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Revolution by the Law: Transformation of the Czechoslovak Federal Assembly 1989–1990

IZVLEČEK

REVOLUCIJA V SKLADU Z ZAKONOM: PREOBLIKOVANJE ČEŠKOSLOVAŠKEGA ZVEZNEGA PARLAMENTA V OBDOBJU 1989–1990

Študija raziskuje vlogo zveznega parlamenta v žametni revoluciji. Z razpadom komunistične partije je zvezni parlament nepričakovano postal ključna ustavna institucija s pomembnimi pooblastili v času hitrih političnih sprememb. Revolucionarno gibanje Državljanski forum je doseglo sprejem zakonodaje, ki mu je omogočila, da je razrešilo precej poslancev in jih s kooptacijo nadomestilo s svojimi kandidati. Ta metoda "čistke" parlamenta je imela daljnosežne posledice za češkoslovaško politično kulturo po novembru.

Ključne besede: Češkoslovaška 1989–1990, parlamentarizem, zvezni parlament, žametna revolucija na Češkoslovaškem

ABSTRACT

This study looks at the role of the Federal Assembly in the Velvet Revolution. With the disintegration of the communist party, the Federal Assembly became unexpectedly a key constitutional institution with far reaching powers in times of rapid political change. The revolutionary movement Civic Forum forced through a legislation that enabled to recall substantial part of the members of the parliament and replace them by its own candidates through co-optation. This method of "cleansing" of the parliament had far-reaching consequences for the post-November Czechoslovak political culture.

Keywords: Czechoslovakia 1989–1990, Parliamentarism, The Federal Assembly, Velvet Revolution in Czechoslovakia

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Introduction[1]

The term democratic revolution is an oxymoron. The leaders of the revolution in 1989 were aware that it was impossible to mobilise masses, improvise and keep on surprising the opponent and, at the same time, remain democrats. "We, who fight for democracy, cannot be democrats," Timothy Garton Ash thus paraphrased Brecht when characterising the strategy of the Civic Forum.[2] The revolutionaries' dilemma in 1989 was not new and, in different form, is present within every modern revolution. In case of anti-Communist revolutions, however, an additional fact played a role: the old régimes were equipped with formally democratic constitutions and elected institutions. Moreover, with the disintegration of the power of Communist Parties, the Communist constitutions and parliaments were often the only means to hold the supranational states together. Furthermore, the Opposition had played, for some time, a peculiar game with the state when pretending to be taking seriously the formal constitutionality and democratic nature of the Communist régime and addressing its protests to the Federal Assembly or the Federal Government, instead of the Party bodies. Naturally, the constitutional institutions responded by using police repressions.[3] The revolutions of 1989 thus had to be (and, at the same time, could not be) not merely democratic, but also constitutionally correct. This political contradiction led to constitutional improvisations across Eastern Europe. In Czechoslovakia the improvisations assumed a particularly imaginative shape in co-optations to parliamentary and other elected institutions in December 1989 and January 1990.

Legally, co-optation means an extension of the number of members of an institution by electing additional members. Sociologically, then, co-optation means integration of a marginal Opposition group into the mainstream. In Czechoslovakia, co-optation was used for all three parliaments and national committees following a proposal by Zdeněk Jičínský, constitutional specialist and dissident, based on round-table political accords of the second half of December 1989 and early January 1990. Co-optations were to serve as expedient means to remove politically compromised individuals from the representative assemblies and to replace them with members of the two revolutionary movements – the Civic Forum and the Public Against Violence. It thus entailed two intertwined processes of dismissal and co-optation of deputies. The politically pivotal co-optations to the Federal Assembly were exercised in two waves. First, on 28 December 1989, a day before the Presidential election of Václav Havel, over twenty MPs were co-opted including Alexander Dubček who

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1 This text is an abridged and adapted version of the study Petr Roubal, *Starý pes, nové kousky: kooptace do Federálního shromáždění a vytváření polistopadové politické kultury* [Old Dog, New Tricks: Co-optations in the Federal Assembly and the Development of the Post-November Political Culture] (Prague: Ústav pro soudobé dějiny, 2013).

2 Timothy Garton Ash, *We The People: The Revolution of 89 Witnessed in Warsaw, Budapest, Berlin & Prague* (London: Penguin Books, 1990), 89.

3 Cf. ICH, COH, collection Interviews. An interview with Dana Němcová, Prague, March 12, 2012.

was instantly elected Chairman of the Federal Assembly. Shortly after the dramatic adoption of the bill on the dismissal of deputies, early January 1990 saw the second wave of co-optations that was far more extensive and introduced over 130 additional MPs to the Federal Assembly. The change (officially termed reconstruction) of both national councils and national committees in larger cities proved equally radical. Whilst the co-optations were generally accepted in the Czech lands as a pragatic solution, they faced (ineffective) resistance in Slovakia not merely among Communist deputies, but also within the Opposition.

The following analysis of co-optations is part of a wider research into the Federal Assembly in 1989–1992 that explores the mechanisms of "self-parliamentarisation", a process of gradual emancipation of legislative vis-à-vis executive power. The study has three objectives. First, it follows upon the work by Jiří Suk on the revolutionary months at the break of 1989 and 1990.[4] Using similar methodologies and sources (the archive of the Civic Forum) the study attempts to explore one of the side corridors of the "labyrinth of revolution". Co-optations are often deemed to be "the ancestral sin" at the beginning of many subsequent failures in the 1990s. Hence it is worth exploring what led to the situation and their possible alternatives. Second, the very topic of the Federal Assembly and the sources it generates (verbatim transcripts of plenary debates, debates in committees and at the presidium, as well as interviews with former MPs) offer an additional opportunity to approach the revolution of November 1989 from the perspective of the marginalised or defeated stakeholders. In contrast with Havel's vision of moral and aesthetic revolution that destroys all dire and ugly, the struggle for the dominance in the parliament sheds light on the reform vision of an "articled revolution"[5] coined by Zdeněk Jičínský with his deep-rooted scepticism about the genius of a mass and its leaders. This brings together two political times: the dynamic time of the revolution against the dragging time of parliamentary democracy. This is also the ideological world of those defeated, the MPs who did not want to be merely used and discarded by the Civic Forum , but to be part of the changes, fighting for their right to consent, to which they were entitled even under the Communist régime.

Cooptation in Historical and Regional Context

Co-optations fall within a particular Czech political tradition under which elections were never used in key historical junctures to achieve new legitimacy. In 1918, at the time of the foundation of Czechoslovakia, the National Committee and subsequently the National Assembly were established as revolutionary bodies of politi-

4 Cf. e.g. Jiří Suk, "Czechoslovakia in 1989: Causes, Results, and Conceptual Changes," in *Revolutions of 1989. A Handbook*, ed. Wolfgang Mueller et. al. (Wien: Verlag der Oesterreichischen Akademie der Wissenschaften, 2015), 137–60.

5 Valtr Komárek, „Děkujeme, přijďte" [Thank You, Do Come], in *Pocta Zdeňku Jičínskému* k 80. *narozeninám* [Festschrift for Zdeněk Jičínský on his 80th Birthday], ed. Vladimír Mikule et al. (Praha: ASPI, 2009), 294–96.

cal parties. They bore no political continuity with land assemblies and the Imperial Council. After Munich the change in geographical and political map was manifested in the so called short parliament where members from the occupied regions lost mandates, as did subsequently the members from the Communist Party. After the war the main political parties recognised the continuity of Presidential office, but not that of the parliament. The interim national assembly was thus called by the President by decree. Even though the parties were to again delegate their deputies, the post-war developments have brought a new understanding of parliament not as part of the division of power, but as the supreme constituent of self-government.[6] The discontinuity proved to be also personal: merely ten percent of the former MPs sat in the Interim National Assembly.[7] In February 1948 the Constitutional National Assembly did not play any significant role. Afterwards the parliamentary Action Committee swiftly neutralised non-Communist MPs using a combination of pressure and incentives (a number of them engaged actively in the cleansing within their own parties). Until the May 1948 elections no MP was formally stripped of mandate, though some had resigned, ten were arrested and over thirty had emigrated.

