

GOOD GOVERNANCE: CHARACTERISTICS, METHODS AND THE AUSTRIAN EXAMPLES

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Abstract

The paper defines the term "Governance" and explores its characteristics such as participation, legitimacy, transparency, effectiveness and efficiency or accountability. Furthermore, it contains the description of different methods such as Government Business Process Reengineering, PublicPrivatePartnership, NewPublicManagement or the Reform of Public Administration. Also the paper shows procedures and trends in Austria, for example the establishment of E-Government including its legislation and developments of the national infrastructure.



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I. What is Good Governance?

1. Introduction

In democratic or democratizing systems government exists to fulfill functions such as maintaining security, providing public services and ensuring equal treatment under the law. The specific nature of these functions may vary over the time but in Western systems it forms a kind of “contract” between government and citizens. This “contract” exists in different levels, as the constitution defines the principles of the contract, national and sub-national laws and regulations provide a more specific framework and the contract becomes more than less operational at the local level. That means citizens participate in government to define the contract, to manage and monitor it.

In practice Good Governance means favorable political framework conditions for social, ecological and market oriented development as well as responsible use of political power and public resources by the state. This includes the process in which public institutions conduct public affairs, manage public resources and guarantee the realization of human rights. Good Governance accomplishes this free of abuse and corruption and with due regard for the rule of law. The really question lies in the possibility of the institutions of Government to guarantee effectively the right of health, adequate housing, sufficient food, quality education, fair justice and personal security.

2. Definitions

The concept of “Governance” has been applied to the processes through which the public decisions are made. So in example Landell-Mills and Serageldin (1991) have defined Governance as

“...the use of political authority and exercise of control over a society and the management of resources for social and economic development” (Landell-Mills and Serageldin, 1991, p 3).

This definition emphasizes the political nature and the management aspect of Governance but it does not define the nature of relationship between the authorities and the public. Another definition is offered by Charlick (1992) for the USAID Africa Bureau Democracy and Governance program, as Governance is

“... the effective management of public affairs through the generation of a regime which set rules, accepted as legitimate for the purpose of promoting and enhancing societal values sought by individuals and groups” (Charlick, 1992, p 3).

The definition of Charlick provides a more normative dimension to the concept in terms of the outcomes of the process and the nature of the relationship between “power holders” and the “rest of society”. It is also spoken about the quality of the management process. All in all these definitions are reflected in the following characteristics which many observers attribute “Good Governance”.

The Cotonou Partnership Agreement defines Good Governance as

“The transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development, in

the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law” (Cotonou Partnership Agreement Art 9.3).

Other definitions range between social and political concerns and those of a more technical economic nature. An overview of donors’ definitions illustrates these different perspectives well:

- Technical dimension: “economic aspect of governance, namely the transparency of government accounts, the effectiveness of public resources management, and the stability of the regulatory environment for private sector activity” (IMF);
- Social dimension: “to build, strengthen and promote democratic institutions as well as tolerance throughout society” (OSCE);
- Political dimension: “the legitimacy of government, the accountability of the political elements of government and respect of human rights and the rule of law” (OECD, 1997).

3. Characteristics

Concerning the definition above one has to distinguish different characteristics of Good Governance as there are in example openness, participation, legitimacy, transparency, effectiveness, efficiency, accountability, availability, predictability or coherence (see OECD, 1997, p. 60 ff; Wimmer, 2004, p. 310, COM(2001) 428 final).

a) Openness

Openness means that the decision-making institutions should work in an open manner. Concerning to the EU the institutions should actively communicate together with the member states about what the EU does and which decisions it takes. The institutions should use a language which is accessible and understandable for the general public because this is of importance in order to improve the confidence in complex institutions.

b) Participation

Participation refers to the involvement of citizens in the development process. Beneficiaries and groups affected by a project need to participate that the government is able to make informed choices with respect to their needs and social groups can protect their rights.

Participation in governments can be promoted by improving interface between the public and private sectors, empowering local government by letting it take ownership of a project or using NGOs’ as vehicles for mobilizing and reaching project beneficiaries. Improved participation is likely to create more confidence in the end result and in the institutions which deliver policies. Therefore participation depends on central governments following an inclusive approach when developing and implementing (EU) policies.

Participatory democracy is a process emphasizing the broad participation (decision making) of constituents in the direction and operation of political systems. While etymological roots imply that any democracy would rely on the participation of its

citizens, traditional representative democracies tend to limit citizen participation to voting leaving actual Governance to politicians. That means participatory democracy strives to create opportunities for all members of a political group to make meaningful contributions to decision-making, and seeks to broaden the range of people who have access to such opportunities.

c) Legitimacy

Legitimacy is a measure of the political acceptability or perceived fairness of an assessment to a user. A legitimate assessment process is one which has been conducted in a manner which allows users to be satisfied that their interests have been taken into account and that the process has been a fair one.

In other words legitimacy means the publics' acceptance of the authority of those in power, therefore the existence of a sanctioned set of rules, processes and procedures. The participants must believe that their interests, concerns, views and perspectives were included and given appropriate weight and consideration.

d) Transparency

Transparency is an important principle of Good Governance and refers to the availability of information to the general public and clarity about government rules, regulations and decisions. It can be strengthened through the citizens' right to information with a degree of legal enforceability. Transparency in government decision-making and public policy implementation reduces uncertainty and may help inhibit corruption among public officials.

This implies that stakeholders are answerable to those whom they represent on the fulfillment of their obligations, and that they undertake to inform and consult their constituencies at regular intervals. This will require clearly delineated tasks and responsibilities, effective flows of information and mechanisms ensuring that decisions and sanctions are enforced.

In terms of the quality of public services, the principle of transparency underpins the need for regulations to be as clear, straightforward and accessible as possible in their drafting, promulgation, codification and dissemination. Transparency of regulations is also important to the performance of the economy, last but not least because it guards against special interests gaining undue influence in markets. It generates greater trust on the part of consumers. It assures and satisfies investors that there is a level playing field and encourages new entrants to sectors.

e) Effectiveness and Efficiency

Policies have to be effective delivering what is needed on the basis of clear objectives, an evaluation of future impact and – in case of availability – of past experience. Effectiveness moreover depends on implementing policies in a proportionate manner and on taking decisions at the most appropriate level. The management of effectiveness includes particularly a technical dimension because effectiveness concerns the ability of public bureaucracies to skillfully and efficiently transform public resources into

services and infrastructure which correspond to publicly determined priorities. Performance orientation and transparent procedures are key facts of effective public management.

