

E-Parliament: Legislative Standards and Good Practice

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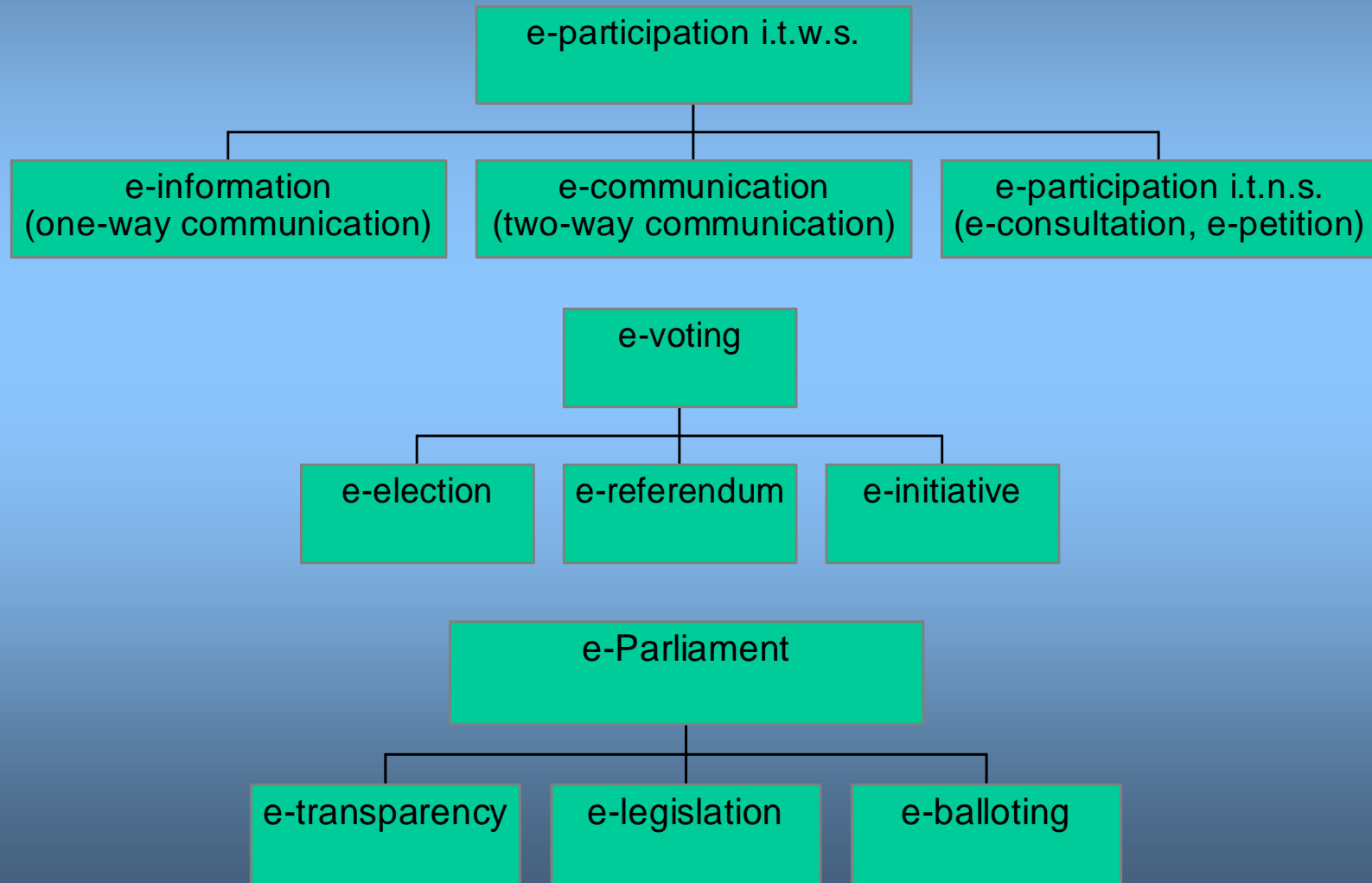
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Overview

- E-democracy and E-Parliament
- Parliament and the NICT
- Standardisation and good practice
- A reference model of a management system for legislative information
- Legal/legislative standards

E-democracy: the framework



Life-cycle of new technologies (Coleman)

- Uncertainty
- Euphoria
- Institutionalisation
- Societal Adaptation

Life-cycle of the NICT

- Uncertainty until early 1990s
- Euphoria after creation of the WWW
- Currently phase of institutionalisation (in many fields „business as usual“)
- Indicator for societal adaptation: no more „mimikry“ solutions

The IT impact on legislation

- 1970s: law documentation (mainframes)
- 1980s: documentation of legislative processes (mainframes ... PCs)
- 1990s: electronic availability of data (metadata, full texts of documents, audio/video streaming) to the general public (PCs ... Internet)
- Today: “electronification” of legislative processes, first steps towards electronic involvement of NGOs and the general public
- Tomorrow: ?