In 1968, during the debates on federalisation, the Czech National Council was established as the counterweight to the Slovak National Council.[8] In July the National Assembly elected 150 MPs to the Czech National Council from its midst and from among the "notables in the Czech public life" nominated by the National Front.[9] The Constitutional Act on Czechoslovak Federation from October 1968 stipulated that the Czech National Council would be extended to 200 deputies by co-optation. The MPs for the newly formed House of Nations of the Federal Assembly would also be elected from its midst.[10] Finally, the Constitutional Act No 117/1969 Coll. again extended the term of parliamentary mandate from the standard four years to a total of seven. Particularly, however, it enabled cleansing within the parliaments. The Act empowered representative assemblies to strip their MPs of a mandate, *inter alia* because "his or her activity harms the politics of the National Front." By the 1971 elections, about one quarter of MPs in the Federal Assembly were thus replaced along with nearly one half of deputies in the Czech National Council. The Council, due

6 Jan Dobeš, *Národní shromáždění v letech 1945-1948* [The National Assembly in 1945–1948] (PhD diss., Charles University, 2010).

7 Michal Pehr, "Československý parlament po druhé světové válce" [The Czechoslovak Parliament after World War II], in *Parlament v* čase *změny – případové studie z vývoje* českého *a* československého *parlamentarismu*, ed. Vratislav Doubek et al. (Praha: Akropolis 2011), 79.

8 Constitutional act on the preparation of federal constitution of the Czechoslovak Socialist Republic (77/1968 Coll.).

9 Zdeněk Jičínský, *Vznik* České *národní rady* v *době pražského jara 1968 a její působení do podzimu 1969* [The Emergence of the Czech Nation Council during the Prague Spring 1968 and Its Operation until the Autumn of 1969] (Köln: Index, 1984), 25. Cf. Jiří Hoppe, "Pražské jaro 1968 v parlamentu" [The Prague Spring 1968 in the Parliament], in *Parlament v* čase *změny – případové studie z vývoje* českého *a* československého *parlamentarismu* [The Parliament at the Time of Change – Case Studies on the Development of the Czech and Czechoslovak Parliamentarism], ed. Vratislav Doubek et. al. (Prague: Akropolis, 2011), 101–19.

10 Articles 146 and 147 of the Constitutional Act on Czechoslovak Federation (143/1968 Coll.).

to the date of its foundation during the hot summer of the Prague Spring, exerted greater resistance to the post-August leadership. All changes derived formally from the mandate, albeit quite dubious, arising from the last elections to the National Assembly in 1964. For instance, Zdeněk Jičínský, the author of the post-November co-optation, first served as MP in the Czech National Council and later also in the Federal Assembly, only to lose both mandates a year later: the process ensued without – even formal – voter involvement.

The Czechoslovak model of co-optations was not used during the fall of Communism in any of the countries within the Soviet bloc. Yet all of them (with the exception of Romania), faced quite similar structural issue: how to deal with the constitutional legacy of Communism, particularly the legislative power of the parliament.[11] When the old régime fell, all countries within the former Soviet bloc had legislatures constructed upon the model of the Stalinist constitution of 1936 (although virtually all of them had been transformed by major constitutional changes in the 1970s and 1980s). Those parliaments were mostly "elected" in the early days of perestroika. The reformist or revolutionary élites had to raise a question whether a Communist parliament is actually a parliament and what the consequences are of such a query. Reformers, revolutionaries and conservatives included, to varying degrees, parliaments in their strategies, and parliamentary officials sought their place on the newly emerging political map. Year 1989 thus has not entailed as much a "return to democracy", and certainly not in its interwar shape, but adaptation of "socialist democracy" and its constitutionalism to the context of open society. Similarly to the study of post-Communist nationalism, this paper also refutes the "freezer" thesis which claims that Communism merely froze ethnic conflicts that resurfaced during the political meltdown.[12] Similarly to nationalism, Communism not merely preserved, but mainly created and constituted political institutions. Additionally, Communist parliaments in the constituent republics in federal states were able to become (and often became indeed) the main instrument for the constitution of nation states. Similarly to disintegration, Communist parliament played an important role in the German unification. The East German *Volkskammer* that gained new legitimacy by the hastily called early elections in March 1990, proved to be a pivotal institution in the process of German unification.[13] The method of Czechoslovak co-optations, though not applied elsewhere, was one of the examples – and certainly not the most radical one – of daring constitutional improvisations at the end of the Communist era in Eastern Europe.

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11 On Communist parliaments in the Soviet bloc see Daniel Nelson and Stephen White, *Communist Legislatures in Comparative Perspective* (New York: State University of New York Press, 1982). Cf. Joachim Amm, *Die Föderalversammlung der CSSR: sozialistischer Parlamentarismus im unitarischen Föderalismus 1969–1989* (Wiesbaden: Westdeutscher Verlag, 2001).

12 Cf. e.g. Katherine Verdery, *National Ideology Under Socialism: Identity and Cultural Politics in Ceausescu's Romania* (Berkeley: University of California Press, 1991).

13 Werner J. Patzelt and Roland Schirmer, *Die Volkskammer der DDR. Sozialistischer Parlamentarismus in Theorie und Praxis* (Wiesbaden: Westdeutscher Verlag, 2002).

A Path to the First Wave of Co-optations

The Federal Assembly that first convened just twelve days after the incident at Národní třída, did not play any role in the first days of the November revolution. The Opposition also ignored it at first, adressing its demands to the Communist Party and the Federal Government. It was Zdeněk Jičínský who helped the demand for the "reconstruction" of the Federal Assembly to be tabled as early as at the second talk between the Civic Forum and Prime Minister Adamec at the Government Presidium on 28 November. Jičínský proposed a constitutional bill on dismissal and co-optation of MPs to be adopted along with the abolition of the leading role of the Communist Party:"...deputies in the Federal Assembly, the Czech National Council and the Slovak National Council, and representative assemblies at all levels, who compromised their parliamentary pledge and neglected the will and interests of the people, may be dismissed from their posts by the representative assembly which they are members of. The representative assemblies shall elect new members based on nominations presented by the National Front along with the Civic Forum and/or the Public Against Violence. The election shall be carried out by the representative assembly to which the candidate is nominated."[14]

Zdeněk Jičínský presented the demand remarkably early on during the revolutionary negotiations. Just a day after the general strike, the Civic Forum did not yet have any ambition to enter the government, moreover to serve at the Federal Assembly. At the time Jičínský's proposal for co-optations did not lead, to political regrouping of the parliament, but rather to its cleansing. The aim was to cleanse the parliament and to retain it operability at the same time. Jičínský's erudition was manifested in the fact that he realised well before anyone else among the leaders of the Civic Forum, the risk of spontaneous pressure on resignations of MPs that would end up blocking the parliament.[15] The issue was made even graver as the Civic Forum called from the outset for swift resignation of the President: it was the Federal Assembly to take over some of his powers.[16]

Jičínský's proposal was not the only means of cleansing the representative corps. The electoral act from 1971 allowed for dismissal of deputies. A number of local activists from within the Opposition hoped to use the instrument.[17] The Civic Forum was also able to mobilise the public to exert sufficient pressure upon individual MPs to resign willingly. The situation faced by the deputies, particularly those who did not represent the central institutions of power, but were to represent the society (regionally, professionally, in terms of age and gender) was unenviable. The Commu-

14 Vladimír Hanzel, *Zrychlený tep dějin. Reálné drama o deseti jednáních* [An Accelerated Pace of History. Real Drama in Ten Acts] (Prague: OK Centrum, 1991), 47.

