

The uneasy balance between participation and representation: local direct democracy in the Czech Republic¹

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History and overview of direct democracy legislation in the Czech Republic

All democracies, especially new ones, face the fundamental question of how much and what kinds of citizen participation to allow in politics, such as through local referendums. While too little participation could lead to an apathetic citizenry unable to act against the abuses of government, too much participation by an „interested and overbearing majority“ (Hamilton, Madison and Jay 2003: 46), in the absence of legal protections, could lead to the suppression of minority voices. In the example of the United States, the federalist solution to the question of balancing citizens' voice was to advocate representative government with a system of checks and balances and only limited opportunities for citizen participation. Understanding that the power of government also needs its own checks, the Progressive movement, the civil rights movement, and contemporary proponents of direct democracy have also sought to expand, with some success, the opportunities for citizen participation in local and statewide politics.

Of course, political context shapes the way such debates unfold in different democracies. Given the heritage of communist rule, based on the principle of the vanguard of the working class, many post-communist constitutions echoed the Madisonian concern to „unequivocally take precautions against any kind of privileged access of any group, class or party to power“ (Elster, Offe and Preuss 1998: 93). In the Czech Republic, this meant upholding the constitutional principle of parliamentary sovereignty – with no provisions for direct democracy at the national level – and the belief that the Parliament represents the interests of a homogeneous and unified ‚Czech nation.‘ The communist heritage of forced political participation, as well as the importance placed on technocratic expertise, has also created very difficult conditions for civil society and grassroots political participation to develop (Greskovits 1998; Howard 2003).

This tension between parliamentary sovereignty and direct democracy in the Czech lands can be observed in the constitutional crisis of the post-1989 Czech and Slovak Federal Republic. On December 10, 1990, President Václav Havel presented two bills to the Federal Assembly that he believed would resolve the question of the relationship between the Czech and Slovak Republics. His solution emphasized the use of democratic mechanisms for deciding the issue, which he hoped would lead to an outcome in favor of an „authentic federation“ (Žák 1995). The first bill related to the establishment of the Constitutional

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Court, whereas the second was a „constitutional bill on the referendum as an institution that would be capable of realizing the true will of citizens in the case of unsolvable disagreements between different political organs. That will, expressed by means of a referendum, should have the greatest decision-making and unconditionally binding legal authority for everyone“ (Havel 1990).

After a number of amendments to Havel’s referendum bill, the *Constitutional Law 327/1991 on the Referendum* went into effect on July 18, 1991. The brief one-and-a-half page law stated that if either the Czech or Slovak Republic wanted to secede from Czechoslovakia, it could do so only by referendum. The law involved all of the major political institutions: the President could call a referendum if the Federal Assembly proposed it, which it could do as long as the Czech and Slovak National Councils (i.e. the two national parliaments of the federal state) were in favor of such a referendum. Not too long after the law was passed, various political parties and civic movements sought to propose referendum questions on the future of the country, such as the civic petition *Initiative for a Common State*, which contained over a million signatures demanding a referendum on the question of federation (Lástič 2005). But since each political party had its own stance on the issue, no agreement was ever reached between all of the relevant political actors. Ironically, the *Law on the Referendum* was never used to solve the constitutional crisis. Since the leading Czech and Slovak parliamentary parties, represented by Václav Klaus and Vladimír Mečiar, reached a *political agreement* between the republics to split the country – as opposed to *one side* desiring to secede, which, according to the above law, would require a referendum – the politicians succeeded in ‚solving‘ the constitutional crisis without involving citizen participation at all. The political agreement can easily be interpreted as Mečiar’s and Klaus’ attempt to avoid a referendum, as they knew very well public opinion was in favor of a continued federal state. For obvious reasons, that law is now obsolete.

Unlike some other post-communist countries, the Czech Republic has never had a general law on national referendums. The only national referendum to have taken place – the referendum on EU membership, which took place in mid-June 2003 – was made possible by a special law solely for that purpose. While there have been a number of legislative bills on the subject, the right-wing Civic Democratic Party (ODS) has seen direct democracy as a threat to parliamentary sovereignty. For example, in 1996, a bill on national referendums submitted by communist MPs was easily struck down by the ODS-led governing coalition. In 1999, Social Democrats proposed a bill that would have enabled legislative referendums on such issues as NATO and EU membership, but the bill was also dismissed by political parties wanting either stronger or weaker legislation. The same year, the Christian Democrats proposed their own bill, which would have enabled civic initiatives at the national level, but the bill failed by six votes due mainly to opposition by the Civic Democrats. In fact, that same bill failed to reach a constitutional majority (three-fifths of the lower house of Parliament) in twelve different parliamentary votes. Since political parties with the exact same ideas on national referendums have never held a constitutional majority in parliament, the prospects for such a law are small.

Nonetheless, Czech legislation does enable local referendums that are binding on local government. The legislation was passed during the Civic Forum period when the political desire for more local autonomy and democratization was quite large and when political parties were still relatively undeveloped, particularly at the local level. Similar to a bill passed by the Slovak National Council, in 1990 the Czech National Council passed the *Law*

on *Municipalities* (later amended in 2000), which established referendum rules for cases in which residents would want to divide or merge municipalities. However, unlike Slovakia, the Czechs also passed a general law on local referendums – the *1992 Law on Local Elections and Referendums* (comprehensively re-written in 2004) – which provided regulations for citizen-initiated referendums on all other themes. Surprisingly, *no referendum according to the main 1992 law even took place until the year 2000*. Therefore, we will begin our analysis with the cases of municipal separation and agglomeration according to the 1990 law on municipalities.

Local referendums on municipal separation

The 1990 *Law on Municipalities*, which came into effect at the time of the 1990 local elections, stipulated that a municipality can separate into two only on the basis of a local referendum. Each of the subsequent municipalities must have at least 300 permanent residents, its own land register, and represent a single territorial unit. For the referendum outcome to be valid, at least half of all residents in the locality concerned have to vote in favor of separation. The Ministry of the Interior then decides whether or not all the legal conditions have been fulfilled for the separation to take place. Because referendums are required for municipal separation, the growth in the number of municipalities in the Czech Republic is the best measure for the number of these referendums. In 1991, after the law took effect, there were 5,768 municipalities in the country. An additional 329 municipalities were created in 1992, which by law had to be by local referendum. Table 1 provides detailed data on municipal separation and agglomeration from January 1993 to January 2007. While it is not possible to confirm that all of these changes took place by referendum, we can presume from the law that most indeed did.

