Legislation: amendments and the generation of amended texts

Workshop on
Legislative XML
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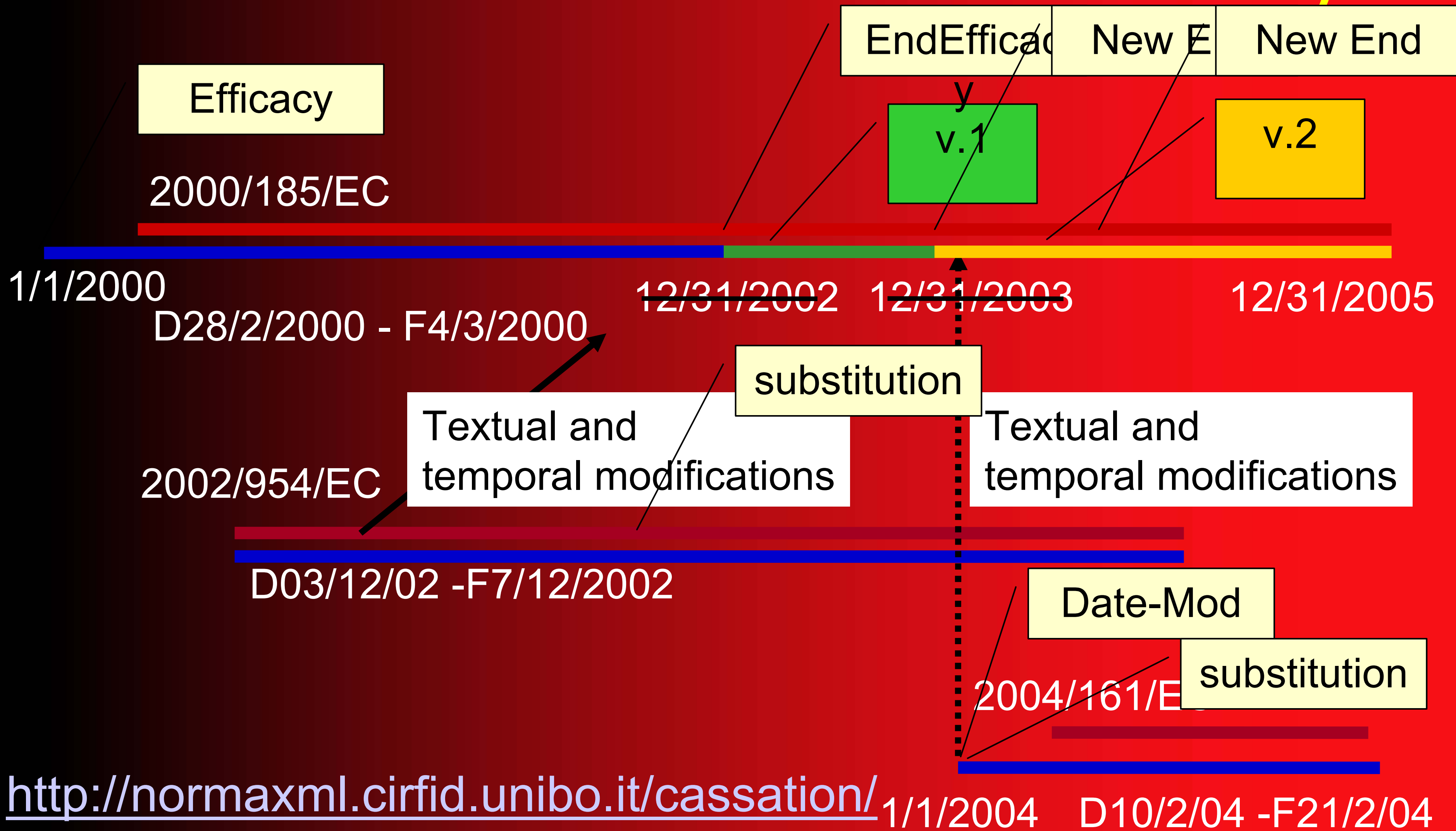
Outline

- *An Example*
- *Problems* to manage Legal Information System management: technical or legal issues?
- *Legal drafting techniques and Legimatics*
- *Point-in-time normative model*
  - *Time ontology*
  - *Modification taxonomy*