Effective regulation requires clear, achievable objectives and ensuring that these policy goals remain to the fore throughout the regulatory process. An objective-led approach to regulation places greater emphasis on performance and outcomes. However, the assumptions underlying the stated objective must also be clear. These are the important events, conditions or decisions outside the regulation that must nevertheless prevail for the objective to be attained.

Further, an associated element of regulatory effectiveness is the need to minimize unintended outcomes. That means avoiding the creation of unnecessary barriers which can frustrate and inhibit innovation, repress economic activity by reducing entry and exit to particular sectors and markets. Therefore effectiveness is also ensuring that regulations are precise, not only in identifying the right targets, but also in confining the extent of their impact.

In fact that means doing the right things in the right way. This raises the question of downstream enforcement and compliance with regulations. This is often inadequately considered in terms of identifying acceptable and unacceptable levels of compliance, the range of enforcement options available and the likely costs involved. These aspects are important because they will ultimately determine whether or not regulations are observed.

f) Accountability and Availability

Roles in the legislative and executive processes need to be clearer. Each institution has to explain and take responsibility for what it does – especially EU institutions in Europe. But there is also a need for greater clarity and responsibility from member states and all those involved in developing and implementing European policy at whatever levels. Furthermore, accountability is assured by the process for selecting power holders and by the procedures by which public decision-making processes and the results they produce are held up to public scrutiny and feedback.

Accountability is fundamental because of the complexity of the regulatory process and the range of participants involved. The concept of a regulatory chain is often used to describe the regulatory process and it is critically important that the links in that chain – from originator to regulated party – are clearly defined. Regulatory accountability means having clarity and certainty about the roles of: those originating regulation; those who must enforce or otherwise achieve compliance; the regulated parties; those charged with adjudicating on appeals; and those reviewing and evaluating. Integrating the tiers of accountability while regulations are being designed is important. However, given the complexity and evolving nature of regulatory institutions and roles, changes in one regulatory area or to the responsibilities of one agency may have knock-on effects in other areas.

Of particular importance is the question of fair, open, efficient and effective appeals procedures. Increasingly, this aspect of accountability has informed developments

within the public service, for example, through initiatives to improve customer service and through the work of the Ombudsman. There is a need to ensure that this concept is replicated and expanded within the regulatory framework, including sectorised regulatory areas. In practice accountability means that decision-makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional stakeholders.

Concerning to these aspects availability of information includes that information flow is the currency of all linkages between civil society and government. It permits the public to judge the effectiveness of those in power and their bureaucracies. The public ability to participate and to hold those in power accountable depends on the availability of information about laws, procedures and results.

g) Predictability

One country's legal basis has to be conducted by development. A government must be able to regulate itself per laws, regulations and policies which encompass well defined rights and duties, mechanisms for their enforcement and impartial settlement of disputes. Therefore predictability means the fair and consistent application of these laws and implementation of government policies.

h) Coherence

Policies and actions have to be coherent and easily understood. The need for coherence in the European Union is increasing because the range of tasks has grown, the enlargement will increase diversity and challenges such as climate and demographic change cross the boundaries of the sectorised policies on which the Union has been built, regional and local authorities are increasingly involved in the EU's policies. As a result, coherence requires political leadership and a strong responsibility on the part of the institutions to ensure a consistent approach within a complex system.

4. Interlinks among the characteristics of Governance

Conceptually the characteristics indicated above tend to be mutually supportive and reinforcing. Accountability often is related to participation and is besides the safeguard of predictability and transparency. In the absence of accountability to affected groups predictable decision-making of autonomous government agencies may result in the latter placing agency interests above those of the former. Also transparency and information openness can not be assured without legal frameworks which balance the right to disclosure against the right of confidentiality and without institutions which accept accountability. Furthermore, predictability in the functioning legal framework would be helpful for ensuring the accountability of public institutions. Also predictability requires transparency because without information about how similarly placed individuals have been treated it may be difficult to ensure adherence to the rule of equality before the law. Finally, a transparent system facilitates governmental accountability, participation and predictability of outcomes.

II. Civil society, Government and Governance

A consolidated democracy as basis for Good Governance requires “civil society”, which can be defined as an arena of the policy where self-organizing groups, movements and individuals attempt to articulate values, create associations and solidarities and are able to advance their interests relatively autonomous from the state. In example, the term “civil society” includes trade unions, employers’ organizations, non-governmental organizations, professional associations such as journalists or lawyers, grass-roots organizations, charities besides social movements, i.e. women’s groups, neighborhood associations, religious groups or intellectual organizations (see i.e. OJ 1999 C 329 p 30). Furthermore, this definition is to be complemented by an additional description of the relationship between civil society and government. This relationship includes understandings for civil society in example

- Civil society as a source of stability and legitimacy for government;
- Civil Society as a source of resistance against arbitrary, oppressive and overweening government;
- Civil society as independent of government exists prior to government;
- Civil society as dependent of government for providing for its legal structure, its recognition or fiscal support;
- Civil society as developing in partnership with government;
- Civil society as substituting for the failings of government (Benedek, 2006, p 25).

That means in practice that governments must be under the attention of the system of checks and balances in order to become closer to the ideal of Good Governance which civil society is part of.

III. Governance and sustainability

Sustainability cannot be achieved without Good Governance. With growing tensions over globalization and regionalization, traditional systems of regulation are being subjected to growing pressure for reform. While states will continue to play a significant, if changed, role in the future, the importance of players from business and civil society is increasing.

Sustainable development requires this change. Such an intra- and intergenerational concept cannot be achieved with a top-down approach, but rather needs the participation of all. Therefore in fact the Governance of sustainable development requires the exploration of new forms of both social co-operation and confrontation. By doing so the different levels such as global and local, players such as the state, company and civil society, control structures as hierarchy, market and public-private and fields of action need to be taken into consideration.

IV. Methods of Good Governance

In practice there exist different methods of Good Governance such as Government Business Process Reengineering (GBPR), Public Private Partnership (PPP), New Public Management (NPM), E-Government or the Reform of Public Administration.

