

ESCE

Electoral System Change in Europe since 1945



Electoral System Change in Europe since 1945: Czech Republic

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Section 1: Overview of Czech Electoral System Changes since 1990

The starting point for our analysis of the electoral systems of the Czech Republic is the system used to elect the Czech National Council in 1990, when the Czech Republic was a unit within the Czechoslovak Federal Republic. The 1990 elections were conducted under a new electoral law (law 54/1990, enacted on 6 March 1990). The electoral system introduced in 1990 to elect the Czech National Council was essentially the same as that used for the Czechoslovak Chamber of Deputies, except that the number of seats allocated within the area of the Czech Republic was greater for the Czech National Council. This was a system of two-tier, semi-open-list proportional representation using Droop quotas and (at the upper tier) largest remainders. This law was replaced in 1995 (law 247/1995, enacted on 27 September 1995), maintaining most aspects of the 1990 system, but lowering the threshold of preference votes required for candidates to be apportioned a seat. The 1995 law remains in force. Various amendments to each law have been passed. Table 1 summarizes these and indicates (in bold and in the rightmost column) which changed the electoral system in ways relevant to the present research.

Section 2: Relevant Electoral System changes in the Czech Republic since 1945

Table 1. Summary of Czech Electoral Laws and Amendments since 1945

Law	Amendment	Date of enactment	Location	Relevant for the research
Law	Amendment	Date of enactment	Location	Relevant for the research
54/1990		6.3.1990	http://aplikace.mvcr.cz/archiv2008/sbirka/1990/sb013-90.pdf - on the left bar click on „Zakon_54“	yes
	221/1990	30.5.1990	http://aplikace.mvcr.cz/archiv2008/sbirka/1990/sb037-90.pdf - on the left bar click on „Zakon_221“	
	435/1991	8.10.1991	http://aplikace.mvcr.cz/archiv2	



			008/sbirka/1991/sb083-91.pdf - on the left bar click on „Zakon_435“	
	94/1992	20.2.1992	http://aplikace.mvcr.cz/archiv2/008/sbirka/1992/sb023-92.pdf - on the left bar click on „Zakon 94“	yes
	247/1995	27.9.1995	http://aplikace.mvcr.cz/archiv2/008/sbirka/1995/sb65-95.pdf - on the left bar click on „Zakon_247“	yes
	212/1996	25.6.1996	http://aplikace.mvcr.cz/archiv2/008/sbirka/1996/sb62-96.pdf - on the left bar click on „Zakon_212“	
	204/2000	23.6.2000	http://aplikace.mvcr.cz/archiv2/008/sbirka/2000/sb063-00.pdf - on the left bar click on „Zakon_204“	yes
	491/2001	6.12.2001	http://aplikace.mvcr.cz/archiv2/008/sbirka/2001/sb178-01.pdf - on the left bar click on „Zakon_491“	
	37/2002	17.1.2002	http://aplikace.mvcr.cz/archiv2	yes



			008/sbirka/2002/sb015-02.pdf - on the left bar click on „Zakon_37“	
171/2002	18.4.2002		http://aplikace.mvcr.cz/archiv2/008/sbirka/2002/sb072-02.pdf - on the left bar click on „Zakon_171“	
230/2002	10.5.2002		http://aplikace.mvcr.cz/archiv2/008/sbirka/2002/sb087-02.pdf - on the left bar click on „Zakon_230“	
62/2003	18.2.2003		http://aplikace.mvcr.cz/archiv2/008/sbirka/2003/sb025-03.pdf - on the left bar click on „Zakon_62“	
418/2004	10.6.2004		http://aplikace.mvcr.cz/archiv2/008/sbirka/2004/sb137-04.pdf - on the left bar click on „Zakon_418“	
323/2006	25.5.2006		http://aplikace.mvcr.cz/archiv2/008/sbirka/2006/sb099-06.pdf - on the left bar click on „Zakon_323“	
480/2006	5.10.2006		http://aplikace.mvcr.cz/archiv2	yes



			008/sbirka/2006/sb158-06.pdf - on the left bar click on „Zakon_480“
261/2008	9.6.2008		http://www.mvcr.cz/soubor/sb083-08-pdf.aspx - starts on page 5
195/2009	28.5.2009		http://www.mvcr.cz/soubor/sb058-09-pdf.aspx - starts on page 1
320/2009	11.9.2009		http://www.mvcr.cz/soubor/sb099-09-pdf.aspx - starts on page 3

Section 3: Details of previous electoral systems and electoral system changes.

