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Democracy over power? The democratic decision-making process in the case of the attempted privatization of Estonia's power production

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ABSTRACT

The suspense-filled attempted partial privatization of the Narva Power Plants in the neo-liberal darling Estonia involved a rich cast, from trade unions and local scientists, via Estonian courts and ombudsmen to international consulting firms, major global banks and the US government. More important, a detailed single case study on the democratic decision-making process in this privatization case makes it possible to go beyond common generalizations regarding the consequences of neo-liberalism for democratic processes. It shows that purported proponents of economic neo-liberalism such as the US government sometimes use their arguments to advance the narrow business interests of politically well-connected firms. Established private firms can behave in a more rent-seeking manner than publicly owned, ex-communist companies. Liberal economic principles of open competition and a level playing-field are at times used by actors in the democratic process to question top-down, opaque economic decisions.

1. Introduction

The shape and quality of the new Central and Eastern European democracies have been on-going subjects of debate ever since the fall of communism almost thirty years ago (Roberts, 2010). Given the countries' simultaneous economic and political transformations, the debate regarding the interplay between democracy and the forces of liberalized markets, in particular, is longstanding (Przeworski, 1991; Greskovits, 1998; O'Dwyer and Kovalčík, 2007). It has again become more intense in the aftermath of the financial crisis of 2008 (Orenstein, 2009; Rupnik and Zielonka, 2013; Savi and Randma-Liiv, 2015). Echoing debates in other parts of the world, emphasis in both older and newer writings has often been on the nefarious consequences of neo-liberal economics on democracy.

Without refuting that neo-liberalism can have strong negative impacts on democratic processes and outcomes, this article argues that routinely labelling economic policies and policy making processes as "neo-liberal" sometimes obfuscates more complex realities where neo-liberal ideas and policy prescriptions are only a part of the picture. The article is based on a thorough single case study taken from a neo-liberal "darling", namely the Baltic state of Estonia. It focuses on the democratic decision-making process around the attempted sale of the Balti and the Eesti Elekrijaamad (the Baltic

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and the Estonian Power Plants) in Narva (hereafter Narva Power Plants or NPP) in 1997–2001 in the impoverished, largely Russian-speaking district of Ida-Virumaa. It systematically traces the political process surrounding the privatisation attempt, examining the role, argumentation and impact of the different actors: the Estonian government, parliament, and president, trade unions, NGOs, and business associations, as well as international actors, including the intended buyer – a multinational company – consultant companies and the US government. The aim is to show that detailed, systematic case studies tracing decision-making in detail, such as the present, force us to nuance our understanding of the impact of neo-liberalism on democratic decision-making and hence also critically examine policy makers' facile justifications of policy choices, in terms of liberal imperatives and equally simplistic critiques of neoliberalism as being all-powerful in structuring policy processes and choices.

Examining a key post-communist economic decision in Estonia is of particular interest given that its free-market reforms have been unparalleled in the former Eastern bloc. Estonia, sometimes labelled "Friedmanesque" (Jansen, 2008, p.129),[1] has since independence and up until the present been a champion of liberal market economics (Buchen, 2007; Feldmann, 2013; Tillmann et al., 2014). This is reflected in for instance its scores on the *Index of Economic Freedom* of the conservative Heritage Foundation and the World Bank *Ease of Doing Business* ranking, where, in 2015, Estonia ranked 8th and 16th respectively at the global level (Heritage Foundation, 2015; World Bank Group, 2015). A vivid illustration of the extent of Estonian neo-liberalism is the fact that the country, in order to comply with EU requirements, had to *reinstate* some trade barriers before EU entry (Bohle and Greskovits, 2007, p.456). Moreover, pushing privatisation to encompass infrastructure, such as in the case of the NPP, is also a trade-mark of neo-liberalism (Bieling and Deckwirth, 2008; Bouzarovski, 2009). Thus, the NPP privatisation attempt was chosen as a relatively 'hard' case, where neo-liberalism should, in accordance with theory, have been a major factor impacting on the decision-making process. If, in this more 'extreme' neo-liberal Estonian context, important democratic decision-making processes in the economic sphere are not strongly conditioned by neo-liberalism (as I explain below), it is arguably even less likely to be the case elsewhere.

The NPP case in fact reveals how supposedly "neoliberal" actors such as the US government – predictably – try to influence economic policy in less powerful states. However, and contrary to expectations, the US in this case used purportedly liberal economic arguments to advance the narrow business interests of a particular, politically well-connected firm at the expense of liberal market principles. Related to this, a firm from the long-established US market economy (that is, a supposedly seasoned liberal market actor) behaved in a more 'rent-seeking' manner than a publicly owned, formerly communist company such as the mother company of the NPP, Eesti Energia. Likewise, and again contrary to predictions, neo-liberal economic principles of transparency, open competition and a level playing-field (that is, a market in which all actors compete on the same terms from a fiscal and a regulatory standpoint) can at times be used by citizens' interest groups in the democratic process in order to question top-down and opaque economic decision making. In short, actors do not, in this case, behave in accordance with theoretical predictions. In addition, and again in contrast to claims regarding the overriding importance of neoliberal principles in economic decision-making, in the case of the NPP privatisation attempt, security considerations and US government political pressure were considerably more important in determining the shape of the process than were neo-liberal economics.

The article begins with a brief outline of the theoretical arguments around the impact of neoliberalism on democratic decision-making, followed by methodological considerations justifying the choice of the single case study and providing details on the selection of sources. The bulk of the article is made up of a detailed and finely textured empirical investigation of the democratic decision-making process around the sale of the NPP. It begins with a general introduction to the NPP and their role in the Estonian economy, followed by an overview of how the privatisation process evolved from 1997 to 2001, when the privatisation effort was effectively shelved. It is only when the many twists and turns of this complex affair have been carefully detailed that attention can be turned to the implication of the various actors, from consulting companies and business associations, via the Estonian president, parliament and trade unions, to high level American diplomats and politicians. Each set of actors is examined in turn. Finally, the article concludes with some more theoretically informed remarks on the case study.

2. Neo-liberalism and democratic decision-making

The conception of what constitutes a democratic decision-making process adopted for the purposes of this article is quite mainstream. The idea that the decision-making of an elected government must be effectively checked by parliament and other branches of government (president, courts, ombudsmen and others) is central to, for instance, Guillermo O'Donnell's widely adopted notion of 'horizontal accountability' (O'Donnell, 1998). Likewise, classical liberal political thinking from Tocqueville onwards and current mainstream definitions alike emphasize the inclusion of 'civil society' or 'stakeholders' in political decision-making beyond the ballot box as an important aspect of democracy.

Neo-liberalism – which surprisingly often goes undefined – is used here both in the sense of economic theory and political ideology, which, in turn, underpin specific policies of stabilization, liberalization, privatization and structural reform (Boas

[1] As one of the leading economists of the 20th century, Milton Friedman was a proponent of free markets with minimal state intervention. A key scholar of the neoclassical, anti-Keynsian Chicago school of economics, he was an adviser to both Ronald Reagan and Margaret Thatcher.

and Gans-Morse, 2009, 144).[2] This definition is compatible with the closely related, but less politically charged, terms of 'economic orthodoxy' and 'neoclassical economics'. While a more 'embedded' market economy and democracy are largely seen as compatible (and indeed mutually reinforcing), neo-liberalism has been seen as nefarious for a variety of reasons. The focus here will be on those reasons that are posed to affect the democratic decision-making process.