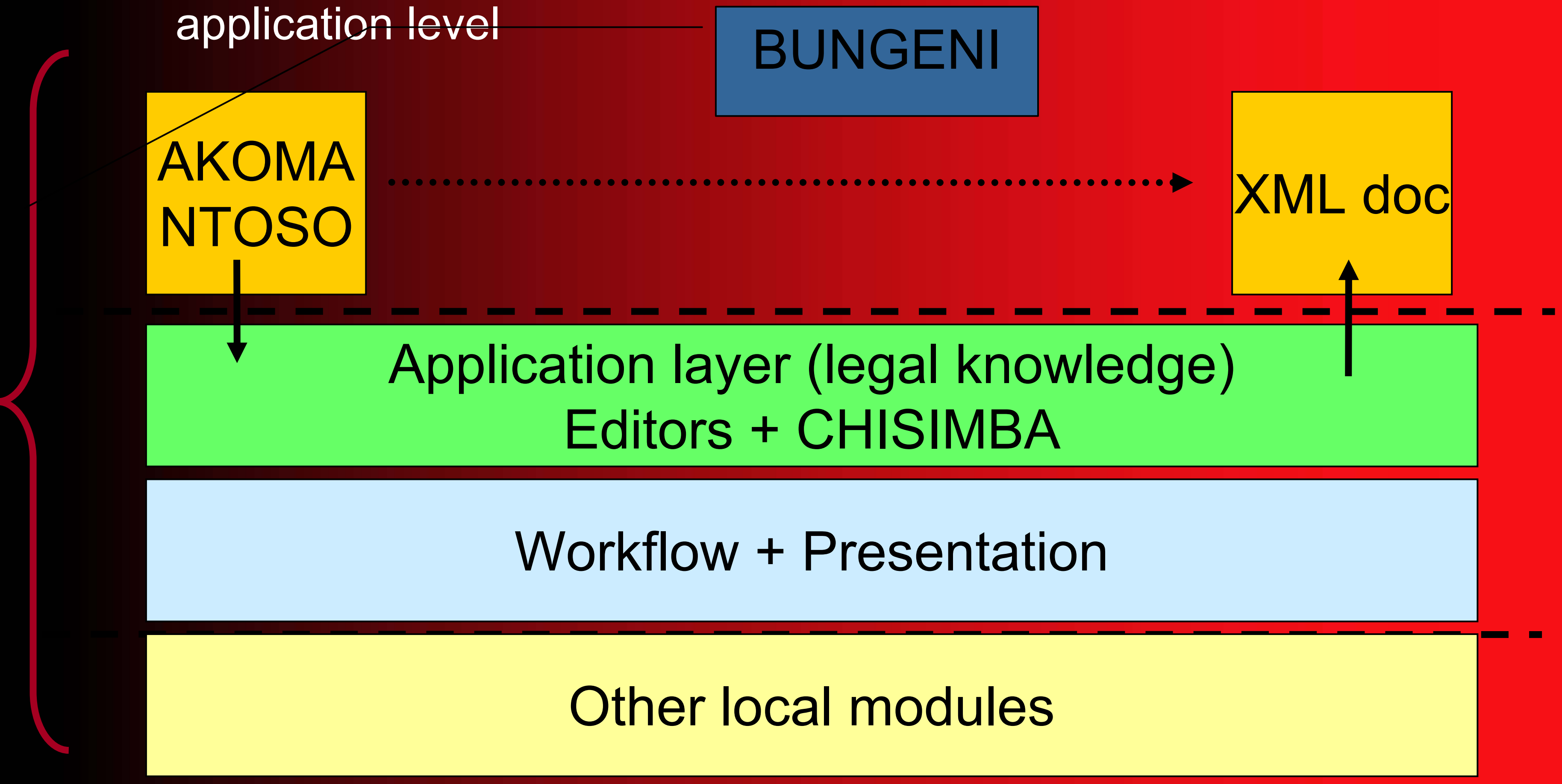
Presentation of the case study



http://normaxml.cirfid.unibo.it/cassation/

AKOMA NTOSO & BUNGENI & CHISIMBA which coordination ?

- Standard ensures the correctness of the main structure format
- Semantic correctness should necessary demanded to the application level



Legislative corpora characteristics (i)

- normative *overproduction*: in the Italian DB of the Supreme Court (*Court of Cassation*) we have 500,000 of acts and 1,000,000 of documents including jurisprudence
- *fragmentation* of the law domain
- *overlapping* of the modifications
- difficulty to manage the *dynamic of the norm* over time
- difficulty to know the real status of the law *applicable* in a *certain* time
- In the *common law* legal system the legislative material should necessarily integrate with the *case law*

Legislative corpora characteristics (i)

- emerging new *soft law sources* – *authority or transnational bodies (WTO, etc.)*
- misleading about the range of *competencies* assigned to national, regional, local bodies
- *deregulation* and *devolution* apparently simplify the situation, but in practice create confusion
- missing a real reengineering effort of public administration processes in the *law-making workflow* and *legal drafting techniques*

European guidelines: *better lawmaking*

- Commission of the European Communities, *White Paper* of the Commission on the European Governance COM(2001) 428, 25.7.2001, Brussels
- Communication from the Commission, European Governance: *Better lawmaking*, COM (2002) 275, 5.6.2002, Brussels
- Action Plans eEurope2002, eEurope2004
- Com (2003) 71 titled "*Updating and simplifying the Community acquis*" and implemented with the Action Plan in the COM(2004) 432 "*The Implementation of the framework action 'Updating and Simplifying the community acquis*'"

Side effects on eGov

- Strong negative side-effects: unknown legal domain, uncertain law applicable, social and economic costs
- Without a clear understanding of the legislative system in force it is not possible
  - to build correct policies
  - to stimulate democratic debate
  - to build concrete economic strategies
  - to apply with equity the Justice
  - Etc.

XML and Consolidation Europe states

- Official Gazette on-line
- 15 out of 26 EU member states use XML for processing legislative text
- only 6 out of 26 use DTD or XML-schema
- 10 out of 26 manage the consolidated legislation on-line in semi-official way
- 7 out of 26 use an Information System for managing workflow between their legislative authority, executive and official gazette publication body

**Report from the European Forum of Official Gazettes (8-9 September 2005 Copenhagen)*

Legal drafting techniques + Legimatics

- Legal drafting techniques: set of rules and best practices for achieving a *good* legislative text. Several “Manuals” or Guidelines are used in EU member states (IT,DK, AT, DE) and by the EU Institutions since 1998 (legal culture, organization culture and management competences)

- Legislative informatics is the branch of the legal informatics discipline that helps, with the use of the ICT, the institution to observe the legal drafting guidelines (computer science competencies)

- Without a good “Legal Drafting Manual” and concrete *best practice* the ICT/Standards/ are next to useless

Point-in-time normative model

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Normative Information System: a model

- *Legal system* is a set of valid norms in a due time respect some criteria of membership regulated by meta-norms (e.g. Constitution, civil code, etc.)

Valid in the legal sense

- *Normative system* is a sequence of *legal system* over the time, so it represents the dynamicity of the *legal system and contain all the consolidated text*

- *Normative information system* is a information system able to manage a Normative system ensuring the respect of the theory of law principles and make valid the electronic version of the consolidated acts

Under the legal point of view…

- Consolidated act is an act includes all the modifications occurred over the time: updated version of the legal document
- To build the consolidation act is not so longer a technical problem, but moreover it is a *legal affair*
- How we can guarantee that the text produced by the ICT process is acceptable under the legal point of view?
- We should define a legal theoretical model for ensuring the legally recognized text as output of the ICT process in each phase

