context, we only mark it as EUCI, not teleological interpretation. **<u>Structure of the argument:</u>** 1) The national regulation stipulates X. 2) X can be interpreted as Z or Y. 3) The court is obliged to interpret domestic legislation in a Euro-conformist manner (EUCI). 4) EUCI means an interpretation that fulfills the purposes of the Directive. 5) The Directive's purpose is C. 6) Interpretive option Z leads to the fulfillment of objective C of the Directive. 7) It follows from the EUCI that X is to be interpreted as Z.	*interpret the domestic regulation in a euro-conformist manner. A euro-conform interpretation means an interpretation which fulfils the purpose of the directive. According to Article 26 of the preamble to the directive, the purpose of imposing an obligation on creditors to examine the creditworthiness of the debtor is to prevent creditors from engaging in irresponsible lending, with the proviso that the Member States should provide for the necessary means of sanctioning creditors in such cases. The Court considers that the effective sanctioning of creditors for breaches of the obligation to properly examine the creditworthiness of the creditor only has the effect of rendering such a contract absolutely void, which the courts would examine of their own motion. In typical consumer contract disputes, the debtors are usually passive in the proceedings, which would mean that, in the event of a mere relative nullity, no objections would be raised by the debtors and the creditor's failure to investigate creditworthiness would have no negative consequences. It follows from the Euro-conform interpretation that if a contract is void under Section 9(1) of the Consumer Credit Act, it is void absolutely under Section 588 of the Civil Code.* **Not enough:** 1) *"The Supreme Administrative Court does not consider this practice to be in any way contrary to the requirements of Directive 2004/38, since the latter does not oblige Member States in all circumstances to favor beneficiaries of Article 3(2) of Directive 2004/38 over other (third-country) aliens, but only to facilitate their entry and residence (in certain respects)."* ***We want it to be more expressive, to realistically interpret in accordance (e.g. due to some discrepancy).***"
	3. CL - Case Law		**<u>General comments:</u>** Reference to previous courts' decision May include Czech courts and **also C**JEU, ECHR, General Advocate's opinion Decisions of **foreign-country courts** shall basically always be annotated as comparative reasoning (an exception might be when the Czech judgment you annotate is about enforcing a foreign judgment). Decisions of **historical courts**, like the Supreme Austrian Court from the Austrian-Hungarian Empire, shall be annotated as case law. When a court cites a judgment that employs a different argument type (e.g., principles), we mark this mentioned argument type as a separate one. In exceptional cases, we do not mark CL – specifically: a decision of the Constitutional Court annulling legislation, unless it is used as a case law.	**Not enough:** Court states 'according to the case law" without referring to particular case law. Careful! - Courts sometimes refer to their own case law in the same case (e.g., when the Supreme court decides the exact same matter for the second or third time). We only mark such reference when it is used as a standard argument (which is often not the case).
	4. D - Doctrine		**<u>General comments:</u>** References to commentary literature or other literature. Foreign doctrine shall be annotated as doctrine. When the doctrine is cited with regard to foreign legislation, it shall be annotated as comparative reasoning. When I do not know if a foreign doctrine is "regular" doctrine or a comparative argument, I should probably mark it as comparative.	**Enough:** 1) *"cf. BEZOUŠKA, Petr. Compensation for the Maintenance of Survivor (...)"*

