

Bulgarians freeze while energy speculators do deals

Liberalism as Market Power plus Expensive Electrification of the Whole Country

Thursday 31 May 2018, by [TSONEVA Jana](#) (Date first published: 17 April 2018).

The past few days, a high-voltage scandal is literally grilling the main politicians and business elites in Bulgaria: an obscure local energy company is going to buy the Bulgarian assets of the largest electricity distribution company in the country, owned by the Czech state company CEZ. The intensity of the controversy belies a deeper debate over when a private business deal constitutes a legitimate public concern. In short, the deal has exposed some paradoxes underpinning the separation between public and private, so dear to liberalism.

CEZ is the state-owned Czech electricity provider but it operates like a private investor abroad. Bulgaria privatized its electrical distribution grid in 2004, during the government of the ex-czar Simeon II who swept the elections in 2001 on an anti-political, technocratic platform. His rule put public services and utilities up for sale or concession, thereby deepening the privatization drive of the 1990s which sold off state-socialist enterprises at fire-sale prices. Since 2004 the electricity market has been split between three private distributors.

As befell other newly privatized branches of the public utilities such as water, following the sale end-user prices spiraled up uncontrollably, leading to full-blown mass protests in the winter of 2013, which demanded the nationalization of the grid and an end to the austerity regime. During these events several people set themselves on fire in public to protest appalling living conditions. The pro-business austerity regime of Boyko Borissov could not appease popular rage and resigned, plunging the country into a cycle of political instability and repeated elections that has yet to end.

The events of 2013 must have been enormously traumatic for Borissov's GERB party, which trucks in "stability," so when the controversy over the CEZ sale broke off, Borissov - who was re-elected in May of last year - [stated](#) that this is a repetition of the "2013 conspiracy" to take down his government. Opposition parties, chief among them the Bulgarian Socialist Party (BSP), seized the opportunity and decried the deal as a fraud sanctioned by the ruling party. GERB apparatchiks vehemently denied any wrongdoing, arguing that there is no way they could have influenced the Czech government's choice of buyer.



The three private companies that control Bulgaria's electricity grid.

Everyone agrees that due to its sheer size and importance, CEZ Bulgaria is a matter of “national security,” but they cannot agree what steps should be taken to resolve the problematic deal. The Socialists have suggested that the state step in and buy the buyer (or controlling stakes therein), assuring everyone that this is not “nationalization” but fair acquisition through market competition. If the Socialists have proved themselves sensitive to issues of private ownership and rooted for market-based transfer of ownership, a small liberal party had no such qualms and unapologetically [demanded](#) cancellation of the deal via state intervention, lest Bulgaria turns into a “Putinist regime.”

This sale – by all accounts, a transfer of privately-owned assets between two businesses via the market – has raised suspicions because the buyer, Inerkom, is an obscure Bulgarian energy company of moderate financial means and size, which has been operating on the “green” energy market for ten years. Inerkom’s successful bid for CEZ has triggered questions about its capacity to run a company supplying power to two million consumers, as well as about its ability finance the purchase, given that Inerkom registered a subsidiary for the purposes of the sale whose initial capital is only 25,000 euros. (If the deal is struck, CEZ stands to receive around 320 million euros for its assets.)

These do sound like legitimate concerns, and the government reacted to the crisis by sending all available regulators to check on the deal, as well as by holding several meetings with Inerkom executives. But despite the “national security” rhetoric, this is plainly a deal outside the jurisdiction of the Bulgarian government. Things could have been otherwise, had the state accepted [CEZ’s](#) previous offers to acquire the company – declined, presumably, out of a misplaced faith in the superior virtues of private ownership. But it was only with the eruption of the controversy that it dawned on the government that it might not entirely absurd to take ownership of assets deemed crucial for its “national security.” Negotiations ensued and Inerkom’s owner [agreed](#) to let the state participate in the deal by buying up to 34% of CEZ’s stock, which would give it leverage but not control; in effect, this appears to be a public subsidy for Inerkom. It is unclear if this will happen, as CEZ is yet to agree to amend the terms of the deal to allow the Bulgarian state to chip in. CEZ representatives have [stated](#) repeatedly that they have found [nothing](#) suspicious about Inerkom’s bid and financing.

Actually, CEZ has been trying to [leave](#) the Bulgarian market for a couple of years by issuing tenders for its assets; Inerkom’s bid was apparently the most attractive of these. This fact points to a tension at the heart of the liberal separation between public and private: when is it permissible for a state to intervene in the business dealings of freely contracting parties which do not seem to be doing anything illegal? The state [prosecutor](#) has admitted as much, while promising to look into the privatization deal of 2004.