Legislative processes and E-business/government functions

- Information
- Communication
- Transaction
- Communication and transaction functions have been made large-scale available through Internet and Intranet applications

Five steps of electronic support of legislative processes

- Information management
- Workflow management
- Improving the procedural quality
- Improving the output quality
- Improving the participatory quality

Process modelling

- Information management: descriptive modelling (reduction of complexity)
- Workflow management: descriptive/prescriptive modelling (complex legal and administrative procedure)
- Future development: prescriptive modelling/process re-engineering (changing the legislative process, e.g. by introducing new instruments/steps)?

Improving the procedural quality

- Process modelling is making aware of improvement capability
- Procedural steps based on convention can easily be (have already been) changed/omitted
- Change of procedural steps based on rules of procedure requires amendment of these rules

Improving the output quality

- Legimatic drafting systems for improving the formal quality of legislation (checking the implementing of or immediately implementing legislative guidelines)
- Regulatory impact assessment (simulation systems) for improving the material quality of legislation

Improving the participatory quality

- Already emerging standard solution: introducing new communication tools into the representative system (responsivity as a necessary feature of transparency)
- Dichotomy indirect vs. direct democracy?
- Visionary concepts for intermediate democracy models ...

Standardisation

- Developing standard solutions typical feature for institutionalisation phase in the life-cycle of new technologies
- Complexity/uniqueness of legislative procedures impediment to standardisation
- Using standard tools for developing individual solutions

Open standards

- Using open standards essential for two reasons: transparency and long-term availability of parliamentary business
- Transparency as a basic function of Parliament: even „technically“, Parliament must not be a „black box“
- Long-term preservation basic requirement for sustainable legal certainty

Available standards

- Document architecture: SGML – ISO standard > XML – W3C standard (standard exchange format for legal/legislative documents: CEN/MetaLex; regional standard: Akoma Ntoso)
- Metadata architecture: e.g., DCMES (Dublin Core Metadata Element Set), XML-based standards for document description (many projects: e.g., ParlML)
- Archival architecture: OAIS (Open Archival Information System) – ISO standard

Standards and good practice

- Theoretical approaches: global URN standard for legal/legislative documents, jurisdiction-independent XML standard for legal/legislative mark-up, legal/legislative ontology for semantic annotation of legal/legislative texts, customizable workflow software to support legislative processes
- Global solutions require global environment
- Practical approach (for the time being): sharing experiences, learning from good practice
- From good practice to reference models

A management system for legislative information: an abstract model

- Developed within the framework of an OSCE mission to support the Serbian Parliament, based on the practical experiences in Austria (Hoffmann/Schefbeck)
- Purposes: producing, transporting, processing, documenting, publishing, and storing legislative documents
- Three core elements: legislative editor, workflow system, open archive