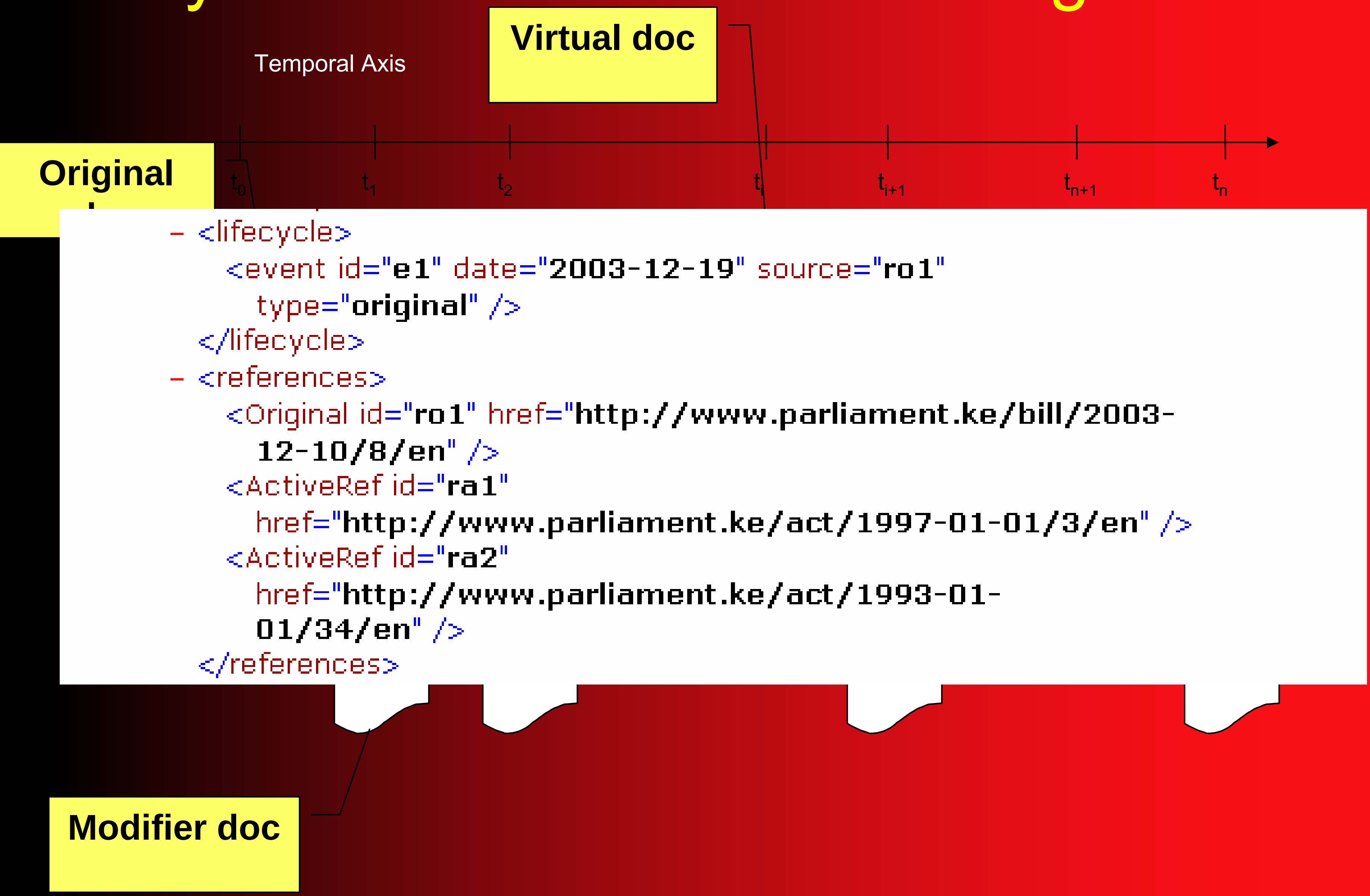
Chain of legal validity

Under the technical point of view…

- We can proceed manually, automatically, ***semi-automatically***

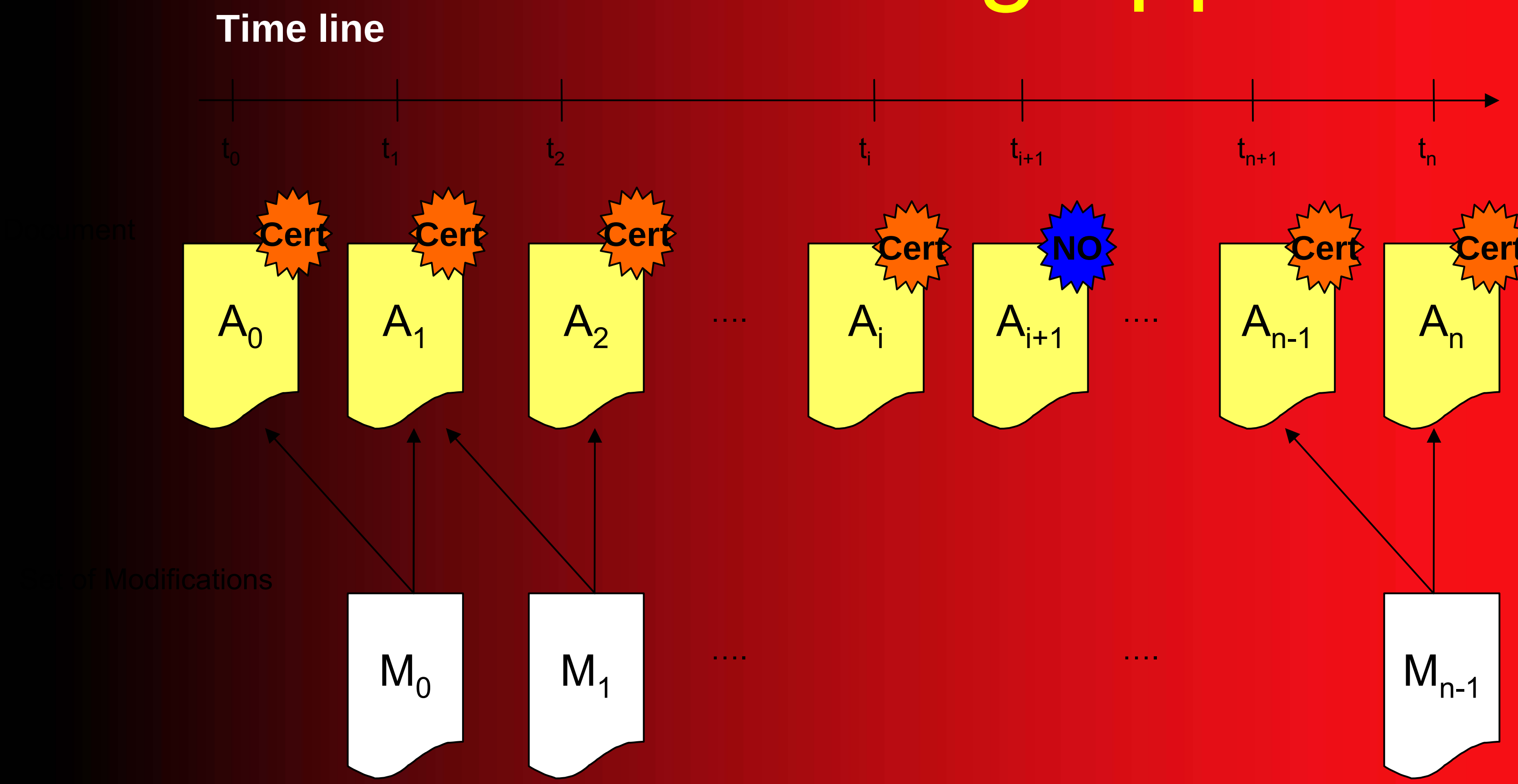
- We have three way, under technical point of view, to produce the consolidated act :
  - Each modification creates a new document ***mono-versioning***
  - All the modifications are included inside the same document – multi-versioning
  - Hybrid approach by temporal DB technique

