

# Opportunities and Limits of Presidential Activism: Czech presidents compared<sup>1</sup>

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**Abstract:** *This article analyses the use of powers by Czech presidents Václav Havel (1993–2003), Václav Klaus (2003–2013) and Miloš Zeman (2013–2023). The text is based on the concept of presidential activism, empirically examining mainly their interactions with governments and legislative vetoes. The results show that important incentives for presidential activism are non-cohesive coalition governments, minority governments, slim government majorities in parliament, the collapse of governments and a chaotic parliament. On the other hand, the internal cohesion of a government acts as a constraint on presidential activism. Popularly elected Zeman interpreted his powers much more widely in appointing and removing governments and ministers than Havel or Klaus, who were elected by parliament. By contrast, Zeman used his legislative powers less than his two predecessors, which was apparently influenced by their low success (with some exceptions) in this area. The president's political proximity to the government was found to only sometimes limit his agility. Czech presidents have rarely been passive. A specific factor that affected activism, albeit only to a limited extent, was the poor health of Havel and Zeman at certain moments. To reduce systemic risks in the future, it would be useful to define more precisely the rules for appointing and dismissing a government and individual ministers.*

**Key words:** *presidential activism; direct elections; governments; legislative powers; Czechia; systemic risks*

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## I. Introduction

Research on heads of state in Central and Eastern Europe has undergone dynamic development in recent decades. Most interest has been shown in presidents of the semi-presidential regimes that have sprung up in this region since 1989. The tradition of research that began with the classic work of Maurice Duverger (1980) followed by Matthew S. Shugart & John M. Carey (1992), Robert Elgie (1999) and many other authors, has thus produced rich material that allows for extensive comparative studies and in-depth analyses into the leadership of countries such as Poland, Romania and Ukraine (e.g. Taras 1997; Protsyk 2004, 2005; Elgie – Moestrup 2008; Sedelius – Mashtaler 2013; Sedelius – Åberg 2018).

Less interest has been shown in the region's democracies, such as Czechia, which developed a parliamentary regime and established its most important principle – executive dependence on the confidence of parliament (e.g. Lijphart 1992: 2; Müller – Bergman – Strøm 2003: 10–11) – and had no popularly elected president. The Czech case was included in some broader studies (e.g. Baylis 1996; Brunclík – Kubát 2019); its specific aspects have been examined (e.g. Kysela – Kühn 2007; Havlík – Hrubeš – Pecina 2014; Kopeček – Brunclík 2019); and attention was eventually paid to the personality of the internationally well-known first Czech and last Czechoslovak president, Václav Havel, often in the broader context of the democratic transition (e.g. Skalnik Leff 1996; Keane 2001; Duberstein 2006; Zantovsky 2015; Williams 2016). But a comprehensive discussion of presidential activities over three decades has remained lacking. Of these, one interesting example is provided by the use of the presidential veto of laws, where Czech presidents have been more agile than their Romanian or Polish counterparts (Köker 2017: 59).

The importance of the Czech case for the broader audience increased when the method of choosing a president transitioned from the previous indirect parliamentary process to popular (direct) election in 2012. This makes Czechia a kind of 'natural experiment', which is rare in modern democracies (exceptions include neighbouring Slovakia) and offers the opportunity of evaluating the performance of the first popularly elected president, Miloš Zeman (2013–2023), whose presidency stirred up a turbulent public debate about his exceeding presidential powers and behaving unconstitutionally. Prime ministers threatened to file complaints against the president with the Constitutional Court, and the upper chamber of parliament launched an impeachment procedure for gross violation of the constitution, but the lower chamber failed to support the move.

However, a look into the past suggests a somewhat more complicated story. Many Czechs traditionally perceived the president as a monarch who would provide good governance and solutions to burning problems, a perception derived from the tenure of Tomáš G. Masaryk, architect of Czechoslovakia and its first

president. Masaryk founded a strong presidency associated with great informal influence and a specific aura (Mlejnek 2014; Cabada 2018). A small, but telling, fact for understanding this perception is that presidents since Masaryk's time have resided at Prague Castle, the ancient seat of kings. Despite changes of political regime and historical upheavals, the importance of the president survived and was strongly revived by Havel in the short, but very intense, democratic period in the last years of Czechoslovakia. Havel as Czech president (1993–2003) and his successor Václav Klaus (2003–2013) were certainly not merely ceremonial presidents; they were involved from time to time in intra-executive conflicts with prime ministers and governments. The fertile ground for such disputes was created by the brief and often vague constitutional text that gave no precise guidance on how the president should behave. The Czech institutional set-up thus became the scene of clashes between the two branches of executive power (Brunclík 2014). As with Zeman, the excessive agility of both Havel and Klaus was repeatedly debated. Even before the introduction of the popular election and Zeman's presidency, Czech scholars discussed the extraordinary status of the head of the state and efforts to strengthen his influence (e.g. Klíma 2004; Kysela 2006; Kysela – Kühn 2007; Brunclík 2008; Pavlíček 2008).