B) Non-Formalis	**5. HI - Historical interpretation**		**Description:** In this category, we denote lawmaker's intent, which the court ascertains from the subtypes. If the court is working with the intent of the legislature but the subtype is missing (i.e., the court is talking about the intent of the lawmaker without, for example, relying on the explanatory memorandum), then we still annotate it as HI. **Subtypes:** 1) Explanatory notes 2) Stenographic records and other documents regarding the legislative process 3) Circumstances of the law's adoption 4) Not enacting new legislation 5) Rational Lawmaker Assumption 6) Other **Trigger phrase:** 1) The lawmaker intended ("zákonodárce zamýšlel") **General comments:** If a court uses the term lawmaker provides, instead of statute provides, it is not automatically HI. It must be at least somewhat clear that there is lawmaker's intent; it is not enough for the court to say 'lawmaker'; it must say, for example, "lawmaker's intent'. **Relation to other argument types:** **Note the similarity to the RLA:** Hypothetical reasoning distinguishes RLA from HI; with RLA, one is not working with the actual will (that's HI), but one is working with the hypothetical will (if the legislator wanted X, he would have said X; the legislator said Y, therefore Y).	**Enough:** 1) *"cf. the wording of the said provision in the wording effective as of 1 June 2019 as quoted above and the special part of the explanatory report ["On points 4 and 5 (section 274)"] to the governmental bill No. 31/2019 Coll., which was debated by the Chamber of Deputies of the Parliament of the Czech Republic in its 8th term (2017-2021) as Document No. 71."*
		Explanatory notes	**General comments:** The (European) Commission's guidance on the interpretation and application of the Directive is given in the Explanatory notes.	
		Stenographic records and other documents regarding theegislative process		Example – committee resolution, amendment
		Circumstances of the law's adoption		
		Not enacting new legislation	**General comments:** Court chose an interpretation alternative based on the fact that the legislature did not change the existing law. We care about the absence of change; not mark	**Enough:** 1) *"This is all the more true in a situation where the wording of the sixth sentence of Section 44(1) of Act No. 95/2004 Coll., as well as the authority of the ČLK to issue licenses, was not affected by the amendment to*

D) Metadata

Identification

1) **Ref. no** (e.g. "32 Cdo 2452/2014")

2) **Senate** (e.g. "32")

3) **Branch** (Easily detectable from the ref. no.)
    a. Civil
    b. Criminal

4) Decision type
    a. *Rozsudek* (a judgment on the merits)
    b. *Usnesení* (a procedural ruling)
    c. Other

5) Result
    a. Rejected (*odmítnuto*) – inadmissibility or other procedural grounds
    b. Dismissed (*zamítnuto*) – admissible appeal, not successful
    c. Upheld (*vyhověno*) – appeal admissible and successful, i,e. appellate court overturns previous decisions of the court (incl. partially successful)
    d. Other (e.g. recognition of a foreign judgment)

6) Year of issuance (e.g. 2012)

7) TBC

General Annotation Guidelines

A) General annotation philosophy

When annotating, we are more mechanical and less creative. This has 2 consequences:

1) **We annotate what the court says it's doing**, not what it's doing (e.g. if the court states that it is applying a systemic interpretation but does not continue this approach throughout the decision, we still mark it as systemic interpretation in that specific paragraph. Similarly, if the court identifies something as a legal principle, even if it is debatable, we still categorize it as a principle.)

2) **Unless clear from the context, we avoid inferring what's not written** in the decision. (e.g. when a court defines a legal term without citing the source of that definition in any way, we don't mark it as an argument – might be IWS though)

Note: Consider context (e.g. facts, previous procedural development, different part of the judgment). Being mechanical does not mean ignoring context.

Step-list for edge cases:

1) Check the Argument Type: Always refer to the specific section in the annotation scheme.

2) Read descriptions and comments of the argument type
   → is there a match? If yes, likely annotate (might help to focus on the essence/structure of the argument, i.e., ask, what is the argument type about and whether this essence/structure is at least partially present in your case)

3) Check trigger words
   → is there a match? If yes, likely annotate

4) Check examples
   → is there a match with "*enough"* examples? If yes, likely annotate
   → is there a match with "not *enough"* examples? If yes, likely **not** annotate

5) Test your justification; imagine explaining your reason to annotate during a call
   → Strong Justification based on Annotation Scheme? Annotate.
   → Weak Justification? Do **not** annotate.

   Sometimes you might need to refer to the General Annotation guidelines to see, e.g., whether we annotate rejected arguments etc.

Subtypes:
We no longer annotate individual argument subtypes. We mark all argument types as the subtype “Other”. We still keep the individual subtypes as a part of the Annotation scheme, since they are the deciding factor when determining the general argument type.

An exception to this is the TLA argument type, which consists of only 2 subtypes. We still mark these subtypes.

B) What parts of the decision do we mark

We focus primarily on the admissibility part and beyond. We skim the preceding parts of the decision (such as a summary of the previous proceedings or the parties' arguments), but almost never annotate unless there is an exceptional case.

