

**Direct democracy in the political system of the
Czech Republic: Current status and prospects for
the future**

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Krzysztof Koźbial

Jagiellonian University in Kraków, Poland



Abstract:

Czech experience in the field of referendums is rather limited. Only one nationwide referendum which has been held so far, took place in 2003 and concerned the membership of the Republic in the European Union. The experience of referendums at the local level is incomparably richer: decisions related to environmental matters have gained importance. The greatest interest was raised by referendums on the creation of new municipalities, storage of radioactive waste and elements of radar to be included in the anti-missile shield.

It is most probable that referendums will not be used more often than before at the state level in the Czech Republic in the future. This assumption is supported by the lack of such historical experiences as well as the unwillingness of political decision makers. Only local communities often use this kind of opportunity to express their stance on important matters. Significant support on the political scene has been obtained by groups who even call for direct democracy to play a more important role than before in the political system of the Republic. These are not the strongest parties in the Czech Parliament.

Key words:

direct democracy, Czech Republic, Czech political system, local referendums in Czech Republic

Introduction

The Czech Republic does not belong to the countries where direct democracy institutions are often used. In principle, deciding about important matters by appealing to the will of the public is unfamiliar to the Czech political system. However, at the local level the phenomenon of the referendum appears to be applied in practice. There is, therefore, a clear dichotomy in this respect.

In recent times (especially in the parliamentary elections of 2017), political groups postulating the introduction of a state-wide referendum to the systemic practice gained the majority. In the future, therefore, changes in this area cannot be ruled out.

In my opinion, the most essential are the answers to the following research problems related to this issue:

- 1) What are the reasons why referendums at the national level are rare in the Czech Republic,
- 2) What makes the Czechs turn to the best-known direct democracy tool in decision-making process at the local level?
- 3) Does the increase in the importance of groups postulating frequent recourse to referendums contribute to changes in favour of their implementation?

Direct democracy may be comprehended in many ways, although it is most often emphasized that its basic element is the direct participation of voters in performing public functions, taking direct decisions by those entitled to vote. For this reason, it is sometimes noted that it is a kind of competition with indirect democracy (Marczewska-Rytko 2001: 31-32). In my opinion, it should not be seen as a competition, but rather as a complement to the most commonly used representative type of democracy.

Referendum is the most frequently used instrument of direct democracy, perhaps the two being even synonymous (Marczewska-Rytko 2001: 110-111). Its essence is that those entitled to vote express themselves in the vote on the important problems of social and state life at the local, regional and national levels.

Legislation regarding referendums

Czech experience in the field of referendums is rather limited. After the formation of independent Czechoslovakia in 1918, establishing the political foundations of the new state was originally intended to be based on Swiss experience. However, but a few of these plans were fulfilled, as the Czechoslovak constitution of 1920 mentioned only the optional referendum which could be announced exclusively by the government. It was able to do so, if the parliament rejected the government bill. The referendum could not decide on draft bills that would change the constitution. This option has never been used (Rytel-Warzocho 2011: 92-93).

The post-war constitutions of socialist Czechoslovakia did not include the provisions concerning the use of instruments of direct democracy at all. It was only before the breakup of

the common state of the Czechs and Slovaks that a constitutional law was adopted (July 18, 1991), which could form the basis for a referendum in the whole country. A possible vote could be held on issues related to the constitutional system of the state or withdrawal from the then federation (Rytel-Warzocha 2011: 101-102).

Despite the existence of formal possibilities for the Federation to split into separate states, Czech and Slovak, the process took place in a different way, without referring to the citizens' will in a referendum. Perhaps because neither of the nations was fully convinced to the idea of division of a common state. According to the current survey citizens clearly indicate that they would definitely prefer to vote on such an important issue. The survey conducted in October, shows that 22% of respondents in the Czech Republic and 23% in Slovakia believe that the division of Czechoslovakia without a referendum was a right or fair decision, but of the opposite opinion are - respectively - 68 and 67% of respondents (Tabery & Bútorová 2017: 4).

The current legislation of the Czech Republic refers in a very reserved way to the instruments of direct democracy. The Constitution, adopted on December 16, 1992 never specifically uses the terms „direct democracy” or „referendum”. Only in Article 2, paragraph 2 the legislator stated that „a constitutional law can determine when the people exercise state power directly” (*Konstytucja...* 2000: 35). Therefore, every attempt to hold a referendum on the territory of the entire state requires the adoption of a special law by the parliament. No regulations on direct democracy can be found in the Charter of Fundamental Rights and Freedoms, which is a part of the Czech constitutional order. Only art. 21 of the Charter contains the provision that allows direct voting, stipulating that „citizens have the right to participate in the management of affairs directly or through free elections of their representatives” (*Konstytucja...* 2000: 75). Therefore, it is difficult to talk about an extended provision in this case.