Neo-liberal economic reform programmes are often perceived as being externally driven, rather than adopted by choice. Governments follow the liberal reform credo because of pressure by multilateral lending organisations, the EU, the US, as well as the 'market' (potential investors, international private banks and others). Although no state ever has anything like complete discretion over economic policy,[3] the assumption is that neo-liberalism reduces political decision-makers' *marge de manœuvre* more than other types of economic policy.

A key assumption in the literature is that decision-making on liberal economic reforms will be top-down or 'delegative', that is, that power will be heavily concentrated in the executive branch to the detriment of other branches of government. Authors such as Adam Przeworski, Joan M. Nelson, Stephan Haggard and Robert R. Kaufman, Guillermo O'Donnell, and Béla Greskovits have feared that the necessity to adopt fast, pre-modelled economic reforms is incompatible with slow-working democratic institutions based on negotiation, compromise, and checks and balances. The fear has therefore been that, as a consequence, parliamentarism will be compromised by liberal economic reforms (Biebricher, 2015; Greskovits, 1998; Przeworski, 1991).

The second assumption in the literature is closely related to the first. If governments pursue swift, comprehensive reforms in accordance with pre-set models, not only is the parliament's role reduced, but there is also little room for consultation with civil society, and little possibility to take into account popular initiatives and reactions. Neo-liberal economic reform then affects the government's relations with society, as well as that with parliament. Also in this respect, it will lead the executive to manifest authoritarian and top-down tendencies: the government will be reluctant to develop consultation mechanisms and it will tend to discard expressions of citizens' opinion.

3. The Narva Power Plants as a single case study

The aim of this article is to contribute to our understanding of the complex relationship between neo-liberalism and democratic decision-making in fledgling democracies in Central and Eastern Europe through the execution of a single, thorough case study. While, clearly, a single case study cannot by itself refute or confirm theory, carefully construed case studies are central contributors to a field of knowledge and hence, together with other such work, to theory building (Flyvbjerg, 2006). The argument for a case study from "Friedmaneque" Estonia was made above, but the choice of the NPP needs further justification. After all, dozens of very large (by Estonian standards) and strategically important companies were privatized in Estonia in the first decade of transition from a planned to a market economy. Similarly, other important economic reform decisions, apart privatisation, were taken at the time, pertaining to liberalization of prices, trade and the movement of capital as well as structural reforms of pensions, the health care system, social benefits, and so on.

In certain respects, the NPP were not a typical Estonian privatisation deal. First, it was conducted by the Estonian government rather than through the Estonian privatisation agency, the government agency put in place specifically to administer the privatisation of state-owned assets. Second, a minority stake, rather than the whole company, was to be sold off. Third, the NPP were among the largest companies in the country. But in other and arguably more important respects it was a deal like many others. The NPP are a strategic good, as were a wide range of other Estonian enterprises privatised in those days – banks, railways, seaports, telecommunications, other infrastructure companies, major industries, and others. Privatisation concerned a firm in economic difficulty, as were so many others. Also, the interested buyer was a foreign company, which has been the rule for privatisation in the country (Terk, 2000). Thus, in key respects, the NPP were typical and therefore suitable for a case study such as this one. Another consideration in choosing the NPP case study has been that this privatisation generated strong political debate and controversy, engaging a wide array of actors. Given that theorizing of the impact of neo-liberalism on democratic decision-making predicts the exclusion of *inter alia* parliament, trade unions, and civil society organizations from the process, a case where the engagement of such actors was strong makes it possible to study to what extent they were indeed excluded and if this can be traced back to the neo-liberal nature of the economic decision. This again makes the NPP a suitable choice of case study.

The NPP case study is founded on a systematic, key word-based search of relevant media reports (print and broadcast), both through databases that compile and translate national media reports globally (LexisNexis and BBC Worldwide Monitoring) and manually through a review of the *Baltic Times*, issue by issue, for the relevant years. Moreover, the Economist

[2] To elaborate: the fundamental tenet of neoliberalism is that markets are the sole efficient allocators of resources. The policy prescription thus becomes that market logic should infuse economic and social relations. The neoliberal policy package aiming towards increased marketization includes stabilisation measures (fiscal and monetary austerity such as the elimination of budget deficits, devaluation and increased interest rates), liberalization of prices, trade, and market access both domestically and internationally, privatisation of state assets, and structural reform aiming (1) to reduce the social and economic role of the state further (beyond privatisation) in the provision of pensions, health, and education and (2) to individualize the employment relationship thereby reducing the power of organized labour.

[3] As, for example, Charles Lindblom, John S. Dryzek and Robert Dahl have pointed out, all governments are obliged to pursue a political agenda that secures the prosperity of the private sector, as it is the business community that ensures employment, production, growth, and, more generally, economic security and well-being (Dahl, 1989; Dryzek, 1996; Lindblom, 1977).

Intelligence Unit (EIU) country reports on Estonia were perused. In total, approximately one hundred and thirty media reports were finally used, out of the several hundred consulted. Given the space limitations of a journal article such as this one and the vast number of primary sources used for the purposes of this case study, primary sources are provided not in the list of references but through a hyperlink listed as the first item in the References section below.

The bulk of news reports perused comes from the Baltic News Service (BNS), the leading news agency in the Baltic, *inter alia* providing news on the three Baltic States to global news agencies such as Associated Press (AP) and Agence France-Presse (AFP). This source is complemented by reports collated by BBC through its Worldwide Monitoring and Summary of World Broadcasts. While the BNS generates news directly from primary sources (political and economic actors themselves), the BBC monitoring selects and translates pre-existing local broadcast, press and social media sources. Both BNS and BBC Worldwide Monitoring/Summary of World Broadcasts news reports are accessed on a subscription-basis only and thus not readily available online.

4. The Narva Power Plants

Politics in Estonia in the 1990s were polarized and the tone of political debate often conflictual. However, governments from both right and left at different points in time attempted to privatize the NPP. The reasons for Estonian politicians' eagerness to privatize are several. At the outset of transition, power generation was inefficient and incompatible with EU environmental standards (as will be further outlined below). To ensure the competitiveness of local manufacture as well as Estonia's attractiveness as a site of foreign direct investment, a reliable, efficient, and price competitive electricity supply was seen as crucial. The capital investment needed to upgrade the power plants to meet such requirements was massive (Holmberg, 2008). Thus, many Estonian politicians found it imperative to seek private capital injection in the power production, not least since the state was cash-strapped. As we shall see, this analysis was not necessarily shared by for instance public servants in the energy sector, explaining some of the controversies and conflict around the attempted sale.

An additional reason was political. Given Estonia's strongly pro-Western orientation and its often conflictual relations with Russia, it was considered important to maintain energy self-sufficiency *vis-à-vis* its – in all senses of the word – powerful neighbour (Mäe, 2007). Thus, maintaining an independent capacity to generate electricity – as the NPP provided – was seen as crucial.

The partial privatisation was a particularly important decision as, in the 1990s, no less than ninety-five per cent of Estonia's electricity was generated by the NPP. The NPP are oil shale-fired thermal power plants, meaning that the power generated at the two power plants is extracted from oil shale from strip and underground mines around Narva. Oil shale extraction is environmentally controversial at the global level. Thus, in Estonia in the 1990s, a major concern (in particular vis-à-vis EU environmental regulations) was the atmospheric pollution generated by the burning of oil shale. Atmospheric pollution in combination with dirty wastewater also led to the pollution of the soil (Mäe, 2007). In fact, the oil shale industry was not only the largest atmospheric polluter in Estonia but among the largest in Europe at the time. Again, it was hoped the privatisation would improve the environmental standards of the NPP.

