

eTENDERING IN AUSTRIA

Paul Humann

Mag. Paul Humann, born 1965, holds a master degree in economics from Vienna University of Economics and Business. He is CEO at auftrag.at Service Company and CIO at Wiener Zeitung (official journal of Austria). He is an experienced expert in the field of public eProcurement with special interests in eTendering.

Abstract

Austria is a small country in the middle of Europe and member of the European Union (EU). eProcurement is an important topic within the EU with many initiatives and regulations, which every EU member state has to implement. In Austria eGovernment has a long tradition and therefore Austria is one of the “top-players” in the EU regarding eGovernment. Thus, all infrastructure and applications for eProcurement are available.

eTendering is defined as the continuous usage of electronic means for the entire tender process from notification to award or cancellation. The advantages of one centralized eTendering solution are obvious: accountability, defined ways of communication, knowledge sharing and economy of scale. Using eTendering saves time and money and enhances transparency and non-discrimination. The author expects a significant increase in people using eTendering during the next 18 to 24 months. Still, there are some barriers to overcome in electronic cross boarder procurement. The EU Project PEPPOL should deliver standards and solutions that should enable the transfer of information across Europe.¹

Public procurement in Austria and the impact of the European Union

Austria is a federal republic. In 1995 Austria - together with Sweden and Finland - joined the European Union (EU). Austria is also a member of the Euro zone and a party to the Schengen Agreement. Within the Schengen Area no boarder control exists and border agencies and police forces work together closely. The EU enables the free exchange of goods, capital, services, people and labour within its internal market. This close collaboration is based on a strict non-discrimination precept and a high degree of transparency in administration and trade.

¹ European Commission: “About PEPPOL” [Online] Available http://www.peppol.eu/About_PEPPOL [Retrieved March 3, 2010]

Before discussing the legal aspects of procurement law the position of Austria within the EU is to be considered: Austria is a very small landlocked country. Located in the southern part of Central Europe, the republic shares borders with Germany and the Czech Republic in the north, the Slovak Republic and Hungary in the east, Slovenia and Italy in the south, and Switzerland and Liechtenstein in the west. The distance between Austria's westernmost and easternmost spot is 573 km. The longest north-south stretch adds up to 294 km. The territory of Austria covers 83 879 km² thus being slightly smaller than Portugal with less than a quarter of the land area of Japan. Approximately 60 % of the federal territory is mountainous and often uninhabitable. Austria has a population of 8,3 million people. The Republic of Austria is divided in nine provinces (so called Bundesländer) and 2.357 municipalities³. Each Bundesland has its own administration and legislative body for well defined responsibilities.

Like most advanced modern economies, the Austrian economy today is a service economy. Around two thirds of the gross value added (GVA) come from the service sector (named "tertiary sector" in german), another 31% come from the "secondary" sector (production), and only about 2% from agriculture and forestry (the "primary") sector.⁴ This situation is quite similar in other European member states. With 12.6% of the workforce working public services, Austria is below the average of the European OECD member states (16.1% in 2008).⁵

The forecast of November 2009 predicts a GDP of 275,5 billion Euros for Austria in 2009. In 2008 the GDP was appr. 281,9 billion Euros. Another slight slump is expected for 2010 with an expected GDP of 281,0 billion Euros. Austria accounts for 2,3 % of the EU 27 GDP.⁶ . 2008 the International Monetary Fund ranked Austria 12th in the world in GDP per Capita, the US being 17th, Germany 19th and Japan 23rd.

² Hummer Christian, „Austria: Data, Figures Facts“ Statistic Austria; ISBN 978-3-902703-29-3; Vienna 2009; page 8

³ ibidem: page 9

⁴ ibidem: page 48

⁵ ibidem page 96

⁶ Austrian chamber of trade: "Wirtschaftsleistung" (November 2009; source: Eurostat) [On-line]. Available in German <http://wko.at/statistik/eu/europa-wirtschaftsleistung.pdf> [Retrieved February 28, 2010]

The European Community sees public procurement as an important economic factor; the website states that 16 % of the GDP are based on public procurement. The European Commission clearly sets its focus on public procurement: “Modernising and opening up procurement markets across borders – including through the expansion of electronic procurement – is crucial to Europe’s competitiveness and for creating new opportunities for EU businesses. Using information technology appropriately can contribute to reducing costs, improving efficiency and removing barriers to trade, which will ultimately result in savings for taxpayers. The Directives adopted in March 2004 as part of the public procurement legislative package provide a legal framework aimed at boosting the development and use of electronic procurement.”⁷

The eGovernment Action Plan “i2010” by the European Commission has set itself a target: “A high level of take-up of eProcurement is therefore highly desirable. Member States have committed themselves to giving all public administrations across Europe the capability of carrying out 100% of their procurement electronically (where legally permissible) and to ensuring that at least 50% of public procurement above the EC threshold is carried out electronically by 2010.”⁸

With the Bundesvergabegesetz, Austria’s procurement law, Austria adopted the European regulatives EC 17/2004 and EC 18/2004, thus complying to EU rules. The specifications of national law must be in accordance with the European regulative.