1. Government Business Process Reengineering

a) Definition

Government Business Process Reengineering (GBPR) is a radical improvement approach that critically examines, rethinks and redesigns mission product and service processes within a political environment. Reengineering can be defined as the “fundamental rethinking and radical redesign of business processes to achieve dramatic improvements in critical, contemporary measures of performance such as cost, quality, speed and service”.

In recasting this definition concerning government one can say that Government Business Process Reengineering can be defined as a radical improvement approach which critically examines, rethinks and redesigns mission product and service processes within a political environment. It achieves dramatic mission performance gains from multiple customer and stakeholder perspectives. It is a key part of a process management approach for optimal performance which continually evaluates, adjusts or removes processes. In practice that means organizations are able to pinpoint areas which are wasteful or inefficient by deconstructing processes and grading them in terms of whether they are value-added or non value-added activities.

Because government only differs from the commercial sector in its different kinds of controls and customers the definitions, principles and transitions used for Business Process Reengineering (BPR) may be used for governmental administrative procedures. But even with this focus there are some elements of the public sector which will not change and remain challenging for reengineering implementers. In example, government agencies are subject to greater political executive management and oversight. Election cycles and administration changes at least every four years also impact reengineering efforts. Furthermore governments can not revise or depart from their missions and operations whereas in the private sector there is much greater discretion to change business operations. Legislation, taxpayer accountability, competition for funding and resources, continuous change as well as partnerships with international stage and local governments will continue to challenge government agencies as their reengineer.

b) Reengineering principles and benefits

The following principles of reengineering would streamline work procedures, achieve savings and improved product quality and time management:

- Organization around outcomes, not around tasks;
- Identification of all processes in an organization and prioritization of them in order of redesign urgency;
- Integration of information procedures into the real work which produces information;
- Linkage from parallel activities in the workflow instead of just integration of their results;
- Put the decision point where the work is performed and build control into the process;
- Capture information once and at the source.

The task of re-examining mission and how it is being delivered in the day to day basis will have fundamental impacts on an organization especially in terms of responsiveness and accountability to customers and stakeholders. There are many rewards of reengineering such as:

- empowering of employees;
- eliminating waste, unnecessary management and inefficient processes;
- producing significant reductions in cost and time cycles;
- Enabling improvements in business and administration procedures as measured by quality and customer service.

c) Transitions in Government Reengineering Approach

The following transitions have to take place in any Government Reengineering Approach such as the transition from paper driven to electronic based, from hierarchical to networked, from compliance oriented to performance oriented, from control oriented to benchmark oriented procedures, from slow response to prompt response, from business as usual to routinely improving, from delayed to instant access or from information-limited to information-unlimited environment.

d) Success factors from government experience

The following factors which ensure government reengineering initiatives may achieve the desired results:

- Understand reengineering: That means the understanding of the process fundamentals and the reengineering, and to differentiate and integrate process improvement approaches.
- Build a business and political case: This includes having the necessary and sufficient business delivery reasons for reengineering, having the organizational commitment and capacity to initiate and sustain reengineering and the secure and sustain political support for reengineering projects.
- Adopt a process management approach which means the understanding of the organizational mandate and set mission-strategic directions and goals cascading to process-specific goals and decision-making across and down the organization, define and prioritize business processes which are important for mission performance, practice hands-on senior management ownership of process improvement through personal involvement, responsibility and decision-making, adjust organizational structure to better support process management initiatives and create an assessment program to evaluate the process management.
- Measure and track performance continuously: That means the creation of organizational understanding of the value of measurement and how it will be used and to tie performance management to customer and stakeholder current and future expectations.
- Practice change management and provide central support including the development of human resource management strategies to support reengineering, the building of information resources management strategies and a technology framework to support the process change, the creation of a central support group

- to assist and integrate reengineering efforts and other improvement efforts across the concerned organization and the creation of a project-specific internal and external communication and education program.
- Manage reengineering projects for results which means to have clear criteria to select what should be reengineered, to place the project at the right level with a defined reengineering team purpose and goals, to use a well trained expert team to ensure the optimum project performance and to follow a structured approach for reengineering.

2. Public Private Partnership

a) Definition

The term 'Public Private Partnership' (PPP) is generally used for very different kinds of co-operation between the public sector (government) and the private sector (particularly industry). In a legal sense the term usually describes an institutionalized and long-term co-operation between public and private actors to execute a project or a service which is typically provided by the public sector. Often funding, construction, renovation, management or maintenance of an infrastructure or the provision of a service is the main issue covered by the Public Private Partnership (COM(2004) 327 final, p 3).

Typical for PPPs is that both partners the public as well as the private sector benefit from the co-operation and work together on an equal basis. While the public sector fulfils its duties regarding services of public interest, the private partners on the other hand, draw profits in a field from which private actors used to be widely excluded in the past. Since the beginning of the early 1990's also in Europe PPPs are ever more often used to implement large-scale projects, above all in the transport and construction sectors but also in public health, education and national security. Reasons for this development are budget constraints confronting most countries as well as the lack of specialized skills on the side of public entities to run complex and long-term projects. Another important point which fosters the use of PPPs for particular projects is their flexibility.

PPPs make it possible to allocate the different risks to the party which in the respective case is best able to manage them. In many cases, private partners are better prepared to minimize and control arising risks and costs at the same time, particularly the risks all businesses typically implies, and the public sector wants to benefit from this know-how. Moreover, the advantages of PPPs don't always prevail, so it has to be decided on a case to case basis whether a PPP is the right means to provide the public service in question or if another, maybe more traditional approach like the award of a contract following public sector procurement rules is more appropriate.

In general, there are two different models of public-private partnerships which have to be distinguished according to the main focus of the co-operation with the public body. On the one hand, the private partners of a PPP can be responsible for operating public premises (operator model) on behalf of the public authority or, on the other hand, they get the right to provide goods and/or services of public interest on their own behalf and on basis of a concession (concessive model). When the

concessive model is chosen, the revenues resulting from the PPP activities accrue directly to the private partners, whereas in the operator model the revenues go to the public authority which pays a pecuniary consideration to the private partners. In most cases, a PPP will be a hybrid of the both models, so criteria of both can be found and the PPP will not be clearly classifiable as one or the other. The details of any PPP are laid down in a PPP contract which is normally made after very extensive and long negotiations.

b) Facility management

The alternative to the concept of PPP is that the investment is done by the public and the private partnership exists only in operating or managing the respective activity which is named facility management. Which of these alternatives should be chosen depends on the issues the public entity is following. If it shares and delegates the risks and investments its influence decreases and also the possibility of taking account of its public responsibility. The other version has the contrary effect, namely more risks and efforts but also more political influence. However this modern form of performing public services in any case should be regulated in a modern concession law.

c) Legal Framework of PPP

In setting up a PPP the public body initiating the co-operation with private entities is always obliged to follow domestic law, including public sector procurement rules in particular. At the same time, international economic law¹ and supranational law like European Community Law have to be observed. Besides, international treaties and agreements have to be taken into consideration, often already in the early stages of project development.