Table 1: Changes in Local Self-Administration in the Czech Republic
(Changes taking effect as of January 1 of each year)

Year	Cases of municipal separation	Cases of merged municipalities	Cases of municipal districts becoming own municipalities
1993	104	4	3
1994	37	2	2
1995	7	5	22
1996	3	2	14
1997	1	0	1
1998	8	0	16
1999	4	2	8
2000	7	0	10
2001	8	1	11
2002	0	4	6
2003	0	5	7
2004	0	0	2
2005	0	1	1
2006	2	0	0
2007	2	1	4
Totals	182	27	107

Source: Czech Statistical Office, own calculations

As can be observed from the data, from 1993 to the present there has been a significant deceleration in changes in local self-administration. Due to the ease with which many municipalities were created in the early 1990s, territorial self-administration became very fragmented, leading to increased coordination and cooperation between municipalities, such as through unions and interest associations (Vajdová, Čermák and Illner, 2006). As a result of fragmentation, over half of all Czech municipalities have less than 499 residents, and nearly 80 percent of municipalities have 1000 residents or less. During the time of territorial administrative reform in the late 1990s, the Ministry of the Interior seized the opportunity to prevent further municipal fragmentation – that is, more communities declaring independence through referendums – by revising the referendum clauses of the amended *Law on Municipalities*, which went into effect in 2001. That law still required referendums for municipal separation, but increased the population requirement of the subsequent municipalities from 300 to 1000 residents. As can be observed in Table 1, the legal change was rather unnecessary since relatively few municipalities were being established in the mid to late 1990s. Nonetheless, the amendment proved to be effective in the sense that very few new municipalities have been established since that time and almost no municipal districts have been able to become independent municipalities. As could be expected, in 1999-2000 there was a rush by small villages that were administratively part of larger towns to call referendums on independence, realizing that they would never have another chance in the future (there were at least 13 such referendums in 2000, leading to eight new municipalities in 2001).

Therefore, the year 2000 marked a significant turning point in local referendums on municipal separation. Since then, there have been only one or two referendums on municipal separation per year. In addition, referendum attempts at separation have become increasingly politicized. While campaigns for municipal separation in the early 1990s were rooted in the desire for self-administration, cases in the late 1990s and early 2000s seem to be largely based on the desire for more state revenues or other forms of economic gain. For example, community leaders in Držovice, which successfully broke away from the city of Prostějov in 2004, organized a referendum campaign on the basis of the persistent practice of disinvestment by the city in their community. Similarly, residents in Zavadilka, which is a part of České Budějovice, threatened the city that they would call a referendum on independence because they are angered by the growth of housing developments in their neighborhood.² Similarly, large cities have attempted to convince neighboring villages to be annexed, which would provide cities with larger tax revenues (due to the system of tax transfers that favors larger municipalities) in exchange for promising better services to the village, like new bus lines. Recent high-profile cases include the referendum in the village of Chrást about whether to join Plzeň, and the attempt by the city of Jihlava to annex the village of Malý Beranov. However, most of those attempts have failed due to the lack of voter approval.

² MF DNES, „Lidé ze Zavadilky zvažují odtržení od města (People from Zavadilka are considering seceding from the city“), April 29, 2005.

Citizen-initiated and council-initiated local referendums

The referendums on municipal separation discussed so far were based on the *1990 Law on Municipalities*. As mentioned earlier, despite the fact that the *Law on Local Elections and Referendums* was passed in 1992 (and went into effect in 1993), no referendum took place on the basis of that law until 2000. While one factor in the lack of citizen-initiated referendums in the 1990s could be due to the weakness of Czech civil society (Howard 2003), an alternative explanation has focused on the problems and ambiguities in the referendum law that gave local councils near complete license to reject referendum proposals as they saw fit (Smith 2007a, 2007b).

The 1992 law provided basic regulations for citizen-initiated referendums and stipulated that a turnout quorum of 25 percent is necessary for a referendum vote to be valid. The law specifically outlawed referendums relating to municipal budgets and fees, as well as any issue that is not in the original competency of the local government (i.e. activities that local governments perform for the state, such as the administration of social benefits). The law also established signature collection requirements according to population size, which are still valid up to the present time:

Up to 3,000 residents	30 percent of residents qualified to vote
3,001 - 20,000 residents	20 percent of residents qualified to vote
20,001 - 200,000 residents	10 percent of residents qualified to vote
Over 200,000 residents	6 percent of residents qualified to vote

After a sufficient number of signatures are collected, the referendum proposers have to also submit a referendum proposal, which contains the official referendum question, its justification, an explanation of how the referendum will be financed, a proposed referendum date, and so on. The local council then votes on whether the referendum should take place, and if so, designates a date.

The poorly drafted law did not anticipate a wide range of issues that would later be subject to controversy, such as whether referendums can be held at the same time as elections, how referendum proposers can appeal decisions by a local council, how the referendum question should be phrased, or whether more than one referendum can be held at the same time. Referendum campaigns thus became a political battleground over legal interpretations, since very few cases went to court that would lead to rulings that would specify the law in more detail. Through much of the history of the law, civic groups, proposers and politicians often had strikingly different interpretations of how to apply it, leading to misunderstandings, abuse and even allegations of corruption. Finally in 2000, after several years of conflict, environmental activists and lawyers in the city of Tábor finally applied enough public pressure on the local council to call a referendum relating to whether to build a road through a botanical garden in the city center. That became the first local referendum in the country on an issue other than municipal separation, and had a binding outcome (turnout was 37%) in favor of preventing the road construction project. A number of activists involved in the case later advised residents in other cities how to organize referendum campaigns. Since then, citizen-initiated referendums have become a mainstay of Czech local politics.

