

### Abstract

The turbulent times governments all over the world are facing include the transition towards the Fourth Industrial Revolution (4IR) in which the confluence of new technological developments result in major challenges for national as well as local governments. The confluence of the newly developed technologies is only possible if huge amounts of data can be stored and transmitted at high speed in, among others, hyperscale data centers (HDCs).

This paper focuses on the complex relation that arises between local governments - on whose soil the HDCs are built - and the high tech companies planning and building the HDCs. This relationship is characterized by an unequal playing field with local governments being no match for the high tech industry. The latter sometimes have annual turnovers 1000 times higher than those of local governments and impose rather different demands on decision making processes than governments do. They impose restrictions on the decision-making process that result in processes running counter to principles of good governance and, if exposed, result in a deterioration of institutional trust among the population.

This is illustrated through a case study in which a small municipality in the Netherlands was faced with an offer from Meta to make a huge investment in a hyperscale data center, provided the whole process towards the permits and the approval of the building would remain secretive. Shown is an imposed secrecy by the high tech firm and information revealed about the process afterward through the Freedom of Information Act disclosing many irregularities. This changed the existing trust in the municipality into complete distrust at the end of the process and eventually forced the High Tech company to withdraw.

The relevance of this paper for this special issue is that the case study shows that the new developments towards the 4IR require capacitated, knowledgeable and decisive local governments, which momentarily are not even present in a developed country like the Netherlands.

**Keywords:** transparency, trust and distrust, Freedom of Information Act, hyperscale data centers.

## TURBULENCE IN THE RELATIONSHIPS BETWEEN GOVERNMENTS AND HIGH TECH FIRMS

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## 1. Introduction

The literature on the needed transparency of public policy processes and outcomes emphasizes its many positive effects, such as increased trust in government (Porumbescu, Meijer and Grimmelikhuijsen, 2022). It is, therefore, seen as one of the main elements of good governance (Rutherford and Wightman, 2021) and for this reason, by 2019, 119 countries have adopted Freedom of Information Acts (FOIA) (Feldman, 2019). The idea is that transparency reveals what is being done and why, that decision-makers anticipating that all information is revealed, will perform better, more efficient, and with more regulatory quality, resulting in more trust in public institutions.

For high tech businesses such principles seem to be a nuisance. This paper will argue that they prefer secrecy during decision-making processes, to downplay the negative side effects of their plans, and not to be restricted by the rule of law, or preconditions.

In the new era, with the emergence of the Fourth Industrial Revolution (4IR), these conflicting interests become increasingly problematic. The 4IR needs investments in infrastructure on the soil of municipalities and the latter have to make decisions regarding permits, regulations, environmental protection, and optionally putting restrictions on the new ICT developments. The public authorities can decide that the building blocks are only welcome if they meet the preconditions set by them in terms of, among others, sustainability, prevention of pollution, citizen rights, democracy, and economic fair play. However, they can only do so if they have the capacity to withstand the demands and interests of the high tech companies.

This paper argues that in case municipalities lack knowledge and decisiveness this can result in awkward decision-making processes in which in the end everybody loses. This applies especially to the transparency of such processes as it is one of the crucial dimensions of good governance. The hypothesis underlying this paper is that if voluntary transparency is lacking, public authorities are imposed by high tech companies to make decision-making processes and their outcomes secretive and if the contents of what is revealed afterwards through appeals on the Freedom of Information Act (FOIA) are negative, this can be extremely detrimental for the public authorities as well as for the plans of the high tech companies.

The goal of this article is, therefore, to present the argument that relations between governments and high tech companies are becoming more frequent and problematic in the prelude to the 4IR and that lacking capacities on the side of especially local authorities is likely to result in disappearing institutional trust. To achieve this goal, the research question underlying this article asks how (dis)trust unfolds in practice with little ex-ante transparency when ex-post transparency is created through an appeal on the FOIA.

A case study was conducted on an opaque policy process involving plans by Facebook (Meta) to build a hyperscale data center (HDC) in a small municipality in the Netherlands. Such HDCs are built all over the world by companies like Microsoft, Facebook, Amazon, and Google. Governments often welcome them and eagerly grant building permits. Norway, for instance, promised to lower taxes and slash red tape to attract HDCs. Saudi Arabia intends to invest 18 billion US \$ to become the data center hub for the Middle East.

South Africa is extremely proud to host Africa's largest HDC (JOH1). Only a few critical voices are heard. The first came from a vice-mayor in the USA. He questioned the environmental costs related to building an HDC in his municipality. He pointed to the enormous energy and water consumption by HDCs, their noise levels, and landscape effects often kept hidden from the public.