Which laws have to be applied in the individual case largely depends on the kind of PPP which is intended, especially on whether the private partner has to be considered an operator or a concessionaire. Not in all cases PPPs are based on private contracts. At least in Austria a public-private partnership can also be affected as an act of state ie either explicitly by law or by the authority having jurisdiction in the subject matter. The latter in fact has a long tradition in Austrian Public Administration and requires that the authority issues a ruling or regulation consistent with the applicable law.

When a private person or entity is authorized to act as an administrative authority in specific matters this is called 'Beleihung'² in Austrian legal terminology (Mandl, 1997, p 108 ff). Also a public concession is usually awarded through a ruling or regulation and can include a 'Beleihung'. When a private person or entity is obliged by law or an individual act of state to assist the public authority and carry out certain duties without running a financial risk the Austrian legal term is 'Inpflichtnahme'³, but in default of any private profits arising from the execution of those duties they cannot be considered PPPs as defined above.

The Austrian doctrine is of the opinion that only private contracts are subject to public sector procurement, but a recent judgment⁴ of the European Court of Justice points into another direction. According to it also an authorization of private actors in the form of an act of state has to meet the requirements of public procurement,

unless the restriction on the freedom of establishment and the freedom to provide services is proportionate and serves aims which might justify it.

Domestic laws, particularly in the member states of the European Union, usually provide a whole set of rules regarding public sector procurement, tendering procedures and the award of contracts. As far as written contracts for pecuniary interest which have to be considered as public work or public service contracts are concerned, several and detailed Community Directives⁵ and countless judgments of the European Court of Justice have effected a harmonization of such domestic laws within the European Union but also in countries which are not yet part of the European Union. In most cases those rules will be applicable to the selection of the private partners for the Public Private Partnership. With the growing importance of Public Private Partnerships in Europe the European authorities found it necessary to step into action. So, in April 2004 the European Commission presented a Green Paper on Public Private Partnerships and Community Law on Public Contracts and Concessions, a Communication of the European Commission on Public-Private Partnerships and Community Law on Public Procurement and Concessions COM(2005) 569 final followed in November 2005. Although neither of the documents is itself legally binding, they are relevant sources for the interpretation of existing Community law as far as PPPs and public procurement are concerned.

3. New Public Management

a) Philosophy

One of the popular slogans of modern Public Administration, which also influences the Good Governance, is New Public Management (NPM). Generally speaking, this means a new orientation of Public Administration, changing from a hierarchical model to a performance orientated system. New Public Management is an element of the philosophy and the politics of the 'lean state'. That means the transformation of the welfare state to a liberal state, which has been significant for Austria since the end of World War II, dominated by slogans like deregulation, liberalization, market and competition. Due to the fact that all these values are also principles of the EU Treaty the ongoing political, legal and administrative transformation is also a necessary harmonization with fundamental EU-standards (see in general Mastrorandi and Schedler, 2004; Mitterlehner and Kyrer, 1998; Neisser and Hammerschmid, 1998; OECD, 1997; Promberger and Bernhart 1995).

b) Elements

aa) Management systems

New Public Management is made up of a series of principles and elements, which are linked together. The starting point is the implementation of modern management models in Public Administration such as management by objectives, by exception or by delegation (Thommen and Achleitner, 2003, p 833 ff; Wimmer, 2004, p 234 ff). Competences within the public body are shifted top down thus improving motivation and efficiency of the authorities as a whole. The necessary guidance is given by a

description of issues and goals and not – as in the “ancient” system – by rules and instructions.

bb) Products and contracts

A core element of New Public Management is the assessment of the public tasks in form of products. Between the political level (mandatory) and the executive level (contractor) contracts are concluded (Zielvereinbarungen). These contracts define the output and the financial resources. Within this frame, the contractor is free to decide on the modalities of its output. Insofar he is responsible for the results of his performance (contract management) (Bauer, 1998, p 8 ff; Wimmer and Müller, 2006, p 2 ff).

cc) Benchmarking

The idea behind this contracting-management is to stimulate competition between suppliers of the same product. Benchmarking projects and “best practice” models help to identify how to best realize a certain task of Public Administration. As a long range goal an advanced form of functional benchmarking should enable the top administrative level to decide whether it is better and more efficient to realize a defined product by itself, by another administrative unit or, at least, by private enterprises. Therefore Benchmarking as an element of NPM is an important method to develop and guarantee Good Governance (Camp, 1994).

dd) Controlling

There are close relations between New Public Management and controlling which also serves the steering of decision-making processes. By providing the necessary information regarding programming, budgeting, execution and evaluation of the administrative activities controlling is an integrated element of New Public Management (Bundeskanzleramt, 1996; Promberger, 1995).

c) Steps of implementation in Austria

In Austria some tentative steps have been made to integrate New Public Management in daily practice of Public Administration. In particular, the specification of administrative goals by defining them as products, as mentioned above, has already advanced to a certain degree.

Another practical impact of New Public Management in Austria is the introduction of forms of contract management. Thus, to give an example, the management of the universities in Austria is marked by a chain of agreements, which correspond to contract management, as described above: The ministry for universities concludes an agreement with the rector, in which the goals and also the financial resources, which are dedicated to these goals by the central state, are described. On the basis of this global agreement the rector himself makes contracts with all deans of the university. Part of these contracts is the expected performance of the faculties and the remuneration for this performance. As a third – and last – step, the dean concludes contracts with the chairs of the several departments of his faculty. So the opening of

the universities to the ideas of New Public Management has brought a new cataract of contracts, which replace the old hierarchical system.

d) Summary

Of course, at the moment, it is too early to give a final qualification of the results New Public Management has brought to the administrative practice. But there is no doubt that our administrative system with its very long tradition has been modernized in different ways and directions, as there are: introduction of management methods, improvement of performance orientated management, introduction of quality management, benchmarking, citizen orientation or deregulation. In fact New Public Management cannot substitute all hierarchical structures of Public Administration but, doubtlessly, a new wind of change has brought modernization to public authorities, bodies and enterprises.