Across Europe, Austria is the leading country regarding the implementation of eGovernment⁹, in fact, it keeps its leading position for several years now. This situation is due to the circumstance that both administration and legislation share an equally high interest in disseminating eGovernment services. Austria was among the first

⁷ European Commission: „Electronic public procurement“ (Chapter introduction) [Online] Available http://ec.europa.eu/internal_market/publicprocurement/e-procurement_en.htm [Retrieved February 28, 2010]

⁸ European Commission “Communication from the commission to the Council, the European Parliament, the European economic and social committee and the committee of regions: i2010 eGovernment Action Plan: Accelerating eGovernment in Europe” COM(2006) 173 final; 25.4.2006; SEC(2006) 511; page 8

⁹ Capgemini, Rand Europe, IDC, Sogeti and DIT “8th Benchmark Measurement – November 2009”; European Commission, Directorate General for information society and media, p 6 - 7

countries to integrate electronic procurement issues in the Austrian law. Perhaps this is one reason why the Austrian law for running public electronic procedures is very rigorous: E.g. the use of qualified electronic signatures for the electronic submission of tenders is compulsory¹⁰.

The Austrian Procurement Act defines the rules and the processes for public procurement of public authorities, public entities and utility services. Utility services such as electricity, transportation, telecommunication, gas, water etc. for private households and businesses are provided by public or private entities. For providing these services suppliers need special certificates and permissions. In case irregularities or problems occur during a tender the Austrian Procurement Act defines several institutions that arrange and hear appeals. The Austrian Federal Public Procurement Office (BVA) arranges all federal appeals¹¹ while agencies and institutions of the provinces will arrange and hear appeals in all other cases. Appeals are heard at the Austrian Administrative Court and/or the Austrian Constitutional Court. Appeals concerning public procedures on European level may additionally be made at a European judicative institution.

Public purchase in Austria is decentralized. However, federal institutions have to purchase standard commodities (goods and services only) using the central federal purchasing agency¹² BBG Bundesbeschaffung GmbH as stated by the Federal procurement agency act¹³. Its main responsibilities being contracting, BBG plays another important role by running the one online shop for public buyers. This shop comprises almost the entire collection of contracts the BBG holds and is open for all public entities and utility providers in Austria. Non public entities have no access to this online service (<https://www.e-shop.gv.at/e-shop/>; available in German only). More

¹⁰ Republic of Austria: „Bundesvergabegesetz“ [Online] Available only in German
<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004547> [Retrieved March 1, 2010]; §§ 43.4 and 204.4

¹¹ Bundesvergabeamt: „Organisation“ [Online] Available
<http://www.bva.gv.at/BVA/English/Organisation/default.htm> [Retrieved March 1, 2010]

¹² Bundesbeschaffungs GmbH: „About us“ [Online] Available
<http://www.bbg.gv.at/english-information/about-the-fpa/> [Retrieved March 1, 2010]

¹³ Republic of Austria: „Bundesgesetz über die Errichtung einer Bundesbeschaffung Gesellschaft mit beschränkter Haftung (BB-GmbH-Gesetz)“; BGBl. I Nr. 39/2001

than 14.000 Users of 2.500 different organisations are registered. Approximately 3.000 orders are processed each month. Equally, the e-shop provides an interface to connect with HV SAP, making it the one resource planning tool for all federal ministries and some public institutions. This interface transfers the internet order (directly from e-shop.gv.at) to the correct SAP® instance of the corresponding organisation.

Big public purchasers are the Bundesimmobiliengesellschaft¹⁴ (main real estate manager for the Federal Republic of Austria), BBG, the federal railway¹⁵, ASFINAG (state owned company that provides and maintains the high level road network of Austria), ministry of defence, ministry of interior, the capital of Vienna, provinces . communities etc.

