

VALIDITY AND LIABILITY OF LOCAL REFERENDUM FROM THE EMPIRICAL POINT OF VIEW

FILIP RIGEL

Nejvyšší správní soud

STANISLAV KADEČKA

Key words

Local Referendum, Validity and Liability

Summary

The paper deals with the topic of the fundamental form of direct democracy at local level in the Czech Republic – so called local referendum. Wherever direct democracy exists, it has not replaced representative democracy but has complemented the work of elected body and political parties. Clear direct democracy is dangerous and undesirable. Nevertheless, it is obvious that instruments of direct democracy are important elements of the democratic supervision. The principal method of direct democracy is a referendum. It is a direct vote in which an entire electorate is asked to either accept or reject a particular proposal.

Czech law permits referendums only at the level of communities, not at the level of regions. Local referendum is held on local issues related to the conduct of policy in a municipality. Issues, such as the municipal budget, local duties, election and recall of the mayor and other members of local elected body, issues treated by special processes, structure of the municipal office, contracts governed by public law, municipal ordinances and issues which were subjected to a referendum during the preceding two years cannot be addressed by referendum. The most important effect of the referendum is its validity and liability. The result of the referendum is binding on local authorities. The decision of the referendum is valid if, at least, one half of the persons with right to vote cast a ballot. The high turnout quorum means that local referendums are often declared invalid, which indeed tends to weaken citizens' motivation to participate in political life of the municipality.

The experience shows that the most important factor of the participation in a referendum is a number of inhabitants in a municipality (R. Dahl said: "*size matters*"). The bigger municipality, the lower participation (see below). The high turnout quorum, that is unified for

all communities in the Czech Republic, unfortunately does not respect this empirical evidence.

Total number of entitled persons living in a community	Average turnout	Number of referendums (valid)
up to 250	71,5 %	30 (30)
251 to 1000	54,5 %	32 (23)
1 001 to 2 000	51,1 %	18 (13)
2 001 to 10 000	34,1 %	10 (2)
10 001 and more	24%	6 (0)

Table 1: Relation between average participation in local referendum and number of entitled persons living in a community in the Czech Republic (2004-2008); source: author's research.

Contact – email

filip@rigel.cz