15 Zdeněk Jičínský took part in, *inter alia*, drafting the Czechoslovak Constitution of 1960, and the Constitutional Act of 1968.

16 Article 58 para. 6 of the Constitutional Act on Czechoslovak Federation 143/1968 Coll.

17 James Krapfl, *Revolution with a Human Face: Politics, Culture, and Community in Czechoslovakia, 1989–1992* (Ithaca: Cornell University Press, 2013), 169–70.

nist régime used the deputies as one of the means to communicate with the public and to control public criticism. The deputies, as members of the Federal Assembly, were quite well known within their local context: the public did not perceive them as its "representatives", but those of the régime. At regular meetings with voters in their local constituencies particularly during the late perestroika, they had to to listen to criticism of the failing régime without having had any opportunity to affect the situation. The deputies had no power during Communism, the less so during the revolution, hence they lacked political backing as well.[18] The Civic Forum did take it into account. In a debate on how to make the MPs to elect Václav Havel for President, one of the key activists of the Civic Forum stated that there was no danger of any resistance on their part: "Such person has neighbours, lives in a neighbourhood, and has relatives ..."[19]

The issue, however, was that the Opposition did not need a "pure" parliament, but an operational one. Following the dismissal of MPs, the vacated seats had to be filled again. Constitutional Acts were adopted by a three-quarter majority of *all* MPs, not merely of those present. Therefore, in combination with the ban on majorisation,[20] an absence of 31 MPs in either the Czech of Slovak section of the House of Nations was enough to curb adoption of a Constitutional Act. The electoral law at the time allowed for by-elections, whilst also accounting for the possibility of choosing from a number of candidates. Yet by-elections, similarly to direct election of the President, were in conflict with "partial mobilisation" used by the Civic Forum to successfully marginalise its political competitors. The Civic Forum was the only one to manage to dominate public urban space and, in the free elections, it faced unnecessary competition. In a dispute with Zdeněk Jičínský over whether Havel's candidacy enjoyed broad public support, Václav Benda, the key figure of the Catholic Opposition, put the point accurately: "We are not dealing here as much of with some vague opinion of broad masses. In this particular situation it is the active masses who decide."[21]

The leaders of the Civic Forum realised the significance of the Federal Assembly on the night of 5 December, at the point when they decided to take over key Ministries and that Havel would be running for Presidency.[22] Václav Havel, in his then frequently quoted statement, referred to the Federal Assembly as to a "minor problem"

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18 Adéla Gjuričová, "Profesionalizace parlamentů před a po Listopadu" [Professionalisation of Parliaments prior and after November] (paper presented at the conference Češi a Slováci ve Federálním shromáždění 1989–92 [The Czechs and Slovaks in the Federal Assembly 1989 – 92], Prague, National Museum, Nov. 22– 23, 2012). See also Adéla Gjuričová, "*Coming to (a Short) Life: The Czechoslovak Parliament 1989–1992*" in this issue.

19 Jiří Suk, "K prosazení kandidatury Václava Havla na úřad prezidenta v prosinci 1989: Dokumenty a svědectví" [On Getting Through the Václav Havel Presidential Candidacy in December 1989: Documents and Testimonies], *Soudobé dějiny* 2–3 (1999): 357.

20 The "minority veto" protected the Slovak MPs from being outvoted by their more numerous Czech counterparts.

21 Jiří Suk, *Občanské fórum, listopad-prosinec 1989, 2. díl – dokumenty* [Civic Forum, November–December 1992, volume 2: Documents] (Praha, Brno: Doplněk, 1998), 87–88.

22 Suk, *Občanské fórum,* 96.

that "still has to elect somebody here and there or has to adopt something".[23] The statement shows that Havel was quite content with the "rubber-stamping" nature of the then Federal Assembly. He had no intention to change anything about the voting machine until the elections.[24] The issue, however, was that the Civic Forum did not know how to control the voting machine to generate the right legislation and, particularly, to elect the right President. Petr Pithart summarised the uncertainty quite well: "What was agreed yesterday is one thing, certainly. The other matter is how to arrange for the people in the parliament to accept it. Because the Party will only tell them two more things: To go to hell and to elect Vašek Havel. And they will be casting secret vote! I am not certain whether these two instructions might prove mutually contradictory. No one can force and check on them."[25]

The Civic Forum soon came to realise that, not only did it not know how to make the Federal Assembly elect Václav Havel to Presidency, but also that it had been unable to prevent the other side from using it. During the second roundtable talks on 11 December, Vasil Mohorita surprised the Civic Forum when he announced that he would propose to the Federal Assembly a change of the Constitution in order to introduce direct election of the President. The Communist Party thus took over the initiative for a while and put the Civic Forum in a paradoxical situation of a defender of Communist constitutionalism and opponent of direct democracy. The Communist Party showed that it was also able to reach for "revolutionary" methods. As Zdeněk Jičínský emphasised in his response to the proposal, direct election of the President would not only be in conflict with the existing constitutional tradition of parliamentary democracy, but would be in utter conflict with the spirit of the Constitutional Act on Federation of 1968 as it would enable the Czechs to outvote the Slovaks.[26]

The Civic Forum responded to the obstinacy of the parliament by calling mass demonstrations in front of the Federal Assembly. At the same time it started to speak of the Federal Assembly within the categories of sin and guilt. The dismissal of MPs was to become the "most dignified and visible form of repentance for the past inactivity of the Federal Assembly, not having prevented the evil. The repentance of the MPs at the Federal Assembly may thus be manifested by the swiftest possible election of the President."[27]

Within the last days of 1989 the two parties eventually reached a temporary compromise on the Constitutional Act on Co-optation of Deputies. It did not include dismissals of deputies, and merely filled the seats vacated after a series of resignations. Nevertheless, the Civic Forum continued to expect to use the model of dismissal of

23 Suk, *Občanské fórum,* 98.

24 More on this in Jiří Suk, *Labyrintem revoluce* [Through the Labyrinth of the Revolution] (Praha: Prostor, 2003), 248–50.

25 Suk, *Občanské fórum*, 197.

26 Zdeněk Jičínský, "K volbě prezidenta" [On the Election of the President], *Svobodné slovo*, December 19, 1989, 3. Reprinted in Suk, *Občanské fórum*, 149–50.

27 Suk, *Občanské fórum*, 230.

MPs from 1969 after the election of the President. Yet it did not mention the intention in public or to MPs. During the meeting of officials of the Civic Forum and the Public Against Violence on 22 December, Pavel Rychetský, a lawyer and member of the narrowest leadership circle in the Civic Forum, explained further approach to his Slovak partners: "It would not be appropriate for Dubček to be the only one to become MP on Wednesday (28 December). He ought to be among at least ten or twelve others so that it does not look inappropriate. We intend to sit down with you [Public Against Violence] to go over the actual reconstruction. We have put together – I think I can say it here – some kind of a shooting list of MPs from the Czech lands who simply cannot remain in their posts."[28] The first wave of co-optation was thus not intended to change the proportion of votes in the Federal Assembly, but to symbolically accompany Alexander Dubček to the post of the Chairman. It was also to create a parliamentary clearway that would enable direct influence of developments within. Co-optation of Zdeněk Jičínský played a particular role. He was to become the main and, at the time, the only representative of Civic Forum in the top ranks of the parliament. Zdeněk Jičínský invited along, for support, Vladmír Mikule, the "king of the Czech legal positivism," who immediately became the Chairman of the pivotal Constitutional-Legal Committee.[29] In an interview Mikule recalled that his entry to the parliament was quite sudden and unexpected: "Jičínský called me at home one evening, saying to come tomorrow at nine in black suit – not the funeral one, but festive, to the parliament, there will be the constitutional act and by-elections, the ancillary ones. I had no decent suit, my salary was pitiful, and I was barely able to provide for my family. So I went with my wife to a shopping centre, bought a suit as required, to have something decent to put on."[30]

Zdeněk Jičínský and Revolution by Law

Zdeněk Jičínský's role in co-optations requires a brief explanatory note. Many authors and stakeholders in revolutions see Jičínský's engagement in co-optations as a revenge for the purges during normalisation. For instance, the dissident and later Czech Prime Minister Petr Pithart suggests that Jičínský "could not control himself" and repeatedly stated: "And now we shall do them what they did to us after August."[31] The explanation does not stand firm within the context of Jičínský's activities during the revolution and afterwards. The proposal for co-optations falls not only within his wider contribution to the post-Communist transformation of the

28 Suk, *Občanské fórum*, 263.

29 Zdeněk Jičínský, *Můj přítel Vladimír Mikule* [My Friend Vladimír Mikule], in Pocta doc. JUDr. Vladimíru Mikulemu k 65. narozeninám, ed. Oto Novotný (Praha: ASPI, 2002), 473.