Referring to the status of the referendum in the Czech constitution, M. Krzywoszyński classifies the Czech Republic into a group of semi-representative democracies, i.e. where the constitutions allow the use of optional referendums only. However, due to the limited number of applications in the political system, this statement is questionable and seems exaggerated (Krzywoszyński 2017: 65).

On the other hand, the law on local government, adopted in 1990, regulates the conditions required to introduce the institution of referendum. Two years later, the Act on Local Elections

and Referendums, in which the possibility of a referendum as a grassroots initiative is guaranteed, came into force. This option was not used until the end of the last century (Smith 2011: 35). Currently, the law adopted at the end of 2003, amended in 2008 (the so-called local referendum law) operates (*Zákon o místním referendu 2004*).

It gives the possibility to decide by way of a referendum on specific issues concerning government in local communities. All citizens equipped with voting rights may participate in such voting. The Act specifies the minimum number of people who have to support the referendum request so that it could be implemented at all. In communities with up to 3 thousand inhabitants it is at least 30% of those entitled to vote, up to 20,000 inhabitants it is 20%, up to 200,000 inhabitants it is 10% and over 200,000 inhabitants it is 6%. As a rule, they are one-day votes, they are valid if the turnout is at least 35% of those entitled to vote. The result is binding, if a majority decides in favour or against a given decision and, if it constitutes at least 25% of those entitled to vote¹. Organizing a re-vote on the same issue is only allowed after 2 years. The referendum question must be a Yes/No question. At the same time, the Act specifies matters in the case of which voting cannot be held. These include dismissal or appointment of community authorities or the election or dismissal of the starost or the mayor (*Zákon o místním referendu 2004*).

There is a newer instrument of direct democracy, operating since 2011 (*Zákon o krajském referendu 2010*), a referendum possible to be carried out at the level of Czech regions (lands)². It gives the citizens entitled to vote the opportunity to decide, during a one-day vote, on matters falling within the competence of the lands as local government units. Voting may take place in the event of acceptance by a regional assembly (*Zastupitelstvo*) or when the appropriate application is submitted by the referendum organising committee and supported by signatures of at least 6% of citizens entitled to vote in the area of the region. A regional referendum is valid, if at least 35% of citizens entitled to vote participate and the result is binding when a majority representing 25% of those entitled to vote is in favor of, or against a given solution. The Act also lists matters on which a regional referendum cannot be held. These include election and

¹ The only exception is the division or connection of towns, their parts or municipalities, where consent is required of more than half of those entitled to vote.

² The exception are referendums in the area of Prague which is both a municipality and a region. They are held on the basis of the local referendum law.

dismissal of the chairman of the regional committee (hetman) or adoption of the region's budget (*Zákon o krajském referendu 2010*).

Therefore, it is clear from the presented provisions of both laws that there are legal conditions at the local level for voting on matters relevant to the competence of local self-governmental bodies. Both laws provide similar solutions as to the validity and binding nature of referendums. Importantly, the Acts - as discussed in the further part of the article - are applicable in practice.

Institutional practice at the state and local level

Since the independence of the Czech Republic, no instruments of direct democracy have been put into practice. Despite the proposals and attempts made, such as the idea of social democrats to vote in 1999 on the subject of NATO membership, participants of the Czech political system have not decided to use this instrument (Smith 2011: 34).

In the years 1993-2003, 19 attempts to introduce legislation on national referendums took place. The largest number of such proposals - as many as 11 - were submitted by ČSSD and 4 by KSČM. None of them was successful because the Chamber of Deputies did not accept such regulations (Jüptner et al. 2014: 650). This undoubtedly demonstrates some kind of reluctance towards this type of solutions.

a) nationwide referendums

The only nationwide referendum that has been held so far took place on 13 and 14 June 2003 and concerned the membership of the Republic in the European Union. 55.21% of those entitled to vote, took part in it, of which 77.33% were in favor of the membership. The referendum was valid and its result binding (*Referendum o přistoupení 2003*). The fact of the single implementation of this direct democracy instrument during the 25 years of independence of the Czech Republic leads to the conclusion that it has been unquestionably not a solution to which the authorities of that country would attach importance. Undoubtedly, one of the reasons is the lack of historical experience.