Privatization was a massive undertaking in all post-communist countries in the 1990s, and particularly in the largely unreformed former Soviet Union.[4] Public ownership of the means of production was, after all, a key tenet of communist ideology. Thus, hardly surprisingly, in 1991 when Estonia gained its independence from the Soviet Union, the NPP were fully owned by Eesti Energia (Estonian Energy), a state-owned conglomerate also distributing energy. Eesti Energia was, in fact, Estonia's biggest company at the time.[5] The oil shale mining company Eesti Polevkivi (Estonian Oil Shale), which will also feature on the margins of this case study, was a separate firm and in itself also one of the largest enterprises in Estonia.

5. The outlines of the attempted sale

As outlined in the previous section, politicians felt early on that the economic, political, and environmental objectives for Estonian power generation were best met by privatising the NPP. In 1995, the centre-left coalition government of the day started negotiations with the Minnesota-based company NRG Energy, which at the time was one of the top-ten energy corporations in the US and one of the few with experience in oil shale technologies (Terk, 2000). It was only two years later, in 1997, that privatisation gathered pace, however. That year, it was decided that the Estonian state should maintain a fifty-one per cent stake in the NPP, while selling off the remaining forty-nine per cent. Privatisation thus concerned a minority share in what was to be a joint venture between the state-owned Eesti Energia and a private company (as a government decision of principle on the basic parameters of the privatisation, no specific company was mentioned).

In September 1997, the Estonian government discarded a first NRG Energy proposal, underlining that its decision relied on nearly thirty expert opinions. However, the government stated its wish to continue the discussions, while at the same time declaring that negotiations with other interested companies, such as Germany's Preussen Elektra, the US firm Duke Energy,

[4] As compared to, for instance, Hungary, where some limited experiments with partial price liberalization and private enterprise – labelled "goulash communism" – were launched from the late 1960s onwards.

[5] In other words, Narva Power Plants were state owned through the state's ownership of Eesti Energia.

Finland's Imatran Voima (IVO) and Sweden's Vattenfall,[6] should be launched, or, alternatively, a public bidding be announced (BNS, 1997b; BNS, 1997c; BNS, 1997d). However, the government did not follow up on these declarations, neither in 1997 nor later on, even though other firms protested against being left out.

A few months after the rejection of the first NRG Energy proposal, the Narva power plants appeared in the government-approved general privatisation plan for 1998. In April 1998 NRG Energy presented a second, reworked business plan to the government. In doing so, the Estonian representative of NRG Energy, Hillar Lauri, said that if the government's reply would be negative, the company's position regarding public bidding would remain unchanged: it would not take part in a competitive auction (BNS, 1998a). An expert committee chaired by the Roads and Communications Minister Raivo Vare was formed to study the proposal. In September 1998, the government again – upon the expert committee's recommendations – decided to reject the NRG Energy business plan, but to continue with yet another round of negotiations (BNS, 1998c). In December, Vare was appointed negotiator for the government side, a position to which he was formally re-appointed in June 1999, after the coming to power of a new centre-right coalition government in March 1999 (BNS, 1999c).

In the summer of 1999, it was decided that fifty-one per cent of the oil shale mining company Eesti Polevkivi be handed over to a new company, AS Narva Elektrijaamad (Narva Power Plants Ltd), while the remaining forty-nine per cent were to remain in state hands. The Narva Power Plants Ltd was set up on the basis of half of Eesti Polevkivi together with the Balti and Eesti power plants, and Eesti Energia was the owner of the newly established company (BNS, 1999b; BNS, 2000a). Hence, extraction and generation were regrouped into a single company. This merger was reportedly suggested by NRG Energy.

In May 2000, NRG Energy submitted a third set of proposals regarding the main aspects of a future deal. It wanted a fixed producer price for electricity over a fifteen-year period. The price NRG Energy wanted to charge was 30–40 per cent higher than the 2000 Estonian electricity prices and one-third higher than the free market price. It also wanted a guaranteed sales volume of 6 terawatt hours per year, that is, twenty per cent above total Estonian electricity sales in 1999. Moreover, NRG Energy demanded an average annual return on investment of 12 per cent (BBC Worldwide Monitoring, 2000b; BNS, 2000e; BNS, 2000g). After submitting its counter-proposals to NRG Energy – pertaining *inter alia* to lower electricity prices, reduced and postponed investments (to bring prices down), decreased ensured profitability (to eight per cent) (BNS, 2000p; BNS, 2000q) – the government endorsed the main conditions of the deal in June and promised to sign the contract one month later. Just days earlier, the board of Eesti Energia, in principle one of the parties to the transaction, had sent a confidential letter to the Estonian president and prime minister warning that the sale would be harmful in business terms (BNS, 2000i).

When endorsing the main terms of the deal, the government gave Minister of Economics, Mihkel Parnoja, the powers to negotiate the outstanding details. In the first half of July it became apparent that there were serious disagreements over how to interpret the terms of the draft contract (which had not been made official), as NRG Energy did not consider the Estonian government's counter-proposals as part of the draft deal. Moreover, both the supervisory council and the board of Eesti Energia were by then overtly critical of the deal. Even though the government had made clear that it would replace recalcitrant management if necessary, the board threatened not to sign the contract, which, it felt, could well lead to the bankruptcy of Eesti Energia (BNS, 2000j; BNS, 2000k).

The final negotiations were conducted by Parnoja and the general director of NRG Energy's European division, Ronald J. Will, while the Eesti Energia executives, as well as the other members of the Estonian official negotiating delegation were excluded. There were allegations—which NRG Energy vehemently denied—that this was done at the request of the American firm (BNS, 2000; BNS, 2000p). NRG Energy accepted the final conditions issued by the Estonian government on 1 August 2000. With that, all specifications of the deal were in principle completed (BBC Summary of World Broadcasts, 2000b). On 7 August the board of Eesti Energia received the text of the sales contracts, meeting protocols and copies of the correspondence between the government and NRG Energy. However, the board members were not allowed to make public the conditions of the agreement. Moreover, they were not allowed to comment publicly on the contents of documents (BNS, 2000bb).

Parnoja and Finance Minister Siim Kallas gave the Eesti Energia management two weeks to sign (BNS, 2000jj). During that time, Eesti Energia asked NRG Energy for adjustments in the texts (BNS, 2000ll, BNS, 2000mm). Until the very end disagreements remained on a number of details (which were not made public either by NRG Energy or Eesti Energia board members, who had, as noted above, been forced to silence). It was therefore concluded that the seven agreements on basic terms be complemented with a set of clauses on how to handle outstanding issues. Disagreements over such issues would give the parties the right to drop the agreement (BNS, 2000nn). Moreover, it was decided that detailed contracts on construction, renovation, and financing had to be prepared and concluded within one year of signing the basic terms. NRG Energy also committed itself to organise additional funding for the upgrading of the power plants.[7] The transfer of shares in Narva Power Plants to NRG Energy, and thus the actual conclusion of the deal, would only take place when the financing arrangement had been signed (BNS, 2000nn). With these specifications,[8] the management of Eesti Energia finally agreed to sign the seventy million dollar deal with NRG Energy on 25 August 2000.

After a turbulent summer, calm returned surprisingly quickly. In the autumn of 2000 and the early spring of 2001, a tender for the renovation of the power blocks of the Eesti and Balti power plants was successfully completed. Renovations of one

[6] The two Nordic firms were mainly interested in the distribution networks.