Austria has committed itself to strive for transparency in public procurement, so all procedures should be made public. The rules for announcement are defined in the EU and national law. Any tender that exceeds certain limits has to be made public EU wide. According to the regulation EC 1177/2009¹⁶ the following limits were defined: 4.845.000 Euros for labour, 193.000 Euros for goods and services. The limits concerning labour apply for utility sector suppliers and public authorities alike. For goods and services 387.000 Euros is the threshold. Pan-European procedures must be published in the Supplement to the Official Journal of the European Union. “Each year supply and public works contracts worth about EUR 300 billion are published by public authorities in the EU. Each day the Supplement to the Official Journal publishes over 1,000 tenders containing invitations to tender ... The Official Journal of the European Union (OJ) is the only periodical published every working

¹⁴ Bundesimmobiliengesellschaft: „Structure“ [Online] Available <http://www.big.at/en/nocache/company/structure/> [Retrieved March 1, 2010]

¹⁵ Österreichische Bundesbahn: „Regulatory Framework“ [Online] Available http://www.oebb.at/holding/en/Regulatory_Framework/index.jsp [Retrieved March 1, 2010]

¹⁶ European commission: „Commission regulation (EC) No 1177/2009 of 30 November 2009 amending Directives 2004/17/EC, 2004/18/EC and 2009/81/EC of the European Parliament and of the Council in respect of their application thresholds for the procedures for the award of contracts”; [Online] Available <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:314:0064:0065:EN:PDF> [Retrieved March 1, 2010]

day in all 23 official languages of the European Union. ..”¹⁷ All these tender announcements are available at <http://ted.europa.eu/> (TED).

The Austrian Federal Procurement Act ¹⁸ and an additional directive ¹⁹ state that contracting authorities and utilities have to publish federal tender notices under and above EU-threshold electronically at one central website. It is the task of Wiener Zeitung to provide this service. The catalogue of notices follows regulations EC No 1564/2005 and EC No 1150/2009. Therefore all announcements across Europe feature similar structure. For national notices under the EU threshold this structure is used as well.

Founded in 1703, Wiener Zeitung is probably the oldest daily newspaper in the world. The newspaper is published from tuesday to saturday and includes the official journal of the Federal Republic of Austria. The Austrian Publikationsmedienverordnung 2006 (see above) defines that only notices that are made public at Wiener Zeitung’s website are authentic and comply to the law. Thus, the publication at the website marks the beginning of the minimum publication period that is required by law. Electronic announcements are always published according to the user defined publishing date but not before the next working day. Why not on the same day? Publishing the notices on the same day would violate the non-discrimination rule: Businesses would have to monitor the website continuously otherwise they’d risk to loose precious time of the tender period. Simultaneously with the local publication in Austria notice’s content is transferred to the Official Journal of the European Union. The information for procedures above the threshold is also available in entire Europe via TED.

Provided a tender for goods and services doesn’t exceed 40.000 Euros (public authorities) and 60.000 Euros (utilities sector) respectively, a publication is not obligatory but the public might

¹⁷ SIMAP European Union: „TED – Business opportunities in Europe“ [Online] Available http://simap.europa.eu/supplier/opportunities-in-europe/index_en.htm [Retrieved March 1, 2010]

¹⁸ Republic of Austria: „Bundesvergabegesetz“ [Online] Available only in German <http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004547> [Retrieved March 1, 2010]; §§52.1, 55.1, 216.1 and 219.2

¹⁹ Republic of Austria: „Publikationsmedienverordnung 2006“ [Online] Available only in German http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2006_II_300/BGBLA_2006_II_300.pdf [Retrieved March 2, 2010]; §§.1 and 2

contract a supplier directly. Responding to the world wide financial crisis, the limit for such direct purchasing was put up temporarily to 100,000 Euros until December 31st of this year.

The national portal for notification and eTendering called PEP-Online (<http://www.pep-online.at/>) meets the requirements mentioned above (Procurement act and Publikationsmedienverordnung 2006). It is provided by auftrag.at Service Company, a subsidiary of Wiener Zeitung and thus owned by the Republic of Austria. Approximately 8,000 notices of 900 different organizations are publicized each year. Far more than 20,000 registered businesses have been using this service since 2001.

By now the procedure to receive a qualified signature is well established in Austria. A qualified signature can be included in the Austrian insurance card, in any cash card, the ID-card or university ID card. Additionally a special card issued by the Austrian trust center (www.atrust.at) is available. On national level Austria has a good infrastructure to enable electronic submissions.