Nonetheless, political intervention and manipulation of the referendum process has continued to be a problem. For example, in a referendum campaign that was initiated by environmental activists in the village of Velký Malahov in 2001, the activists sought to propose a question on whether to prevent the village from allowing a German poultry manufacturer to locate a large poultry farm (for nearly 1,800,000 chickens) in the locality. At issue was not only the possible pollution and odors from the farm, but also the claim that the German firm was known for its poor treatment of animals.³ The environmental groups succeeded in collecting the signatures of a third of local residents, and the local council ultimately approved the referendum proposal, which contained two questions: whether voters agreed with the construction of a large chicken farm in the municipality; and whether the local government should do everything possible to prevent the development of the farm. The second question was particularly important, since the outcomes of referendums have the specific characteristic of providing binding instructions to the local council about how it should act concerning the given issue. However, in early 2002 the mayor of the village unexpectedly decided to omit the second question from the ballot and changed the wording of the first question. The referendum was ultimately carried out in February 2002 with the newly fabricated question. Since one of the leading activists of the campaign was also a legal expert, the activists were able to take the mayor to court for committing a criminal offense. The Regional Court in Plzeň later declared the referendum invalid, and the local council reached a legal settlement with the referendum proposers: in exchange for dropping the criminal charges, the village would only approve of a smaller farm for 600,000 chickens, which would also maintain better environmental conditions for them. Thus the referendum, instead of resolving the controversial issue, became instead a site of political contestation that produced its own set of problems that would have to be solved by the checks and balances of legal recourse and negotiation.

Given the ambiguities and problems of the law, it was later amended in the form of the 2004 *Law on Local Referendums*. A revised law was also necessary given the dissolution of the District Offices in 2002 and the new conceptualization of municipal responsibilities as described in the 2000 *Law on Municipalities* (Koudelka, 2001). The new 2004 referendum law made a number of significant changes, such as clearer legal provisions for conflicts of interpretation over a referendum proposal, which had the effect of creating a stronger position for referendum campaigners than was the case previously. In fact, Stanislav Gross, the Minister of the Interior (who a year later became Prime Minister of the Social Democrat-led government), argued that one of the most important reasons for revising the law was to solve the problem of „when a municipal council or another body of a municipality refuses to respect the results of a referendum.“⁴ However, Gross also used the revised law to

³ For discussions of the case, see Ekomonitor, „Starosta Velkého Malahova se prý snaží zmanipulovat referendum (Mayor of Velky Malahov is attempting to manipulate the referendum),“ February 19, 2002; Press Release of the NGO Děti Země (Children of the Earth), „Mnohaletý spor o drůbežárny na Domažlicku končí! (The multi-year conflict about the poultry farm in the Domazlice district has ended!)“, January 16, 2003. The website of the local NGO leading the campaign – Brůdek, the Civic Association against the Large Capacity Poultry Farm – is no longer accessible, which used to be at <http://www.volny.cz/nedrubezarnam/index.htm>.

⁴ 22nd Meeting of the Chamber of Deputies, October 14, 2003. In my own assessment, this justification is rather strange, and may indicate Gross' own misunderstanding of the issues. Up to that time, there were no cases in which local governments would not respect the results of referendums. The more significant problem was that local governments would try to prevent referendums from taking place. The amendments in the law also improve the legal protections for campaigners if local governments unjustifiably refuse to call a referendum.

change the turnout requirement from 25 percent to 50 percent, which was amenable to both the Social Democrats and the Civic Democrats – the two largest parliamentary parties – neither of which have been particularly supportive of local direct democracy. Other notable changes in the new law included the provision that local councils could now initiate their own referendums,⁵ that citizens do not need to provide their ID number on the signature list, and that referendums can take place alongside municipal elections (Nahodil and Říčka, 2004). Table 2 compares the key differences between the old and new local referendum laws.

Table 2: Comparison of the Old and New Local Referendum Laws in the Czech Republic

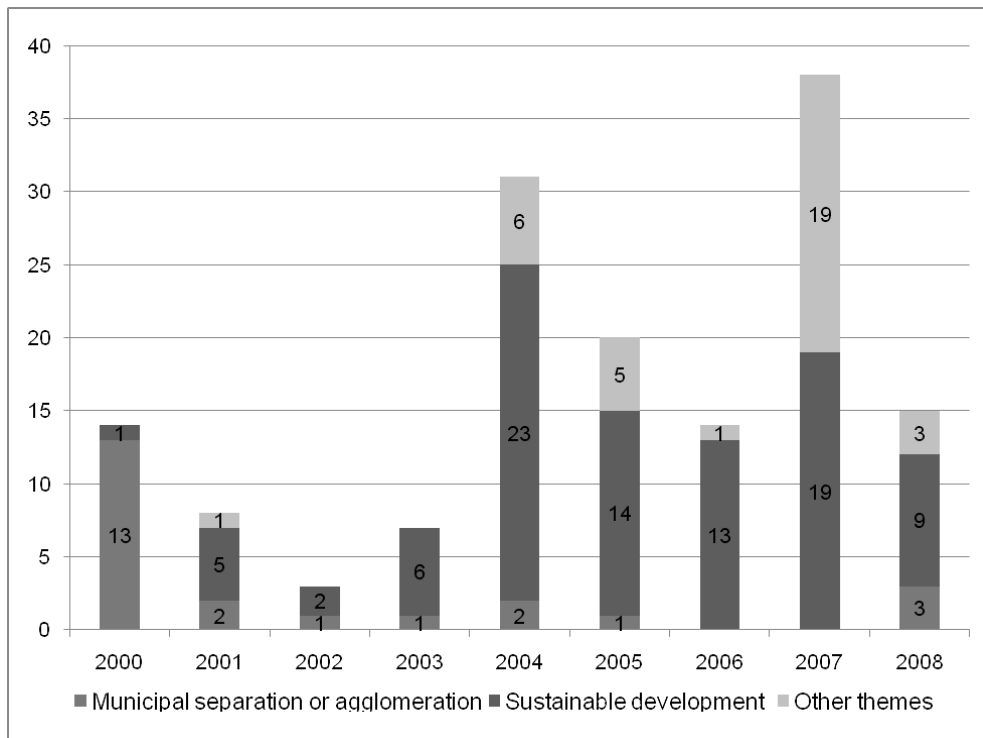
Law No. 298/1992 Coll. (old law)	Law no. 22/2004 Coll. (new law)
The referendum turnout has to be at least 25 percent (of registered voters) for the result to be valid.	The referendum turnout has to be at least 50 percent (of registered voters) for the result to be valid.
Ambiguous as to whether local referendums can take place at the same time as elections (e.g. elections to the local council).	The law clearly states that local referendums can take place with local elections, and can even last for two days .
Referendums on municipal ordinances are possible.	Referendums cannot change or cancel municipal ordinances. However, referendums can be about the land-use plan of the municipality.
A referendum can be declared only on the basis of a sufficient number of collected signatures.	A referendum can be declared on the basis of the local council's own initiative.
Problematic legal safeguards: Any citizen can submit a legal complaint to the Regional Court that in the course of the referendum a law was broken that could have influenced the result or proclamation of the referendum. (This led to a number of complex, excessive and burdensome legal battles)	Broader legal safeguards: The preparatory committee (the proposer and his/her substitutes) can submit legal complaints in two instances: 1) if it appears that the local council refused to declare a referendum when it should have been declared; 2) if the way the referendum vote was carried out is deemed invalid.
Referendum proposals have to contain an estimate of the costs of achieving the expressed referendum outcome.	Referendum proposals have to contain an estimate of the costs of carrying out the referendum .
Whoever signs a petition list more than once for the purpose of a referendum can be fined 1000 CZK.	Whoever signs a petition list more than once for the purpose of a referendum can be fined 3000 CZK.
Anyone who wants to sign a petition list has to enter his/her ID number	Anyone who wants to sign a petition list has to enter his/her date of birth .
Signatures cannot be collected in state administration buildings.	Signatures cannot be collected in buildings of the state administration or in the municipal office .
Law does not mention whether more than one referendum can take place at the same time.	The law makes it possible for more than one referendum to take place at the same time.