> **An example of the parties' argument** (we do not annotate this):
> *"The defendant (1) has identified as a question not yet resolved in the decision-making practice of the Court of Appeal whether, in exceptional cases, in view of the right of everyone to be heard in his presence and to be able to comment on all the evidence and the principle of directness, the regulation of exclusive local jurisdiction can be overcome by providing that the general court shall have local jurisdiction."*

We only annotate interpretation of statutes, not private legal acts (e.g. contracts, wills), nor factual circumstances, nor interpretation of what previous courts/agencies did.

If the court is no longer interpreting a rule, but rather proceeds to subsumption (application to a particular case) towards the end of the decision and only mentions something for the first time there, we are rather hesitant to mark an argument, unless we are really sure an argument type is present.

C) What we mark as an argument

C.1) Minimum requirements for an "argument"

The court should mention the argument type at least a bit in its reasoning. We are more restrictive with annotation in the opening passages where the court only references valid law without using it in argumentation.

> **For example: If the following sentence appears in such part, we do not mark it; if it appeared in the part with argumentation, we could mark it:** *"Pursuant to the provisions of Section 52(1) of the Enforcement Procedure Code, unless the Enforcement Procedure Code provides otherwise, the provisions of the Code of Civil Procedure shall apply to enforcement proceedings mutatis mutandis."* (typically when it comes to lex XX derogat legi XY)

When annotating sections where the court addresses admissibility, we mark argument types even in certain paragraphs where it may be open to debate, as the argument has largely become a stereotypical phrase used across multiple judgments

> **Example**: *'An appeal is conceived as an extraordinary remedy and is therefore intended to remedy only serious legal defects in final decisions.'*

If the court does not explicitly use something in reasoning, but considers it relevant, we generally want to mark it. In most cases, it is enough for the court to mention the argument type – we don't examine in too much detail whether the court is truly using the argument type as an argument, we simply mark the argument type

.

> **An example of what is sufficient as an "argument" for us when the court merely makes a general mention of the use of a certain argument type.**, *"Thus, in addition to the wording itself, the meaning, purpose, and legislative history of the provision being interpreted must be addressed."* = Since the court mentioned purpose, historical interpretation, system and textualism, we will mark these argument types
>
> **An example specific to situations of non-reviewability, because the Supreme Administrative Court itself cannot fully comment on it** and instructs the lower court to *"consider whether and to what extent the conclusions expressed by the Supreme Administrative Court in its judgment of 28 November 2008, No. 4 Ads 82/2007 - 95, are applicable to the case under consideration".*

We take into account the context, if a court mentions a principle and only two paragraphs later states that it is a constitutional principle, we mark it as a constitutional principle even in the previous pargraphs

At the same time, we reflect the structure of the paragraphs = if an argument is divided into two paragraphs, where the first one just says the type of argument in general and only in the next paragraph discusses it in detail, **we mark it as two separate arguments**

> **An exception:** an obvious summary, where we are 100 percent sure nothing new appears, which we mostly do not mark

C.2) Rejection of the argument by the court

Generally, if an argument is presented, it should be most likely marked.

Though, we do not mark some arguments rejected by the court. Argument rejection can take several forms; whether we mark a rejected argument depends on the nature of the argument rejection. **We do not mark an argument if it is one of the two types of rejection below:**

1) **Rejection of an objection: the court explicitly refuses to address the relevant argument type** (typically argued by one of the parties) and does not address the argument type at all.

> **Example 1:** *"With regard to the last objection concerning the violation of legitimate expectations, in which the complainant argued that in similar cases the procedure was not initiated ex officio, the Supreme Administrative Court notes that the procedure for granting a licence is not initiated ex officio, but only upon request. It is therefore not clear what specific proceedings the complainant was referring to by that objection, as she did not specify them. It is clear, however, that her complaint is directed at other proceedings which are not connected with the subject-matter of the present case. Moreover, that objection is so vague that the Supreme Administrative Court cannot deal with it in substance.'*
>
> **Example 2:** *"In support of its conclusion, the Municipal Court also referred to the judgment of the Supreme Court of 11 May 2005, Case No. 30 Cdo 64/2004 (available at www.nsoud.cz) [...] The case concerned the use of an audio recording of a conversation between the partners of a commercial company about the affairs of that company. However, the City Court's reasoning is not valid."*

2) **Rejection of an argument type as such: the court explicitly rejects the argument type as such and explicitly prefers another argument type** (the idea is to detect a situation where the court says "the text implies X, the purpose implies Y, I prefer the text and reject the purpose, therefore X" – in that case, we would not mark teleological interpretation, but it must be explicit).