30 Cf. ICH, COH, coll. Interviews. An Interview with Vladimír Mikule, Prague, October 8, 2012.

31 For Pithart's statement see Petr Pithart, "Proměny politického systému v Československu na přelomu let 1989/1990" [Transformations of the Political System in Czechoslovakia at the Break of 1989/1990], in *Referáty a diskusní příspěvky přednesené na semináři, který ve dnech 10. a 11. prosince 1994 uspořádala Nadace Heinricha Bölla* (Praha: Listy, 1995), 86.

parliament, but is also part of his own specific vision of post-November changes that differed radically from that of Havel. As the only one among revolutionary leaders, Zdeněk Jičínský was wholly prepared, as a professional and specialist, for his political role of the constitutional expert within the Civic Forum. His later right-wing opponents saw him chiefly as the author of the 1960 Constitution. Yet his activities in the November revolution benefitted far more from his experience in political negotiations about federalisation of Czechoslovakia in 1968. When drafting the bill on Czechoslovak federalisation that de facto represented a new Constitution, Jičínský tested the opportunities and limits of a compromise between the (Slovak) principle of sovereignty and the (Czech) civic principle of equality of votes. He also had an opportunity to test the narrow limits of Czech understanding of the Slovak issue. Finally, a year later, he experienced himself the "restructuring" of the parliament when forced to resign from both mandates and his seats were immediately filled by co-optation. Shortly prior to November, Zdeněk Jičínský, the author of many texts of Charter 77, together with other lawyers participated in developing an alternative draft of the Constitution that was to be the answer by the Opposition to the draft developed by the Government.[32]

Zdeněk Jičínský was all, but a revolutionary. In November 1989, unlike many of his reform-minded Communist friends, he did not attempt to reform the Communist Party. Yet his political and ideological world was deeply marked by life experience of a reform Communist who fought the aesthetic-political project of the late Stalinism. That gave rise to his scepticism about revolutionary heroism, an emphasis on the "effect of time", as much as his concern about excessive power of an individual – the cult of personality.[33] "Even though we recognised the role of Václav Havel as the uncontested leader of the revolutionary process," Jičínský said in a recent interview, "it also was unthinkable to link it exclusively to a single person."[34] Havel's influence was to be symbolically counterweighted by Alexander Dubček as a Slovak and representative figure of 1968. To Jičínský, the reference to 1968 laid not as much in the continuity with certain political stream, as much in the continuity of a state sui iuris, a state that is free to run its affairs, particularly the issues related to the relationship between the Czechs and Slovaks. During the leadership negotiations at the Civic Forum Jičínský repeatedly proposed Alexander Dubček for Presidency. He saw Havel's role to be outside the official structures: one of a leader of the revolutionary movement.

Non-revolutionary at the core and the only genuine conservative among the leaders in the Civic Forum, Zdeněk Jičínský saw the November revolution as an "avalanche", uncontrolled and dangerous societal movement.[35] He therefore dif-

32 See ICH, COH, coll. Interviews. An interview with Vladmír Mikule, Prague, October 8, 2012; An interview with Pavel Rychetský, Brno, June 8, 2011.

33 Cf. František Šamalík, "Zdeněk Jičínský in the Turmoil of Constitutional and Societal Upheavals" [Zdeněk Jičínský ve vírech ústavních a sociálních zvratů], *Právo*, February 26, 1999.

34 ICH, COH, coll. Interviews. An Interview with Zdeněk Jičínský, Prague, August 15, 2012.

35 AICH, ACFCC, Minutes from the Civic Forum congress, January 6, 1990, 9. Similarly also

fered from Havel in understanding of political time: whilst the Jičínský subscribed to "tender, contemplated approach",[36] trying to correct and slow down the wild political development through institutional and legal limits, Havel, on the contrary, stimulated the dynamics of the developments, "striking the iron while hot."[37] Havel repeatedly vented his frustration about Jičínský's tactics. In the 1992 elections, for instance, he responded to Jičínský's criticism that Havel rushed the coalition negotiations, by saying: "Zdeněk Jičínský's opinion convinced me in that I was right to proceed the way I did. For, whenever I took his advice into account, the common denominator was always a recommendation that something was to be delayed or not rushed; it had adverse effect. Experience has taught me that it is best to do the opposite to what Professor Jičínský advises me to do."[38]

Milan Šútovec points out how, during the "hyphen war", the dual understanding of political time was transformed into an institutional conflict between the "Presidential time" and "Parliamentary time."[39] Whilst the "Parliamentary time" is slow, a time of narrative (*parler*), the time of Havel's Presidency was fast and dramatic. As opposed to the slow "Parliamentary time" that draws from its very nature, Havel's fast "Presidential time" was not within the intrinsic nature of the Presidential office, but its "tragic enhancement".[40] Instead of parliamentary democracy, which, as Jičínský argued, Havel never adopted as his own, the President created a "Republic of friends" based on ethical and aesthetic judgements, as much as on personal rather than institutional ties.

Zdeněk Jičínský, as the defendant of "legal continuity with the Communist régime" became number one enemy to the post-revolutionary fighters against Communism. Yet more than legal continuity in terms of permanence or inviolability of the legal system, Jičínský was more concerned about the social and state continuity. He argued that, vis-à-vis the revolutionary avalanche, legality stood as the "cultural method of power" needed for the preservation of social cohesion. He was also mindful of preservation of the continuity of state. Here he was guided by his experience of state existence that could not be taken for granted. The continuity of state was based on a political accord between the two national representatives, expressed at the time in the act on Czechoslovak federation. The federalisation of 1968 was thus not "merely administratively complex a method of totalitarian governance", as stated by Václav Havel at the Federal Assembly on 23 January 1990, but it was a manifestation

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e.g. Zdeněk Jičínský, Československý *parlament* [The Czechoslovak Parliament] (Praha: NADAS – AFGH, 1993), 32.

36 Jičínský, Československý *parlament*, 107.

37 "Letní přemítání" [Summer Meditations], in *Spisy* [Collected Works], vol. 6, ed. Václav Havel (Praha: Torst, 1999), 401.

38 See "Neblahé důsledky odkladů: Václav Havel odpovídá MF Dnes" [Unfortunate Consequences of Delays: Václav Havel responds to MF Dnes], *MF Dnes*, June 16, 1992, 1.

39 Milan Šútovec, *Semióza ako politikum* [Semiosis as Politicum] (Bratislava: Kalligram, 1999), 272–77.

40 Šútovec, *Semióza ako politikum,* 273.

of recognition of equality of the Slovak people.[41] Jičínský, with his proposal for co-optations and many other draft bills, proved that he did not care about immutability of law. Instead, he was willing to initiate deep changes in the legal system, though the changes had to occur through a generally accepted procedure, i.e. within the constitutional framework.