The pre-awarding process: Realizing eTendering in Austria

“The term e-procurement is not well defined by the European directives and adhering legal documents. But the e-procurement community within the epractice.eu portal of the European Commission defines it as the use of electronic means in conducting a public procurement procedure for the purchase of goods, works or services by public authorities (eProcurement Community 2009).”²⁰

The procurement life cycle is usually divided in two major parts: The process before contracting and the process after contracting. Following this classification the process before contracting, which is better referred to as pre-awarding phase, can further be divided in sourcing, notifying and tendering. In the first phase purchase requirements are determined and the potential supply market is analysed. Based on this information the contracting authority will specify its tender. As soon as the specifications are available and the budget is fixed a public tender process can commence.

Up to this point of the process, eTendering is a subordinate part of the pre-awarding phase. It begins with the notification of the tender procedure or the invitation of bidders in case of tenders that are not

²⁰ ²⁰ Cimander, Hansen, Kubicek: „Electronic Signatures as Obstacle for Cross-Border E-Procurement in Europe”; Institut für Informationsmanagement Bremen GmbH (ifib), June 2009; [Online] Available <http://www.epractice.eu/en/library/292080> [Retrieved March 3, 2010] p 3

buyer profile²¹, in the printed issues of the official journal and on TED.

For all tender procedures the contracting authority has to classify the planned purchase according to the common procurement vocabulary (CPV) of the European Commission²². In CPV each numerical code corresponds with a description of the subject of the contract. CPV is available in any official EU language. The use of CPV is obligatory.

A regional classification by NUTS²³ is obligatory as well. The contracting authority has to announce where the service provider would have to fulfil its services. The Nomenclature of Territorial Units for Statistics (NUTS) was established by Eurostat more than 30 years ago in order to provide a single uniform breakdown of territorial units for the production of regional statistics for the European Union. The NUTS is a three-level hierarchical classification and as such, NUTS slices each Member State into a various of NUTS 1 regions, each of them again being sliced into NUTS 2 regions and so on.

CPV and NUTS do not only allow searches using keywords, they are as well a very useful tool to identify notices of interest. Using these tags, potential bidders may search TED and local Austrian platforms alike.

Tender specifications can be downloaded mostly. Most of the time the contracting authority will ask for a registration before a download is possible. Registered businesses receive continuous e mail information on the tender, including any amendments. Updated information is available after login to the eTendering platform PEP-Online (in Austria www.auftrag.at). The download of the specification is logged.

A qualified signature is compulsory for all electronically submitted tenders in Austria. If a tender consists of more than one electronic

²¹ Republic of Austria: „Bundesvergabegesetz“ [Online] Available only in German
<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004547> [Retrieved March 1, 2010]; §§ 48 and 208

²² European Commission: „Common procurement vocabulary“ ; [Online] Available
http://europa.eu/legislation_summaries/internal_market/businesses/public_procurement/122008_en.htm [Retrieved March 3, 2010]

²³ European Commission: “Basic principle of the NUTS”; [Online] Available
http://ec.europa.eu/eurostat/ramon/nuts/basicnuts_regions_en.html
[Retrieved March 3, 2010]

document not all documents are to be signed electronically. Austria has defined a special procedure²⁴. At least the main document of a tender must be signed qualified. Certain requirements apply to this main document; the Austrian procurement act defines neatly which structure it should have.²⁵ The main document should contain general information on the bidder, the price a table of contents and the files the bidder has uploaded. This table of contents includes the name of the document, the document type, a description and - this is the most important part – a hash code for each document. The hash code must be secured on high levels. This hash code and the corresponding calculating formula ensure that the authenticity of the document can be attested later on.

During submission phase the bidder must fill in the general information of this main document online. All data is encrypted automatically before they are saved in the database. All this information is encrypted with a symmetric string from the user. This string isn't accessible by administrators, not changeable and cannot be recovered. In case the user loses this string the information can never be retrieved! As soon as the bidder has finished entering all necessary information in the main tender document he has to sign this document with a qualified pdf signature. (There the personal encryption string is needed.). After signing the pdf document the bidder must upload this document to the tender platform (pep-online; in Austria www.auftrag.at). The uploaded tender main document is checked by the application. The uploaded document is correct if the signature is readable for the signature check program, the signature is valid and the uploaded document doesn't bear any virus. The bidder will be informed about the result of this document assessment online. As a last step the bidder has to release the uploaded tender for submission. This approval must be given within the period of submission. After the submission the bidder will receive a server signed receipt.