> **Example 1***: "While such a conclusion is very likely contrary to the intent of the historic legislature, it is the only interpretive alternative that can avoid a conflict with constitutional order while interpreting the Customs Act consistently with the fundamental principles of the legal order as a meaningful whole*.
>
> **Example 2:** A court will explicitly refuse to respect a decision because it is wrong.
>
> **Example 3:** The court explicitly rejects the case law because it is overruled.

But we still mark the following situation:

3) **An argument type considered although not directly applied**: the court considers an argument type (typically argued by the complainant) and, after this consideration, rejects the conclusion drawn from the argument type as unreasonable (e.g. the court considers whether there has been a violation of the right to a fair trial and concludes that there has not; or e.g.: court considers whether the explanatory memorandum implies X and finds that it does not) .

This situation differs from no. 2) in that **the court is not rejecting the argument type as such, it is just finding it inapplicable to the case** based on some facts:

If you are unsure whether the court explicitly rejected an argument type (type 2 – rejection of an argument type as such), it is likely that the court just did not apply it directly, i.e. you annotate.

> **Example 1:** *"The defendant's use of linguistic interpretation is also erroneous. According to the Supreme Administrative Court, the wording 'those who have obtained a certificate from the Czech Medical Chamber' does not automatically imply that the past tense in the adjacent clause means 'obtained before the entry into effect of this Act'."*
>
> **Example 2:** *"As far as the historical method of interpretation is concerned, the explanatory memorandum to the amending law*

also does not give any clear answer."

Example 3: The court will analyze the case law and not apply it because it addresses a different situation.

D) Extent of the marked text – length of the span

When you see an argument, **highlight the whole paragraph** and assign the category. **When two or more argument types appear in a single paragraph, you should mark the same span** (the whole paragraph) **as falling under two categories**

Example 1: (linguistic and systemic interpretation)
In particular, the Administrative Code designates Section 26 with the marginal heading "Service by public notice"; the Building Act used the marginal heading "Notification of the zoning decision" under Section 42. In fact, the provision of § 42 itself regulates two issues: first, the "notification" of the decision (first sentence "The decision shall be notified by public notice"), and second, the "service" (second sentence "Service shall be effected by posting the decision..."). There is therefore no affinity with the Administrative Procedure Code, which refers to 'service by public notice'. This difference is not simply the result of grammatical or linguistic interpretation."

Example 2: (systemic interpretation, caselaw, doctrine)
"In view of the fact that an interference action is subsidiary in nature compared to other types of action (see paragraphs 41 and 42 of the judgment of the Extended Chamber of 21 November 2017, No 7 As 155/2015 - 160, or Kühn, Zdeněk, Kocourek, Tomáš et al. Administrative Procedure Code. continued 1 Ads 53/2020 - 24 Commentary. Prague: Wolters Kluwer 2019, p. 721), the complainant's action is inadmissible within the meaning of Article 85 of the Code of Civil Procedure."

Example 3: (systemic interpretation, teleological interpretation)
"By a systematic and logical interpretation, it can be deduced that the purpose of this provision is to ensure a certain stability of the state of the matter whose release is requested and to prevent purposeful changes in that state."

E) Number of marked argument types

E.1) Number of argument types depending on the number of paragraphs

1) Within a paragraph, **mark one type of argument type as if it were in the paragraph only once** (even if it appears multiple times in different parts of the paragraph)
2) **An argument made across multiple paragraphs should be marked as a new argument type (the same type of argument) in each of the paragraphs**. We are not able to precisely distinguish whether it is a new argument using the same argument type or the same argument, so we prefer to mark it is a new one.