[7] The NRG Energy contribution from its own funds was not sufficient for the renovation of the power plants.

[8] It has been difficult to obtain information on precisely which of these terms were a result of the last minute negotiations, and which had been agreed upon earlier.

power block at the Eesti power plant started in the summer of 2001, according to plan.[9] Meanwhile, the lead committee for the privatisation of the Narva Power Plants started taking bids for the leadership of an international bank syndicate (BNS, 2001o), and negotiations between NGR Energy and Eesti Energia on the detailed contracts progressed steadily (BNS, 2001i). On 6 September 2001, slightly behind schedule, Eesti Energia and NRG Energy signed a mandate contract[10] for the organisation of a EUR 285 million loan with three major international banks, Société Générale Investment Banking, the Bank of Tokyo-Mitsubishi, and KBC Bank N.V. (Belgium), which had won the bid for leadership of the bank syndicate. The interest rate was not made public. According to the mandate contract, details of the loan should be specified before 31 December 2001, the date at which the mandate would expire. However, it was estimated that only an additional two-three weeks would be needed for finalising and signing the loan contract. Hence, the final conclusion of the sale was imminent (BNS, 2001rr).

Unexpectedly, however, negotiations over the loan arrangement dragged on. In early October, Parnoja made a surprise resignation, generally interpreted as at least partially a consequence of his unpopularity due to the Narva privatisation.[11] As the autumn progressed, the reasons for the delays in the negotiations appeared in the press. After the 9/11 terrorist attacks committed by Al Qaida in New York and Washington, the bank syndicate required additional guarantees: a pledge over the assets of Eesti Polevkivi, a terrorism and related perils insurance to be underwritten by the Estonian government, Estonian state guarantees on the loan, and others. (BNS, 2001ee, BNS, 2001ii, BNS, 2002i).[12]

Both the Estonian government and NRG Energy were reluctant to give such additional guarantees. For a long time, NRG Energy simply denied that it had received any such demands (BNS, 2001hh). For the Estonian government, one of the main reasons for privatisation had been to avoid state implication in the financing of the Narva Power Plants (BNS, 2001gg). On Friday 21 December, just before the bank holiday, NRG Energy finally offered to pledge its future forty-nine per cent shares in NPP Ltd as an additional guarantee. This pledge had not been among those demanded by the banks. It was rejected by the Estonian side as insufficient and tardy (BNS, 2001nn, BNS, 2001oo).

Meanwhile, for the first time in public, the tone between the two sides became confrontational. In a news conference, NRG Energy president Dave Peterson warned that if the Estonian state or Eesti Energia should choose not to see the deal through, this would not only have grave legal consequences, but would also have a damaging effect on Estonia's EU entry negotiations. Peterson moreover claimed that the NPP privatisation was being followed closely by the US government (BNS, 2001jj). Commenting on this, Prime Minister Laar said that he was “unpleasantly surprised” by Peterson's “brutal” pressure, stressing that this could prevent the conclusion of the deal (BNS, 2001ll). The new Economics Minister Henrik Hololei reacted with scorn: Peterson's dire predictions reminded him of a warning by a senior traffic police official that Estonia would not be admitted into the EU because of its poor traffic culture, he said (BNS, 2001kk).

During the holidays, calls for breaking off the deal, as NRG Energy had failed to meet its commitment to organise the financing scheme, were heard for the first time from government quarters. Before his—not unexpected—announcement on 20 December that the government would resign due to internal dissensions, Laar declared that no more concessions would be made (BNS, 2001mm). On 8 January 2002, the very day it left power, the government called off the deal (BNS, 2002b).[13] On 21 January, the board of Eesti Energia officially informed NRG Energy that talks between the two companies had been cancelled (BNS, 2002f).

Only a few weeks later, the company with a controlling stake in NRG Energy worldwide, Xcel Energy, announced that NRG Energy would sell off 1.9 billion dollars of existing, mainly international generating assets, cancel approximately 700 million dollars of planned projects, and delay about 900 million dollars' worth of projects (BNS, 2002g). In this context, it came as a surprise that, just days after, the prime minister of the new governing coalition,[14] Siim Kallas (who had been minister of finance in the previous government), received a letter from NRG Energy. In the letter, NRG Energy stated that it was ready to complete the agreement. Kallas firmly rejected the offer. He wrote that the political and economic situation in Estonia had changed dramatically in the six years that had passed since the talks had begun and that ‘[t]here have also been significant changes on the international level, most notably in the European Union energy market policy’ (BNS, 2002i). Thus ended six years of negotiations between the Estonian state and NRG Energy over the Narva Power Plants.

6. The decision-making process and its actors

The main lines of the negotiating process, however complicated, only hint at some aspects of the democratic political decision-making process. In fact, a large number of actors other than the government, NRG Energy, and the board and council

[9] Alstom Power Inc. (USA), Foster Wheeler Energia Oy (Finland), and Lurgi Energie und Entsorgung GmbH (Germany) took part in the tender. The lead committee set up for the privatisation decided to sign a contract with the Finnish contender (BNS, 2001a; BNS, 2001b; BNS, 2001d; BNS, 2001e).

[10] A mandate contract is an option to conclude an agreement on the basis of fixed terms before a set deadline.

[11] His role in the privatisation of the Estonian railways was also widely criticised (BNS, 2001dd, Gunter, 2001).

[12] Such demands from the leading banks in the syndicate were probably reinforced by the declining economic health of NRG Energy. The rating agency Moody's put NRG Energy under review for possible downgrade after an acquisitions spree in the US (BNS, 2001ff). The share price of NRG Energy had also plummeted (BBC Worldwide Monitoring, 2001h).

[13] A government official told the *Financial Times* that the decision was the result of political strategy: it would have been “stupid” to let the incoming government get the credit for having broken off the hugely unpopular deal (BNS, 2002d).

[14] This coalition was made up of the former main opposition party, the Centre Party, together with one of the three coalition parties of the out-going right-wing government, the Estonian Reform Party.

of Eesti Energia were asked or – more commonly – sought to become implicated in the privatisation decision. They included: international consulting companies and law firms, Estonian civil society actors (trade unions, business/employers' associations, and other civil society organizations), the Estonian parliament (including the political parties), the president of Estonia, and the American government. In what follows, each actor is discussed in turn in the order mentioned above. For each actor, its positions, statements, actions and interactions with other stakeholders will be detailed.

One category of actors was explicitly asked—and even paid—to give their opinion. The Estonian government sought the advice of **international consulting companies** including McKinsey and Schröders. In a confidential report of June 2000, McKinsey advised against the NRG Energy deal on the grounds that Eesti Energia would be able to fund modernisation of the power plants itself, that the deal would make it virtually impossible to build additional energy production facilities in Estonia under free-market conditions, and that the fixed guaranteed price demanded would be one-third above the free market price (BNS, 2000f; BNS, 2000g). Schröders came to the opposite conclusion: the Estonian government should approve of the deal (BNS, 2000h). The advice of international law firms was also sought. Allen & Overy, a British firm, expressed its scepticism regarding the proposed deal, as it would be in contradiction with EU energy directives and principles of free competition (BNS, 2000k). Much of the advice of international consulting firms (as well as its costs) remained undisclosed throughout the protracted negotiation and finalisation process.[15]

Apart from this expert advice, consultation was quite restricted. Instead, concerns regarding the deal were mostly voiced via the press and through demonstrations and other public initiatives. Early protests came mainly from **trade unions** and concerned primarily employment and social conditions. In 1996, the leader of the Ida-Virumaa oil-shale miners' union, Endel Paap, threatened to launch a general strike in case the power plants were sold to NRG Energy. The jobs of thousands of miners and energy workers were on the line, he argued (BNS, 1996).[16] In May 1999, trade unions again protested against restructuring of the oil shale industry and asked for information about the privatisation, including the social aspects of a sale (BNS, 1999a). A year later, 5000 persons formed a human chain between the towns of Narva and Johvi in one of the largest protest actions ever staged in the region. One of the demands of the energy, metal and mining trade unions that organised the manifestation concerned the social clauses of the draft agreement (BBC Wordwide Monitoring, 2000). However, a couple of months later, in July 2000, after a meeting with NRG Energy representative Lauri, the Estonian energy trade union came out in favour of the proposed deal as a way to prevent closure of the plants (BNS, 2000s; Baltic Times, 2000; EIU, 2000).