The vote on the accession to the EU was possible under the relevant constitutional law, which the Chamber of Deputies adopted in October 2002, and the Senate a month later (*Ústavní zákon o referendu 2002*). It was allowable on the basis of the previously mentioned Art. 2 para. 2

of the Constitution. It is worth noting that in 1999 the Czech parliament attempted to adopt a law that would allow voting on the subject of accession to the Union, but at that time it did not gain acceptance. The 2003 referendum was valid regardless of the turnout. During the works on the law defining the procedure of the vote it was considered that there was too much risk of low turnout and for this reason the minimum threshold necessary for the validity of the vote was not stated.

After 2003, no more national referendums have been held on the territory of the Republic. The only curiosity associated with this form of decision making are „virtual referendums”. For example, simultaneously with the British referendum on leaving the EU by the UK, the weekly Reflex held a vote on the hypothetical „exit” of the Czech Republic from the Union. 80% of voters voted on the Internet for leaving the organization (*Referendum nanečisto...*). A similar type of undertaking is the collection of signatures under the project of revival of Czechoslovakia on the 100th anniversary of its creation. The signatures, with a modest success so far, are gathered by the Movement for the Revival of Czechoslovakia (Hnutí za obnovení Československa). Out of over 12.6 thousand of votes on their website almost 83% support the initiative (*Československo 2018*). The problem is, however, that the Czech law does not provide for the possibility of voting by collecting a certain number of votes for the project. So this idea is condemned to failure.

b) local referendums

The experience of referendums at the local level is incomparably richer. However, it should be clearly stated that they have been entering into systemic practice only gradually. M. L. Smith admits that the change in this area, noticeable only after 2000, should be associated with the activities of non-governmental organizations that mobilized the residents at the local level to oppose some projects, and at the same time conducted pre-referendum campaigns (Smith 2011: 37). The referendum in Tabor in 2000 is often considered a breakthrough, when at the 37% turnout the project for road construction through the botanical park was rejected. Citizens of this city decided that the referendum would be the only option to end a several-year dispute over the mentioned investment and this actually happened.

However, local votes had already taken place before. Initially (1992, 1993) they were carried out mainly to introduce territorial changes, connect certain municipalities or - most often

- separate new municipalities. After 2000, this type of voting was limited in fact to individual cases. Meanwhile, decisions related to environmental matters have gained importance (Jüptner et al. 2014: 655).

This subject began to dominate over time, most frequently in reference to the location of radioactive waste, the construction of wind farms or the creation of infrastructure. As calculated by M. L. Smith in the years 2000-2008 91 (60%) out of 151 conducted votes concerned matters related to the environment (Smith 2011: 40).

According to the data of the Czech Ministry of the Interior Affairs in 2006-2016, 251 local referendums were held in the Republic (*Místní referenda...*). Basing on this list some of the leading topics can be pointed out. These include voting on:

- construction of wind or photovoltaic power plants (e.g. Líchkov municipality in 2007, Bousín 2008, Sudice 2010),
- development of road infrastructure and sewage system (Suché Lazce 2012, Písek 2013, Borová 2014),
- storage of radioactive waste from two Czech nuclear power plants (Hubenov, Dvorce 2007),
- consent to the construction of radar elements of the American anti-missile shield (Zaječov, Vševidly, Vesela 2007) (*Místní referenda...*).

Interestingly, highly controversial topics, such as the US anti-missile shield, aroused wide interest of even over 70% of those entitled to vote, who in the vast majority rejected such an investment (only 1 municipality agreed to it). The result of the vote was not binding and with time the Americans abandoned this idea anyway and, therefore, the result of the referendum did not have greater significance. Similar emotions were aroused by proposals for the storage of radioactive waste in some locations, in which case the referendums in individual municipalities gathered even over 80% of those entitled to vote. The votes rejected the proposed solutions.

Emotions were also stirred by the case of the railway station in Brno, where the local authorities planned the reconstruction of the railway line and the construction of a new station away from the centre, which was opposed by the residents. In 2004, a vote was held on this subject in result of which 86% supported the modernization project but opted for retaining the station at its current location. Due to the low turnout the referendum was not valid. In the next

voting in 2016, also invalid due to the participation of only 23.8% of those entitled to vote, its participants again favored the solution accepted 12 years before (*Referendum o nádraží...*).

Statistically, the greatest interest was raised by referendums on the creation of new municipalities (average turnout over 76%), storage of radioactive waste (almost 73%) and elements of radar to be included in the anti-missile shield (almost 66%). The lowest turnout was recorded in referendums on financial matters (28.5%) and education (almost 31%) (Jüptner et al. 2015: 281).

So far, there has been no regional referendum. In 2010-15, attempts were made to bring about such a vote in the country of Ústí nad Labem, which was supposed to decide on the limit of lignite mining. This idea was supported, among others, by the former Prime Minister Jiří Paroubek and the President Miloš Zeman. No referendum took place because it was considered that issue was not within the competences of the region (Synková 2014; Paroubek...). It is therefore difficult to refer to any experiences in this area.