4. E-Government

a) Introduction

Modern Information and Communication Technologies (ICT) allow Public Administration to provide new electronic services on the internet. Therefore it is no longer necessary to make one's way to an office. The services offered are available electronically, irrespective of time or place. It is important to bear in mind that administrative matters can, but need not, be dealt with on the internet. These services – called E-Government – are offered as an alternative, but are not compulsory. The traditional office continues to be open to all those who prefer personal contact with the authorities or who are not yet familiar with the new technologies.

These developments and changes of Public Administration affect not only Austria but all member states of the European Union. E-Government can be used 24 hours a day. A number of Austrian administrative procedures can already be conducted entirely on the internet. Sustainability, security and data protection are of fundamental importance (Bogumil and Kißler, 1997; Bundschuh-Rieseneder, 2007; Gisler and Spahni, 2001; Plöckinger-Duursma and Mayrhofer; 1995).

b) E-Government and E-Governance

E-Government supports the E-Governance procedures. That means E-Government applies to governmental procedures especially Public Administration in electronic form. Therefore, E-Government is part of E-Governance as one can see in the following graphic.



c) The conception of E-Government

aa) Requirements

A successful system of E-Government is based on three fundamental pillars: a) a clear legal framework which can be understood easily and thus can become part of public awareness from the very beginning; b) secure and thus sustainable systems and services as a precondition for nationwide implementation and increase of confidence of citizens in electronic administration services; and c) the use of sustainable technology on the basis of open standards and defined interfaces in order to ensure continuous adaptation to new technology (Bundeskanzleramt, 2006, p 6).

bb) Definition and principles

aaa) Definition

Many attempts have been made to define E-Government. Summing them up one can say that at EU-level E-Government is defined as „the use of information and communication technologies in Public Administration combined with organizational change and new skills in order to improve public services and democratic processes and strengthen support to public policies“ (COM (2003) 567 final; http://europa.eu.int/informationssociety/eeurope/2005/index_en.htm). This is also valid for E-Government in Austria.

bbb) Principles

E-Government in Austria is based on some important principles (Bundeskanzleramt, 2006, p 24 ff), such as:

Proximity to citizens: The administration must be at the service of citizens and not vice versa.

Convenience through efficiency: Citizens expect greater convenience from online procedures, i.e. no need to go to an office, no restrictive office hours, no waiting, not being sent from one authority to the next. In order to meet these expectations, Public Administration must optimize processes by automating them.

Confidence and security: The electronic contact with Public Administration must be just as secure as the classic visit to an office. Therefore, in the electronic world the identification and authentication of persons is ensured by sector specific personal identifiers and the electronic signature.⁶ The secure exchange of information and transfer of data is guaranteed by defined security standards.

Accessibility: Services provided by public authorities must be available to anyone without discrimination. This also applies to the new electronic administration. E-Government is to be available to all social classes and groups and technical and social barriers must be abolished.

Usability: The range of electronic services offered has to be structured in an easily comprehensible and clear manner. A standard layout for forms and portal structure facilitates clarity and usability.

Data protection: Citizens place a high degree of confidence in the Austrian administration with regard to data protection. The use of new technologies in administration allows that confidence to be extended to electronic administrative systems also. The use of the electronic signature for the purpose of authenticating persons and of encryption mechanisms guarantees that the current high standard of data protection is maintained. Sector specific personal identifiers, the mechanism developed specially for the purpose of identification conforming to data protection standards ensures that, as has been the case to this day, only authorized persons within the administration can obtain access to personal data.

Sustainability: The modular structure facilitates change management, which permits continuous further development. Open E-Government contributes to improve competitiveness and thus to safeguard the Austrian position as a location for business. In this regard, the strategic coordination of the use of new technologies within the administration is of fundamental importance.

d) Austrian E-Government legislation

aa) Generalities

Austria is developing a nationwide and uniform E-Government. Security and data protection are the top priorities of this development. Therefore, the main legal basis is the E-Government Act, the Constitutional Law on Access to Information, the Data Protection Act 2000, the Electronic Signature Act or the E-Commerce Act.

In addition, many other Austrian acts imply E-Government regulations, for example the Code of Civil Procedure. The following is intended to explain the main legal basis mentioned above (Bundschuh-Rieseneder, 2007, p 95 ff).

bb) E-Government Act

The E-Government Act⁷ serves as the legal basis for the instruments used to provide a system of E-Government and for closer cooperation between all authorities providing E-Government services. The new mechanisms – such as electronic signature for authentication, source PIN, sector-specific personal identifiers for identification or electronic service of documents – may also be used by the private sector. The most important principles, as defined in the act, are freedom of choice between means

of communication for submissions to the Public Administration, security for the purpose of improving legal protection by creating appropriate technical means such as the Citizen Card⁸, unhindered access to information and services provided by the Public Administration for people with special needs by the end of 2007 by the way of compliance with international standards governing web accessibility.

The E-Government Act has been complemented by the Administrative Signature Regulation⁹, the Sector Classification Regulation¹⁰, the Source Pin Register Regulation¹¹ and the Supplementary Register Regulation¹², each of which defines in more detail some provisions of the E-Government Act and facilitates its implementation.

cc) The Constitutional Law on Access to Information

The Constitutional Law on Access to Information¹³ is a Freedom of Information law that contains provisions on access to public information for the federal and regional levels. It stipulates a general right of access and obliges federal authorities to answer questions regarding their areas of responsibility, in so far as this does not conflict with a legal obligation to maintain secrecy. But it does not permit citizens to access documents, just to receive answers from the government on the content of information. On the basis of the provisions on this constitutional law, the nine Austrian provinces have enacted laws that place similar obligations on their authorities.

dd) The Data Protection Act 2000

By implementing the Directive on Data Protection¹⁴ the Austrian Data Protection Act 2000¹⁵ provides for a fundamental right of privacy with respect to processing of personal data which entails the right to information, rectification of incorrect data and erasure of unlawfully processed data. It regulates the preconditions for the lawful use and transfer of data including mandatory notification and registration obligations with the Data Protection Commission. Finally it provides for judicial remedy in case of breach of its provisions and lays down the respective procedures before the Data Protection Commission and civil courts as well as penal and administrative sanctions for its infringement.