Until the very end of the protracted process, unions expressed their preoccupation with the social aspects of the deal and the lack of information on the terms of the agreement. In mid-December 2001 as the deal was unravelling, the association of trade unions of the Estonian oil shale-mining industry made a statement demanding that the privatisation process be relaunched from scratch. A week and a half later, the association sent a public letter to Prime Minister Laar, threatening to stage a demonstration in Tallinn if the government did not inform the unions about the consequences of the deal on the miners' future and on social guarantees (BNS, 2001qq). Unexpectedly, Laar responded to this request, explaining that the deal with the American firm might fall through, but that in any case a plan for restructuring the oil shale sector and providing social guarantees would be needed (BNS, 2002a). He did not, though, provide any details regarding the trade unions' main concerns. It must be said, however, that the government released information about the setting up of a five million dollar social fund by NRG Energy during the negotiations.

Estonian **business and employers' associations**, such as the Estonian Chamber of Commerce and Industry, the Estonian Business Association, and the Estonian Association of Employers and Industry, were consistently against the deal. In a joint letter to the prime minister of early July 2000, the organisations claimed that the government and its chief negotiators had no legal right to conduct talks with NRG Energy. Moreover, the terms of the proposed agreement, they warned, would hinder the development of the Estonian economy and the competitiveness of Estonian companies (BBC Worldwide Monitoring, 2000c). Before the main terms of the agreement were concluded in August 2000, **other civil society organisations** also tried to make their voices heard. The Estonian Consumer Protection Union and the Estonian Tenants Union issued a joint statement critical of the privatisation agreement. According to them, 'a number of points' were 'detrimental and do not take into account the interests of final consumers'. The organisations stressed that the government had failed to hear the opinion of Estonian scientists and experts in the field of consumer and tenants' protection before signing the deal. They also protested against the fact that the government had negotiated with only one corporation (BNS, 2000l).

One year later, in view of the final conclusion of the contract, members of the Estonian Academy of Sciences issued a public protest letter. They claimed that the majority stake in the oil shale mining company Eesti Polevkivi was sold to the NPP at a bargain price, and in contradiction with existing laws. They also feared that NRG Energy would re-sell the power plants within a few years. Moreover, in their opinion, the long-term market, product and raw material guarantees given to NRG Energy were inconsistent with Estonia's EU accession agreement (BNS, 2001f; Kurm, 2001a).[17]

[15] As we shall see, one of the recurrent demands of the opposition was that the agreements with consulting firms and their work be made public.

[16] In writing about the threat of strike action, a leading Estonian daily, *Eesti Paevaleht*, cited unnamed sources which claimed that the Russian Citizens Union in Narva sought to steer the course of events through the trade unions (cited in BNS, 1996).

[17] This appeal was joined by one of the candidates for President Lennart Meri's succession, Peeter Tulviste of the Pro Patria Union (BNS, 2001j; BNS, 2001k).

Environmental organisations also became increasingly vociferous. In June 2001, environmental groups submitted a request to the Estonian legal chancellor,[18] Allar Joks. They asked him to give an opinion on whether the environmental assessment required by law had been duly carried out. Joks concluded that this was not the case and thus, on 21 August 2001, asked Economics Minister Parnoja to consider halting the deal, so that an environmental evaluation could be carried out. The same evening, the government spokesperson Priit Poiklik said that 'I have to note that the government took a decision once and will not go back on it'. Poiklik stated that the legal chancellor's recommendation had not been discussed by the government as 'the timing of it was rather strange and surprising' (BBC Worldwide Monitoring, 2001c; BBC Worldwide Monitoring, 2001d).

In the meantime, the Institute for a Sustainable Estonia, together with academics and other environmental groups, appealed to the government and parliament to hold an extraordinary session of parliament to discuss the details of the deal, the opening of the national energy market, the development of a Baltic energy and gas circuit, and sustainable alternatives to oil shale-fuelled energy (BNS, 2001m). In September 2001, Prime Minister Laar met with representatives of environmental organisations. He stressed that there were no alternatives to oil shale in the short term and that the environmental situation in Ida-Virumaa had improved over the last years. He also underlined the government's wish to involve environmental organisations in elaborating a sustainable development strategy, and proposed further meetings (BNS, 2001occ).

While civil society was, as we have just seen, quite active, the most sustained attempts to influence the negotiations came from the parliamentary opposition, the Estonian president, and US government. By a decision of December 1998, **the Estonian Parliament *(Riigikogu)*** had established a list of strategically important enterprises which could only be privatised with parliamentary consent. The NPP were on that list. In late June 2000, as the negotiations between the Estonian government and NRG Energy over the main terms of the deal were drawing to a close, no parliamentary debate had taken place. On 14 July 2000, the opposition parties (the Centre Party, the People's Union, and the Estonian United People's Party) decided to call for an extraordinary session of the *Riigikogu* to discuss the proposed contract.[19] In their motion, the opposition parties recalled that the Narva Power Plants was on the 1998 *Riigikogu* list. They also threatened to launch a vote of no confidence against Economics Minister Parnoja.

Simultaneously, the opposition launched a flurry of extra-parliamentary initiatives. They campaigned to collect signatures against the privatisation and for the holding of a referendum (BNS, 2000m).[20] They also called for a demonstration in front of the *Riigikogu* on the same day as the extraordinary session of parliament (BNS, 2000r). Moreover, they sent a letter to the US ambassador to Estonia, Melissa Wells, expressing their opposition to the deal and declaring that if they came to power, they would not regard the agreement as binding (BBC Worldwide Monitoring, 2000d). The opposition also tried to learn from other Baltic states' experiences with energy sector privatisation. A meeting was organised in July 2000 between Estonian opposition politicians and Latvian MPs and union leaders. The goal was to learn from the successful Latvian campaign against power sector privatisation (BNS, 2000ss).[21]

Not all opposition parties were against the NRG Energy deal, however. For the chairman of the Estonian Coalition Party (one of the parties in government between 1995 and 1999 when privatisation talks started), Mart Kubo, '[p]rivatisation has been decided long ago and what's going on now seems to be populist bubbles'. He held that '[i]f interest groups and oligarchs start to guide the government, the political system and parties are no longer necessary' (BNS, 2000n).

The day before the planned extraordinary session of the *Riigikogu*, the government coalition council decided not to take part. As their absence meant the required quorum would not be reached, this implied that the extra session would not take place. The head of the coalition council, Andres Tarand, explained that the coalition wanted a parliamentary debate, but only when definite figures had been agreed upon with NRG Energy and made public. The coalition also pronounced itself against a referendum (BBC Worldwide Monitoring, 2000e; Bailey, 2000). On the day of the planned-but-cancelled extraordinary session, 1500–2500 persons heeded the opposition's call for a demonstration in front of the *Riigikogu* (BNS, 2000t; Bailey, 2000).