Cyclelife Events → Versioning Chain



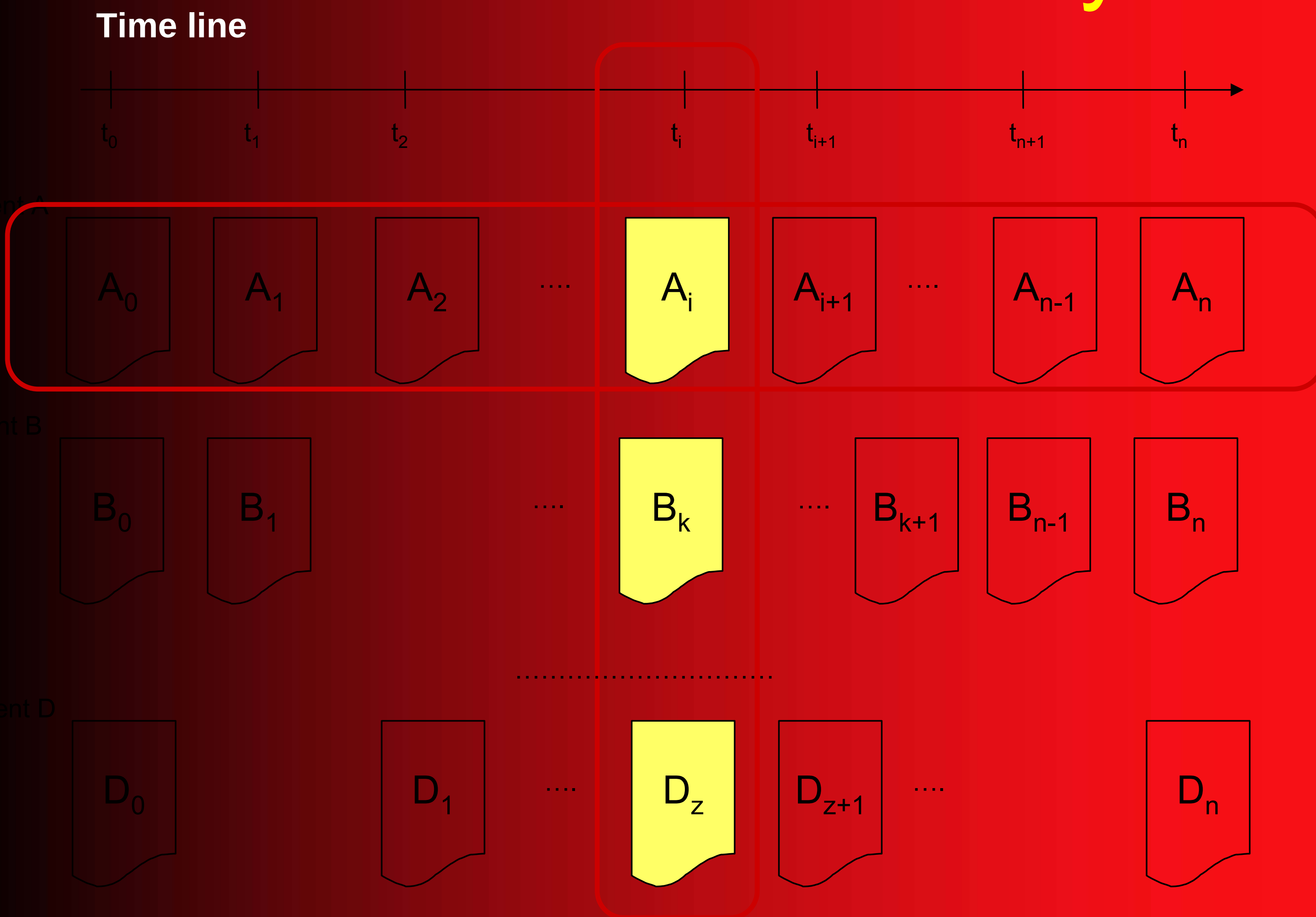

```
- <lifecycle>
    <event id="e1" date="2003-12-19" source="ro1"
      type="original" />
  </lifecycle>
- <references>
    <Original id="ro1" href="http://www.parliament.ke/bill/2003-
      12-10/8/en" />
    <ActiveRef id="ra1"
      href="http://www.parliament.ke/act/1997-01-01/3/en" />
    <ActiveRef id="ra2"
      href="http://www.parliament.ke/act/1993-01-
      01/34/en" />
  </references>
```

Mono-versioning approach



Chain of legal validity

Normative Information System



Ambitious goal…

- Building a *Normative Information System* able to manage three temporal axis:
  - law in force
    - the view of the system respect the enacting date
  - law efficacy
    - the view of the system respect the time when the norm are effective
  - law applicable
    - the view of the system respect the time when the judge apply the norm to a case