3.1 The 1990 Electoral System

The electoral system introduced in 1990 to elect the Czech National Council was essentially the same as that used for the Czechoslovak Chamber of Deputies, except that the number of seats allocated within the area of the Czech Republic was greater for the Czech National Council. In essence, this was a system of two-tier, semi-open-list proportional representation using Droop quotas and (at the upper tier) largest remainders. In detail:

Assembly size. This was fixed by the Constitution at 200 (Article 103). (Following the break-up of Czechoslovakia, the same assembly size has been fixed by Article 16 of the Czech Constitution.)

Districts and district magnitude. Article 5 of the 1990 electoral law states that “Constituencies are the regions at the date of the announcement of the elections.” In 1990 (and until the 1998 election, inclusive) there were eight regions. District magnitudes were not fixed in advance. Rather, according to Article 41, the valid votes cast in an election were counted up and these totals were used to apportion seats to regions using the Hare quota and largest remainders.



Thus, seat apportionment and district magnitude depended not just on the size of the electorate in each district, but also on turnout. The actual district magnitudes in the four elections that used eight districts are shown in Table 2.

Nature of votes that can be cast. Voters voted by placing the ballot paper of one of the parties into an envelope. They could mark up to four of the candidates on that ballot, but not express any ranking among these four (Article 29). There was thus an optional preference vote within a single party list.

Party threshold. A national 5 per cent threshold was applied to the allocation of seats at both tiers. This applied to political parties, with no additional provisions in relation to coalitions (Article 42).

Allocation of seats to parties at the lower tier. Seats were allocated to parties within each of the eight districts using the Hagenbach-Bischoff quota. That is, the total number of votes cast for parties exceeding the 5 per cent threshold was divided by the number one greater than the number of seats available in the region. The number of votes gained by each party was then divided by this quota, each party being allocated as many full quotas as its number of votes contained. Any remaining seats were transferred to the upper tier (Article 43.1–2).

Allocation of seats to parties at the upper tier. Remaining seats and remainder votes were transferred to the national (that is, Czech-Republic-wide) tier and summed up. The seats were then allocated to parties using the Hagenbach-Bischoff quota and largest remainders. For this purpose, each party submitted a closed list of candidates who had contested one of the constituencies but had not been elected, and each party’s seats were allocated to candidates in order from this list (Article 44).

Allocation of seats to candidates. The starting point for allocating a party’s seats to its candidates was that allocation occurred according to the order in which candidates appeared on the ballot paper. But if at least one tenth of the people who voted for the party in that region exercised their right to cast preference votes, then any candidate securing preference votes from more than half of those voters would move to the head of the list, ordered according to the number of seats they obtained (Article 43.3).

Table 2: Allocation of seats at district level from 1990 to 1998

Electoral district	1990	1992	1996	1998
		14	14	14
	17	17	17	16
	22	21	21	21
	22	22	22	22
	24	24	23	24
	24	25	25	25
	37	36	37	37
	40	41	41	41



3.2 The 1992 Electoral Reform

Law 94/1992, enacted on 20 February 1992 changed two aspects of the electoral law: the party thresholds and the preference vote thresholds.

Party threshold. Article 42 of the 1990 law was amended so as to add to the existing 5 per cent threshold the requirement that coalitions of two parties would need to pass a 7 per cent threshold, coalitions of three parties a 9 per cent threshold, and coalitions of four or more parties an 11 per cent threshold. As before, all thresholds were national and applied to both allocation tiers.

Allocation of seats to candidates at the lower tier. Article 43 of the 1990 law was amended, changing the share of preference votes that a candidate had to obtain in order to move to the top of the list. Previously, a candidate had to win support from 50 per cent of those of the party's supporters who expressed candidate preferences in the region. Now, a candidate would require support from 15 per cent of all of the party's voters in the region. Thus, if the proportion of a party's voters who expressed candidate preferences was less than 30 per cent, then the threshold was effectively raised, while if the proportion was greater than 30 per cent, the threshold was lowered.

No other change.

3.3 The 1995 Electoral Reform.

Law 247/1995, enacted on 27 September 1995, introduced an entirely new electoral law. Nevertheless, many of the provisions were simply carried over from the amended 1990 law. The only significant change related to the preference vote threshold, which was reduced from 15 per cent of the party's voters in the region to 10 per cent (Article 50). The impact of the change was thus clearly to increase the likelihood that voters could change the order of candidates on a party's list.