This article is structured as follows:

- First, it addresses the theory behind the expected relation between transparency and trust as well as the distinction between the two kinds of transparency. This part embeds the research in existing theory and answers the sub-question, what is already known about the relation between transparency and trust, and what this research adds to this theory;
- The article continues with accounting for the research design. The peculiarities in the nature of the research necessitate justification and this is done in section 3;
- Subsequently, this article contextualizes the construction of HDCs—the topic of the case study. This is done by conceptualizing it as a global phenomenon that, together with other developments, belongs to the harbingers of the Fourth Industrial Revolution. The case study itself involves a factual description, focusing on specifics of the policy process and why this process can be called opaque. The last part of the case study addresses the interventions in the policy process by revealing information based on the FOIA;
- The article ends with reflections and an answer to the research question.

## **2. Mediating and moderating factors in the relationship between transparency and trust**

Why would one expect that lacking transparency in public processes results in a decrease of trust in public institutions and authorities? Following the late Russell Hardin, trust is seen as a three-way relation of A trusting B to do X. Trust implies that A is confident or even knows that B is capable of doing X and that it is in the interest of B to act on behalf of A (Hardin, 1999, p. 24). This is known as the expectation of encapsulated interests (Hardin, 2013). Institutional trust concerns the confidence that a public administration's prime concern is the well-being of the residents and that it is capable of taking care thereof (De Vries and Sobis, 2018). Such trust can be based on past experiences in which B has built a reputation of being capable and acting with concern for the general well-being in mind, or on familiarity through which one is ensured that the values A and B adhere to coincide. Trust can also be based on actual or perceived knowledge about the capabilities of B and whether or not B has a prime concern for the interests of A in doing X.

This is where transparency enters the scene. Transparency means that citizens know what officials are doing, and why (Thomson, 1999, p. 182). Officials who do not disclose what they do and why act in secrecy. B increases the knowledge about B's trustworthiness by acting transparently. As Carolyn Ball wrote, 'Transparency, or the degree of openness in conveying information, is seen as a device signaling the trustworthiness of the actor'

(Ball, 2009, p. 297). More extensive definitions of transparency are similar in emphasizing openness and knowledge generation. Although there are historical differences in the meaning of transparency (Hood, 2006) and the supposed purposes for its promotion (Pozen, 2018), transparency is mostly seen as being about the demand for information, the ability to obtain information, and the supply and actual release of information by the government (Mitchell, 1998). As Grimmelikhuijsen *et al.* (2013, p. 576) note ‘Most definitions of transparency relate to the extent to which an entity reveals relevant information about decision processes, procedures, functioning, and performance’.

The mediating factors relating transparent policies to trust are found in the accountability and public scrutiny generated, and the anticipation thereon by B. B is expected to make more efforts to have the process fulfill the requirements of good governance (accountability, responsiveness, effectiveness, efficiency, regulatory quality, applying the rule of law and controlling corruption) and to give convincing arguments for decisions regarding X, thus maintaining or even increasing the expectation or knowledge that B is trustworthy.

The peculiarity in this line of thinking, is the expectation that transparency by itself would result in trust, while it would be more likely that the contents of what is revealed through transparency are of utmost importance in this regard as well as whether transparency was voluntarily provided or imposed by an appeal on the FOIA (De Fine Licht, 2011). Relating transparency and trust theoretically through the mediating variables implies that the relationship depends on a lot of ‘ifs’. If B (the authority) is capable of making the process as well as the outcomes thereof (X), conform to criteria of good governance, if the outcome is in line with the interests of A, then A will maintain or increase trust in B. If the contents of what becomes transparent are opposite, one would not expect a positive effect but a negative one instead. This argument finds support in the weak relationship between transparency and trust as found in empirical research (De Fine Licht, 2011; Grimmelikhuijsen *et al.*, 2013, p. 575).

The supposed relationship between transparency and trust also does not distinguish between two types of transparency. The first is voluntary ex-ante transparency, and the second is imposed ex-post transparency. This article argues that the positive effects on trust are more likely to occur in the case of voluntary ex-ante transparency in which the government willingly and by itself makes public processes and their outcomes transparent. Opposite effects are likely to occur in the case of imposed ex-post transparency. Ex-post transparency is imposed based on applicable laws and regulations such as the FOIA. Imposed ex-post transparency is likely to reveal what governments would like to have kept secret, i.e. that elements of good governance are compromised. This results in less trust that government acts on behalf of the citizens and is capable of acting.

The preliminary conclusion/hypothesis is that there are good reasons to expect a positive relation between transparency and trust, but that the existence thereof heavily depends on the contents of what is disclosed, and of whether the transparency involves voluntary ex-ante transparency or imposed ex-post transparency. The case study presented below illustrates how this works in practice.