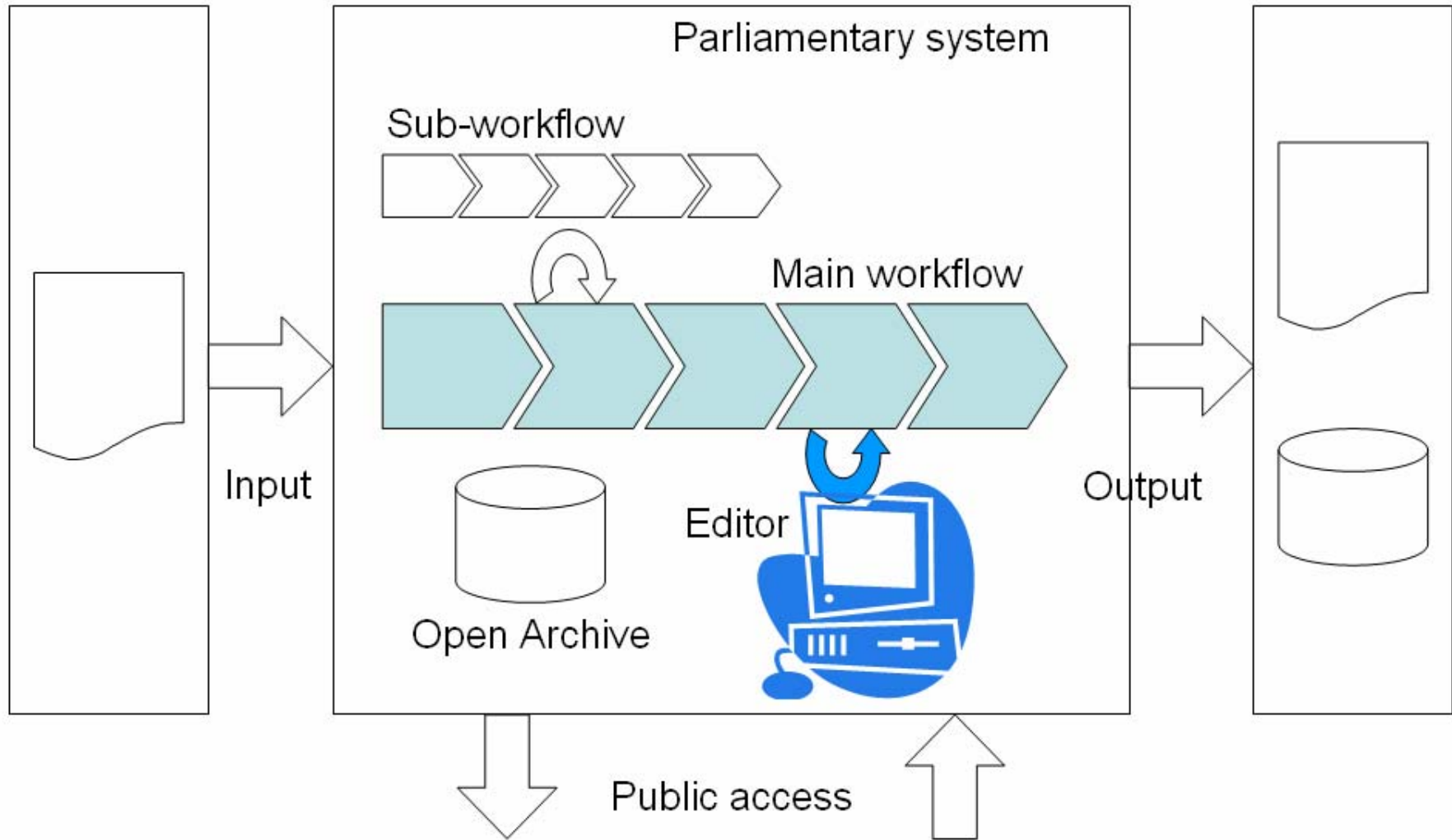
Legislative documents

- Uniform format essential: to be agreed on by all actors in the legislative process
- Syntax: XML recommended
- Data: legislative text
- Metadata:
 - Legal status information
 - History information
 - Layout information
 - Semantic annotations

Legislative editor

- Technical environment for legislative drafting
- Support of/restriction to formatting rules
- Support of implementation of legislative drafting rules with regard to structure and layout
- Currently, legislative XML editor would be required
- OOXML might enable use of standard text editors (discussion OOXML vs. ODF!)