Allocation of seats to candidates. Article 43 of the 1990 law was amended, changing the share of preference votes that a candidate had to obtain in order to move to the top of the list. Previously, a candidate had to win support from 50 per cent of those of the party's supporters who expressed candidate preferences in the region. Now, a candidate would require support from 15 per cent of all of the party's voters in the region. Thus, if the proportion of a party's voters who expressed candidate preferences was less than 30 per cent, then the threshold was effectively raised, while if the proportion was greater than 30 per cent, the threshold was lowered.

No other change.

3.4 The 2000 Electoral Reform

In 2000, the government attempted a major electoral reform that, while maintaining the outward forms of proportional representation, would have shifted the system significantly in a majoritarian direction. The most radical reforms were rejected by the Constitutional Court. Nevertheless, the reform attempt has generated a useful literature.



Following the very close-fought elections of 1998, the Social Democrats (ČSSD) formed a single-party minority government supported by the ODS. The two parties, the largest in Parliament, established a 'Tolerance Pact' that included plans to change the electoral system. Václav Klaus and some others in the ODS wanted a majority system, but others disagreed, and so the party proposed a heavily constrained proportional system, with the assembly size reduced from 200 to 162, and these members elected in 35 districts using Imperiali with a 5 per cent threshold (Kopecký 2004: 351). The ČSSD, meanwhile, advocated a 200-seat Chamber with 35 districts and d'Hondt (Kopecký 2004: 351–2). Kopecký suggests that the ČSSD offered a milder proposal because it was less confident of its prospects. According to Birch *et al.* (2002: 81), the Social Democrats were heavily split. Prime Minister Miloš Zeman showed sympathy for the ODS's plans. But the deputy chair of the party and of the Diet of Deputies, Petra Buzková "counter-proposed 14 multi-member districts based on the newly designated regions and the d'Hondt divisor".

Districts and district magnitude. The number of districts was increased to 35. With this amendment, the average district magnitude was lowered to about 5.7.

Nature of votes that can be cast. Article 39 of the 1995 law was also amended, such that voters could cast no more than two (rather than four) preference votes among candidates. This change made it far harder for candidates to pass the (unchanged) threshold for preference votes to count and therefore reduced the openness of party lists.

Party threshold. The increased thresholds for coalitions remained. Thus, coalitions of two parties needed to pass 10 per cent of the vote, three-party coalitions needed 15 per cent, and coalitions of four or more parties needed 20 per cent (amended article 49 of the 1995 law).

Allocation of seats to parties at the lower tier. The distributing quota is amended from Hagenbach-Bischoff into modified D'Hondt (with the first divisor raised to 1.42).

No other change.

3.6 The 2002 Electoral Reform

Most of the 2000 reform package having been ruled unconstitutional, the government pursued a more limited package of changes. These were achieved in part through law 37/2002, enacted on 17 January 2002 and in part as a side-effect of reforms to the structure of local government.

Districts and district magnitude. Instead of the creation of 35 fresh electoral districts, the augmentation in number of districts was limited to 14, limiting the regression of the average district magnitude to 14.3.

Allocation of seats to parties at the lower tier. The electoral law reform introduced two fundamental changes to the allocation of seats to political parties. First, it replaced the two-tier allocation with a one-tier system: all seats are allocated within the districts. Second, the LR–Droop allocation formula was replaced by (unmodified) d'Hondt.



Allocation of seats to parties at the upper tier. The upper tier was abolished.

Allocation of seats to candidates. The electoral law reform also reduced the preference vote threshold for changing the order of candidates on a party's list from 10 per cent to 7 per cent. This clearly made it easier for candidates to win election out of order.

No other changes.

Table 3: Allocation of seats at district level from 2002 to 2010

Electoral district			
	2002	1992	1996
	5	5	5
	8	8	8
	10	10	10
	11	10	10
	11	11	11
	11	11	11
	12	12	12
	12	12	12
	12	13	13
	14	14	14
	23	23	22
	23	23	23
	23	23	24
	25	25	25

3.7 The 2006 Electoral Reform

The 2006 reform (law 480/2006) was enacted on 5 October 2006, four months after the 2006 elections. It was thus used for the first time in the elections of May 2010. Two significant changes were made:

Nature of votes that can be cast. The number of preference votes that voters are allowed to cast was increased back to four, where it had been before 2000.

Allocation of seats to candidates. The threshold for preference votes to change list order was reduced again, this time to 5 per cent of the party's (or coalition's) vote in the district.

No other change.

Appendix



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Project funding provisions

The ESCE project team wishes to acknowledge that this research was made possible due to the financial support that the project has received from: the FRS-FNRS, the McDougall Trust and the Nuffield Foundation.