These legal changes have had a significant impact on local referendum politics. Despite the increase in the voter turnout requirement from 25 percent to 50 percent, there has been a significant increase in the number of local referendums *since* the new law went into effect (Graph 1). There are perhaps three major reasons for this surprising trend. First, the possi-

⁵ Since the law took effect, approximately half of Czech local referendums have been initiated by local councils.

bility for local councils to also initiate referendums – i.e. without the need for citizens to collect signatures and submit a referendum proposal – significantly increased referendum use, particularly with regard to wind power plant cases. Second, the greater consistency, comprehensiveness and safeguards of the law have likely acted as an enabling condition for civic and political actors to experiment with direct democracy, despite the increased turnout threshold, from 25 percent to 50 percent. Lastly, the timing of potentially salient issues also matters. As discussed below, in 2004 many villages held referendums on the problem of nuclear waste storage, since at that time the national government was considering developing a storage facility in the localities concerned.

Graph 1: Number and theme of local referendums in the Czech Republic, 2000-2008



Source: own data and calculations

One of the most distinctive features of Czech local referendums is the sheer number that deal with environmental and developmental issues, which I categorized in Graph 1 as sustainable development. That term is intended to reflect the fact that the great majority of the campaigns sought to prevent a particular form of local development, in large part for environmental reasons. From 2000-2008, 91 of the 151 referendums that were held dealt with the environment in some way: referendums relating to mining or quarry development (10 cases), nuclear waste disposal (24 cases), whether to allow the development of factories or industrial zones (10 cases), transportation issues (11 cases), wind power plants (21 cases),

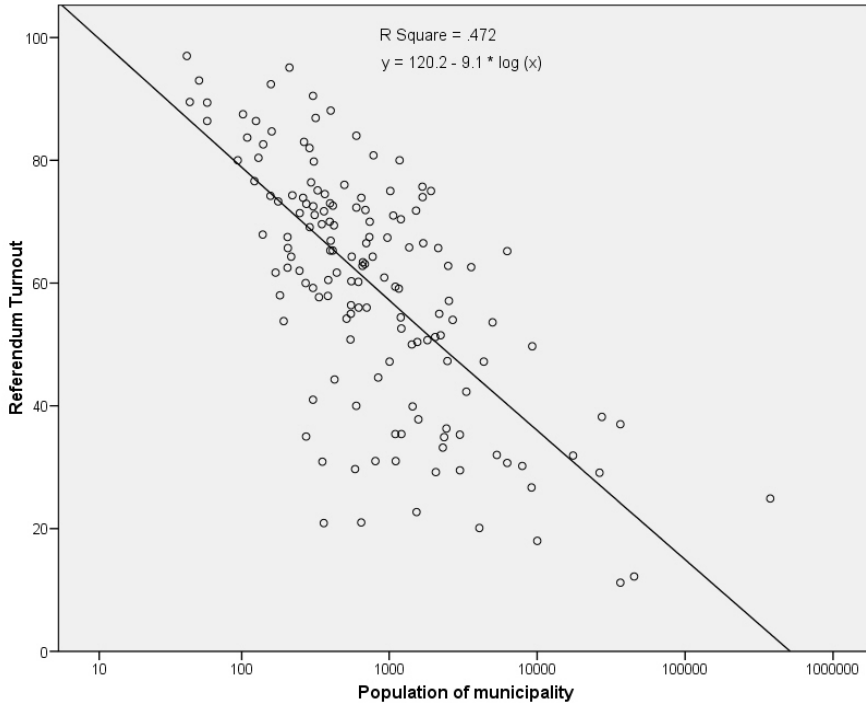
and other development-related issues (15 cases). Many development-related issues, such as road construction or public transport, are also discursively framed within referendum campaigns as environmental, and are indeed led mostly by environmental NGOs. The number of cases dealing with sustainable development is strikingly similar to the Hungarian experience, where landfills, factories and sewage were common themes in referendum campaigns (Smith 2009). However, unlike the Hungarian experience, in the Czech Republic there have been only four referendums related to public schools (compared to 14 such cases in Hungary in the years 2002-2003 alone), which are arguably one of the most important responsibilities of local government.

For example, most of the referendums that took place in 2003 and 2004 concerned nuclear waste disposal. Over the last decade, the Czech government has increased its efforts to find a site for the nuclear waste produced from the controversial Temelín nuclear power plant. In 2003, the government publicized six possible locations for the site. In response, environmental NGOs, particularly *Hnutí DUHA* (the Czech branch of Friends of the Earth) and *CALLA*, met with mayors and local residents from villages around those areas to organize local referendums against the future establishment of a nuclear waste site in their communities. In all of those cases, local residents voted between 80-99 percent against nuclear waste storage, with voter turnout ranging from 51-95 percent. By law, the outcomes of these referendums are binding on the local government in its negotiations over any proposed nuclear waste site. Not surprisingly, state authorities have continued to identify suitable sites for the nuclear waste, but have been generally met with local referendums by the municipalities concerned.

In terms of the „other“ cases in Graph 1, the most prominent set of cases concern referendums on the controversial U.S.-led anti-missile defense system that planned to be located in the Central Bohemia region. Even though local governments have relatively little power to sway the Czech government's positive stance towards the anti-missile radar system, that has not prevented the emergence of 19 referendums, mostly initiated by local councils, as a way citizens living near the proposed radar can protest against it. The referendums can be binding on local government in terms of the (albeit limited) authority than they have in the issue, and have been a major public relations strategy to draw international attention to the local opposition to the radar. All of those referendums took place in 2007, and all but three were binding on local government. On average, 95% of voters across the municipalities voted against the proposed radar.