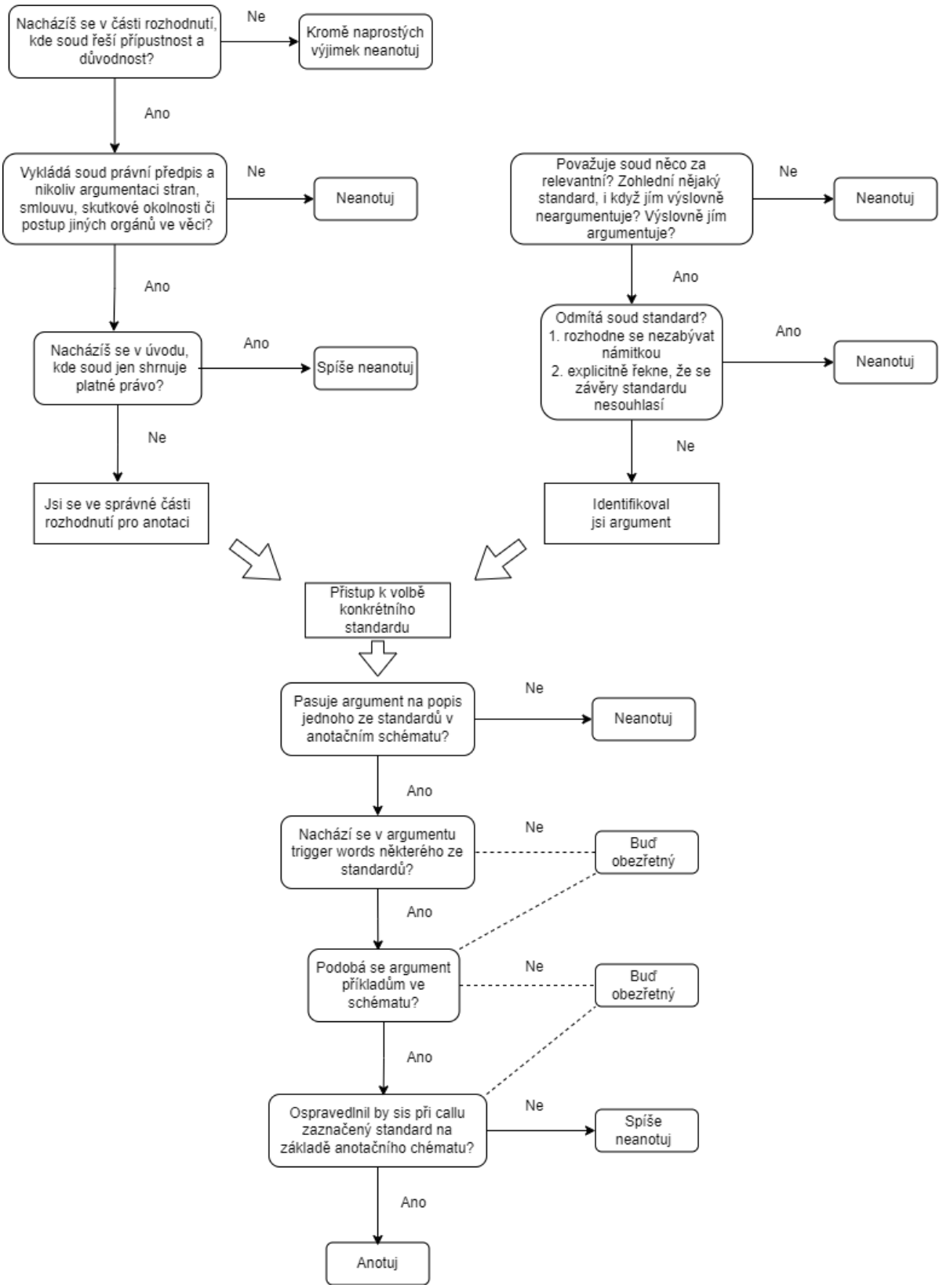
E.2) Number of argument types within a span

1) Argument types are mutually exclusive in the sense that the individual argument types are sufficiently distinct that **they are not simply interchangeable.** It is therefore not the case that marking one automatically conditions the marking of the other.
    a. This will normally manifest itself, for example, in that a single word or a phrase cannot fall under multiple argument types