### 3. Justification of the research design

This section reflects on the way this research was conducted. The author/researcher became involved in the case in the spring of 2021, through two journalists who asked for advice on the administrative process regarding an HDC built by Microsoft in the Netherlands. This resulted in cooperation with at first two investigative journalists from a national and a regional newspaper, and later on with journalists from other media as well. This continued until the end of the process in June 2022. This cooperation involved the interpretation of interviews and documents and included conducting (legal) proceedings under the FOIA to obtain otherwise classified information. The cooperation enabled access to extensive documentation and the transcripts of accompanying interviews with stakeholders. Later in the process, local council members and pressure groups asked the researcher to assist in gathering and analyzing additional information about HDCs. In that sense, the research changed from engaged research in a kind of action research understood as ‘an approach to research that aims to both take action and create knowledge or theory about action’ (Greenwood and Levin, 2006). Starting with helping out journalists slowly changed in contributing to the expertise of stakeholders and helping them in constructing strategies through combining the researchers’ academic and the stakeholders’ local knowledge, and through value-based research—in this case, based on the values of good governance (Greenwood and Levin, 2006). The authors mention that ‘Action research aims to contribute to the practical concerns of people in an immediate problematic situation and to the goals of social science by joint collaboration within a mutually acceptable ethical framework’ (Greenwood and Levin, 2006).

The growing involvement of the researcher can have ramifications for the validity and reliability of the presentation of the research and does result in several dilemmas. The literature on action research recommends a specific attitude on the part of the researcher. Such a researcher should, for instance, maintain the role of outsider and at the same time be committed to the concerns of the locals and develop an affinity with their concerns. The researcher should act in conformity with academic standards and simultaneously search for cooperation with stakeholders, and for knowledge that is relevant to the local stakeholders (Greenwood and Levin, 2006). Such dilemmas are not easy to handle as there is a very fine line between being an outsider and becoming too much involved, and between acting according to academic standards and influencing processes. For such reasons, scholarly journals are hesitant to publish action research (Erro-Garces and Alfaro-Tanco, 2020).

Nonetheless, action research also has its merits. First, it adds to the societal relevance of one’s work; second, some universities encourage their staff to become involved in societal debates and action research is in line with such appeals; third, such research adds to the understanding how policy processes proceed regarding: a) the motives and strategies stakeholders in policy processes use to achieve their goals; b) the impact of media coverage; and c) the subject at stake—in this case, the necessity and side-effects of HDCs.

The validity of this research is ensured by giving beforehand the indicators for the three main variables at stake and focusing the presentation of the case study on the appearance of these indicators, e.g. (the lack of) transparency, process irregularities, and (dis)trust. As

mentioned in the previous section, a distinction is made between voluntary ex-ante transparency and imposed ex-post transparency.

Lacking voluntary ex-ante transparency in public processes is indicated by authorities telling that the process needs to be kept secret, by keeping the information disclosed as limited as possible and excluding relevant stakeholders from participation in the process; by denying publicity to (parts of) the policy process; by concealing relevant facts and information during the process; and by failing to account for what one does and has been doing, and for instance, by signing confidentiality clauses.

Imposed ex-post transparency refers to information published retrospectively about what has happened during the process and why. It is either based on a voluntary or reluctant positive response to an appeal on the FOIA, or on a judge's decision to have documents made public. Inherent to imposed ex-post transparency is that information is made public retrospectively and that it is disclosed because of legal requirements. In the Netherlands, the FOIA refers to policy documents, emails, apps, and whatever other medium is used and stored.

Irregularities in a policy process are indicated by parts of the process that run counter to existing policies, the law, directives, or regulations; the provision of misinformation; the exaggeration of positive effects; and the minimizing of negative effects of the plan, and in general the principles of good governance.

To indicate the level of trust and distrust a continuum is developed. Table 1 gives the distinguished stages on this continuum. In the second column, the indicators for each level of trust are found, and in the third column how this relates to the principle of encapsulated interests.

The reliability of the case study is ensured by staying close to the facts. Nearly all sentences in the case study below have reference to a publication in documents on public websites, articles in newspapers, and/or interviews published in the media. In this way, the research becomes independent of the perspective of the researcher. Any other researcher should yield the same description using these data.

## **4. The case study**

### ***4.1. The context of HDCs***

The need to construct data centers fits into the establishment of the fourth industrial revolution (4IR). The 4IR can be defined as a process in which due to a range of simultaneously emerging novel technologies and the confluence thereof, decision-making in all sectors radically changes, which results in various opportunities and challenges (De Vries and Kroukamp, 2022).

The confluence of technologies is only possible if huge amounts of data can be stored and transmitted at high speed. In that respect three developments are crucial: the investments in fiber optic cables, the launch of mini satellites in the SpaceX program to establish a global broadband network, and the building of HDCs.