Another key feature of Czech local referendums relates to the size of the municipality: 78% of the 151 local referendums have taken place in municipalities with populations of less than 2,000. Municipal size is also strongly correlated to turnout, and thus also to the legal validity of the referendum (Graph 2). In fact, the only city with a population above 10,000 to have a binding referendum was the Tábor case mentioned above. While it may be commonsense that a campaign's chance of success is inversely correlated to population size, this has not stopped citizens and other actors from continuing to promote referendum campaigns in cities, as the Brno case study below will indicate.

Graph 2: Impact of municipal size on referendum turnout (n = 151).



Source: own data and calculations

In interpreting graph 2, it is important to note that the graph depicts an L-shaped logarithmic relation between population and turnout. The x-axis has been modified to a logarithmic scale so that the strong association between the variables – with population accounting for 47 percent of the variation in referendum turnout – is easier to observe. The data is important to keep in mind when we consider the consequences of high turnout quorums for validity. High quorums make it *de facto* impossible for residents in large cities to make effective use of the local referendum law, as their chances of a binding referendum are very small in the given legal conditions. That fact can be demonstrated through an analysis of the probability of referendum validity on the basis of population size, controlling for other referendum-related variables (Smith 2007a). While it is not the case that local referendums in large cities cannot have positive consequences, it does mean that they are unlikely to be valid.

It should be noted that because of the awareness that a 50% turnout threshold is nearly impossible for citizen-initiated referendums to achieve in large cities, in 2008 the Czech parliament passed Amendment no. 169/2008 Coll., which reduced the turnout quorum for local referendums from 50% to 35% and stated that a local referendum is valid if: 1) turnout is at least 35%; 2) a majority of voters vote in favor of the given issue; and 3) the number of voters in favor of the issue is at least 25% of all of the registered voters in the munic-

ipality.⁶ The amendment was a success for the Czech Green Party, which wanted a lower turnout quorum after the high profile referendum in Brno (discussed below) ended in failure due to the inability of reaching the 50% quorum.

The above analysis has described Czech legislation on local direct democracy and empirical trends in referendum use. While that data has its uses, it does not tell us much about the „old questions“ that have continued to inspire academic research on direct democracy around the world (Matsusaka 2003; Lupia and Matsusaka 2004). Do voters have sufficient time and resources to make informed decisions about referendum questions? Who organizes referendum campaigns, and whose interests do campaigns serve? What electoral and policy consequences do referendum campaigns have? While it is impossible in the space of this chapter to answer all of those questions, an exemplary case study can be used to illustrate some of the major trends and potential consequences of civic initiatives in the Czech Republic.

For this purpose, I selected as a case study the civic initiative in Brno that was mentioned earlier, which I was able to monitor first-hand as the campaign transpired in 2004. The case has been by far the largest local referendum in the Czech Republic (Brno has nearly 400,000 residents), and thus involved a more elaborate campaign than can be found in smaller communities. The data sources used for addressing the questions above include media reports, city documents, interviews with four of the leading activists in the campaign, and an exit poll I conducted with a team of students during the referendum itself. The exit poll was useful for gaining information about the party preferences of the referendum voters and their sources of information about the campaign.⁷ The following section will analyze the dynamics of the referendum campaign, and will argue that the campaign produced a rich informational environment, was broadly supported by civil society, and had none of the problems of corporate financing common in some Western countries. The last section will then draw out the electoral and policy implications of the campaign, the effects of which can be felt to the present day.

Voter information and responsiveness in the local referendum in Brno

Brno, the second largest Czech city, lies at an important transport crossroad between Poland and Vienna (North-South) and Prague and Bratislava (West-East). Due to the importance of modernizing the rail infrastructure around Brno in order to accommodate faster

⁶ In my view, the 35% turnout quorum would have been sufficient in increasing the overall use of local referendums and their chances of success. While it is possible to understand why lawmakers wanted to impose the condition relating to the 25% of the voting population, such a condition would hardly ever be the decisive factor in whether a referendum is valid or not. This is because of how turnout quorums affect rational voting behavior: the presence of a quorum provides an incentive for opponents of a referendum to boycott it if they think that the turnout may not exceed the given threshold. Since some opponents may boycott, the Yes/No differential will tend to be lopsided in favor of the proponents (compared to a hypothetical situation without any quorums). The larger the quorum, the greater incentive there is to boycott. To my knowledge, there has never been a Czech local referendum to achieve 35% turnout but not have support of 25% of registered voters.

⁷ The exit poll was conducted by enlisting sixteen student volunteers, who worked in pairs outside a diverse set of polling stations around the city. I briefly trained the volunteers beforehand on poll taking, and then monitored them during the referendum. 665 respondents completed the exit poll (there were roughly 79,000 voters), with a response rate of about 75 percent. In terms of how respondents stated how they voted, the exit poll predicted the outcome of the referendum to within 1.5 percent.

and longer trains and increased commerce, the City of Brno had developed plans to relocate and modernize the city's main train station as well as the entire train corridor criss-crossing the city. To the city government, the old train station, built in 1850, lacked the capacity and layout to accommodate the city's needs; since the train station was right next to the city center, it would be difficult to expand. The city wanted to fund the enormous cost of moving the train station about 800 meters away from the city center through budget cuts, loans and EU structural funds. They also argued that the land where the current train station stands could be redeveloped into a number of modern office complexes and luxury apartment buildings, which would expand the city center and increase city revenues. In opposition to these plans, in December 2003 a group of activists and local Green Party politicians demonstrated at a city council meeting in order to bring public attention to the city's plans. Those activists and politicians ultimately created, in early 2004, the Train Station in the Center Coalition (hereafter TSCC), which became the main proposer of the local referendum on the issue.