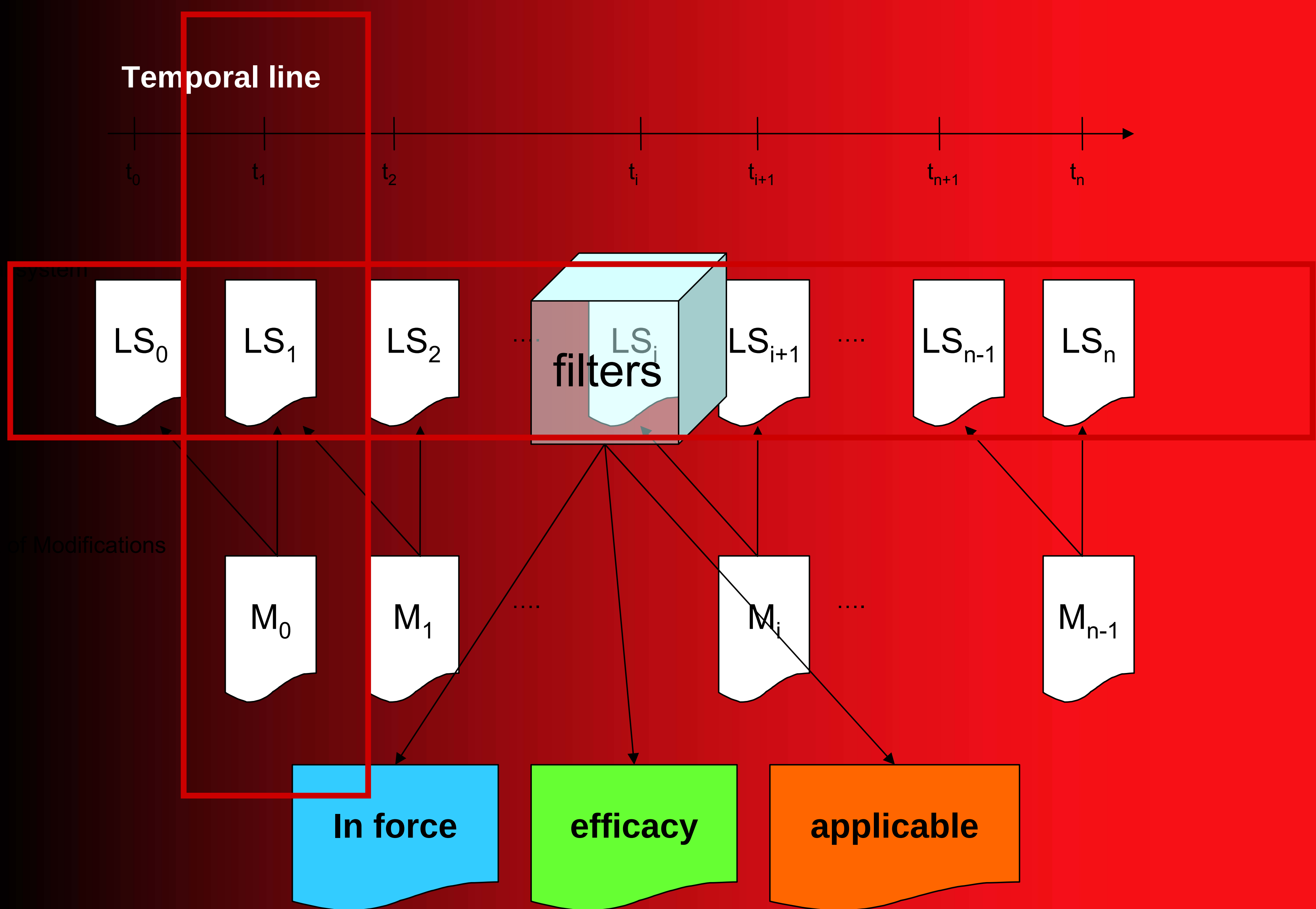
Toy example

- Say today with a local University act
- “for all the students with profit “A” in the a.y 2004-2005 will receive a grant for the a.y. 2006-2007”
- Time of enacting → 2006
- Time of efficacy → 2004-2005
- Time of application of the norm → 2006-2007

Real Example

- Legislative Decree no. 646 of 24 Nov. 1994, published in *Official Gazette* item no. 275 of 24 Nov. 1994.
- "physical persons who on 4th November 1994 had their domicile or legal residence in the cities listed in paragraph 1 of article 1, and whose homes sustained significant damage, are exempted as of that date and through 31st October 1995 from paying their taxes to the government and from meeting any other obligations that may bind them financially to any state or local agency."
- Period of enacting: [9 Dec 1994, ∞[
- Period of power of the norm: [4 Nov 1994, 4 Nov 1994]
- Period of starting the application (exemption from payment): [4 Nov 1994, 31 Oct 1995]

Normative information system: semantic filters



Definition of time model

- Static dates
  - Act on all the document

Dynamics times

  - Act on the provisions
  - Interval of enter in force
  - Interval of efficacy
  - Interval of applicability (if it is possible to calculate!!)
    - Application_modification, duration of modification

Provision: part of the text that expresses and obligation or a duty or a permission. In other word is a part of the text that contain a *norm*

Static Dates
for the legislative act

- Existence date
  when the legislation process is concluded by the deputy organism
- Delivery date
  when the act is promulgated or emanated by the deputy body (within *n* days from the existence date)
- Publication date
  when the act is published in the official bulletin – legal publication
- Others publication dates
  when the act is re-published in official bulletin – information publication
- Enacting date
  The date when the act enters in the legal system and it can be applied

Dates in the normative act

Now the act
is a part of the legal system

Existence_date Delivery_date Public_date Enacting

Vacatio legis

Usually un month

Usually un month

Usually 15 days

- Usually Force_date ≥ Publication_date
- but for sure Force_date ≥ of Delivery_date

Dynamic times

- Interval of enter in force
  - For each provisions
- Interval of efficacy
  - For each provisions