**Table 1:** A trust-distrust continuum

Type of trust	Indicators	In terms of encapsulated interests
Complete trust	Acceptance how things are organized by the authorities is self-evident. No questions are asked and only supportive remarks are made	Confidence that authorities take the interest of the people into account when making decisions
Compromised trust	Uncertainty arises about the merits of a public process. Questions are asked about these uncertainties	Confidence, but authorities have to account for the uncertainties to show to the people they do take their interests into account in making decisions
Distrust based opposition	Some people turn against the process and start criticizing it	Confidence fades as people judge that the public process runs counter to their interests
Distrust based organization	People start to organize themselves to become a stakeholder in need to be included in the process	People organize themselves based on shared disagreement about policy processes as organized by the authorities. They judge their participation in public processes necessary to have authorities take their interest into account when making decisions
Distrust based activism	People publicly express their discontent with the process	People openly demonstrate their discontent and campaign against the authorities as they have lost faith that the authorities take their interests into account
Complete distrust	People demand a changed composition of the authority	People vote authorities out as the majority of them judge them to have neglected to take their interests into account.

**Source:** The author

By the end of 2017, just over 8 million data centers were in operation worldwide, of which nearly 400 of HDC size. At the end of 2021, the number of data centers reduced to just below 8 million, but the number of HDCs increased to 700 worldwide. Data centers are called hyperscale (HDC) when they consist of over 5,000 servers with power over 25+ megawatts and cover a surface area of over 10,000 square feet. These are the lower boundaries. The ‘Citadel’ in Reno, Nevada, USA is about 7.2 million square feet, and the HDC Meta planned in the Netherlands would cover 460 million square feet. HDCs contain cabling, switches, routers, and firewalls that mutually connect servers and connect them to the outside world. The HDC of Microsoft in Quincy, Washington State, for instance, comprises 24,000 km of fiber cable with millions of servers.

The main management functions of data centers are to provide space for backups on a scheduled basis, to store what is known as ‘the cloud’ to provide provisions to use applications, documentation, and printer facilities; the setup of a helpdesk, as well as the installation of monitoring, patching, remediation, and threat management systems (Hertvik, 2016). One or more enterprises can store data, make use of the applications, and use computing power. If multiple companies/organizations make use of the facility, one talks of colocation data centers where the space and resources of the data center are rented out.

HDCs have externalities in the usage of high amounts of energy to cool the servers to a temperature below 25° Celsius; the use of fresh water in case the outside temperature rises above 25° Celsius; the storage of diesel fuel for the emergency generations used in case of power cuts; the noise produced when cooling the servers, and landscape effects due to their enormous size.

These externalities are not trifles. The externalities involved in the HDC central in the case study presented below would have been significant:

- Estimations from the company itself were that once the HDC would be in full operation, it would use over 2.3 million cubic meters of drinking water a year to cool its servers. The gross use of water in this data center is estimated to be equal to the average usage of over 13,000 households.
- The HDC was estimated to consume at least 1.3 Terawatts hour/year of electrical power. This would be equal to the energy usage of all households in the city of Amsterdam. This is a lower threshold as the company asked the Dutch government for a 2 TWh/year substation to ensure its power supply.
- The cooling of thousands of servers makes a lot of noise. Inside the HDCs, the noise level generated by the cooling system can be up to 80 Db. If a data center is not properly designed, part of this noise can also burden people living nearby.
- There are landscape effects. The box of bricks Meta would like to have built would have approximately a surface area of 140,000 sq meters.

By the way, these facts were only disclosed at the end of the policy process. During the first 15 months of the process, nobody knew and, therefore, nobody bothered about these side effects of HDCs.



#### ***4.2. The opaqueness of the policy process regarding Meta's plans to build an HDC in a small Dutch municipality***

The process described covers a period of 2.5 years (2019–2022) and involved plans by Facebook (now Meta) to build an HDC in the small municipality (23,400 inhabitants) of Zeewolde in the Netherlands. It would become the third HDC in the Netherlands as Microsoft and Google had already built HDCs elsewhere. In 2018, during the World Economic Forum in Davos, representatives of Facebook had their first confidential talks with the Dutch Prime Minister about these plans. In 2019 they refreshed their contacts and met with the Netherlands Foreign Investment Agency (NFIA). This agency drove them around the Netherlands in search of a suitable location. The available areas were, however, all too small. Needed was at least 150 ha for what would become the largest HDC in Europe. Facebook said to be willing to invest an enormous amount of money. The agency, however, said ‘Sorry, we cannot help you’.

Nonetheless, through personal connections in a consultancy firm called Arcadis of which the CEO regularly meets one of the aldermen of the municipality on the soccer field, Facebook’s attention is drawn to opportunities this municipality could offer (NRC, 31-3-2022, p. E5). Without notifying the NFIA agency, representatives of Meta and officials from Zeewolde meet in the fall of 2019. The municipality is enthusiastic as the planned investments would account for a profit of 18.2 million euros for the municipality in building fees. This is huge given a yearly municipal budget of just over 100 million euros.