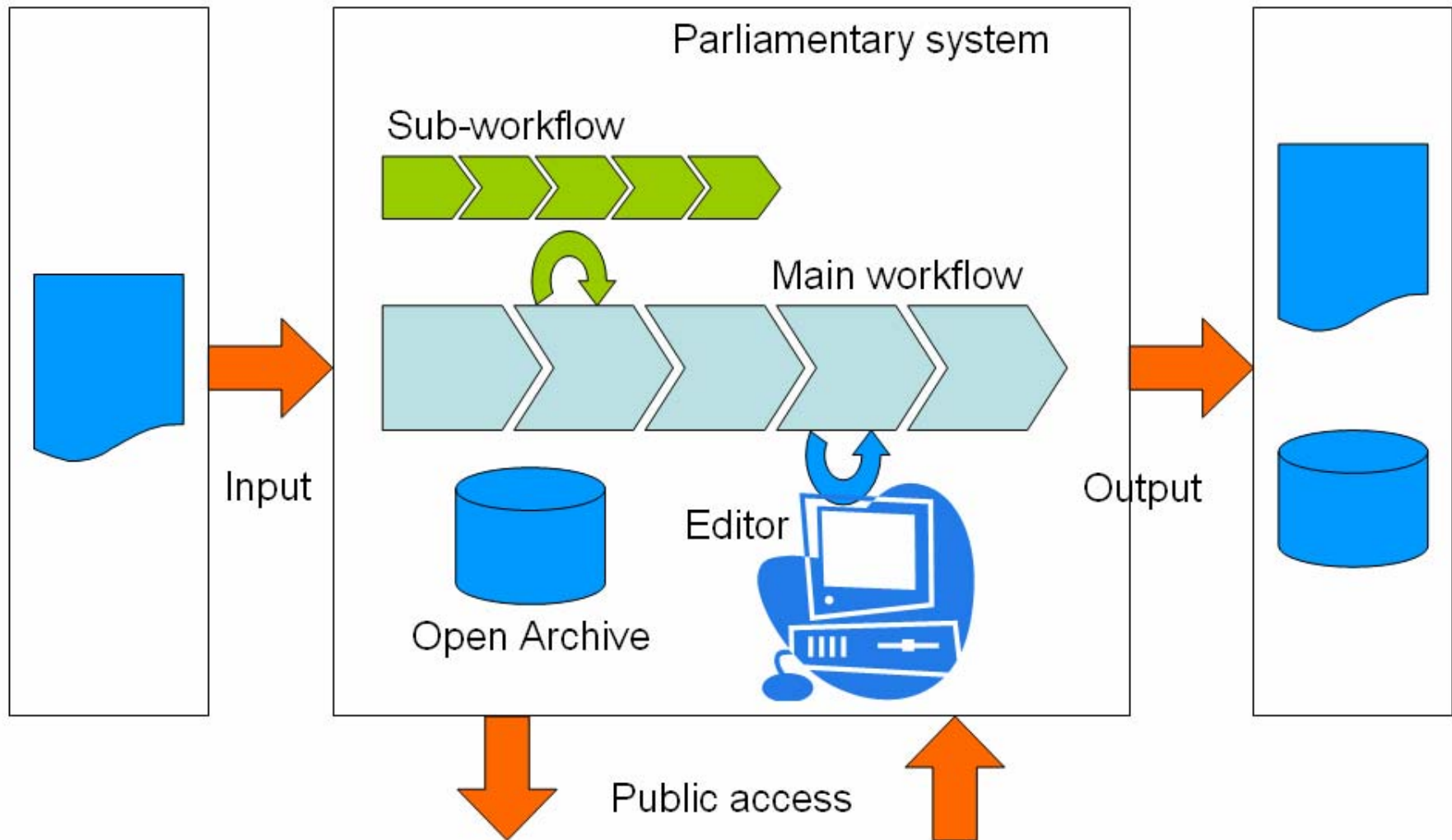
Legislative workflow



Workflow system

- Transport of legislative documents between the different procedural stages
- Simple checkout/checkin procedure for sub-workflows
- Support of the actors in the legislative process in performing their functions (actor/role paradigm)
- Archiving the results of each process step
- Guaranteeing the technical authenticity of the archived versions of documents