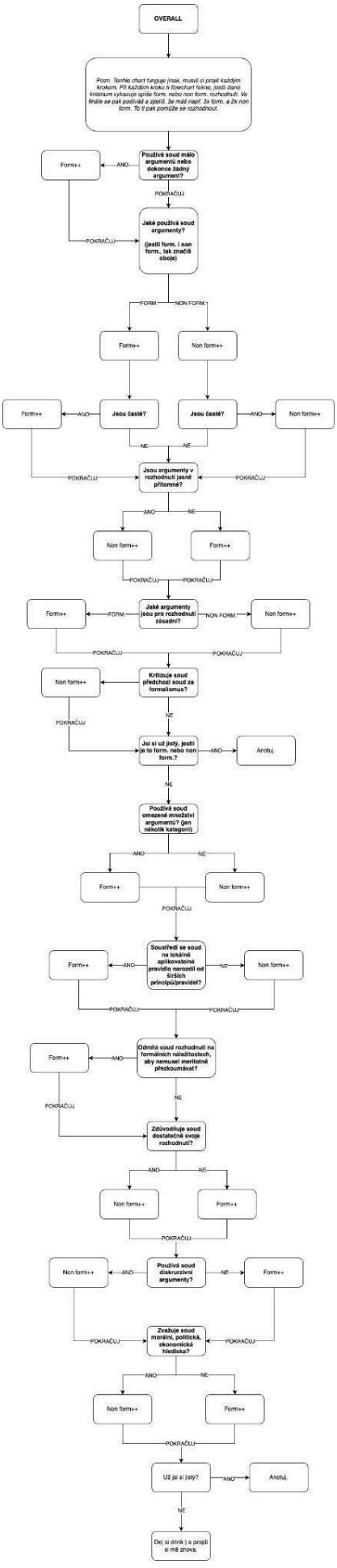
2) When there are **multiple argument types in the same span, mark** the span (text) as falling under **multiple categories**
    a. For **examples** see *D) Extent of the marked text*
    b. This is very common since a single span is a whole paragraph and the courts usually include multiple argument types within a paragraph
    c. If the conclusion derives from multiple argument types (e.g., case law and doctrine), mark both
    d. **When courts cite an argument type** (typically case law or doctrine) **and there is another argument type in that citation** (e.g. purpose of the law), **we mark both argument types** (i.e., case law and purpose) as present.