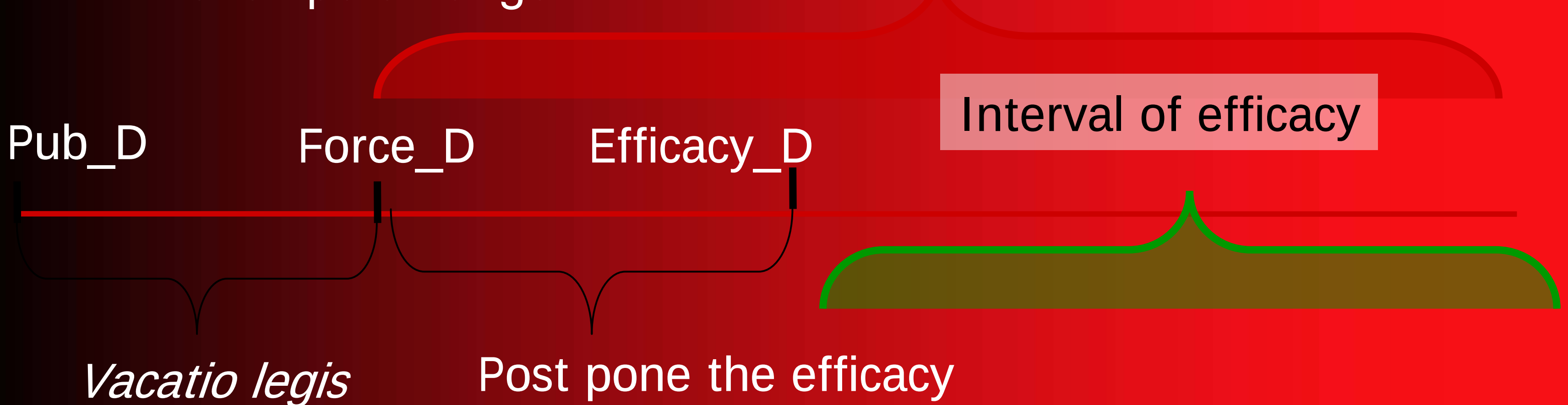
- date of *application* of the modification
  - instantaneously
  - postponed – in the future
  - anticipated – in the past

Times in the provision

- Period of Enter in force – interval
  - [force_start, force_end]
  - Time when the norm enter and exist in the legal system

Period of Efficacy – ED – interval

- [efficacy_start, efficacy_end]
- Time when the norm is powerful under legal point of view. The judge could take in considera case happened in this temporal range



Relationship between force_date and efficacy_date

CASE 1) NORMAL CASE

Force_D =Efficacy_D=[t1, tn]

CASE 2) POSTICIPATION of EFFICACY

Force_D = =[t1, tn] Efficacy_D=[t2, tn]

Relationship between force_date and efficacy_date

CASE 3) RETROACTIVE NORM

Force_D = [t1, tn]

Efficacy_D = [t-1,tn]

CASE n) different others…

Time of the modification provisions

- Date of Application of the Modification → **[1/1/2006]**
  - Date of application is usually = date of efficacy of the provision of modification
- Duration of the modification [**1/1/2005,** ∞[
- Action – retro-activity

Example

Art. 13

The Title II of the Regional Law Emilia-Romagna, n. 50 is retro-activated in the 1/1/2006 to 1/1/2005 for budget reason

But it is not the end of the story…

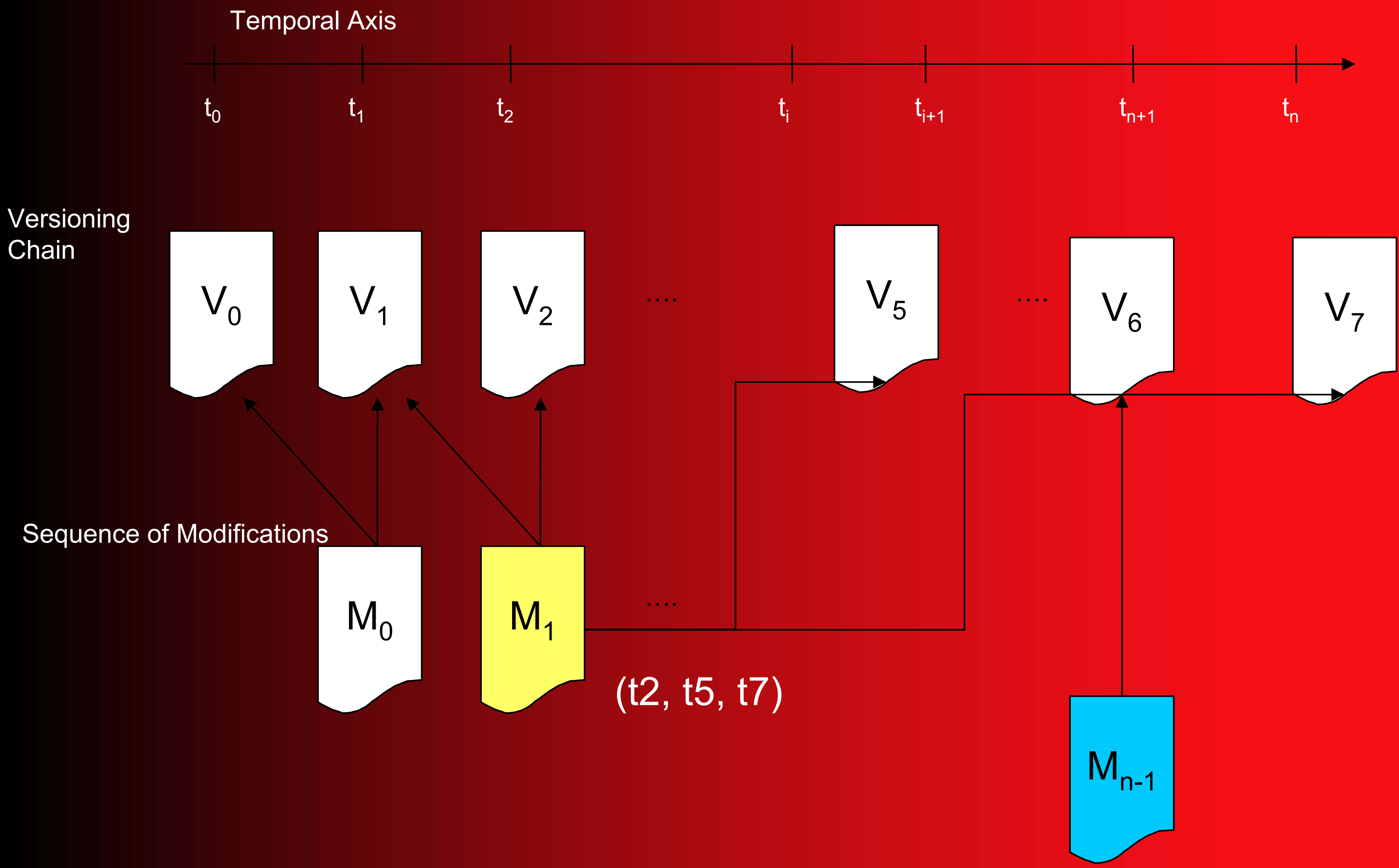
- **We defined the versioning chain**
- **We defined the time for each document**
- **We defined the relationship between the enforcing date and the efficacy date**
- **We define the time for each modification and its properties**