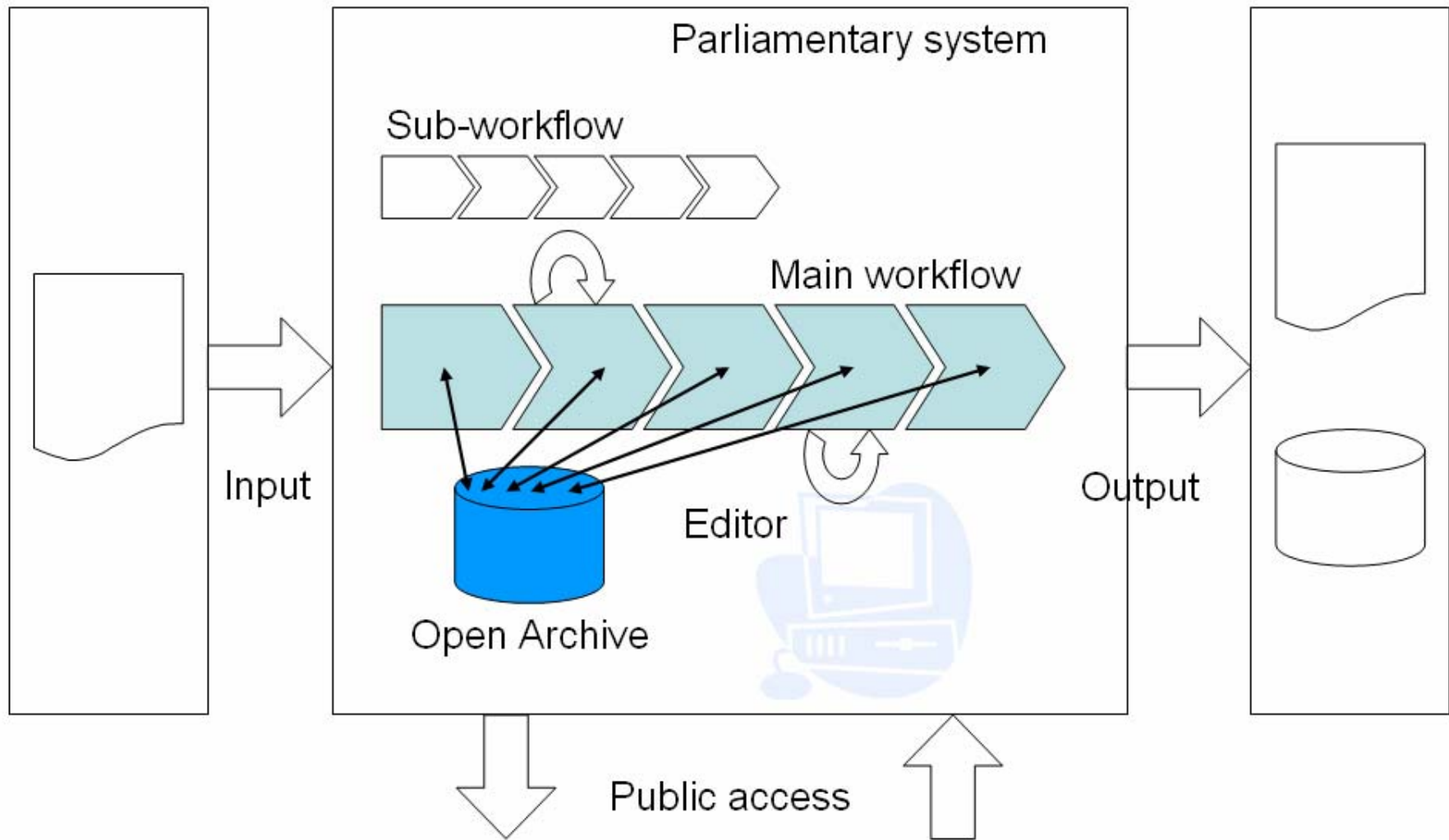
Legislative workflow



Open archive

- Non-proprietary access to all information stored at the different stages of the legislative procedure as a requirement for long-term preservation (alternatively, safeguarding accessibility of source code in case the legal existence of proprietor ends)
- Separated from possibly proprietary parts of the workflow system
- Making available information to users outside the workflow, e.g. through a web portal