Meta is told that there are only minor issues, easy to be solved, and all conditions asked for will be met. One of those conditions is that everything should remain secret until a complete agreement is reached. The amount of money involved in the investment, and even the name of the investor, e.g., Meta, are not to be disclosed. To arrange that, Meta gives the project the appealing name—at least in the Netherlands—of ‘Tulip’ and sets up a subsidiary company under the equally appealing name of Polderworks BV. The secrecy is needed, because already at that time it was clear that the plan runs counter to national policies that stipulate the positioning of HDCs at the border of the country whereas this municipality is right in the middle. Polderworks also demands a substation to get a direct connection to the high voltage power grid to be certain of electricity even in case of power cuts. The national policy is that in case of power failures, households and hospitals are on top of the priority list, and companies such as Meta are at the bottom. Meta would like to reverse this to minimize risks. Third, the area on which the HDC would be built has an agricultural destination. National policies stipulate that the government shall not facilitate the change of agricultural land into an industrial area. If one intends to change the destination of land, the municipal council has to change the zoning plan. This needs the approval of the mid-level government (the province), and the national government for the approval of those parts of the plans that run counter to national legislation and national policies.

This is all the more crucial in this case as half of the area Meta wants to buy is not the property of the municipality but is leased to farmers by the Central Government Real

Estate Agency. This is an agency at arm's length from the Ministry of Economic Affairs and is only allowed to sell acres of land in their possession when there is an open tender e.g. with competition; if the destination of the land does not change; and when the buyer complies with conditions to be set by this agency. So, three layers of government and several agencies are involved in granting authorization. Administrators at the national level are already at an early stage skeptical about the plans as these are not in coherence with the legislation in force.

The solution Meta and the municipality opt for is to work behind closed doors. Meta wants to make the process as secretive as possible and compels its counterparts to sign confidentiality clauses. The company returns e-mails if the name of Meta is mentioned therein, requesting a new mail with the same content but without mentioning 'Meta'. If the public authorities would not comply, the plans would be off. Meta repeatedly threatens to make this investment in another country. The idea must have been that making deals without any publicity would prevent protests, and in the end, the HDC including all the facilities would be an accomplished fact. The high stakes involved made the municipality, the province, and the national government consent to this secrecy.

The secrecy is first seen in the municipality. At the end of a council meeting in the Dutch municipality on December 19, 2019, the members were asked to stay a little longer, because the Municipal Executive wants to have a secret meeting afterward (Stentor, January 22, 2022). In that meeting, the alderman confidentially reveals what he calls 'a plan from a tech company to make huge investments' in the municipality. Neither the exact figure nor the name of the investing company is disclosed.

In this secret meeting, the council was informed for two reasons. First, the alderman responsible for such affairs was proud of the planned investment in his municipality. The building fees would solve the financial problems of the municipality, it would mean additional employment, and the investors promised to show social responsibility in the form of philanthropy for local activities. Second, such investments need the approval of the council in the change of the zoning plan. Hardly any questions are posed by the council members and all of them tell the alderman to carry on as desired. The local council trusts the alderman to bring the projects to a good conclusion to the satisfaction of everyone.

Given the agreed secrecy, for the next 15 months, no information about this project is provided to anyone. Only a draft design of the intended change in the zoning plan is submitted to the local council. It specifies the investigations needed according to the national government, the province, water boards, and agencies, before the decision to change the zoning plan can be made.

As of February 2021, the situation changed. The largest national newspaper publishes an article on its front page about the enormous water consumption and electricity use of the Microsoft HDC already operational elsewhere in the Netherlands. This news attracts attention from other newspapers, the radio, and television. It is approximately at the same time the municipality publishes its proposal to change the zoning plan. An information meeting with farmers in the area results in informative questions, especially about water consumption and what this would imply for their business. These are the

first signs of compromised trust. The response from the advisor the municipality hired to co-coordinate the process is meant to reassure the farmers by telling them that ‘HDCs hardly use any water ... This is only on very hot days ... A housing block in the same place would use three times the amount of water the HDC would consume’, according to the advisor. This advisor is the director of the Dutch Data Center Association (DDCA), a lobby organization with the mission to strengthen economic growth and the profiling of data centers in society (Dutch Data Center Association, undated<sup>1</sup>; Nieuwe Oogst, March 13, 2021). This response is quite opposite to the content of the newspaper articles saying that HDCs consume millions of liters of water a year. The same advisor calls the content of the newspaper ‘grossly exaggerated’ (Stentor, March 29, 2021). Another critical point is the use of chemicals in the cooling water, and the temperature of the water being discharged. According to the advisor, only a small amount of salt would be added to the water needed to cool the HDC. As to the temperature of the discharged water, this would all fall within environmental regulations.