To Zdeněk Jičínský the Federal Assembly thus represented a central institution that held the state together and guaranteed the legality of the radical political changes. Apart from the constitutional legality, however, the Federal Assembly also required revolutionary legitimacy to be supplied by the co-optations. Other means of parliamentary legitimation that were available – the extensive by-elections, or even the swift early elections – would only jeopardise the role of the Federal Assembly as the only stable institution standing strong to the "revolutionary avalanche."

From the First to the Second Wave of Co-optations

The path from the first to the second wave of co-optations did not prove entirely smooth. On the one hand, there was the process of "self-parliamentarisation" that accelerated within the Federal Assembly, particularly in its presidium, which meant an awareness among MPs that they held legislative power and responsibility. Apart from the election of Václav Havel for Presidency which was a clear legitimisation of the mandates acquired in the 1986 "elections", an additional factor was, paradoxically, the first wave of co-optations. That brought to the parliament some familiar figures of the revolution, particularly Alexander Dubček.

At the presidium of the Federal Assembly on 28 December 1989, Anton Blažej, MP expressed the new parliamentary self-confidence when he reminded his colleagues their new constitutional power and responsibility: "Do not give in to those moods, depression and manifest resignations on mandates, because it is to be in our interest that this body is functional. It has to be in operation until the elections and we are required to provide for the preparation of the elections ... It means that the Opposition also ought to be interested in the functioning of this body."[42] The numbers of MPs who resigned after the first wave of co-optations were indeed insignificant and lagged far behind the "shooting list" compiled by the Civic Forum that contained 84 names of MPs who were to resign.[43]

The general political agreement on the second wave of co-optations was reached during roundtable talks in the Valdstein Palace on 5 January.[44] In response to the

41 "Projev ve Federálním shromáždění 23. ledna 1990" [Address to the Federal Assembly on January 23, 1990], in *Spisy* [Collected Works], vol. 6, ed. Václav Havel (Prague: Torst, 1999), 33. Cf. Jičínský, Československý *parlament*, 24–28.

42 APCR, FS-5, Presidium, stenographic minutes from the 31st session (December 28, 1989).

43 Cf. Address by Zdeněk Jičínský at the Civic Forum congress on January 6, 1990. AICH, ACF-CC, records from the congress on January 6, 1990.

44 Ibid.

growing self-confidence and "defiance" of the Federal Assembly, it was agreed that the MPs would not be dismissed by their representative assemblies, as had been proposed by Zdeněk Jičínský on 28 November (and by the MPs from the People's Party at the Federal Assembly on 21 December), but by political parties on behalf of which the MPs concerned had been elected. Non-partisan MPs were dismissed by the "relevant body" within the National Front upon agreement with the Civic Forum or the Public Against Violence. The very principle of co-optation required no further debate as it had already been legalised by the Constitutional Act of 28 December. Further agreement only concerned its extension to all other levels of representative assemblies. The Communist Party had, for some time, been making it clear that it had not insisted on retention of majority in the parliaments. Moreover, the act gave it an opportunity to regain, at least for the time being, control over its own, increasingly independent MPs.

The draft bill on dismissals of MPs was first debated in committees. Those were the fora to which the MPs were accustomed to, even during the previous régime, to table critical objections or proposals for amendments. Similarly to the Communist era, the debate at the committees again largely supplemented the absent plenary debate. The formulation of the bill that enabled the dismissal of MPs who, "because of their hitherto activities do not offer guarantees for the development of political democracy" was the source of major indignation. For instance, an MP at the Committee for Industry, Transport and Trade stated that it was unclear "what is the measure to ascertain who does and who does not offer guarantees for democracy ... How can those things be measured?"[45] All Committees that debated the bill thus agreed that the second and dominant criterion for dismissal had to be stated, i.e. political decision to replace significant proportion of the Communist MPs by those from the Civic Forum. The final reading of the bill thus contained a breakneck formulation that MPs might also be dismissed "in the interest of a balanced distribution of political forces."[46]

The matter, however, did not merely involve the issue of methodology – *how* to define the "errors" of MPs,[47] but particularly who was to define them. The MPs questioned the right "of some administrator from central committees"[48] to dismiss "their" deputies. They complained that political parties "were not familiar with how the MPs worked and altogether did not care."[49] Some MPs denied similar right to the Civic Forum or the Public Against Violence. One of the MPs, a glass-blower by profession (in a charming illustration of incompatibility of the two political worlds) was concerned that "there are often people within the Civic Forum at the district

45 Ibid.

46 APCR, FS-5, Prints, No. 238.

47 The term was used by Mr. Blahobyl, MP in his address at the Committee on Industry, Transport and Trade, see APCR, FS-5, FS, Committee on Industry, Transport and Trade, records from the 24th joint session (January 22, 1990).

48 Ibid.

49 Ibid.

level, who did not work publicly before, were not expressing themselves and might not even know the relevant MPs."[50] The MP suggested that the right to dismiss them was bestowed upon parliamentary fractions,[51] local branches of political parties or the National Front at the level of constituencies.[52] Some MPs also wondered why the bill resuscitated the political cadaver of the National Front, giving it such pivotal constitutional power.[53] The right of political parties to dismiss "their" MPs was eventually retained in the act, yet the Committees at least managed to limit the validity of the draft bill to the end of March fearing that MPs might be exposed to a constant cicle of recalls and co-optations.[54]

The parliaments of the two republics in the federation also addressed the co-optations. On the one hand, they themselves went through the co-optational "cleansing". On the other hand, the issues of national committees fell within their powers. Whilst not a single critical voice was raised in the Czech National Council, on 12 January 1990 the Slovak National Council held an extensive, largely critical debate on the bill. Part of MPs criticised the fact that the bill eliminated the representative nature of the parliament. One of the MPs, a representative of the Slovak Union of Women, pointed out that not a single woman was among the 22 co-opted deputies for the Federal Assembly and that only a single woman was co-opted in place of the three female MPs that stepped down. She argued that the main reason behind this was the fact that interest groups were removed from the selection of new MPs.[55] A newly co-opted MP Ivan Čarnogurský also had reservations about the draft bill. He stressed that, during the roundtable talks on 21 December, the Public Against Violence managed to gain support for early elections and had informed the federal government accordingly.[56] The Slovak National Council eventually passed the bill, though far from unanimously.

A question arises about why the co-optations encountered greater resistance in Slovakia.[57] After the bill on dismissal of MPs was not adopted by the Federal Assembly, a new MP, Jan Bubeník tried to offer an answer in *Mladá fronta*: "It is obvious where the former mafia is stronger than the reform. It seems that the situation in Slovakia is by no means the same as we feel it here, say in Prague. It is more complex."[58]

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50 Ibid.

51 APCR, FS-5, Foreign Affairs Committee, records from the 24th joint session (January 17, 1990).

52 APCR, FS-5, Committee on Industry, Transport and Trade, records from the 24th joint session (January 22, 1990). Cf. Committee resolution No 153.

53 APCR, FS-5, Planning and Budgetary Committee, records from the 24th joint session (January 16, 1990).

54 APCR, FS-5, Committee on Industry, Transport and Trade, records from the 24th joint session (January 22, 1990).

55 Ibid.

56 Ibid.

57 Even the first act after the co-optations of December 28, 1990 was adopted with a slight margin of seven votes from the Slovak section of the House of Nations at the Federal Assembly.