The two main opposition leaders Edgar Savisaar and Villu Reiljan's response to the cancellation of the *Riigikogu* session was a lawsuit against the government's decision on the privatisation of the Narva Power Plants. In view of the former Prime Minister and Vice Speaker of Parliament Savisaar and former Environment Minister Reiljan's, the decision was against the constitution and a host of other laws (BNS, 2000x). The petition was examined by the Tallinn administrative court, the Tallinn circuit court, the administrative chamber of the Supreme Court (which revoked the rulings of the lower courts and returned the case to the Tallinn administrative court), and the Tallinn administrative court yet again, without reaching the stage of an examination of substance (BNS, 2000y; BNS, 2000z; EIU 15/9/2000, BNS, 2001c; BNS, 2001bb.).

In early August 2000, when the framework agreement had been signed, the ruling coalition called for an extraordinary session of the *Riigikogu*. However, the chairman of the *Riigikogu* 's economic committee and member of the governing coalition, Andres Lipstok, voiced concern that not enough information on the terms of the deal had been made available to

[18] The legal chancellor is an independent ombudsman, responsible for examining the legality of the activities of state institutions.

[19] According to the standing rules of parliament, the speaker must convene an extraordinary session if at least one-fifth of MPs so demand.

[20] The collection of signatures also pertained to the privatisation of the Eesti Raudtee (Estonian Railway), another contested project.

[21] In Latvia, the government had organised a referendum on the issue after more than 300,000 Latvians had signed a petition against privatisation. Opponents also used the privatisation in 1999 of the Lithuanian Mazeikiai oil refinery to another US firm as an argument against the deal. This privatisation was highly controversial, as the sale was widely deemed disadvantageous to Lithuania (EIU 15/9/2000).

make a constructive discussion possible (BNS, 2000aa, BNS, 2000dd). On the day of the extraordinary session, Foreign Minister Toomas Hendrik Ilves released a letter to the MPs in which he declared that analysing the compatibility of the contract with EU admission requirements would be extremely time-consuming, expensive and ultimately inconclusive. In any case, the minister explained, the foreign ministry lacked the competence to make such an assessment (BNS, 2000ee). The same day, opposition MPs again proposed a vote of no confidence in Parnoja. In the motion they stated that with the NRG Energy deal, '[a] precedent has been set that may end all democracy, transparency, legality and politicians' responsibility for their actions'. 'What talk can there be of democracy when the most important reasons underlying decisions are kept concealed from those who later will have to live with their consequences' they asked (BNS, 2000gg).

The parliamentary debate was tumultuous. Prime Minister Laar defended the deal, claiming that the government was restricted by the decisions of previous governments. At the same time, he stressed that it would guarantee employment and the creation of a five million dollar social fund in Ida-Virumaa. Laar stated in front of the *Riigikogu* the security aspect of the deal: 'It is our own hard work and NATO's readiness to accept us that will take us to NATO. But it has to be acknowledged that a contract with NRG Energy will help us move towards these goals' (BBC Worldwide Monitoring, 2000g). As Parnoja was about to report on the deal, the extraordinary session was called off, as opposition law makers walked out. They remained absent for the next item on the agenda, the vote of no confidence in Parnoja (BNS, 2000ff). The opposition explained its actions by stating that the session had become pointless as there was no substantive discussion (BNS, 2000hh). After the session, Lipstok, chairman of the economic commission of the *Riigikogu,* admitted that it was not normal that open discussion in parliament would occur so late in the process (BBC Summary of World Broadcasts, 2000c). The day after the session, the opposition Estonian United People's Party claimed in a statement that the government was afraid to release the terms of the agreement because they were disadvantageous to Estonia. This was evidenced by the fact that no independent international audit of the worth of the plants had been undertaken (BNS, 2000ii).

During the summer of 2000, Estonian opposition parties continued collecting signatures against the privatisation and for the holding of a referendum. By mid-August, they had collected 150,000 signatures from a population of circa 1.4 million. At that date, the EMOR polling institute released a public opinion survey according to which 44 per cent of respondents designated the NRG Energy deal as the most important piece of news. Eight per cent supported the agreement, while 67 per cent were against.[22] On 20 September 2000, the opposition parties handed over a list of almost 160,000 signatures to the speaker of the parliament. They claimed that the campaign was 'the biggest civic initiative since Estonia's regaining of its independence' (BNS, 2000pp).

A day earlier, the ruling coalition had voted out of the parliament's agenda two opposition bills regarding the sale. The first bill called for a referendum on the privatisation, while the second demanded that the government revise entirely the terms of the contract. Speaking on behalf of one of the coalition partners, the Moderates' Ivar Tallo said that responsibility for economic policy decisions of such importance should not fall on the people who were victims of political manipulations. Instead, responsibility lay with the state institutions established in accordance with the principles of representative democracy (BNS, 2000oo). The opposition resubmitted the same bills to parliament on 21 September (BBC Worldwide Monitoring, 2000h; BNS, 2000qq). Although these were again voted out of the agenda,[23] the chairman of the governing coalition's council, Tarand, stressed that in the future, the government would strive to share information on important topics with the opposition. He underlined that the house rules of the *Riigikogu* allowed for a greater flexibility in handling opposition-sponsored bills than merely deleting them from the agenda (BNS, 2000rr).

Parliamentary activity around the deal then declined until late June 2001, when the opposition again called for an extraordinary session of parliament (BNS, 2001g; BNS, 2001h; BNS, 2001k). It requested that the government make public the contents of the agreement, that a committee of MPs and academics be created to assess the deal, and that the *Riigikogu* has the right to make the final endorsement. It also asked the government to release details regarding the work of privatisation advisers. The speaker of the parliament called for a session but it became clear that the ruling coalition would not attend, thus repeating the strategy of the preceding year (BNS, 2001l). Hence, on 4 July, the extra session was called off for lack of quorum (BNS, 2001n).

The opposition, far from giving in, made a renewed attempt a little more than a month later, reiterating its earlier requests while adding a new one: that in the future, the government must ensure that no contracts be signed with companies that refuse to make agreements public (BNS, 2001p; BNS, 2001q). Edgar Savisaar, as leader of the main opposition party, claimed that throughout, the NPP privatisation had been an expression of political vanity, of a wish to stand out in the world with intemperate and heedless liberalism, on the one hand, and carefully concealed selfish interests of a very narrow circle of people, on the other (BNS, 2001t).

This time, the extraordinary session of parliament did take place, but it was no less turbulent than the one held almost exactly a year earlier. In front of the MPs, Prime Minister Laar defended the privatisation for nearly three-and-a-half hours, stressing the link between the NRG Energy deal and Estonian accession to NATO and Estonian security concerns more broadly. 'The NRG Energy deal is nothing that could lead us to NATO, but thwarting the deal today could badly shatter the US support for our aspirations', Laar claimed. He held that along with NRG Energy investments would come 'soft security guarantees, as we have to do with a major firm of a country which is very friendly towards Estonia' (BNS, 2001v). After four hours, the extra

[22] The rest were either undecided (19%) or had no opinion (6%) (BNS, 2000kk).

[23] This particular point could not be finally confirmed.

session was cut short, as the MPs of the government coalition parties decided to walk out (BNS, 2001x). Hence, the opposition-sponsored bill was not discussed.