TSCC involved a number of local environmental and civic actors, particularly the Green Party, Hnutí Duha (the Rainbow Movement – the Czech branch of Friends of the Earth), Nesehnutí (a cultural-ecological action group) and Děti Země (Children of the Earth, the same NGO that led the Plzeň referendum campaign). In spring 2004, the main priority of TSCC was to disseminate information to the public, precisely because the city refused to do so itself. They accused the city of withholding information about the project in three main ways. First, they accused city planners of refusing to disclose technical information about the train station move; second, they criticized the city government for initiating a „massive persuasion campaign,“ organized by an advertising agency, which presented only one side of the issue.⁸ Third, the activists also accused the leading political party in the city, the Civic Democrats (ODS), of preventing other viewpoints on the train station from being published in the city government-owned newspaper *Haló Brno*, which is widely disseminated for free to residents' mailboxes. To TSCC, the desire for a local referendum and the need for public information and engagement on the issue went hand-in-hand:

„Making public concealed documents about the costs of modernizing the train station is a necessary precondition for initiating a fair public discussion about the issue... A local referendum is not only a means for dealing with a disagreement. The information campaign that would precede it is an opportunity to engage in discussion with citizens. A city council member who believes that moving the train station is the right decision will have a unique opportunity to put forward to citizens all the materials and arguments that would defend his position.“⁹

TSCC's referendum campaign did not simply focus on the reasons why the train station should remain in the center, which might be expected of environmental activists wanting to maintain easy and affordable access to public transport. Rather, their campaign, particularly in the first half of 2004, focused more on the problem of government disclosure and transparency, believing that citizens would oppose moving the train station if they had more information about it. Dozens of press releases issued by TSCC attacked the city council for the way it treated citizens, such as a reference to the city's information booth where „in-

⁸ Press release, Train Station in the Center Coalition, April 8, 2004.

⁹ Press release, Train Station in the Center Coalition, March 12, 2004.

stead of detailed and balanced information, citizens receive only one-sided memos and general phrases".¹⁰

TSCC's argument that citizens should have the information and the right to decide the issue themselves, together with their intended image of standing up for ordinary citizens, enabled them to collect the roughly 19,000 signatures (6 percent of 318,000 residents) necessary within a short three-month period with the help of only unpaid volunteers. The grassroots nature of the campaign can be evidenced in terms of TSCC's entire budget for 2004. As can be observed in Table 3, the total budget for the signature petition and referendum campaign was less than 8000 EUR, nearly half of which was spent on the publication of the newspaper *Referendové noviny* to inform residents about the referendum. There are no wage expenditures because all people involved in the campaign were either volunteers or were paid from the civic associations they normally work for. Revenues for the campaign came from grants from the Partnership Foundation (the main Czech nonprofit foundation supporting environmental groups) and individual donations.

Table 3: The Budget of the proponents of the Brno referendum in 2004.
Budget in EUR (25 CZK = 1 EUR)

	Revenues	Expenditures
Petition campaign – spring 2004		
Grant from the Partnership Foundation	1 000	
Gifts from firms and individuals	1 300	
Stand/tent for the collection of signatures		148
Copies, telephone, printing, internet, etc.		1 352
Event „Concert for the 1 st Brno referendum“		800
Campaign for the referendum – autumn 2004		
Grant from the Partnership Foundation	4 460	
Grant from firms and individuals	1 184	
Event „Forum of Candidates“		240
Copies, telephone, printing, internet, etc.		1 944
Referendum Newspaper <i>Referendové noviny</i>		3 460
Total Revenues and Expenditures	7 944	7 944

Source: Train Station in the Center Coalition¹¹

In the face of a popular local movement, city council members opposed to the referendum did whatever they could to foil it. While TSCC requested in the referendum proposal that the referendum take place at the same time as the regional elections in November 2004 (i.e. in order to boost turnout), Civic Democratic politicians pushed the city council to hold the referendum on October 9, which gave TSCC only 32 days left to organize the campaign and publicize the referendum. Having the referendum early and on a Saturday was also an anti-referendum strategy, as many Czechs abandon their city apartments and go to their country cottages during pleasant autumn weekends. In addition, the city council also decided that the referendum should last only eight hours, while normal elections last twelve. To make matters worse, the city intentionally did not provide residents with any voter pamphlets about the referendum question or the referendum date. Unfortunately, the current

¹⁰ Press release, Train Station in the Center Coalition, May 21, 2004.

¹¹ Budget accessed October 26, 2008 at <http://www.nadrazivcentru.cz/050412-roz pocet-koalice-za-rok-2004.html>.

local referendum law does not contain any provisions on these issues, thus enabling the city to create antagonistic conditions for the campaign. The ODS mayor of Brno and other politicians also publicly recommended that residents not vote (i.e. boycott) the referendum altogether.

In the days leading up to the referendum, TSCC responded to these conditions with an impressive array of mobilization strategies. Since the city did not mail voter pamphlets to residents, TSCC decided to put their own flyers advertising the referendum in all of the mailboxes around the city that they could.¹² They organized a number of demonstrations and public hearings about the train station which frequently drew packed audiences (see Illustration 1). Ten days before the referendum, a small group of activists scaled a building on the city's main Liberty Square, draping a large banner reading „The City Hall is Thwarting the Referendum,“ also advertising the referendum date (see Illustration 2). They also sought to encourage people to vote by illegally putting up posters around the city and organizing a „Concert for the First Brno Referendum.“ Given the political conditions and the size of the city, it is remarkable that 24.9 percent of the registered voters turned out, with 67,440 voters (85 percent) voting YES to keep the train station in the center. In TSCC's press release after the referendum, they announced that the number of YES voters „markedly exceeded the number of voters in the last local elections who voted for the political parties in favor of moving the train station.“ The ODS mayor responded by suggesting that the 75 percent of voters who stayed at home all boycotted the referendum, indicating that the YES voters were in a clear minority in the city.

It is not surprising that voters' views and backgrounds expressed in the exit poll reflected many of the elements of citizen engagement that were encouraged in the campaign (Graph 3). In terms of informational sources, 64 percent of respondents said that they heard about the referendum from TV, 56 percent from friends and family, 54 percent from local newspapers, and 44 percent from the radio. Two-thirds of all voters received the flyer that TSCC distributed. In all, 51 percent of voters utilized at least three different kinds of informational sources in learning about the referendum, and 30 percent of voters utilized at least five different kinds of sources. Informational use was evenly distributed among both YES and NO voters. While this data is quite crude, it does suggest that many voters, regardless of how they voted, came to the referendum well informed about what it was they were being asked to decide. It is highly improbable that citizens would have been nearly as well-informed about the train station project had there been only a council-initiated referendum, or no referendum at all.

¹² They actually succeeded in distributing the flyers at no cost, since copy centers supportive of the campaign were willing to print the flyers for free, with unpaid volunteers distributing them across the city (interview).