ee) The Electronic Signature Act

The Electronic Signature Act¹⁶ came into force on January 1st 2000 and made Austria the first EU member state to implement the Directive 99/93/EC¹⁷ on a Community framework for electronic signatures. The Act legally recognizes electronic signatures (Bundeskanzleramt, 2006, p 101 ff; Bundschuh-Rieseneder, 2007, p 100 ff) satisfying certain security requirements and provides some evidential value to less secure electronic signatures. It is complemented by the Electronic Signature Regulation¹⁸. The conditions for the use of electronic signatures on the public sector, as well as for the use of Citizen Cards and Sector Specific Personal Identifiers are regulated by the E-Government Act.

ff) The E-Commerce Act

The E-Commerce Act¹⁹ implements the Directive 2000/31/EC²⁰ on electronic commerce. The Act deals with certain aspects of information society services, i.e.

commercial online-services. According to the Act, such information society services are for example online-distribution, online-information, online-advertisement, access services or search engines. Therefore the Act is applicable to virtually all services provided on the internet. It sets the principles of freedom of service provision²¹ and of country of origin²² and provides for certain information obligations of providers of information society services for the benefit of their (potential) customers.

e) National Infrastructure

aa) Help.gv.at

Help.gv.at is an internet portal designed to guide Austrian citizens through administrative procedures. Citizens shall be able to prepare and complete these procedures quickly and without difficulties. Therefore, help.gv.at provides citizens and residents with a single point of entry to detailed information about public services and administrative procedures, organized around approximately 200 life events or situations, like birth, marriage or passports. An online forum enables the user to submit enquiries or suggestions, to download official administrative forms and to conduct an increasing number of procedures online. A special service is provided for some specific groups – i.e. foreigners living and working in Austria or people with disabilities too. Help.gv.at is continuously developed further into a transactional portal interconnected with regional and local government systems and was awarded for the best barrier free German language information portal in 2006.

bb) Electronic File System

The Electronic File System was introduced in order to replace paper based filing and archiving in all Austrian ministries. An electronic file is created for every written request requiring an answer and every internal work of possible further interest. Therefore, every procedure can be audited anytime by viewing the file. This system at federal level means that many procedures can be conducted faster. Thereby, reaction and processing time can be reduced. Several provincial administrations in Austria have also introduced similar electronic file systems.

cc) Electronic Delivery System

In 2004 the Austrian Government launched an official electronic delivery service,²³ which is designed to enable administrative procedures to be conducted by citizens from the application stage to delivery via internet. Citizens who wish to have documents served electronically can register with a delivery agent using their Citizen Card. Then they receive administrative documents via that delivery agent. Therefore, it allows Public Administrations and citizens to exchange messages with the guarantee that messages are effectively sent and received. In order to subscribe to the service any user needs an electronic signature. Moreover, the document can be sent in encrypted form and only the holder of the decryption key can the decrypt it. The system is compatible with the Citizen Card and is meant to gradually replace all paper based notifications from public authorities to citizens.

f) Summary

E-Government gives rise to a new kind of relationship between citizens and the public authorities. New means of communication and technologies offer free and open access to the virtual world of public institutions to their users. Therefore E-Government gives citizens the chance to participate directly in opinion forming and decision-making processes which is very important for the realization of Good Governance.

In future, the virtual world will make it easier to involve citizens in legislative processes at an early stage. Austria was one of the first EU member states to adopt comprehensive legislation on E-Government. As security and trust are critical factors in E-Government and E-Commerce, Austria uses the same standards and tools for both areas, i.e. citizen card function, electronic signature and electronic payment. This is a major contribution to securing the Austrian position as a business location. In the annual benchmarking of 20 basic E-Government services Austria moved up to a leading position, improving its overall ranking from 11 in 2003 to 4 in 2004. After running up in 2005, Austria achieved first place in the 2006 survey.

5. Reform of Public Administration

a) Introduction

Reform is the constituting principle of Public Administration and consequently for Good Governance. The reason lies in the possibility that Public Administration is able to meet the changing requirements of society. The reform of Public Administration has to comply with political rationality and efficiency. The importance of these goals may differ and depend on the relevant political issues. Sometimes, there exists a higher level of democracy and participation, sometimes the improvement of social performances, sometimes reduction of state responsibility by means of deregulation and privatization. These goals contradict each other as do public reforms themselves.

The international trend to reduce government responsibilities and to make Public Administration more efficient has been met by measures which have been taken also in Austria. In particular, the tentative implementation of the action program provided by the New Public Management is a signal for the will and the ability of all public actors to modernize Public Administration. It is evident that the reform concepts could not be realized one to one. The actors often were forced to compromise and to meet the opponents halfway. Furthermore, it is understandable that the recent public reform can not be seen as a general concept characterized by logical consistency but as a project consisting several parts with different levels of realization. Therefore the ongoing reforms in Austria do not only have to be seen as a success but more than this: as a promise for the future.

b) Understanding the reform

When speaking about the reform of Public Administration, the term “reform” could be mistaken insofar as one single reform, which covers all items and issues. But there are several kinds of reform measures, which may be described under many different

points of view. In abstract form, but also with reference to the ongoing reforms in Austria, the following distinctive aspects are to be specified:

- Extent of the reform: total reform, partial reform, punctual reform;
- Subject of the reform: federal reform, reform of the provinces, reform of cities and municipalities;
- Object of the reform: This means institutions which are to be reformed, like reform of the counties, chambers, court system, public enterprises, etc;
- Substantial reforms: Material reforms may take place in all subject matters of Public Administration, like health, education, universities, reform of fundamental rights, constitution, penal rights, etc;
- Legitimacy of the reform: reform down to top by participation of the citizens, reform top down only by the administration itself;
- Duration of reform: short-, medium- and long-term reforms;
- Persons, who are concerned by the reform activities: service regulation regarding teachers, judges, civil servants, policemen, etc;
- Structural changes: centralistic-federalist reforms;
- Ideological effects of reforms: liberal-social reforms;
- International relevance: national, European, international (i.e. in the framework of GATT and UNO) reforms.