A few days later, the government submitted the confidential agreements (approximately 600 pages of text) to parliamentarians. Originally, the government gave MPs four days to study the documents, which were available only in English. However, upon the formal request of the *Riigikogu* economic committee, the consultation period was prolonged. MPs, including those from the ruling coalition, complained that important documents were missing, including the appendix containing the formula for calculating the energy price (BNS, 2001z; BNS, 2001aa). After the end of the consultation period the parliament again discussed the deal. The *Riigikogu* majority rejected the opposition-sponsored bill. Thus, the final decision regarding the NRG Energy deal was put in the hands of the government by parliament (BBC Worldwide Monitoring, 2001f).

The **president of Estonia**, Lennart Meri, was early on an outspoken critic of the proposed sale of the NPP to NRG Energy, although through his party affiliation he was in principle on the governing coalition's side. One of his main criticisms concerned the way in which the parliament had been circumvented, but his hostility towards the deal was broader. In spring 2000, Meri visited the NRG Energy headquarters in Minneapolis and met with the firm's senior management (BNS, 2000d). At the same time, he sent invitations to Prime Minister Laar, Foreign Minister Ilves, and Economics Minister Parnoja to come and discuss the proposed deal (BNS, 2000b). Similar invitations were issued to Parnoja, Laar and the chairman of the board of Eesti Energia, Gunnar Okk, in August 2000, just after the framework agreement had been concluded. A couple of weeks earlier, President Meri had also sent a letter to Laar in which he criticised the deal. Apart from reminding the prime minister of the 1998 parliamentary decision and its implication that any sale of the NPP would have to be preceded by a *Riigikogu* vote, the president stressed that the argument that the NRG Energy agreement would give Estonia an advantage in its quest for NATO membership could not be taken seriously (BNS, 2000occ). Instead, a priority in ensuring Estonia's security should be to build an undersea cable connecting the country to Nordic electricity grids (BBC Worldwide Monitoring, 2000f).

President Meri also pronounced himself publicly against the transaction. In February 2000, he seized the occasion of the traditional Independence Day speech to criticise the deal which, in his words, was likely to create more problems than it solved (BNS, 2000c). At the end of June 2000, Meri launched sharp public criticism of the deal because of the higher electricity prices it implied, saying it would have negative effects on Estonian competitiveness and would slow down economic growth (BBC Worldwide Monitoring, 2000f).

In mid-August 2001, his criticism grew fiercer. In a meeting with the leaders of the parliamentary factions, the president stated that he considered it 'unconstitutional and inconsistent with parliamentary principles to privatize Estonia's largest strategic industry secretly and justify the secrecy with the contractual clause of confidentiality'. He even saw 'security risks in such a strange way of action'. Meri also advised the parliamentarians, when the deal was discussed in parliament, to bring up issues such as the consistency of the agreement with Rome, Maastricht, and European treaty stipulations regarding open markets and free competition, and the adequacy of the valuation of the Eesti Polevkivi shares. His advice to the ministers responsible for the deal was simple: they should resign (BBC Worldwide Monitoring, 2001b; BNS, 2001r; Kurm, 2001a,b). The impact of the statements was reinforced by the fact that Meri had chosen to pronounce them on the tenth anniversary of Estonian independence. The statement led the government to call for a meeting with Eesti Energia representatives and members of the Estonian Academy of Sciences to discuss a possible reconsideration of the deal (BNS, 2001u).

After the truncated parliamentary debate of 23 August, Meri again expressed his disagreement. 'Feeling that in signing this deal we get an open door to NATO is something that, for me, is very naïve and perhaps a post-Soviet approach', he said. Meri also reiterated his criticism of NRG Energy plans to keep Estonia in the same power grids as Russia, instead of linking the country to Nordic grids. This, he hinted, could maybe one day lead to Russia disrupting the energy flow to Estonia (BBC Worldwide Monitoring, 2001e; BNS, 2001y). Meri also seized his last public address as president in October 2001 to repeat one last time his opposition to the deal: 'I have considered, and consider the government's policy as regards NRG Energy wrong', he stated (BBC Worldwide Monitoring, 2001g).

The last actor in the drama was the **American government,** which became involved in the process early on. In January 1997, the governor of Minnesota visited Estonia (BNS, 2000v). In late August 1997, when NRG Energy had submitted its first proposal, the Estonian prime minister at the time, Mart Siimann, received a letter from the US Deputy Secretary of State, Strobe Talbott, expressing the hope that the NRG Energy business plan would be approved (BNS, 1997a). When NRG Energy presented its second, revised business plan in early 1998, US government special envoy Richard Holbrooke visited Estonia. According to Lauri (NRG Energy representative in Estonia), security policy views had not been put forth only by the US Embassy, but 'this was also Richard Holbrooke's main message in Tallinn' (BNS 24/4/1998). A few months later, Talbott again visited Estonia and met with Roads and Communications Minister Vare, who was also the head of the expert committee set up to examine the NRG Energy proposal (BNS, 1998b). After the rejection of the second offer in September 1998, Estonia's foreign minister, Toomas Hendrik Ilves said that '[i]t can be clearly felt that the effect the delay has had in the United States is not positive' (BNS, 1998d).

In February 2000, US Energy Secretary Bill Richardson paid a visit to Tallinn. In June 2000, that is, a month after NRG Energy had submitted its third offer, Economics Minister Parnoja said that if the government would elaborate the reasons for a possible refusal, there would be no rebuffs from the US (BBC Worldwide Monitoring, 2000b). In late July 2000, as the negotiations over the main terms of the agreement were in their final stages, Secretary of State Madeleine Albright sent a message to Prime Minister Laar, stating that the US highly appreciated the Estonian government's efforts to develop the country's energy infrastructure, including the partial sale into private hands, which is always the best guarantee for a normally functioning market economy (BNS, 2000u).

This statement provoked a number of reactions within Estonia. The leader of the opposition People's Union, Villu Reiljan, said that it showed that the Americans, contrary to Estonian leading politicians, were not ashamed to stand up for their country's economic interests. He also claimed that the European Union was opposed to the deal (BNS, 2000u). In their joint letter to the US Ambassador a week earlier (see above), the opposition parties had also expressed their surprise at high-ranking US officials' display of 'excessive' interest in the deal. 'The initiative of those officials has in our opinion gone far beyond their official duties', they wrote (BBC Worldwide Monitoring, 2000d).

A few days later, when the deal between NRG Energy and the government had been concluded (but when negotiations between NRG Energy and the Eesti Energia management were still ongoing) Laar, in an article in leading Estonian daily, *Eesti Paevaleht*, claimed that the agreement was unavoidable for security reasons:

> The price of security can never be too high. Ask the Finns if you do not believe it. It is the price of human lives and not of kilowatt-hours … For 10 years, comprehensive coexistence with the Western cultural space has been seen as Estonian security's cornerstone … This space exists thanks to the most effective security shield in the world, NATO, and we expect to be a member soon as well … Who might act as a better advocate for the US government in this respect than an enterprise seeking to make profit in the area?! As the USA put it, NRG [Energy] investment ensures a US presence in the region (BBC Summary of World Broadcasts, 2000a).