Flow Charts

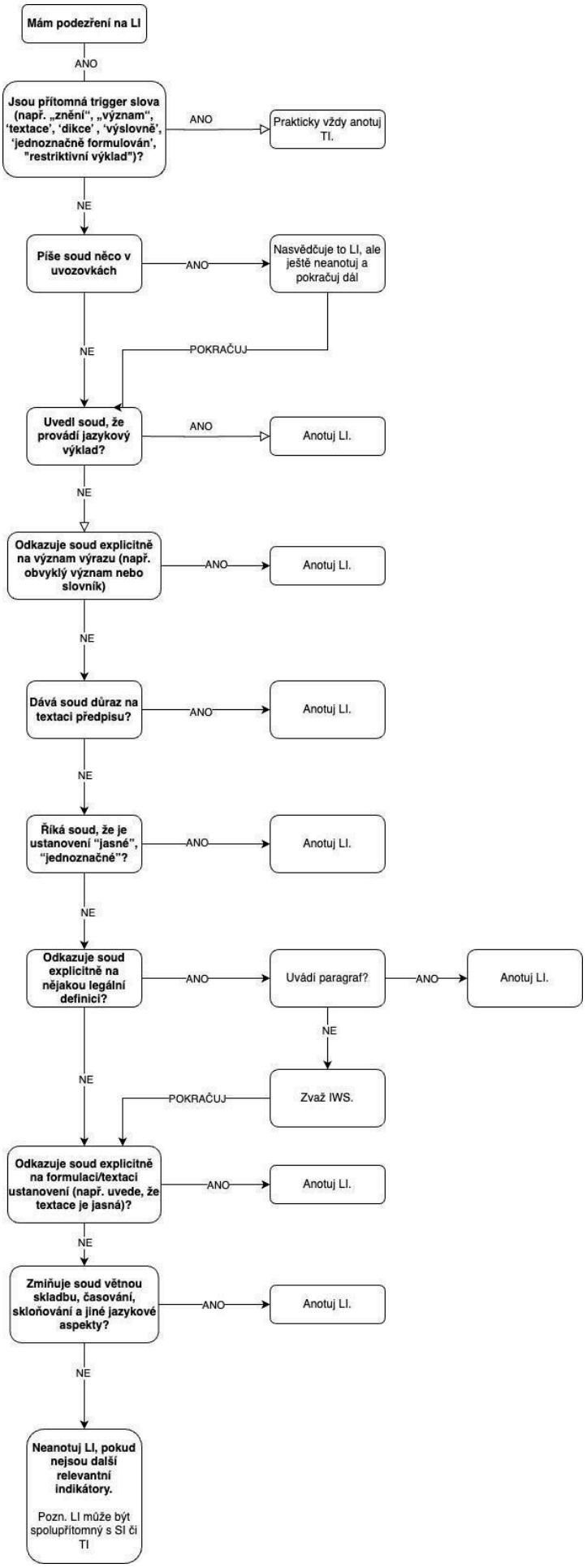
General annotation guide



Holistic

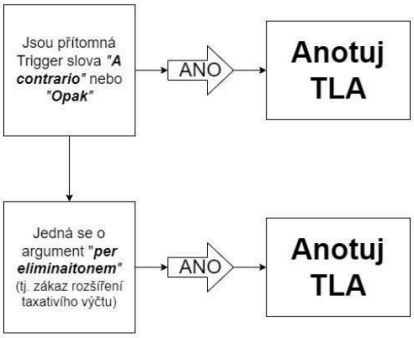

OVERALL
Pozn. Tenhle chart funguje jinak, musíš si projít každým krokem. Při každém kroku ti flowchart řekne, jestli dané kritérium vykazuje spíše form. nebo non form. rozhodnutí. Ve finále se pak podíváš a zjistíš, že máš např. 3x form. a 2x non form. To ti pak pomůže se rozhodnout.
Používá soud málo argumentů nebo dokonce žádný argument?
ANO
Form++
POKRAČUJ
Jaké používá soud argumenty? (jestli form. i non form., tak značíš obojí)
POKRAČUJ
FORM
NON FORM
Form++
Non form++
Form++
ANO
Jsou časté?
Jsou časté?
ANO
Non form++
NE
NE
POKRAČUJ
Jsou argumenty v rozhodnutí jasně přítomné?
POKRAČUJ
ANO
NE
Non form++
Form++
POKRAČUJ
POKRAČUJ
Form++
FORM
Jaké argumenty jsou pro rozhodnutí zásadní?
NON FORM
Non form++
POKRAČUJ
POKRAČUJ
Non form++
Kritizuje soud předchozí soud za formalismus?
POKRAČUJ
NE
Jsi si už jistý, jestli je to form. nebo non form.?
ANO
Anotuj.
NE
Používá soud omezené množství argumentů? (jen několik kategorií)
ANO
NE
Form++
Non form++
POKRAČUJ
Form++
ANO
Soustředí se soud na lokálně aplikovatelné pravidlo narozdíl od širších principů/pravidel?
NE
Non form++
POKRAČUJ
POKRAČUJ
Form++
ANO
Odmítá soud rozhodnutí na formálních náležitostech, aby nemusel meritorně přezkoumávat?
POKRAČUJ
NE
Zdůvodňuje soud dostatečně svoje rozhodnutí?
ANO
NE
Non form++
Form++
POKRAČUJ
Non form++
ANO
Používá soud diskurzivní argumenty?
NE
Form++
POKRAČUJ
POKRAČUJ
Zvažuje soud morální, politická, ekonomická hlediska?
ANO
NE
Non form++
Form++
POKRAČUJ
Už jsi si jistý?
ANO
Anotuj.
NE
Dej si drink :) a projdi si mě znova.