Now we should decide WHEN

to apply all these staff

- ***the sequence of application of modification is very important for giving legality and validity of the results***
- **we need an algorithm that in dynamic way is able to define the list of modifications applicable in a due time *t***

Normative Information System



Algorithm of choice

Combination of all the date involved in the document joined with the modification's taxonomy

Exceptions

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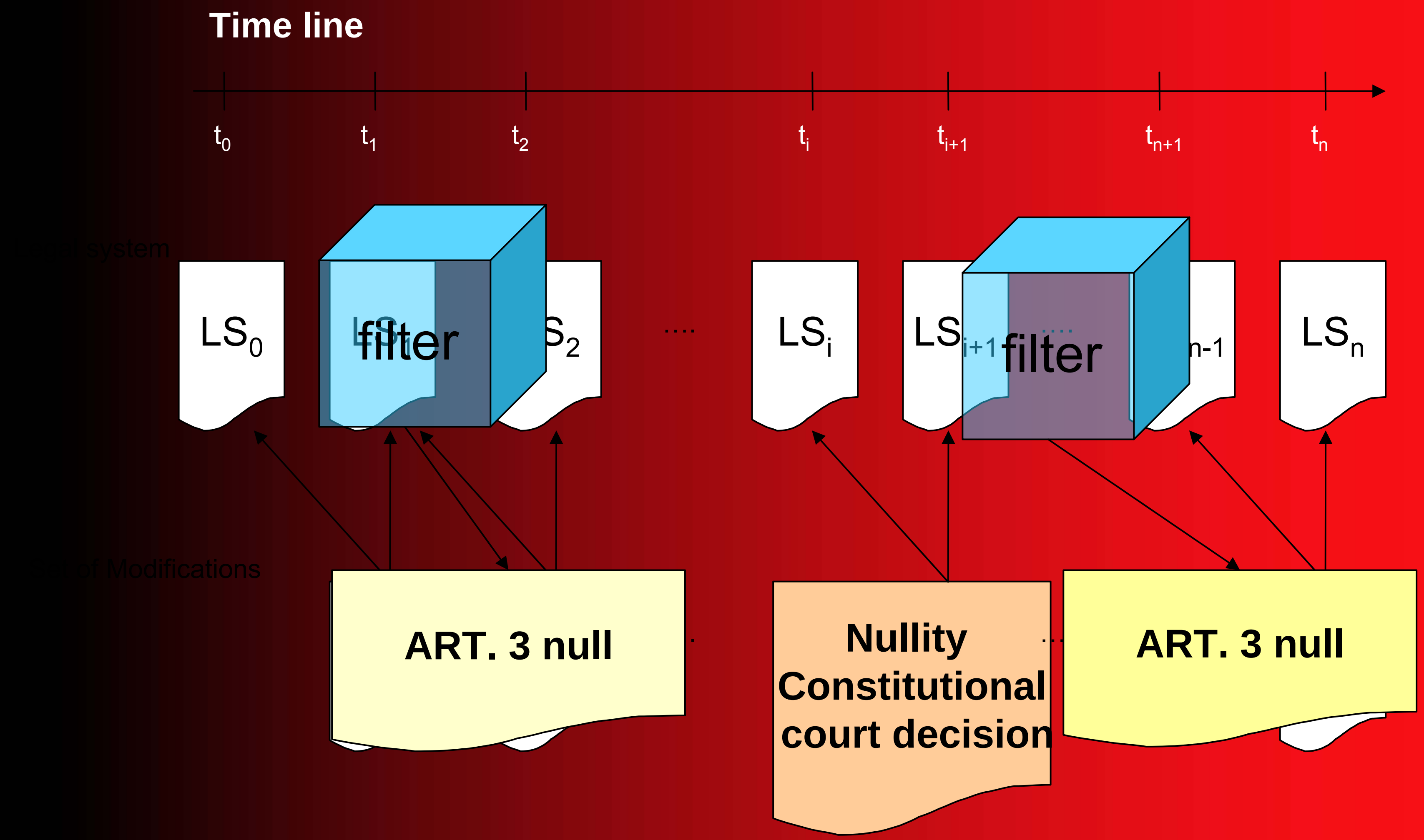
Conditional provisions: another affair to manage

- Sometime the modification are conditioned to several parameters:
  - External events (war, peace, flood, etc.)
    - International events (new directive, new international treaty, etc.)
  - Internal events depending to the Legal System (new act, etc.)
  - Domain: modifications valid only for some category of person
  - Space: modifications valid only for a geographic part of the country