A year later, as criticism of the deal again mounted, the US administration made renewed interventions. In particular, President Meri's very harsh criticism on 17 August 2001 triggered an immediate reaction. The US embassy in Estonia issued a statement underlining that '[t]he Government of Estonia, through Eesti Energia, has undertaken obligations towards NRG Energy that are binding agreements. We understand that these agreements are in accordance with the Estonian Constitution and Estonian law. The United States Government expects the Estonian Government to honour fully the commitments made' (BBC Worldwide Monitoring, 2001a). During US Ambassador Wells's farewell visit to parliamentary speaker Savi, US investments in Estonia were among the chief topics. Savi and Wells agreed that such investments were important not only to create jobs and boost economic growth, but also in view of Estonia's movement towards NATO membership (BNS, 2001s).

As the autumn of 2001 wore on and a new, Republican, ambassador was appointed, the tone changed somewhat. In an interview with the *Postimees* daily, the new US ambassador to Estonia, Joseph M. DeThomas, stated that Estonia's entry into NATO would not depend on the NRG Energy deal and that he was not advocating it (BNS, 2001pp). However, the Estonian government was still sensitive to the US government's opinions. Before making the statement on 20 December 2001 that no more concessions would be made to NRG Energy, Prime Minister Laar met with DeThomas (BNS, 2001ll, BNS, 2001pp). In early January, when the deal had been called off, the US embassy stated in a press release that '[t]he United States Government is disappointed that the NRG power plant privatisation deal has not been concluded during the term of the current Estonian Government … This arrangement was proposed by the Estonian Government and the United States has strongly supported NRG's efforts to meet the needs of the Government of Estonia' (BNS, 2002c). A few days after this, the outgoing foreign minister Ilves said that cancelling the sale would not have any negative consequences for Estonia. 'The NRG deal is a business deal, which has been confirmed also by the United States ambassador to Estonia The deal was broken off due to non-fulfilment of an arrangement signed by a US company and it does not affect relations between the countries in any manner' (BNS, 2002e).

Contacts between the US embassy and NRG Energy continued to be close until the very end. Pre-empting the offer of NRG Energy to resume talks, ambassador DeThomas said in an interview with an Estonian TV-channel in February 2002 that NRG Energy might propose to launch a new round of negotiations over the Narva power plants (BNS, 2002h). As this offer was swiftly rejected by the new Estonian prime minister, the US government expressed its disappointment one last time. 'This arrangement would have produced significant benefits for the Estonian public and for communities in north-eastern Estonia', the press release read (BNS, 2002j).

Up until this day, Eesti Energia remains a state-owned company, and the Narva Power Plants remains in Eesti Energia ownership. According to its website, Eesti Energia (or Enefit as it is known internationally) has branches throughout the Baltic region – and also in the US. Estonia has been increasingly integrated with Nordic power grids through the Estlink 1 and 2 cable connections between Estonia and Finland. Ever since EU membership in 2004, Estonia has consistently lobbied for a strong EU common energy security policy. In 2014, Eesti Powerplant was ranked as the 15th most polluting power plant in the EU (Gutmann et al., 2014), notwithstanding important upgrades, in part financed through the EU cohesion fund.[24]

7. Conclusions

The democratic decision-making process around the sale of the Narva Power Plants was scarcely flawless. The publicly released information regarding the negotiations and the agreement was limited. The role of the parliament was at best minimised; in some instances, it was sidestepped entirely. The legal chancellor was ignored. Similarly, there was little dialogue with interest groups or the public at large. The petition for a referendum, signed by more than one in ten Estonians, was ignored. The opinions of consultancy companies such as Schröders were, it seems, more important to the government than those of Estonian citizens. All of this seems to fit quite well with predictions regarding the consequences of neo-liberal

[24] Further discussions on Eesti Energia today, could be found in Tõnurist (2015) and Holmberg (2008).

economic decision-making on democratic processes. After all, secrecy and haste, lack of popular and parliamentary consultation and participation, as well as an outsized role for international consultancy companies are all in principle trademark effects of neo-liberalism on democracy.

However, some of the most important facets of the Narva Power Plant privatisation are not easily interpreted as neo-liberal. The terms of the proposed deal were clearly illiberal: NRG Energy would get a monopoly position on the Estonian market and would be able to charge a fixed price—thirty per cent above the market price—for a fifteen year period. The sell-off was also not competitive: NRG Energy was the Estonian government's exclusive negotiating partner throughout the privatisation process.[25] In this regard, civil society protest was ironically often more “neo-liberal”: demands included competitive bidding, an independent, market-based valuation of Eesti Polevkivi; a prevention of the monopolisation of the energy market; and guarantees that NRG Energy would not act as a short-term ‘rent-seeker’.

The US role is also difficult to combine with neo-liberalism. US lobbying was intense, going even so far as to connect the deal with NATO entry. In neo-liberal thinking, a company competes with other companies on an open market, and governments have a very limited role, apart from setting the—unbiased—basic rules governing the market.

This leads to a third facet of the privatisation that does not fit neo-liberal theorising, namely that from the Estonian government's standpoint, an important motivation for the deal was security. Hence, a key motivation for the privatisation deal was political, not economic. In this respect, Estonian nationalism and anti-Russian sentiments also played a role. Against such concerns, EU requirements regarding energy market liberalization weighed relatively lightly. The international level is thus important in explaining the conclusion of the deal, as well as its ultimate failure, but not in the way it is normally thought. It was not the international financial institutions, international banks and credit rating agencies that were at the forefront of the decision-making process, but rather the US government (and implicitly NATO), as well as, quite unwittingly, Al Qaida – after all, it was the latter's attack on the Twin Towers in New York that led the bank syndicate to demand additional securities, which the Estonian government could not agree to.

All this shows that the critics of neo-liberalism share one of its main weaknesses: an excessive ‘economism’. They, just as neo-liberals, overestimate the strength of the markets and underplay the importance of politics. The political motivations for economic decisions, and the interlinkages between governments and firms, which shine through in the decision-making around the sale of the Narva Power Plants, are not sufficiently taken into account.

Beyond this, the Narva Power Plants case study shows that some aspects of neo-liberalism can actually be beneficial to democracy. Neo-liberal rules for markets are clear, and thus create possibilities for principled objections. The transparency so cherished by market economists also helps would-be democrats. Other aspects, as the fear of investors' reactions, and the exclusive use of consultancy firms, are obviously less beneficial.

The Narva Power Plants case study also refutes some other assertions common in the literature on post-communism. One of these is that presidents will destabilise the constitutional order. While this is the case of more powerful presidents, the picture is more nuanced as concerns the relatively powerless Estonian president. In this particular case, President Meri actually acted as one of the most effective defendants of parliamentary prerogatives and the constitutional order.

A second commonly held assertion is that the management of state-owned firms cannot have “market instincts” and will act to seek rents, or to empty the company of its assets. Although at first glance, the management of Eesti Energia acted like typical “insiders” in wanting to put an end to privatisation efforts, at closer scrutiny their motives seem quite business-oriented: they wanted to ensure a deal on market terms.

To summarize, the problem for democratic decision-making is not always neo-liberalism, but at times the way that neo-liberalism is translated into action by political decision-makers and interpreted as offering only one possible policy-making trajectory and one single set of policy options.

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Appendix A. Supplementary data

Due to space constraints, all BBC Summary of World Broadcasts, BBC Wordwide Monitoring and Baltic News Service (BNS) reports cited in this article can be found online at https://doi.org/10.1016/j.postcomstud.2018.10.004.

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[25] As has been noted by numerous scholars, neo-liberalism actually says very little about how privatisation should be conducted. Some economists even claim that first privatisation rights are of no importance. It is difficult to reconcile the choice of conducting negotiations with only one firm with principles of free competition, however.

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