The European regulative and the Austrian procurement act demand a high level of confidentiality for the bids. Therefore both data transfer and data store are encrypted. Data are encrypted automatically using a special encrypting environment. A decryption of bids before date of opening is technically averted.

²⁴ Republic of Austria: „Bundesvergabegesetz“ [Online] Available only in German
<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004547> [Retrieved March 1, 2010]§ 116

²⁵ ibidem § 2 lit. 5

The tender opening also follows a clearly defined process. First of all the period of submission must be expired. Afterwards the contracting authority starts the tender opening phase. Information on the tender opening session must be entered in the system. After entering the required information the members of the opening commission can request the electronic bids from the application. The application then encrypts each bid with the corresponding tender documents. In a following step all documents are tested again for viruses or other malware. The virus and malware check system is updated daily. Theoretically the system may detect viruses or malware in some documents at the time of opening which were not identifiable by the time of submission. In a last check, the hash code finally ensures that document and submission are identical. This technical check can take several minutes for big documents. After the end of this technical check the members of the opening commission will see the result and can then open all submitted documents.

When clarification is necessary during the evaluation phase the contracting authority can post questions to one or all bidders and invite them to answer online.

After the evaluation phase the contracting authority can submit the final decision to all bidders using the platform. Finally the conclusion of the contract and the award can also be processed online. At the end of the eTendering procedure the contracting authority will announce a contract award notice. This notice is normally published in the same way as the tender notice was.

With respect to form the author informs that beside PEP-Online.at there are a few other public entities (e.g. ÖBB – federal railway, ASFINAG) that run their own private eTendering solution.

Evaluation of the current situation for eTendering in Austria

Pep-Online is open for all public buyers in Austria. The central provision of eNotification and eTendering services offers some advantages for contracting authorities and business operators alike:

1. Centralized contact: Governments, interest groups (e.g. chamber of industry and commerce), business operators, EU institutions and cross-boarder projects address one contact for technical and organizational questions. Interactive 2way communication is made possible. The centralized service provider collects the requirements of its customers (contracting authorities and business operators). On the basis of these information general statements, statistics and requirements can be generated. The centralized service provider enables a focused dialogue.

2. Reusable and shared knowledge: Many different organisations carry out eTendering following the same process. The central help desk collects the various messages from all stakeholders, bidders, suppliers etc. A wide range of information deriving from messages, problem reports and simple questions is collected. This is the basis for a in-depth knowledge pool all participants might profit from. The helpdesk will be able to provide an even more efficient support and improvements can be adopted earlier. Contracting authorities and business operators will use the same solution for different tenders from different organisations. All participants save time and money because training and education is reduced to a minimum.

3. Economies of scale: Considerable savings are possible because the investment for the centralized solution is only made once. This advantage pays back considering maintenance and operating costs. This is the reason why the cost for a single eTendering procedure can be low.

4. Concentration on core competences: One centralized eTendering solution will give businesses and public buyers the freedom to focus on their respective core competences. A service level agreement with the eTendering service provider ensures a high services level. The service provider guarantees a well operating system.

5. Standardisation: Using the same process with similar interfaces an upcoming EU wide standardisation is much easier to realize.

The bidder gains valuable time at the end of the proposal phase by using eTendering. The efforts for printing authorized documents, packing and physically transmit them to a submission office are omitted. A small example shows this. Let's assume the following: A paper bid has a volume of 150 pages. The authority asks for one original document and four photocopies. The bidder is situated 25 kilometres away from the submission office. For printing, binding and packing we calculate 1,5 hours. As the closing date is approaching, the bidder takes his car to deliver the documents. Each way takes him 0,5 hours, he spends 0,25 hours at the office. eTendering would give him more than two hours. This calculation becomes even more interesting when we'd assume that the documents are plotted or the distance to the submission office is longer. Of course the bidder also saves money he would have had to spend on paper etc. But in reality these savings are negligible considering the total proposal costs. Tender specifications that allow for a continuous process online huge savings are expectable. For the future the use of neutral catalogues or the use of special exchange documents (e.g standardized labour specifications) should be used. Any general standardization will be a difficult task for the future.

Further advantages for the bidder are not yet sufficiently verified to tell figures. The eTendering platform supports the bidder during the submission phase. The program tests the entry for formal errors and ensures time limits are kept. It categorizes the bid automatically objecting the requirements of the contracting authority. It prevents the bidder from stupid formal mistakes, as submitting a bid without signature. Avoiding wrong or insufficient information at an early stage saves time and money for buyers and bidders.