One reason for intervention might be the suspicion arises that the parties involved are not acting in

good faith. The Czech media, echoed by its Bulgarian counterparts, has cited documents providing that the deal will be partly financed by a Georgian-Russian [oligarch](#), who will funnel capital via an offshore company. This, however, is not against the law, especially since the liberal, anti-corruption Right mobilized parliamentary support to [scrap](#) a law which banned offshore shell companies from owning shares in “key” sectors, such as energy. Thanks to this reform, now offshore companies can legally invest in the “commanding heights” of the economy.

Citing the leaked documents, Borissov [thundered](#) that he would do what it takes to cancel the deal. Along the way, he sparked a minor diplomatic row by saying that the Czech PM had forwarded the papers to him. The latter [denied](#) the claim that he had been the source of the papers; it later turned out that a less senior government official had procured the papers.

Needless to say, these discrepancies only intensified the mounting suspicions that Borissov is not telling the whole truth about the deal. Contradictory claims and explanations and uncontrollable convulsions of the implicated parties continue to pile up, with the government flipping between claims that “we will cancel the deal,” that it would consider buying shares, and that it might buy out the whole of Inerkom, and banks alleged to have agreed to finance the deal suddenly denying that they did so; particularly startling was the withdrawn resignation of the Minister for Energy Policy, upon media disclosure that she has known Inerkom’s owner for twenty years. The minister rejected allegations that she brokered the deal but resigned nevertheless. At first Borissov accepted the resignation, but then he made her [withdraw](#) it.

Inerkom’s owner, Ginka Varbakova, has for her part vehemently disavowed any involvement of shady investors, asserting that despite Inerkom’s low registered capital, she is a millionaire, and that it is a perfectly legitimate business practice to acquire an asset by turning it into a bank loan collateral. Most importantly, she has [assured](#) everyone that absolutely nothing will change for CEZ’s customers and employees once Inerkom takes ownership.

But given the dismal record of CEZ, continued “business as usual” is not a comforting thought. CEZ Bulgaria has been subjected to numerous audits since the 2013 protests, which documented [thousands](#) of irregularities: from the [over-billing](#) of [consumers](#) – made to shoulder the cost of leakages when the company declined to invest in [renewals](#) of the power grid – to [tax evasion](#) and a 2016 EU Court of Justice ruling which found CEZ guilty of racial discrimination. Add to this the incessant push, on part of all three distribution companies, to increase the electricity prices *legitimately* (that is, when the companies themselves are not doing it illegally through over-billing) which is normally met by the state regulator who sets the final market rates after negotiations with the providers, to recoup their losses from the temporary reduction of prices which followed the [protests](#) of 2013. The newest price hike (of 4% for [consumers](#) and 60% for [businesses](#)) will take effect in July. Meanwhile, since 2016 CEZ has been pursuing an investor dispute settlement against Bulgaria in an international [arbitrage](#) court, asking for compensations upwards of 500 million EUR. The reason for this corporate-friendly litigation is always the same: the state regulates “too much” and the company suffers profit losses.

Given all this, Inerkom’s reassurances that everything will continue as before under the new management should constitute the real cause for concern. Yet the liberal media and opposition political parties define the “national interest” as coinciding solely with the *nationality* of the capital owner and her *interests*, with a special wariness of possible Russian connections, rather than with the necessity of having a basic public good supplier that does not extort consumers or dodge taxes.

These desperate attempts to find a way out of the predicament which the liberal separation of public and private has engendered without breaking from liberalism also show up an irreparably elitist and anti-democratic understanding of politics that is shared by all mainstream parties and journalists. So

long as the people do not stage a mass rebellion punctuated by desperate self-immolations, none of these seems to consider the exorbitant bills and fraudulent behavior of these companies a problem. It seems that only such extreme, and rare, public manifestations of the everyday social suffering caused by the privatization of public utilities can make these issues of mass concern a subject of public deliberation and political action. Until this happens again, that which constitutes a “legitimate public problem” for the political elite and the chattering classes is that which concerns private capitalists: ownership, not working conditions; capital flows, not the downward movement of wages; transparency in financial deals, not electrical bills. The [fact](#) that 66% of Bulgarians are not able to maintain adequate temperatures at home in winter due to prohibitively expensive utilities, and the recurring cases of death by freezing, are yet to enter the political discussion in any meaningful way.

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Original title: Bulgarian Lessons: Liberalism as Market Power plus Expensive Electrification of the Whole Country

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