At the time, the accuracy of all this cannot exactly be determined as the Environmental Impact Assessment (EIA) on the HDC is not yet published. The content of the version produced was judged to be insufficient by the Committee on EIAs. The contradictions about water and electricity consumption do result in the emergence of a countermovement. In the municipality, a pressure group is set up, called: ‘Foundation Data Trick Zeewolde’, e.g. the opposition becomes organized and wants a seat at the table. They doubt whether the authorities take their interests sufficiently into account. Political parties in the national parliament and the provincial council also start asking critical questions. The newspapers keep on reporting. They receive additional information through the FOIA. The publication of the contents thereof results in 160 critical comments on the proposed change in the zoning plan submitted by various organizations. The trust in the process is not what it used to be anymore. The comments also question the noise produced by the planned facility, the landscape effects, the impossibility to re-use the water discharged for heating houses, the use of chemicals in the cooling system, the costs involved, the disputed employment the planned data center would entail, the protection of rare and protected species, and the absence of any form of public participation.

Due to this new information, and the continuing secrecy of the municipality, the protests intensify and widen. Protesters from very different backgrounds join hands. It concerns the nearby farmers, the Foundation Data Trick Zeewolde, the residents, politicians at the provincial and national level, and later on also the international environmentalist activist group called ‘Extinction Rebellion’.

Confronted with the growing protests, the municipal authorities offer to have a meeting about the plans with the newly established Foundation but only behind closed doors. This is refused by the Foundation pointing out that the process has already stayed secret for too long. It takes until October 2021 before a discussion in the local council on the plans is organized by the municipality. However, as instructed by the mayor and alderman, the discussion in this meeting has to take place without any documentation and without already adopting a position on the data center. The only outcome is that it is seen as pitiful that the

residents have not been involved at an earlier stage. As the mayor told, this is unfortunate but an accomplished fact: ‘We have to learn from this’.

The disapproval of the EIA, the large number of comments on the concept zoning plan in need of a municipal response, and the increasing protests cause a delay in the decision-making process in the local council. At first, the decision about the zoning plan was planned for June 2021, later on for October, and finally, it is set for December 2021. The documentation arrives only a couple of weeks before the council has to discuss the change in the zoning plan and vote on it. The documentation is still incomplete as there is still no certainty about possibilities to re-use the water discharged by the HDC, the text of the anterior agreement between the municipality and Meta is missing, the conditions set to the facility remain secret, and information is lacking about the real employment involved. Members of the council complain: ‘two weeks before we have to decide we get a couple of thousands of pages on information ... We are continuously running behind the facts’ (Stentor, December 1, 2021). Another local councilor: ‘How could I read and understand all this information within such a limited time?’ The mayor, reacting to the growing opposition to the opacity of the process fulminates ‘We have done everything in a very transparent way’ (AD, December 14, 2021). The majority of the council supports the mayor, ‘Enough research has been done. We can now launch the discussion and reach conclusions’.

The residents, the nearby farmers, the foundation, and the international pressure group called ‘Extinction Rebellion’ intensify their protests. They start demonstrating for weeks in a row. They occupy the entrance hall of the city hall a few days before the voting takes place, block city hall with tractors, and send hate mail to the councilors in favor of the HDC. These actions are indicative of having reached the next phase in distrust, e.g. activism. Despite this unrest, on December 16, 2021, a majority of the municipal council approves the change in the zoning plan thus paving the way for the HDC.

One would expect this to be the end of the process. However, in March 2022, a seeming *deus ex machina* occurs. Local elections take place and the two parties that opposed the plan get 67.8% of the votes. The outcome is indicative of reaching complete distrust. The existing authorities are voted out. This changes the situation quite fundamentally. The winning parties will now occupy the alderman seats and become the new local authority. They cannot accomplish much as for months after the elections the previous alderman, as well as the mayor—who is not an elected politician in the Netherlands and stays in office—tell everyone that the construction of the HDC has to be seen as an accomplished fact. According to them, whatever the election results, there is nothing to be done anymore to prevent it.

The outcomes of the local elections do worry national politicians. Their interpretation is that if the process to establish the HDC results in such a political landslide, politicians might need to start listening and action at the national level might be required. The majority in parliament, previously in favor of HDCs, now approves a motion to halt the process. Even the responsible minister changes his views by ordering that new HDCs should only be built along the borders of the country, although he immediately adds that the building of the HDC in this municipality is an accomplished fact. The Central Government Real

Estate Agency becomes firmer in its demands concerning the sale of the area. In June 2022, Meta backs down. At first, they pause their plans, and later, they abandon their plans to build the HDC in this municipality. The official reason the company gives is that they want to be seen as a good neighbor and seeing the resistance, this is not possible anymore in this municipality.