Illustration 1: A Public hearing about the train station controversy, September 2004

Activists from the Train Station in the Center Coalition, including the Director of the Czech branch of Friends of the Earth, can be seen in the background. As an indication of their organizational capacity, the activists prepared protest posters that could easily be captured by the TV cameras on the left.



Source: Train Station in the Center Coalition
Accessed from: <http://www.nadrazivcentru.cz/>

TSCC's campaign of focusing on transparency in government filtered into the reasons why voters voted YES. Selecting from multiple options, the two most popular reasons for voting YES were that moving the train station would cost too much (73 percent), and that they did not like the manner in which the city leadership decided on the issue (70 percent). Both of those options reflected TSCC's criticism of the city's lack of disclosure, which in turn translated into residents' opposition to the city's plans. Despite the fact that the campaign was organized almost entirely by environmental activists and NGOs, only a minority of YES voters voiced the environmental concern that people would travel less often by train if the station were to move (18 percent), or the personal concern of being inconvenienced by the train station move (37 percent). In sum, the initiative convinced voters of the importance of government transparency and responsibility: transparency in the city's decision-making about the train station, responsibility in its use of public finances for it.

Illustration 2: Direct action in direct democracy

Activists climb a building in Freedom Square, Brno. The sign reads „The City Hall is Thwarting the REFERENDUM, Saturday, October 9, 8am-4pm“.

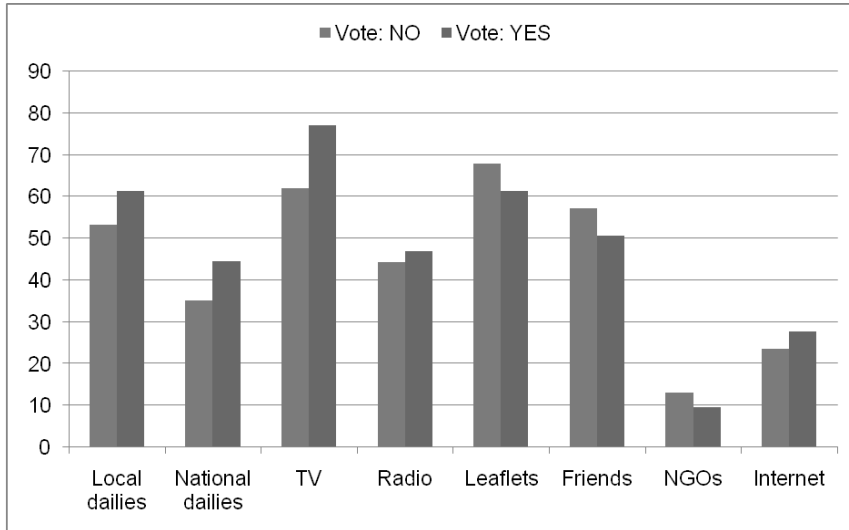


Source: Train Station in the Center Coalition.
Accessed from: <http://www.nadrazivcentru.cz>

In summary, this case study illustrates how referendum campaigns can create rich informational environments, even when campaigners have modest financial resources and political leaders seek to boycott the referendum. Three years after the referendum, TSCC's campaign is still attracting public and media attention as they seek to act as a watchdog in the planning procedures relating to the train station move. Given that the plans remain unpopular with residents, politicians and activists are once again voicing the view that perhaps a new referendum should be held on the issue.¹³

¹³ MF Dnes, „O poloze nádraží musí být další referendum (There must be another referendum on the location of the train station),“ September 30, 2007.

Graph 3: Voters' self-reported sources of information about the 2004 local referendum in Brno (in %). N = 662. A YES vote is a vote in support of keeping the train station in the center of Brno, whereas a NO vote is in support of the city's plans.



Source: own data – Brno exit poll

Electoral and policy consequences of the Brno referendum

Even though the referendum was not legally valid, the referendum campaign had larger consequences than anyone had anticipated, particularly in terms of electoral consequences. Specifically, the Brno referendum influenced the upcoming regional elections and helped transform the composition of the city government after the 2006 local elections, bringing with it an entirely new approach to the train station issue.

Since the referendum took place only a month before the regional elections,¹⁴ the referendum was the main issue on the lips of voters and politicians alike. In the run-up to the elections, the Liberal Party and the Green Party, both of which were small non-parliamentary parties at the time, agreed to run in the regional elections on a joint political ticket in the South Moravia region (which Brno is the capital of), calling themselves „Green for Moravia.“ Green for Moravia was the leading political coalition strongly advocating keeping the train station in the Brno center; while they had a broad political platform, the political context ensured that they were seen as a one-issue ticket. Also, the main political candidates for the coalition were all outspoken politicians and activists involved in organizing and promoting the referendum campaign.

¹⁴ That is, elections to the regional councils. The Czech Republic has 13 regions plus the Capital of Prague, which also shares characteristics of a region. Each of the regions has its own regional council, which in turn selects a Governor (Hejtman) from its own members. The main responsibilities of regional governments include regional development, the administration of hospitals, road works, and other infrastructure of a regional nature.

In terms of the expectations of the referendum activists, Green for Moravia was a great success. The makeshift coalition received 5.1 percent of the vote (8.7 percent in Brno alone), enabling them to send three politicians to the regional council; it was also the only non-parliamentary party to receive mandates in the election. Perhaps more importantly, the Civic Democrats (ODS), the main proponents of the train station move, lost the election to the Christian Democrats (29.23 percent to 30.77 percent, respectively), which also entailed that ODS lost the position of Governor. In fact, the South Moravia Region was the only one of the 13 Czech regions where ODS failed to win the election and secure the governorship. It is quite likely that had there not been a referendum campaign, ODS would have succeeded in winning the regional elections in South Moravia, as elsewhere in the country.

At the regional level, the impact of the Brno referendum went beyond the mere election. Members of TSCC often voiced the concern that all citizens in the South Moravia region should have the right to participate in a referendum on the train station, as the project would affect commuters as well, and not only residents of Brno. On the basis of that reasoning, Social Democratic politicians supportive of the Brno referendum drafted a parliamentary Bill on Regional Referendums,¹⁵ which gained the support of all parties in the South Moravian regional council except for ODS. The Christian Democratic governor of South Moravia then submitted the bill to Parliament. It appeared at first to have the backing of the majority of Christian Democrats, Social Democrats and Communist MPs. The bill envisioned a turnout quorum of 25 percent for a referendum to be valid.¹⁶ The proposed referendum would likely have been used in a wide range of regional development and transportation-related issues. However, the South Moravian regional council began to have second thoughts about what the turnout threshold should be, and began to prefer a 50 percent instead of a 25 percent threshold. As a result, in March 2006, just before the final vote on the bill on the floor of the Chamber of Deputies (the lower house), the governor of the region unexpectedly withdrew the bill from consideration on the grounds that the drafted bill no longer represented the interests of the regional council.¹⁷ Even though the legislative bill was dropped from that point on, and has not been revisited in Parliament since, the fact that the bill got that far reflects the emergence of political support for direct democracy elicited by the Brno referendum campaign.