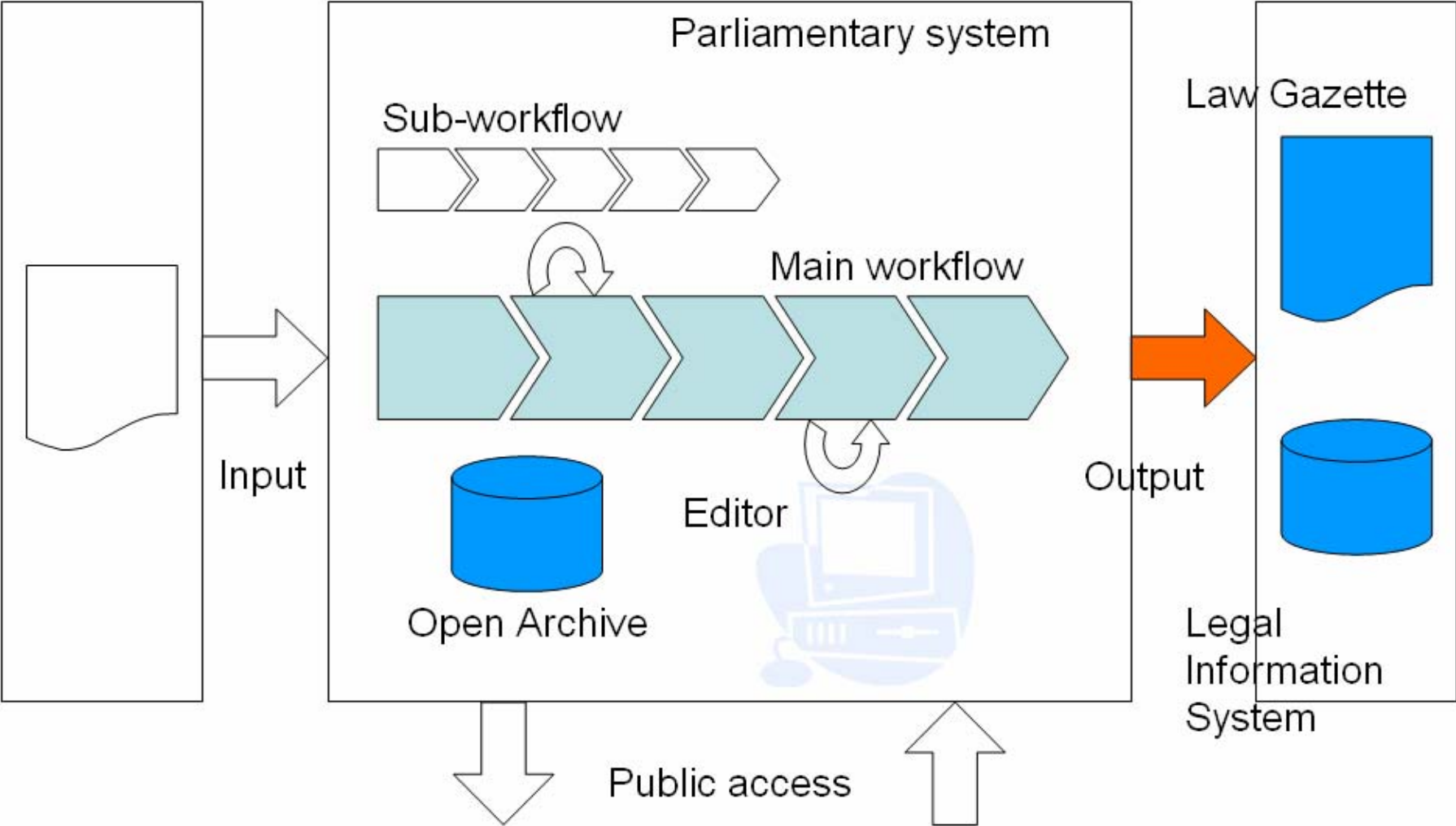
Legislative workflow



Legislative vs. Legal information system

- Legal information system allows for authentic promulgation of laws by electronic means
- Publication of (usually non-authentic) consolidated versions of laws
- Legislative and legal information systems are to be cross-connected: automatic linking

Legislative workflow



Legislative/legal standards

- „Technical standards“ (implementable by standard formats): e.g., encoding standards, cryptographic standards, layout standards, naming standards
- „Drafting standards“ (supportable by standard formats, editors, workflow systems): structural standards, content standards, procedural standards

Drafting standards

- Usually established by rules/guidelines for legislative drafting of different normative character, rarely legally binding, nearly never safeguarded by threat of nullification of norms not following them
- Traditionally, often layout-oriented; layout rules still explicitly maintained, though technically implementable in line with formal structure
- Paradigm shift yet to be performed

Structural standards

- Structure in the formal sense!
- Ideally, formal structure would map logical structure (prescriptive standard: future support by semantic tools)
- Currently, formal structure is usually just a formal hierarchy roughly following a clustering of substantial provision types (e.g. starting from definitions, ending up with transitional provisions)
- Binding standardisation of formal hierarchy and element-wise amendment technique would easily allow automated consolidation of normative texts

Content standards

- Normative language: often considered main impediment to „understanding“ of norms
- Possible technical support, e.g., enforced implementation of syntactical rules or automated hypertextualizing (e.g., linking to legal definitions)
- Logical structure: modelling, mapping with formal structure, visualization, hypertextualizing of internal (explicit/implicit) references
- Contextualizing: e.g., hypertextualizing of external references

Procedural standards

- Parliamentary stages of legislative processes usually highly formalized (transparency function), others less formalized: standards required, e.g., for consultation procedures (workflow systems would enhance compliance with procedural rules)
- Regulatory impact assessment widely under discussion, but just in a few cases standards implemented (IT support ranging from simple budget calculation towards simulation models)

„Syntax“ vs. „semantics“ of legal/normative/legislative systems

- „Syntactical“ challenge: addressing (draft) norms (IT response: information management)
- „Semantic“ challenge: interpreting („understanding“) (draft) norms (IT response: knowledge management)
- Proceeding from the effective paradigm of democratic legitimation of the normative system, legal and legislative information and knowledge management are essential prerequisites for (e-) democracy

Thank you for your attention!

Further information:

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