These well structured bids may save a lot of money for the contracting authority. Since all bids will follow the same structure, they are comparable. The automatic log of all events during the procedure ensures a high transparency and confirms ability. For both parts eTendering accomplishes a high degree of control in a tender process. This becomes important if users run more tender procedures simultaneously.

In Austria eGovernment has a long tradition and is rated highly. Austrians are very open for new technologies. The penetration rate for mobile phones is 72%²⁶. Austria shares the third place with Finland after Italy (74 %) and Norway (77 %). In 2009, 75% of the Austrian households had a PC, 72% of the population had internet access and 35% were using online services on their mobile²⁷. In January 2009 98% of Austrian companies from 10 employees used the internet²⁸. Austria has the necessary technology in the field. Huge efforts are necessary to convince all public buyers to use eTendering. At the moment only the early adopters are using eTendering. The author expects a significant boost within the next 18 to 24 months. For the nearer future he expects that electronic submission will become obligatory as it is in France or Portugal. The first step in this direction is realized in the recent amendment of the Austrian procurement law. Contracting authority and tenderer should communicate online unless the contracting authority defines an

²⁶ OTS Press release “Wie handybegeistert sind die Österreicher wirklich?“ Di, 09.Jän 2001; OTS0139 5 WI 0339 CMA001 CI [Online] Available in German http://www.ots.at/pdf/OTS_20010109_OTSO139.pdf [Retrieved March 3, 2010]

²⁷ Statistic Austra: “IKT-Einsatz in Unternehmen 2009 “18.11.2009 [Online] Available in German http://www.statistik.at/web_de/statistiken/informationsgesellschaft/ikt-einsatz_in_haushalten/index.html Retrieved March 3, 2010]

²⁸ Statistic Austra: “ IKT-Einsatz in Haushalten 2009“02.09.2009 [Online] Available in German http://www.statistik.at/web_de/statistiken/informationsgesellschaft/ikt-einsatz_in_unternehmen_e-commerce/index.html [Retrieved March 3, 2010]

exception²⁹. Up to now paper submissions are still permitted but the contracting authority may restrict the submission to electronic submissions only. This restriction must be defined in the tender specifications at the latest.³⁰

eTendering on European level has some constraints which should be removed immediately: 1. Today, the level of interoperability of electronic signatures between member states is not satisfying. 2. The legal requirements for the electronic submission in the Member States are different tremendously. For example not all Member States made a qualified signature mandatory. 3. Numerous certificates and attestations to give evidence about the legal, economic, technical and financial situation exist in Europe. An operable solution which is guided by technical presettings is needed. 4. Another obstacle to cross border tendering are the 23 different languages. This problem might be overcome by translating tender specifications into a second common language. Obligatory bilingual tender procedures are not a practicable answer, this approach is uneconomical and will provoke operational problems.

Conclusion

Cross border interaction in Europe on basis of eTendering is difficult. One reason is the missing standardization while applications and systems are built throughout Europe: "Within the European Union, the Internal Market requires cross-border e-procurement. The European Council has issued directives and guidelines for this purpose. While e-procurement works on national levels, cross-border e-procurement in Europe does not work. This is mainly due to lacking technical interoperability and legal harmonisation in particular concerning the use of e-signatures."³¹

Interoperability for digital signatures and virtual company dossiers are central work packages in the high impact project PEPPOL by the European Commission. Other work packages of the project are the

²⁹ Republic of Austria: „BundesvergabeGesetz“ [Online] Available only in German
<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004547> [Retrieved March 1, 2010] § 43.1

³⁰ ididem § 91.1 and 243.1

³¹ Cimander, Hansen, Kubicek: „Electronic Signatures as Obstacle for Cross-Border E-Procurement in Europe“; Institut für Informationsmanagement Bremen GmbH (ifib), June 2009; [Online] Available <http://www.epractice.eu/en/library/292080> [Retrieved March 3, 2010] p 2

development of eCatalogues, eOrdering, eInvoicing and the realization of infrastructure. The project PEPPOL was installed by the EU with the aim to boost European cross boarder trade. During the last 18 month the conceptual and the functional specifications were defined. In the next 18 months the practical realization will have to follow. After this time it will show if this approach will be successful and all over Europe running applications, organizational structures and local law will be adopted to the findings of PEPPOL. Realizing interoperability is a hard and long journey. But if the European Union is successful, this approach will be a good (best) practice for global interoperability.

eProcurement in Austria is based on a good infrastructure. The Author expects a further increase replacing paper submission. The next step is to change existing processes and change behaviour patterns of the users.