While the impact of the Brno referendum on the 2004 regional elections and the legislative bill on regional referendums was significant, its impact on the 2006 municipal elections was even greater. TSCC, which during 2005 and 2006 engaged in intensive negotiations with the city about possible modifications to the city's plans for the train corridor, began to point out in the media that the local elections could be a way for citizens to once again reject the train station move by giving electoral support to the parties wanting to keep the train station's current location. It is not surprising that the Green Party, which was one of the most visible political actors behind TSCC, doubled its electoral support from 2002 to 2006, reaching 13.4 percent of the vote. While ODS maintained its position as the city's leading party (33.1 percent), the reconfiguration of voter preferences in favor of more pro-referendum parties meant that ODS was unable – for the first time in 16 years – to forge a majority center-right coalition to run city hall.

¹⁵ Pravo, „Bortel chce referendum (Bortel wants a referendum),“ October 6, 2004.

¹⁶ Legislative bill 1166/2005, „Bill of the Regional Council of the South Moravia Region for a Law on Regional Referendums.“

¹⁷ Parliamentary proceedings 1166/2005, second reading.

The party preferences expressed by voters in the 2004 exit poll anticipated some of the electoral shifts that were to take place. While 27.4 percent of YES voters said they voted for ODS in 2002, only 19 percent said that they would do so in the subsequent elections, with many of their supporters apparently undecided. The Green Party, on the other hand, not only had a disproportionate number of its voters turn out in the referendum, but also witnessed growing political support among the YES voters. In the long run, the Greens' participation in the referendum campaign not only brought them tremendous visibility at the local and national level, but also a degree of credibility as a political force.

After the 2006 election, the Green Party entered into a political coalition with the Social Democrats, the Christian Democrats and the fringe party Brno 2006, which together constituted a majority in the city council and were thus able to establish a city board led by the Social Democrats, with the Green Party receiving two seats on the 11-seat board. The coalition agreement included a clause that it would revoke the previous city hall's plans to move the train station, and would instead establish a working group with broad political representation that would evaluate the different options for modernizing the train corridor. As a result of the governing coalition, the main coordinator of TSCC (who was also a leading environmental activist in the country), Martin Ander, became Deputy Mayor of Brno for strategic development. Having challenged the city's transportation programs for so long, he now represented those programs, seeking to use the position to promote the modernization of the Brno train station at its current location in the center of the city.

While the 2006 municipal elections were a success for the Green Party – just as the 2006 parliamentary elections brought the Greens into Parliament for the first time – the subsequent policy development concerning the Brno train station has been somewhat less successful. Despite an analysis by the working group comparing the two different variants for the train station, the main developer of the project continued to support the plans and timeline for moving the station, and only took some ideas from the analysis in order to make modest improvements to the original plans.¹⁸ In early September 2007, the Social Democratic mayor agreed not to block the train station move, in part due to fear of losing the opportunity to gain funding from the European Union. Later that month, Martin Ander, realizing that he could not use his position to make radical changes to the city's stance in favor of the train station move, stepped down from his post overseeing the city's transportation policy, though he has remained Deputy Mayor.¹⁹

Conclusion

While the electoral consequences of the Brno referendum and subsequent policy developments were dramatic for the political careers of the referendum proponents, such consequences were not unprecedented. After the local referendum in the city of Tábor in 2000 (mentioned above) a number of the referendum proponents decided to use the political capital they had gained by running in the subsequent local elections under the banner of the

¹⁸ ČTK, „Přesun nádraží v Brně je zřejmě definitivní; souhlasí i ČSSD (The train station move is apparently definitive; even the Social Democrats agree to it),“ September 7, 2007.

¹⁹ Press Release of the Green Party, „Náměstek Ander odstupuje z funkce v projektu přestavby železničního uzlu Brno (Deputy Mayor Ander resigns from his function in the project on the reconstruction of the train corridor)“ July 18, 2007.

pro-green Tábor 2002 Movement. In the 2002 local elections, that party won 21 percent of the vote and 6 out of 27 seats on the city council, making it the second largest party in the city. The party replicated that success four years later, winning 7 seats in the city council with 23 percent support, enabling it to enter into a coalition agreement with ODS to run city hall.

Given the frequent use of local referendums as a means of solving environmental problems, it is not surprising that support for direct democracy is one of the main objectives of the current program of the Czech Green Party. Referendum proponents also constitute one of the core groups of party cadres for the Greens. The main coordinator of TSCC, for example, is currently a Member of the Board of the Green Party, which is the executive body for the entire party at the national level. Similarly, one of the main advocates for a local and national referendum on the Temelín nuclear power plant was for some time a Deputy Chairwoman of the party and was also Minister of Education for most of 2007. Lastly, one of the leading lawyers on local referendum law – who was a major actor in the Tábor referendum and who also provided legal advice to a number of other local referendum campaigns across the country – was promoted by the Greens to be Deputy Minister of Justice in the Czech government, responsible for legislative development.

Indeed, the transformation of referendum proponents into local, regional and national politicians may have played a role in the 2008 amendment to the local referendum law that reduced the turnout quorum to 35%. In a parliamentary hearing in June 2007, Martin Bursík, the Chairman of the Green Party and a Deputy Prime Minister, reported that „we as a government want to improve access to the referendum device, to make it more utilizable in the sense that a binding referendum will require only one third of voters to turn out, but that it would also be necessary that a quarter of all registered voters vote in favor of the given question.”²⁰ The bill was passed unanimously in the Chamber of Deputies in April 2008, and was signed by President Klaus the following month. Currently, a number of members of Parliament are pushing for a constitutional amendment allowing national referendums, as well as the direct election of the President. While referendum supporters will still have to overcome numerous obstacles before achieving referendum success, there does seem to be a political consensus that legal conditions should be improved so that local, and perhaps national, direct democracy in the Czech Republic has a chance to flourish.

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