58 "To parlament dlouho nezažil: Historická společná schůze FS ČSSR očima poslance Jana Bubeníka" [The Parliament Has Not Experienced Anything Like that For a Long Time: The Historical

Bubeník thus expresses a thesis that was later developed by the Czech political right. It suggests that the post-November development follows two fundamental chrono-spatial directions: forward and pro-Western, towards rapid economic transformation and pluralistic democracy based on civic principle in the Czech Republic, and, in Slovakia it is "backwards", pro-Eastern, towards cautious reforms and politics based on ethnic principle.[59] In case of co-optations, the dualism – provided it was ever functioning, operated in reverse. The Slovak National Council was, despite everything, a national parliament for the Slovak society, the public forum to debate the substantial issues related to national life. It was already during Communism that the Slovak National Council granted itself greater autonomy than its Czech counterpart. It sometimes even brought critical voices in the plenary, for instance on the issue of "triune constitution." The co-optations thus meant reduction of authority of the supreme national institution. That was also the ground on which the Chairman of the Slovak National Council Rudolf Schuster objected to them. The co-optations, however, were in particular conflict with the self-definition of the Public Against Violence as a consistent opposition to the previous régime; hence it was unwilling to be "co-opted." Whilst the largely Slovak doubts about co-optations did not meet significant response in public media discourse or at street demonstrations, it was at the federal parliament where the discordant voices could not be ignored.

The Adoption on the Bill on Dismissal of MPs

The first post-revolution session of the Federal Assembly on 29 November was broadcasted live at the Czechoslovak Television. Whatever the presidium of the Federal Assembly hoped to gain from the broadcast, it certainly did not achieve any political or media success. As Tomáš Zahradníček showed, the revolution and the television as a medium preferred images of unmediated power, full squares and a leader figure, instead of the slow, often chaotic proceedings, tied by internal regulations, held by a few hundred elderly men and women of the past.[60] This was again the playground between the parliamentary and revolutionary time, between the right to discussion and a demand for action. The presidium of the Federal Assembly was aware of the disservice by the live broadcasts. Yet it hopelessly tried to deal with it by focusing on quality of the debate and better coordination.[61]

The televised broadcasts not only helped to shape as well as distort parliamentary

Joint Session of the FA CSSR From the Perspective of Jan Bubeník, MP], *Mladá fronta*, January 24, 1990, 1.

59 Cf. Anna Šabatová, "Jak odříznout nemocnou nohu I: Obraz Slováků a Slovenska v českém tisku před patnácti lety" [How To Cut Off A Diseased Leg I: The Image of Slovaks and Slovakia in the Czech Press Fifteen Years Ago], *Listy* 5 (2007): 19–33.

60 Tomáš Zahradníček, "Medialisation of Politics in Czechoslovakia and the Federal Assembly, 1989–1992" (paper presented at seminar Parliamentary Politics as Performance, Berlin, January 23–24, 2012).

61 APCR, FS-5, Presidium, stenographic minutes from the 29th session (December 13, 1989).

developments, but also archived them. They helped to preserve one of the most bizarre days of the Velvet Revolution that was drawing to an end. On Tuesday 23 January from 10am channel one of the Czech Television presented live broadcast of the debate within the 22nd session of the Houses of the Federal Assembly. The first on agenda was the debate on the bill on dismissal of MPs.[62] The static television camera alternated between shots of the numerous members of the presidium and the view of the impressive plenary consisting of 350 MPs from both Houses. The presidium of the Federal Assembly was seated under the quotation from the Constitution: "All power in the Czechoslovak Socialist Republic belongs to the working people." The ensemble was dominated by the figure of Alexander Dubček. Sidelined to the post of the Chairman of the Federal Assembly, when running the session, he seems utterly uncertain, even though he was guided by a written script (the so called Presidials). Timothy Garton Ash described the view of the plenary as follows: "The women with putty faces, cheap perms and schoolmistress voices. The men in cheap suits, with hair swept straight back from sweaty foreheads. The physiognomy of power for the last forty years."[63] Among them gleamed generals' uniforms and, on the contrary, woven jumpers worn by some of the co-opted MPs who probably tried to keep an optical distance from their unexpected company. The position of the cameras did not allow to capture the key part of the plenary – the Slovak section of the House of Peoples, when the voting machine got stuck. On the contrary, it enabled to record whispering among the members of the presidium (Alexander Dubček: "Stanislav, what to do about it now?"[64]). The camera also regularly approached the guest gallery above the plenary that hosted Frank Zappa with his television crew – he was allegedly shooting an hour-long documentary about the Czechoslovak revolution (seemingly never completed) for the Financial News Network.[65]

Zappa had chosen, though utterly by chance, a perfect day to visit the Federal Assembly. The day that saw two major events in the history of Czechoslovak parliamentarism. The Federal Assembly, for the first time ever, failed to adopt draft bill and Václav Havel launched the "hyphen war" with his first address to the Parliament.

Ján Riško, former director of the Czechoslovak Radio and MP at the Federal As-

62 Television record from the 22nd joint session of the Federal Assembly, see Archive and Programme Funds of the Czech Television, Sessions of the Federal Assembly, January 23, 1990 (2C23964).

63 Ash, *We The People,* 111.

64 Alexander Dubček turned to the former Chairman of the Federal Assembly Stanislav Kukrál.

65 Frank Zappa worked for the cable channel Financial News Network for some time, first as guest (as commentator on the American music and political scene, as well as an expert on business in the disintegrating Soviet Union). Later he hosted his own show, the Frank Zappa's Wild Wild East. It seems that, for Zappa who unsuccessfully tried to do business with the Soviet Union, the visit to Czechoslovakia in January 1990 was essentially an attempt to establish business contacts. He thus had Václav Havel appoint him Special Ambassador to the West on Trade, Culture and Tourism. That led the US Secretary of State James Baker to state wryly: "You can do business with the United States or you can do business with Frank Zappa." On the other side, to Václav Havel and other post-dissent politicians the encounter with the prominent figures of the Western alternative rock scene was a means to overcome the conflict between their own "authentic" past and the contemporary role within the political establishment and support to the neoliberal reforms.

sembly serving unremittingly since 1971, was the one to best use the live broadcast. Dressed in a smart suit, Riško with his rhetorical mastery and carefully measured sarcasm outshone all other speakers. His was certainly the most impressive "counter-revolutionary" speech that the Communist conservatives dared.[66] Ján Riško considered the bill on dismissal of MPs which "our shining democracy will never be able to present as a radiant pearl, the *chef-d'oeuvre* of Czechoslovak parliamentarism", as one in the series of hasty and violent interferences with the Czechoslovak Constitution.[67] Ján Riško advocated the parliament's right to non-revolutionary momentum, to its own parliamentary time: "We are here today to again adopt bills which we had barely had a chance to read, not to speak of consulting them with our voters. Yet we hear a voice from everywhere --- we've got to hurry, fast, fast, fast. Someone is worried about missing something ... One cannot make the laws in a hurry." According to Riško, the Civic Forum followed the same script as did the Communist Party in 1969 and it was using the same, specifically Czechoslovak method devised to remove potential political opponents in the parliament.

Riško's speech triggered an hour-long unscheduled debate. The MPs were competing to dismiss the Communist MP. All agreed on that Ján Riško ought to be silent, for he was silent for twenty years. With the exception of a few co-opted MPs, the objection applied to all existing MPs none of whom could pride themselves in a daring speech to the plenary. Yet most of them believed that they secured their right to speak by having consented to the post-November developments. "The freedom to consent" was a right that the MPs earned by conformity, particularly with the election of the President. The "freedom of consent" thus perceived is similar to the understanding of freedom by the Communist Party.[68] Nevertheless, the Federal Assembly thus destined itself after November 1989 to its hitherto status: one of an institution that is clad into constitutional clothes of decisions adopted elsewhere. Even though parliaments, including those in democracies, often play the same role and the parliament of the first Czechoslovak Republic did largely the same, in this case even the right to debate was being denied. Apart from the main line of criticism of Riško's speech, a number of additional side issues emerged. Zdeněk Jičínský, for instance, argued that the presented bill cannot be compared with the parliamentary purges of 1969, as other civil rights of MPs remain intact. Unlike in the case of the MPs dismissed in 1969, "no one will prevent Mr Riško to bid for his mandate in the free elections scheduled for June" Jičínský stated. He thus indicated that he was aware of

66 Cf. Jan Kudrna, "Personální rekonstrukce zastupitelských sborů" [Personnel Reconstructions in Representative Assemblies], in *Pocta Zdeňkovi Jičínskému k 80. narozeninám*, ed. Vladimír Mikule et al. (Praha: ASPI, 2009), 241.