### ***4.3. Increasing transparency through the Freedom of Information Act***

During the process, many appeals on the FOIA were made. The first one refers to the process resulting in the construction of an HDC by Microsoft in another province. It showed the enormous consumption of water and electricity by HDCs, the discharged cooling water containing chemicals, the noise produced by cooling the servers up to 80–90 Db inside the building, and, the omission of making an EIA through planning five HDCs, each one sized just below the threshold making an EIA necessary. It also showed that governments are hardly aware of the side effects and do not even know who the competent authority for granting permits is. Furthermore, the documents showed that government authorities had failed to set even minimum conditions for the construction of HDCs. It seemed to be sufficient that the company told that the HDC would conform to sustainability requirements. Provincial representatives boasted that the construction thereof contributes to the province becoming the most sustainable and innovative data center hub in Europe (Dutch IT Channel, 2022). But as one local councilor said after the Microsoft HDC was built: ‘Indeed, the company demonstrated goodwill in response to questions about its contribution to the green, circular economy. It was so gentle to paint the walls of the building in a green color... This was the only green thing notable from the building’ (www.rtl.nl, December 19, 2021). These publications resulted in the first critical question regarding the Meta HDC.

The second set of documents released because of an appeal on the FOIA revealed details of the process in Zeewolde from the perspective of the national government. The documents reveal why the national government was so eager to attract data centers to the Netherlands. This was based on information from a lobby group, e.g. the DDCA. DDCA had told the government that 25% of Dutch GDP depends on the presence of data centers and that these data centers only consume 10% of the national energy. Administrators of the Department of Economic Affairs judged the first figure to be exaggerated. The second figure contradicted the public response to figures published in the newspapers during the process. Perhaps DDCA is not aware of its report as in public, it still argues that data centers consume only 0.39% of total energy (Dutch Data Center Association, undated2). This resulted in the widening and intensification of protests against the Meta HDC. The municipality added to this unrest by remaining secretive. It only published what was minimally required, e.g. the proposal to change the zoning plan. Nevertheless, even this proposal increased the criticism as it revealed that Polderworks had paid much less for the hectares of land, than its actual worth. Regarding the supposed employment the HDC would entail, publications pointed out that this kind of industry is extremely extensive with less than 400 employees on an industrial area of 166 hectares.

The third set of documents obtained through an appeal on the FOIA unraveled parts of the process followed in the municipality. These showed that officials in the national administration had been skeptical about the sustainability of Meta's and its coherence to national policies. The documents also show that already early in the process representatives of Meta had tried to bypass those administrators by going directly to the responsible political authorities. These direct contacts resulted in the consent of the Minister of Economic Affairs provided that the local and provincial authorities would explicitly show their approval of the plan. This approval was subsequently expressed in a letter from the provincial governor and the mayor of the municipality in the fall of 2020. In this letter, both authorities state their support and argue that the national policies that inhibit the construction in this municipality were never secured in law and could therefore easily be bypassed. The publication of this letter one year later, resulted in an outcry, especially from the provincial council. According to them, the governor could only have sent such a support letter on behalf of the province after the provincial council had approved the construction of the HDC. The provincial council had at the time not been informed about the letter nor been properly informed about the plan. This resulted in a motion of sadness—which is a motion just somewhat less serious than a motion of no-confidence—adopted unanimously by the provincial council.

These publications happened in the weeks before the municipal council had to vote on the zoning plan, and added to the unrest and protests in the municipality as it showed the secrecy of the process and the presentation of the outcome as an accomplished fact already set in the previous year. In the municipality it resulted in demonstrations, blockades, and occupying city hall.

The provincial council demanded a detailed fact file on the whole process. This fact file which appeared some months later—just before the local elections—showed the frequency of the consultations between the municipality and the province, the weekly consultations between the two governmental levels and Polderworks on behalf of Meta, and the close cooperation within this group to point Polderworks to all the necessary permits, and the support given to Polderworks in receiving those licenses.

This fact file also revealed that the policy network preparing the licenses needed for the HDC consisted of a very small group. Included were only delegates from the municipality, the province, the regional environmental service, an external advisor from DCC (DGMR, undated), and a representative from a company hired by Meta to represent them, e.g. Arcadis. The composition of the group was such that critical voices were absent and groupthink in favor of the HDC prevailed. Both advising companies not only prepared all the requests for licenses but also conducted the 'independent' research needed. The latter mentioned company, for instance, did the modeling of the facility, and the Environmental Impact Assessment. Such research should have been done by an independent organization but this was not the case here. This resulted in peculiar contents of the EIA. The EIA did hardly pay attention to the use of water or electricity. This was defended by saying that the usage of water and electricity 'is spatially irrelevant' (Telegraaf, March 19, 2021). Also, in other aspects, the EIA was of dubious quality. In its reassurance that the landscape effects

were minimal, the report mentions that—even though the total roof surface of the HDC would be 140,000 m<sup>2</sup>—‘the planting of groups of trees around the building creates the image of a typical farm in a large agricultural field’ and ‘the building creates a rhythm and makes the attention escape from the buildings in a visually attractive pattern’ (Arcadis, 2021). Reading such sentences is indicative of an EIA meant to support the facility instead of giving an independent account of all effects.