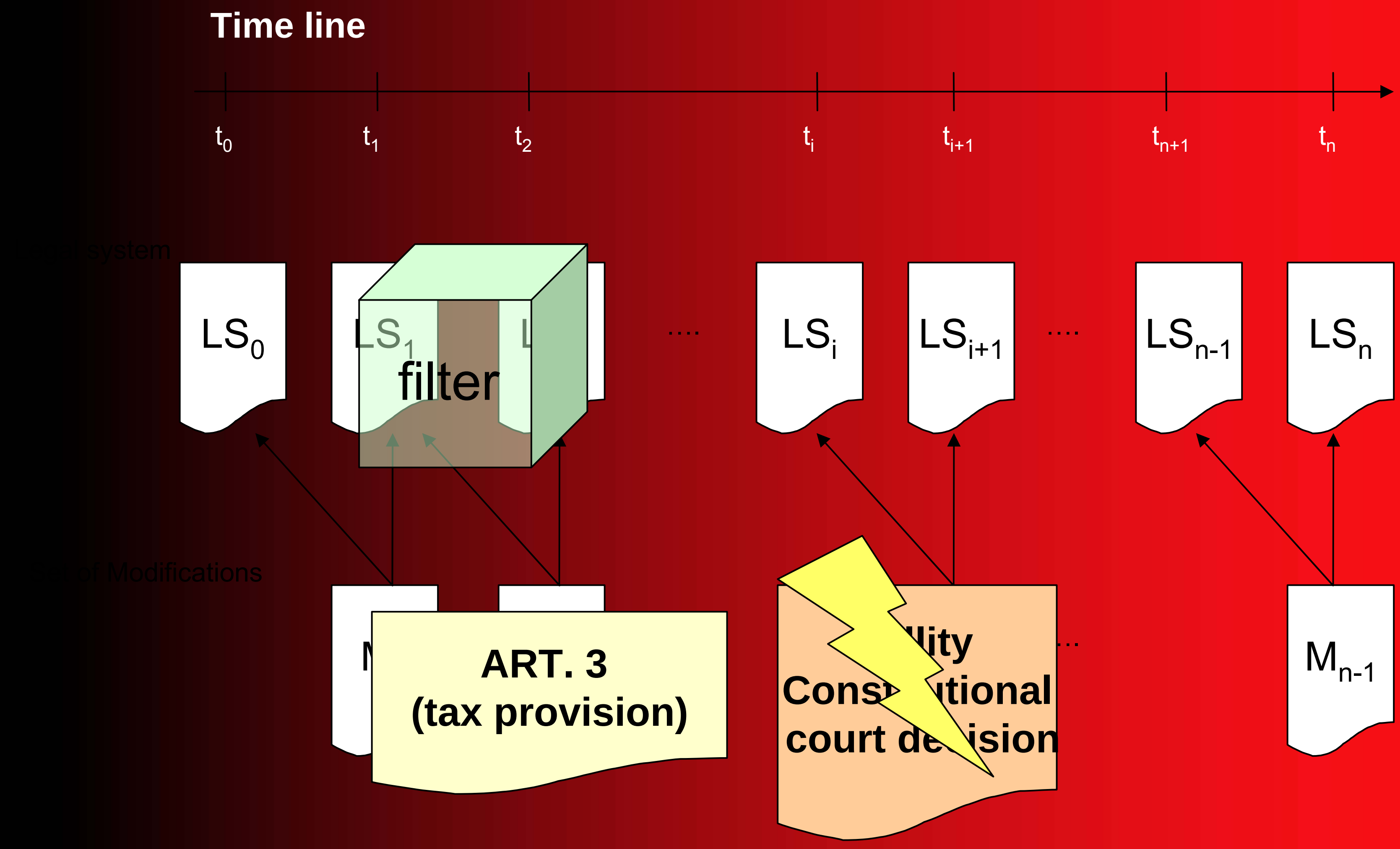
Static cross-references

- Some cross-reference relates norm fixed to a defined time
- It is the case of the judge decision
- It is the case of normative references to annexes fixed in a due time (table of drugs, of chemical material admissible for building schools, parameters of pollutions, etc.)
- Preamble o recital part
- In these cases the cross-reference should be fixed to a defined date in order to link the proper version

Annulment case

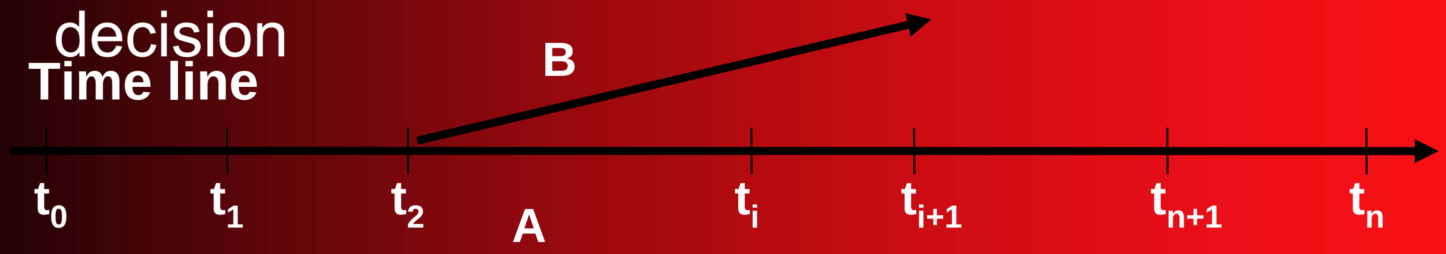


Annulment case



A possible solution

- Manage multi-normative system
- Fork the versioning lines
  - Line A) shows what happen after the court decision with effect retroactive in the past
    - All the effects are cancelled
    - Modifications, abrogation, etc.
  - Line B) shows what was happened without the court decision



Last piece of the puzzle…

We answered to the question WHEN update the system

- **Apply the modifications in the correct sequence**
  - **Time**
- **Take under control the exceptions**
  - **Conditions, strange cases, forking**

Now we should manage WHAT the system should to do

- **Define an ontology of modifications**
  - **define the behaviors of the normative system in case of modifications and conditions**

Modifications’ taxonomy

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Taxonomy of modifications

Norm Modifications

- **Modification of the text**
  - repeal
  - substitution
  - insertion
  - relocation
  - notice
  - interpretation
  - term modifications
- **Modification of the norm range**
  - exception
  - extension
- **Modification of the time**
  - Changes of enactment
  - Changes of efficacy

Taxonomy of modifications

Modification of the time

Changes of efficacy

a) Limitation of efficacy
- **suspend norms**

b) Extension of efficacy
- **postpone efficacy**
- **retroactivity**
- **extra-activity**

Taxonomy of modifications

Modification of the time — **Changes of enactment**

a) Limitation of enact

- **annulment**
- **end of enactment**
- **start of enactment**
- **postpone enactment**

b) Extension of enact

- **prorogue norms**
- **re-enactment**

Taxonomy of modifications

Normative System Modifications

- **delegation**
- **conversion of UE LAW**
- **conversion of international LAW**
- **errata corrige**
- **etc.**

[An example from Kenya](#) [XML view](#)

[Draft metadata in AKOMA NTOSO](#)

Conclusion

- ICT and Standards + legal culture, legal model, organization, management, best practice, legal drafting code, application tools
- Consolidated text is not a magic gift from the ICT but it needs some input from you:
  - Structure of your documents
  - Type of modifications occurring in your legal system
  - Understand in deep your legislative workflow and legal system
- We need your *expertise*, *cooperation*, competencies for improving AKOMA NTOSO and making it concrete
- Questionnaire #1 Questionnaire #2

Kindly thank you for your attention

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