Linguistic Interpretation



Argument A Contrario (part of LI)

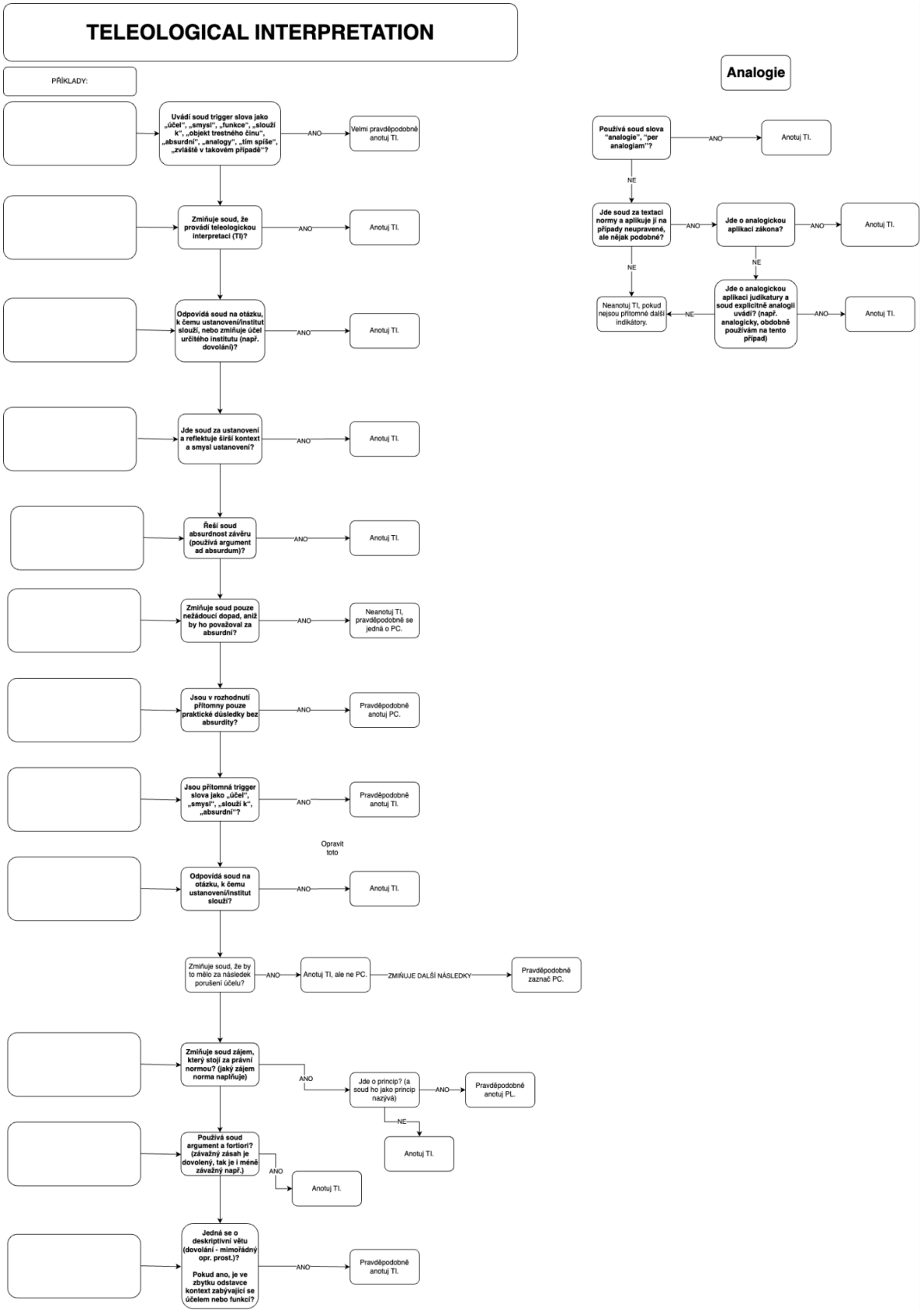
Argument a contrario



Příklady

1)
"Lze pak jistě polemizovat o tom, zda či nakolik je zákonodárcem zvolená konstrukce, kdy transformace je částečně navázána na osvědčení ČLK, vhodná či správná, s ohledem na úlohu komory jako takové ji však podle názoru Nejvyššího správního soudu nelze a priori odmítnout. ***Naopak, je třeba z ní vycházet, a to až do data nabytí účinnosti zákona č. 189/2008 Sb., tj. do 1. 7. 2008, neboť pro opačný výklad neposkytuje zákonná právní úprava dostatečnou oporu."***

Teleological Interpretation



Practical Consequences