According to this, the reform of Public Administration in Austria can not be described as a whole, but only by illustrating several “areas” of reforms, which are going on. Of course, this presentation opens a wide space of discretion but the following issues and topics represent the mainstream of reforms in Austria.

c) Harmonization measures

aa) Horizontal measures

Special attention has to be paid to the development of horizontal administrative measures in order to ensure the efficient and effective performance of the administrative system as a whole and the development of an effective human resource management system, including enhancement of skills and training capacities. One of the key measures in improving Public Administration is to strictly separate policy making from policy implementation. This can only be achieved by a higher degree of autonomy of present centralized institutions together with effective forms of balanced accountability, tailored to different functions such as implementation of the policy, regulatory functions and supervision of functions of licensing.

bb) Professional civil service

On the basis of these measures, the administrative system should be transformed from a predominantly administrative type into a system of managerial accountability. The rebuilding of the structure of administrative bodies has to go hand in hand with the developing of a professional civil service. Integrated elements of such a reform are items as follow:

- systematic evaluation of productivity and effectiveness of the autonomous units;

- human resource management, i.e. introduction of a permanent, competent and politically neutral civil service by measures such as objective recruitment by announcing competitions to the available vacancies; incentives (financial and non-financial) for civil servants; disciplinary sanctions upon civil servants in case of misconduct in office; training and improvement of qualifications; special training of civil servants in the field of preparation for the membership in the European Union; adequate remuneration of civil servants linked to their qualifications and better performance.

cc) Reform of institutions by decentralization and privatization

In addition to these reforms of administration staff rationalization within the institutions has to go on. This includes in all reform countries the improvement of the relationship between the central and local government and especially the promotion of local government as one of the priorities. Involvement of decentralized institutions is indispensable in the application of the *acquis*, especially in the sphere of administering the European Union assistance program. Therefore, the general guidelines of the new institution building must be decentralization and de-concentration.

Furthermore, one of the most discussed forms of administration reform is privatization. In this context, it means – differently to the privatization of undertakings in the economic area which will be mentioned later – the transfer of functions under the Public Administration to non-profit organizations or enterprises, i.e. by Public Private Partnership. This item covers a wide range of activities such as social welfare, social care, care for disabled or elder persons, neighborhood, etc. Of course, this transfer of functions only makes sense if also the costs of the overtaken activities are partly paid by the private institutions or at least minimized through their engagement. If this transfer of functions is combined with public subsidies, an efficient control must be guaranteed.

dd) Landmarks of the reform

Some few remarks should be sufficient to show the direction in which the reform of administration in the EU and non member, respectively pre-accession states is moving. These landmarks are: the rule of law, defined competences, autonomy, decentralization, de-concentration, professionalism and motivation of the staff, privatization and democratization. Of course, these items are intentions and goals which will be realized only step by step and modified by reality and opportunity of the applicants. But the main point is that none of the pre-accession states has a chance to adopt the complex regulations and institutions of the European Union if it does not implement the above mentioned principles.

d) European Administrative Science

Furthermore, the publications of the European Council should be mentioned, in particular, those of its “Council for local and regional authorities in Europe”. These publications deal with central topics of local government units such as protection of the environment, participation of citizens, public transport, public services, public management, intergovernmental cooperation, etc.

All these publications constitute a treasure which should be of highest interest for the domestic discussion regarding administrative items. In particular, this is concerning the studies regarding the territorial reforms which have taken place in Western Europe within the past 25 years by which the principles of decentralization, federalism and regionalism were implemented to a more or less high extend. All these reforms were the precondition for strengthening local government and improving the autonomy of the municipalities and regions (for efforts made in Croatia see Kopic, 2007). With other words: the modern term of institution building, which is based on multiple analysis (legal, financial, functional, gap analysis, etc.), is nothing else than what has been done in Western Europe within the last 30 years. There is no doubt that the ongoing territorial reforms in Eastern Europe, which have to be realized not only to improve efficiency of administrative structures, but also with regard to the harmonization process within the united Europe, could take a lot of profit out of these publications of the European Council. One does not exaggerate in saying that these publications could be the fundament of a new European Administrative Science and consequently for European Governance.

e) Some Reform areas

aa) Fare well to the “Welfare State”

The reform of Public Administration in Austria, which has taken place in recent years, also reflects the transition from a welfare state to a lean state (Mandl, 1997; Metzen, 1994; Naschhold and Bogumil, 2000), which is significant for the last period in the most Western European states. In Austria this development was accelerated by the changing of the majority in Parliament from a social-democratic to a conservative-liberal. Even now, under the auspices of a social-democratic-conservative coalition, which was the result of the parliamentary elections in November 2006, it cannot be expected that the reforms of Public Administration will be cancelled in order to reanimate the “ancient regime”. There is broad agreement between all parties that the liberal reform package was necessary for the modernization of Austrian Public Administration as well as for the society in general. It must also be remarked that the new defined standards and responsibilities – assessed in comparison with other Western states – constitute Austria also today as a “welfare state”, maybe in a lighter form.

bb) The major areas

In general, the reform activities of the recent years can be structured as follows (Wimmer, 2004, p 402 ff; regarding similar areas of reform in Croatia see Kopic, 2007):

- Legal reforms
- Reform of public tasks and services
- Organizational reforms
- Technical reform - E-Government (see above)
- New Public Management (see above).

The following remarks are dedicated to some aspects of this reform. According to the multi-lateral approach the reform measures do not constitute a coherent action, such as a “big bang”, but their realization is determined by a strategy of incrementalism and step by step implementation.

aaa) Legal reform

Among the measures of legal reform there has to be distinguished between quantitative and qualitative deregulation (i.e. Wimmer, 2004, p. 403 ff). The overall issue of the quantitative deregulation is the reduction of legal provisions in order to simplify the existing bureaucratic system and – hand in hand – to reduce the costs of Public Administration. In addition, special efforts have been made to make the legal system more comprehensible and transparent. As far as we can see now, the results are rather poor because of the low standard of legislation in our country, on the one hand and the inevitable interference of EU law, on the other hand. Insofar, the Austrian legal system shares the qualitative standards of most of the European countries.