67 Archive and programme funds of the Czech Television, Sessions of the Federal Assembly, January 23, 1990 (2C23964). Cf. *Společná* česko-slovenská *digitální parlamentní knihovna* [Common Digital Czecho-Slovak Parliamentary Library], Federal Assembly 1986-1990, Joint Sessions of the House of People and the House of Nations, Stenographic records, 22nd joint session, January 23, 1990, accessed October 30, 2015, http://www.psp.cz/eknih/1986fs/slsn/stenprot/022schuz/s022002.htm.

68 Cf. Petr Fidelius, "Řeč *komunistické moci*" ["The Communist Power Talk"] (Praha: Triáda, 1998).

Riško's dismissal that had already been agreed, even though the bill had not yet been adopted. Paradoxically and from purely formal perspective, the dismissal of MPs in 1969 was "cleaner" as the right to dismiss was bestowed upon the parliaments, and not on political parties as was the case in 1990.

Another frequent theme in the criticism of Riško's speech and in defence of the dismissal of MPs was a claim that the "reconstruction of the parliament" was a necessary step for "the political composition [of the parliament] to ideally reflect the political compositions and mentality of the people in our country."[69] Such demand was revolutionary indeed: it is ultimately more a rule than an exception that the public atmosphere would not be in line with the composition of a parliament. That is why elections are held after all.

After the debate Alexander Dubček, being evidently insecure, called the vote. The bill was passed smoothly in the House of Peoples, with only nine MPs abstaining. In the crucial House of Nations, however, nearly forty MPs were absent. Thus, whilst the Czech section passed the bill, albeit with a narrow margin, three MPs opposed it in the Slovak section (including Ján Riško), and 22 others abstained. Thus the bill was not adopted. Alexander Dubček, who chaired the session and the voting following the printed script, first declared the bill adopted. Only after vocal objections from the Slovak section, constantly apologising, he started to look for "legislators in the know" who would be able to resolve the situation in which the Federal Assembly found itself for the first time in its history. After a few intermissions and procedural discussions[70] a Conciliation Committee was set up for the very first time, to be chaired by Zdeněk Jičínský. It was to find a way out of the conflict between the two Houses.

Prior to that, Václav Havel addressed the plenary of the Federal Assembly with nearly a two-hour long speech.[71] It was his first opportunity to address the parliament as President. In particular, however, it was a chance to present his political-aesthetic plans in the dramatic juxtaposition to the prop of the Communist parliament and (mostly) Communist MPs. Havel informed the MPs, who were taken aback and whose faith was just being decided behind the scenes in the parliament, of the details of his intentions (about his request presented to Sweden to return a part of the trophies of the Thirty-Year War, about the "incredibly distasteful" bathrooms at the chateau Lány, or about the new uniforms of the Castle Guards). His notes were addressed to the television viewers rather than the MPs. In his address Havel did not

69 Address by Mr Stanislav Hanák, MP. *Společná* česko-slovenská *digitální parlamentní knihovna* [Common Digital Czecho-Slovak Parliamentary Library], Federal Assembly 1986-1990, Joint Sessions of the House of People and the House of Nations, Stenographic records, 22nd joint session, January 23, 1990, accessed October 30, 2015, http://www.psp.cz/eknih/1986fs/slsn/stenprot/022schuz/s022002.htm.

70 See further Suk, *Labyrintem revoluce,* 289–90.

71 "Projev ve Federálním shromáždění 23. ledna 1990" [Address to the Federal Assembly on 23 January 1990], in *Spisy* [Collected Works], vol. 6, ed. Václav Havel (Prague: Torst, 1999). More on the address in Šútovec, *Semióza ako politikum,* 150–63.

forget to remind the MPs that "it was the old era that raised you to your posts". He also very clearly suggested that he derived his authority from the revolution ("the public to which I feel utmost responsibility"), and not from the parliament. In conclusion, Havel famously proposed a change to the names of the three republics, their coats of arms, names of armies and suggested that he expected the parliament to promptly content to his proposals. The Federal Assembly postponed the debate on Havel's proposals – a decision which is often identified as the cause of the "hyphen war".[72] Co-optations were among the reasons why the debate was postponed. Because of the resignation of nearly one half of MPs "the short parliament" between its 22nd and 23rd sessions (23 – 30 January) was unable to carry out even the essential procedural tasks. The presidium of the House of Peoples could not reach a quorum.

Shortly before 6pm, after the debate on a number of additional points, the Houses reconvened to debate the bill on dismissal of MPs. Zdeněk Jičínský reviewed the deliberations of the Conciliation Committee. He informed that the failure to adopt the bill was caused by the discontent of independent MPs with the formal procedure in debating the bill that was unrelated to the content of the draft bill. He then appealed to the Slovak MPs who first abstained, to assume a clear position either in support of or against the bill. No one abstained in the subsequent voting, with only a single MP voting against. The parliament did not yet have the voting equipment, what was explicable given the hitherto method of voting. It is therefore impossible to estimate the number of MPs voting for the bill. Television footage shows that some MPs, such as Ján Riško, did not vote at all. The smooth adoption of the bill in the second round of voting suggests that the Slovak MPs did not try to block the bill, but tried to firmly protest against the misuse of the parliament. They fought for the right of the parliament to consent (procedurally accurately), the right to being taken at least as seriously as was case of the Communist parliament and, eventually, for the right of MPs to consider their hitherto public activities meaningful. After the adoption of the bill on dismissal of the MPs the agenda of the 22nd session was summarily debated. The televised broadcast from the Federal Assembly closed with an image of MPs from the House of People leaving the parliament forever, others who might return in a week to elect over hundred and thirty new colleagues. The sensitive microphones of the state Czechoslovak Television captured their mutual farewells.

Conclusion

The co-optations significantly changed the status of the parliament in the post-November distribution of power. The institute of roundtable talks disintegrated and the parliament became the central (though not exclusive) platform for political negotiations. The aforementioned process of "self-parliamentarisation" has accelerated considerably, i.e. the emancipation of the legislature vis-à-vis the executive power. The

72 The term "hyphen war" refers to a long and complex conflict about the name of the common state in the first half of 1990.

"hyphen war" that broke out instantly after the co-optations was thus waged in the parliament, and not behind the political scenes or on the street. The side effect of the shift from roundtable talks to parliamentary debates resulted in a deep plunge in the influence of small political parties within the National Front: with their meek parliamentary fractions and mediocre electoral perspectives, they could not compete with the far more numerous and prospective parliamentary fractions of the Civic Forum and the Communist Party. Together with the outer position of the parliament within the structure of the power, the inner running of the Federal Assembly as an institution changed as well. Though the co-optations changed nearly a half of MPs, the key bodies of the Federal Assembly (the presidium, chairs of committees) experienced far deeper change. The two thirds of members of the presidium of the Federal Assembly have been changed; the presidiums of the Houses have been changed altogether, and the roles of the chairs of the committees have been changed by 85 percent.[73]

The speed of work at the parliament also rapidly increased as the legislature convened far more often than under communism and debated far greater number of bills. That is also related to yet another internal transformation – the development of the rules of procedure appropriate for a parliament that was no longer under the oversight of the Communist Party, but one that had to itself regulate its internal disagreements. Even though the new rules of procedure were only adopted in the subsequent parliamentary term, the change in debating the bills followed soon after the co-optations. The initiative presented by Vladimír Mikule proved particularly important. He achieved, *inter alia*, that each amendment had to be first discussed in the Constitutional-Legal Committee prior to being voted on.[74] Parliamentary mandate was no longer an occasional duty or status accessory, but full time job. That also raised the issue of wages for the MPs. Political culture has changed substantially. Instead of the perfect parliamentary machine of the Communist era with disciplined deputies, pre-approved input and careful choreographed sessions, the co-opted parliament was a picture of chaos, improvisation and procedural hurdles.