Further publications in the media pointed out that the energy consumption of this single HDC would be higher than the total energy consumption of a city like Amsterdam, and that the green energy produced by the recently built wind turbines in the region would all be consumed by this one HDC. This made the unrest again intensify.

Concluding, the documents revealed through the FOIA and publications on their contents in the media were not neutral in their impact. Each time new information was published, the distrust increased. Until the publication of the first information, there had been hardly any doubts about the HDC. Of course, the contents of the publications in the newspaper were highly contested by lobby organizations such as the DDCA. The unintended consequence of these comments was that they added to the distrust in the process. The representative of the municipality had to tell repeatedly to critics that the plans in this municipality are completely different from the ones in the other province (Stentor, 6 April 2021). According to her, the noise produced would be just a buzzing sound, the water consumption would be irrelevant as the HDC would not use drinking water but only very limited amounts of surface water, the warming effect of the discharged water on the surrounding canal would be very limited, and the increased criticism regarding the HDC would all be due to the unjust negative reporting in the media. Unfortunately, in the end nobody believed the municipal authorities anymore.

## **5. Discussion and conclusions**

The case described illustrates how high tech companies proceed in their plans to get HDCs built and the complexity of the relationship between them and public authorities. Understanding such processes is important as many countries in the world are faced with requests to build HDCs. Many of these countries experience frequent power cuts and have limited water resources, such as South Africa, or Nigeria, making the water and energy consumption of HDCs problematic. With a yearly turnover larger than many national budgets and in the Netherlands thousand times the yearly budget of the municipality involved, high tech companies use their power to get things done their way. If their plans run counter to national policies, even governments with the reputation of being transparent (World Bank, 2022) consent to requested secrecy. Such secrecy is needed in moving around prevailing policies, to bypass the skeptical part of the administrations, and in the attempts to put direct pressure on political authorities. Authorities even agree with the dissemination of misinformation in their eagerness to attract these investments. The remark in response to a critical question, as made by the representative of the lobby organization hired by the municipality, that ‘a housing block in the same place would use three times the amount of water the HDC would consume’ is most telling.

The case is also illustrative concerning the power of the FOIA in revealing what otherwise would not have been disclosed and the impact thereof. The secrecy of the process during the first 15 months was not disputed. This secrecy was made possible because of the beforehand existing complete trust in the municipal authorities. Only after investigative journalists started to publish about the negative side-effects of HDCs, was this secrecy perceived as problematic. It resulted first in a few informative questions but when the answers were shown wrong, it resulted soon after in hundreds of critical questions. The second indicator of the impact of the FOIA on distrust is that publications revealed through an appeal on the FOIA in the fall of 2021, resulted in an intensification of the protests in which otherwise very different groups (farmers and Extinction Rebellion) joined hands. Indicative of the growing distrust was also the unanimous approval of the motion of sadness in the provincial council. The main indicator for the intensified and widened distrust is found in the outcome of the local elections in the spring of 2022. The ruling parties in the municipality who had supported the plan were obliterated. Within a year complete trust had changed into complete distrust.

The growing distrust is, therefore, only partly due to the absent voluntary ex-ante transparency. More important is the misinformation released by the municipality, and especially the imposed ex-post transparency revealing all the mishaps in the process. The inner circle could have anticipated these appeals to the FOIA, but it failed to do so. Instead, the concerted group coordinating the process must have erroneously thought they could act as they did without any consequence.

The main conclusion cannot but be that momentarily governments are no match for the all-powerful high-tech business. The threat of the latter to make their investments elsewhere, the requirement that no preconditions are imposed on their plans, that the decision-making process should be secretive, their downsizing of the negative side-effects, and the submissiveness of public authorities in this unequal playing field result in public decision-making processes not at all in conformity with principles of good governance.

When the process is nonetheless revealed, because a judge orders that the Freedom of Information Act applies, and when this information reveals inconsistencies and irregularities in an otherwise secretive policy process, this case has shown that this can be detrimental for institutional trust. In the end everybody has lost. The FOIA is a powerful instrument for stakeholders, academicians, and journalists in revealing information otherwise not disclosed. This is still poorly understood by policymakers. As the case study shows, not anticipating this power, can disrupt the outcome of even the most desired projects.

The turbulent new era in which the role of high-tech companies becomes larger and larger, and their relations with public authorities more intense, requires a decisive government, knowledgeable, willing to or be pushed to conform to the principles of good governance, and able to resist the demands of high tech companies. This requires a combination of capacitating public authorities through thorough training, through public administration scholars willing to assist and to do action research, and through investigative journalism to keep the public informed and to keep the authorities on their toes.



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