bbb) Reform of public tasks and services

The vision of a lean state is based not only on ideological premises, like freedom and self responsibility of the citizens, but it is also a consequence of the financial situation of most of the European states and their growing budget deficits. Apart from the question how public tasks can be fulfilled more efficiently and at lower costs, the reduction of public tasks themselves has to be considered. In the year 2001 the Austrian Government started a “Reformdialog” to clarify these questions and to elaborate appropriate reform measures. Several commissions were set up, amongst them the “Aufgabenreformkommission”, which made a lot of proposals to improve the organisational basis of Public Administration. The first issue of the “Aufgabenreformkommission”, the reduction of public tasks, could not be solved as it did not succeed in defining the core competences of the state, which would have been a precondition. In daily life, the question which tasks and services have to be executed by the state in the interest of its citizens is determined by pressure groups, lobbies and also bureaucracy and, moreover, is – first of all – an ideological question. In any case, it cannot be solved neither by means of an academic discussion nor by establishing another commission. Thus, it is only logical that the “Aufgabenreformkommission” was not able to successfully realize its ambitious program. Nevertheless, it opened the way to a more objective discussion of the state competences as an alternative to an exclusively political decision.

ccc) Organizational reforms by one-stop-shop

The reform of administrative structures in order to improve efficiency as well as performance and citizen orientation is the overall goal of the above mentioned initiatives. In particular, the reform under the title “One stop shop” (Gisler and Spahni, 2001; p. 174 ff; Wimmer, 2004, p. 406) tries to improve the access of the citizens to the decision making units of Public Administration. In future, instead of the existing “labyrinth of competences”, citizens have to get in touch with only one public authority

at local level, the “Bezirksverwaltungsbehörde”. This authority has to coordinate all permanent permissions for a project which has been applied by a citizen. Thus, the principle of „one-stop-shop“ means a concentration of several procedures according to the diverse subject matters to one common procedure. The one-stop-shop saves time and money of the applicant. He is not confronted with several decisions of several authorities anymore but with one competent civil servant.

f) Summary

The normal state of Public Administration is not stability but mobility. Only by this institutional mobility Public Administration is able to meet the changing requirements of society. Ideally, the overall issue of reform should be the transformation of Public Administration into a system which by itself reacts on its changing tasks and automatically modifies the framework of decision making.

Of course, reform of Public Administration must be in compliance with political rationality and efficiency. Importance and significance of these goals may differ and depend on the relevant political issues. Sometimes, it may be a higher level of democracy and participation, sometimes the improvement of social performances, sometimes reduction of state responsibility by means of deregulation and privatization. These goals contradict each other as do public reforms themselves. Considering these contradictions the simple question whether a public reform is “good” or “bad” is not to be answered easily. This is also the reason why public reforms, if they are more than technical improvements, normally do not get a general consent.

There is no doubt that the recent efforts of public reforms in Austria are positive. The international trend to reduce state responsibilities and to make Public Administration more efficient has been met by measures which have been taken also in Austria.

V. Concluding remarks

Summing up, one has to say that Good Governance consists of a mixture of many procedures and measures. These measures concern the relations of the government with civil society, its influences on the government, and different management methods up to the developments in E-Government. But all the aspects mentioned above show just “a piece” of Good Governance including Austrian examples because Good Governance is not only a national but also a European commitment. Fact is that politicians in the European Union are facing a real paradox: On the one hand, citizens want them to find solutions to the major problems confronting their societies and expect the Union to act as visible as national governments. On the other hand, people increasingly distrust institutions and politics or are simply not interested in them. The problem is acknowledged by national parliaments and governments and is particularly acute at the European level. Concerning Good Governance, this means in consequence that democratic institutions and the representatives of the people at national and European levels should try to connect Europe with its citizens as starting condition for more effective and relevant policies. These facts were the reason why the European Commission identified a reform of Governance as one of its four

strategic objectives in early 2000, proposed a “White Paper for European Governance” (COM(2001) 428 final) and reported the procedures started and going on in 2003. Furthermore, the Commission proposed possibilities for “better Governance” as there are i.e. the greater use of skills and practical experience of regional and local actors or the building of public confidence in the way policy makers use expert advice. These proposals should be considered and transformed to establish Good Governance not only in member states but also in the whole European Union.

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¹ For example competition rules or intellectual property rights.

² Examples of Austrian companies subject to a 'Beleihung' are Austro Control GmbH, ASFINAG, Energie-Control GmbH.

³ Prime example for such an 'Inpflichtnahme' is the employers' duty to retain taxes on wages and salaries and pay them over to the competent revenue office.

⁴ ECJ 6 November 2003, Case C-243/01, *Gambelli and others*, Rec 2003, I-13031. In the judgement the ECJ applies a wide definition of services within the scope of Articles 43 and 49 respectively and calls upon the national court to examine whether the legislative restrictions for betting activities which require licence or authorisation under the national monopoly and which are accompanied by criminal penalties up to one year's imprisonment infringe the basic freedom to provide services.

⁵ See Council Directives 92/50/EEC (public services), 93/36/EEC (public supply), 93/37/EEC (public works), 93/38/EEC (water, energy, transports and telecommunications sector) and amending/supplementing directives of later date.

⁶ See below the explanations to the Citizen Card.

⁷ E-Government-Act, BGBl I 2004/10 as amended on BGBl I 2008/7.

⁸ I.e. bankcards (maestro or credit cards); in Austria one can use the health card, students card or bankcard. The Austrian Citizen Card enables the use of electronic signature. That means each resident registered in the central register can use electronic offers from the

governmental sector, i.e. application forms for birth, marriage, passports, driving licenses, etc which one has to fill in, sign and send it in an electronic way. Therefore this card holds the electronic identity for identification and the electronic signature for authentication from any resident using the citizen card.

⁹ BGBl II 2004/159.

¹⁰ BGBl II 2004/289.

¹¹ BGBl II 2005/57.

¹² BGBl II 2005/241.

¹³ BGBl 1987/286 as amended on BGBl I 1998/158.

¹⁴ Directive 95/46/EC, ABl 1995 L 281/31 as amended by Regulation 1882/2003/EC, ABl 2003 L 284/1.

¹⁵ BGBl I 1999/165 as amended on BGBl I 2008/2.

¹⁶ BGBl I 1999/190 as amended on BGBl I 2008/59.

¹⁷ ABl 2000 L 13/12.

¹⁸ BGBl II 2008/3.

¹⁹ BGBl I 2001/152.

²⁰ ABl 2000 L 178/1.

²¹ The provision of information services does not require specific licences or permissions.

²² Service providers merely have to satisfy the legal requirements for the provision of those services of their home country, ie the country in which the providers conduct their business operation.

²³ See Delivery Act, BGBl 1982/200 as amended by BGBl I 2008/5.