Co-optations have been a decisive step on the path of the Federal Assembly from the Communist parliament to the liberal one that only emerged after the elections in June 1990. It was still the first step, as the vital regional principle remained in place until the elections in June 1990 (i.e. the MPs represented their constituency). It was also because the Civic Forum was shaping itself as a representative body of all social strata without any significant differentiation of political currents. It was only the disintegration of the parliamentary fraction of the Civic Forum nearly a year later brought the process to completion. By giving political parties and movements an opportunity to choose new MPs, co-optations also contributed to the introduction of the proportional electoral system and created conditions for the emergence of strong party democracy.

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73 Jana Reschová, "Nová politika s novými ľuďmi" [New Politics with New People], *Sociologický* časopis 28 (1992): 227.

74 Jičínský, Československý *parlament*, 91–92.

From the wider Central European perspective, the main consequences of the co-optations in the Federal Assembly were the institutionalisation and slowdown of the November revolution. The Velvet Revolution that proved unique in post-Communist Europe for its pace, turned into "refolution",[75] a hybrid between revolution and reform. Co-optations, though a specifically Czechoslovak method, drew Czechoslovakia closer to other countries of Eastern Europe. They created a new political class and, at the same time, helped a number of "old structures" survive (if only for short time): the political parties within the National Front and some of its officials, the legal system of the Communist Czechoslovakia, the constitutional system of 1968, and thus the common state of the Czechs and Slovaks.

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Petr Roubal

REVOLUCIJA V SKLADU Z ZAKONOM: PREOBLIKOVANJE ČEŠKOSLOVAŠKEGA ZVEZNEGA PARLAMENTA V OBDOBJU 1989–1990

P O V Z E T E K

Češkoslovaški zvezni parlament, ki je bil ustanovljen leta 1969 v okviru federalizacije Češkoslovaške, je v žametni revoluciji čez dvajset let odigral pomembno in hkrati paradoksalno vlogo. V izpraznjenem oblastnem prostoru, ki ga je v paniki ustvarila komunistična partija Češkoslovaške, je zvezni parlament nenadoma postal ključna in edina institucija, ki bi lahko zagotovila mirno in ustavno preoblikovanje političnega sistema. Opozicijski gibanji (češki Državljanski forum in slovaška Javnost proti nasilju) sta sprejeli komunistično ustavo kot podlago za preoblikovanje, ustavo pa je bilo mogoče spremeniti samo prek zveznega parlamenta.

Ta strategija ni imela verodostojne alternative, saj je imel velik del komunistične in pokomunistične slovaške elite ustavo in zvezni parlament za zgodovinska dosežka. Druge možnosti, na primer vrnitev k češkoslovaški ustavi iz leta 1920, so bile za Slovake popolnoma nesprejemljive. Težava je bila v tem, da so bili poslanci zveznega parlamenta leta 1986 izvoljeni na volitvah v komunističnem slogu, zato jih družba ni imela za legitimne poslance. Zdeněk Jičínský, reformistični komunist, eden od avtorjev ustavnih sprememb iz leta 1968 in vodilni ustavni strokovnjak Državljanskega foruma, se je domislil koncepta "kooptacij". Nekateri poslanci naj bi odstopili ali bi jih odpoklical parlament, ki bi potem izvolil nove člane iz vrst opozicijskih gibanj.

To bi omogočilo odlog volitev, utrdilo verodostojnost zveznega parlamenta in ohranilo njegovo vlogo stabilne institucije v nemirnem revolucionarnem obdobju. Ta primer ni bil edinstven v sodobni češki zgodovini, v kateri volitve nikoli niso bile uporabljene kot rešitev za politično krizo. Dejansko je bila za zgled čistka novoustanovljenega zveznega parlamenta iz leta 1969 – številni poslanci, ki so bili odstranjeni v tem procesu (predvsem Aleksander Dubček), so se čez dvajset let vrnili v parlament s pomočjo pravzaprav identične zakonodaje. "Kooptacije", ki so bile na Češkoslovaškem sicer edinstvene, so bile del širšega pojava ustavnih improvizacij v srednji in vzhodni Evropi, kjer so se vse države spopadale s kompleksno ustavno zapuščino komunistične dobe.

Ta študija je del širšega raziskovalnega projekta o zveznem parlamentu v obdobju 1989–1992, ki proučuje mehanizme "samoparlamentarizacije", tj. procesa postopnega osvobajanja zakonodajnega telesa od izvršne oblasti. Študija ima tri temeljne cilje. Prvič, nadaljuje raziskovanje revolucionarnih sprememb ob koncu leta 1989 in na začetku leta 1990 v smeri , katere začetnik je Jiří Suk, ter z uporabo istih metod in virov (prepisov pogajanj gibanja Državljanski forum, arhivov Državljanskega foruma) proučuje enega od stranskih hodnikov "labirinta revolucije". Veliko razlagalcev meni, da so "kooptaci-

je" izvirni greh, iz katerega so izšle številne tegobe pokomunistične preobrazbe v devetdesetih letih 20. stoletja. Zato je vredno raziskati, kako so se sprejemale odločitve in ali so bile na voljo tudi verodostojne alternative. Drugič, sama tematika zveznega parlamenta in viri, ki jih je ustvaril (zapisniki plenarnih sej, parlamentarnih odborov, predsedstva ali pogovorov s poslanci), nam omogočajo vpogled v žametno revolucijo s perspektive marginaliziranih in poraženih udeležencev.

Boj za nadzor nad parlamentom razkriva dva različna pogleda na spremembe: konceptu moralne in estetske revolucije Václava Havla , ki bi uničila vse grdo in zlo, se je zoperstavil reformni program "paragrafske revolucije" , ki ga je zagovarjal Zdeněk Jičínský ob globokem dvomu v sposobnosti množice in njenih voditeljev. Šlo je za trk dveh političnih obdobij: dinamičnega obdobja revolucije in počasnega premikanja parlamentarne demokracije. Opazujemo lahko tudi svetovni nazor poražencev, tj. parlamentarnih poslancev, ki niso želeli, da jih revolucionarna gibanja zgolj izkoristijo in zavržejo, ampak so hoteli biti del politične preobrazbe. Bojevali so se za pravico, ki jim jo je omogočal celo komunistični režim – pravico do "strinjanja". To je bilo očitno predvsem med nenavadno parlamentarno razpravo o "kooptaciji", ki se je nanašala na vprašanje, ali naj parlament odvzame sedež več kot sto svojim poslancem. Prvič v svoji zgodovini zvezni parlament ni sprejel zakona, vendar si je pod pritiskom hitro premislil. Televizija je javno prenašala to razpravo, katere absurdnost je dodatno poudaril nepričakovan nastop zunanjih obiskovalcev: predstavnikov revolucionarnih študentov, ki so zahtevali takojšnjo odobritev zakonodaje, Václava Havla, ki ga je ta parlament nedavno izvolil za predsednika in je s svojim govorom podžgal tako imenovani "spor zaradi vezaja", in Franka Zappe na parlamentarnem balkonu, ki je snemal dokumentarni film o žametni revoluciji.