The quoted examples seem to prove that at the local level, most often in small communities, referendums are an effective tool for expressing opinions by the local community, also in matters that should be considered extremely important not only for these communities. At the same time, it seems justified to assume that the experience of local votes clearly proves that such a method of solving problems is attractive for those entitled to vote. Nevertheless, it is not without reason to mention that local referendums have no anchoring in the Czech constitution, which contributes to their weakness (Hamuřák 2008: 31-32).

Political parties and instruments of direct democracy

Referring to the possible future of the development of direct democracy in the Czech Republic, it is also worth analysing how major political parties view such decision-making instruments. This is all the more justified since over the last few years political groups supporting direct democracy, or even demanding its more frequent use, have gained in importance, which is also confirmed by the result of the parliamentary elections of October 2017³. The parties that have played the most important role in the Czech political system so far, have not been convinced as to the role of direct democracy at the level of the whole state.

³ The elections were won by the ANO 2011 led by Andrej Babis, with the result of 29.6%, and followed by ODS 11.3%, The Pirates 10.8%, SPD 10.6%, KSCM 7.8% and ČSSD 7.3%.

Of the groups present in parliament only two very emphatically emphasize the importance of direct democracy. These are Freedom and Direct Democracy (SPD - Svoboda a přímá demokracie) and The Czech Pirate Party (Česká Pirátská Strana). Especially the first of those parties has made direct democracy its main slogan, even incorporating it in the name of the group. The call to use the direct way of resolving social and political matters by citizens in the vote constitutes the first point of the party's program, in which the SPD demands radical changes in the political system. In addition to the direct selection of the hetmans and starosts, the party postulates the introduction of the right to referendums in matters of principle, such as the future of the state (*Politický Program SPD*). The SPD is a new group formed in the middle of 2015. Its leader Tomio Okamura previously presented similar political views, having been, in 2013, the founder of the Dawn of Direct Democracy (Úsvit přímé demokracie). The group was present in the Czech parliament in 2013-2017, later Okamura left it and founded the SPD. In the last elections, the party entered the Chamber of Deputies with the fourth result, introducing 22 deputies to the parliament. In my opinion, however, the main source of support for the SPD was not the strongly exposed idea of direct democracy, but a strong anti-immigrant stance.

Also, the third force in the Chamber of Deputies, the Czech Pirate Party with 22 MPs, underlines in its program the importance of direct decisions exercised by citizens. The Pirates call for the introduction of a legislative initiative for citizens, binding referendums at every level, a popular veto resulting, after collecting the appropriate number of signatures, in the rejection of legal acts, and direct selection of public officials (*Přímá demokracie*). The Pirate Party was founded in the Czech Republic in 2009, inscribing itself to the pan-European movement of such groups demanding the freedom of the Internet and access to information. The last elections to the Czech parliament turned out to be the most successful for the party.

Both parties should certainly be counted among the propagators of the idea of direct democracy in the Czech Republic. In total, they have 44 seats in the current parliament, which is exactly 22% of all seats. This does not guarantee the implementation of these demands, the more so as both parties belong to the opposition.

Introducing elements of direct democracy at the general level is not included in the program of the Action of Dissatisfied Citizens (ANO 2011), which won the recent parliamentary elections, neither is it present in the programs of Social Democratic Party (ČSSD), Civic Democratic Party (ODS). Also Communist Party (KSČM), a permanent element on the Czech

political scene after the division of Czechoslovakia, does not seem convinced of this way of settling important matters. In its program it mentions only the legal anchoring of local votes, the introduction of folk veto and folk initiative. There are no references to nationwide votes (*Volební program...*).

Conclusion

In my opinion, it is most probable that referendums will not be used more often than before at the state level in the Czech Republic in the future. This assumption is supported by the lack of such historical experiences as well as the unwillingness of political decision makers in recent years to introduce this type of decision-making process at the level of the entire state, although there might be enough problems that could be settled in this way.

Referendums are not an instrument unknown in the Czech Republic at the local level, there have already been several hundred of them in the last 25 years. Local communities often use this kind of opportunity to express their stance on important matters and it has been proved effective. It has been most often used in matters relating to the natural environment. Therefore, it is justified to presume that Czech voters are prepared to use this instrument.

Recently, significant support on the political scene has been obtained by groups who even call for direct democracy to play a more important role than before in the political system of the Republic. However, these are not the strongest parties, so one should be skeptical about the possibility of forcing through ideas enabling the introduction of elements of direct democracy to the systemic practice of the state.

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