This history allows for an interesting comparison of the performance of three Czech presidents and especially the opportunities and constraints that determined their ability to be active. The comparison raises two main questions: What created opportunities for activist behaviour by presidents and, contrariwise, what limited them? How did the activism of the directly elected president differ from his indirectly elected predecessors? Being directly elected by the people is believed to provide a president with greater legitimacy for independent behaviour than being chosen by parliament (e.g. Duverger 1980; Linz 1994; Metcalf 2000); this point will be addressed in the article. Unfortunately, the fact that there has been only one directly elected president so far precludes any forward-looking conclusions about the impact of this change. This caution is justified by the case of the fourth president, elected in 2023, Petr Pavel, who differs from his predecessors in his lack of domestic political experience.

The article applies the concept of presidential activism reflecting the strength or weakness of other political institutions and the party configuration. Changing the type of election was not accompanied by any substantial modification of presidential powers, and this makes analysis easier. The concept of presidential activism has some limits, in that it cannot perfectly reflect the cultural and historical legacy, the economic, ethnic and other specificities, or the personality of presidents (Frye 1997; Hloušek 2013). However, it is worth noting that Czechia is one of the most culturally and ethnically homogeneous countries in Europe, which has not been affected by catastrophic economic slumps; the studied period is continuous and begins after the end of the most turbulent transitional changes at the turn of the 1990s. Havel, Klaus and Zeman had similarly strong

personalities and rich political pasts, although the men were different in some respects (e.g. Havel was one of the most famous dissident figures of the Eastern Bloc, Klaus and Zeman had previously been party leaders and prime ministers). The article sets out a theoretical section on presidential activism, the research design and the powers of the Czech president in important areas, and three empirical sections on Havel, Klaus and Zeman.

## **II. Theoretical framework: Presidents, governments and presidential activism**

The position of president varies across democratic regimes. In semi-presidential regimes it is commonly assumed that the head of state plays an active role, while in parliamentary regimes the president's role is supposed to be merely symbolic and representative. However, practice shows a diversity of presidential behaviour that makes the establishment of clear and unquestionable boundaries difficult and sometimes even leads to the rejection of semi-presidentialism as a specific category (Siaroff 2003). There is simply a lack of consensus among scholars on the distinction between semi-presidential and parliamentary regimes. The most widely used definition of semi-presidential regimes today, Robert Elgie's (1999: 13), includes 'a popularly elected fixed-term president and a prime minister and cabinet who are collectively accountable to the legislature'. However, this definition is sometimes criticised because it covers too many different countries (e.g. Brunclík – Kubát 2019). Applying Elgie's definition, it would follow that since Zeman's presidency, the Czech Republic has automatically and permanently had a semi-presidential regime – a claim which most Czech political scientists and constitutional lawyers question or reject outright (for a summary of the debate, see Cabada 2018).

It is worth remembering in this context the long-debated topic of executive dualism, i.e. when presidents share executive power with prime ministers and governments. This creates a 'dual-authority structure' with the potential for tension and conflict between the two leaders of the executive branch. Analyses of this issue in the academic literature are mainly of regimes with popularly elected heads of state and semi-presidential regimes (e.g. Sartori 1994; Protsyk 2005). Yet executive dualism has also been discussed with respect to countries without a directly elected head of state, including the Czech Republic before Zeman's presidency (Brunclík 2014).

These initial theoretical remarks allow for a better understanding of the main conceptual tool of this article, presidential activism. The term is often used to describe the extensive use, or even abuse, of presidential powers, which are discussed with reference to traditional presidential democracies such as the USA, new democracies in Central Europe and autocracies such as Russia (Schlesinger 1997; Protsyk 2004; Hloušek 2013). However, the specialised literature deploys

a less normative attitude. Margit Tavits (2009: 30) defines presidential activism as the 'intense use of presidential discretionary powers', complemented by an 'informal capacity to affect politics and policy'. Philipp Köker (2017: 5), in his extensive comparative study, offers a narrower definition that includes 'the discretionary use of formal powers'. The concept is supposed to separate presidential action from ceremonial duties such as receiving foreign visitors, opening sessions of parliament and representing the state at conferences. Other authors build on these definitions; for example, Tapio Raunio and Thomas Sedelius (2020: 24) mention the 'presidents' use of their formal powers and their attempts to influence politics through informal channels'. It makes sense to stick to a broader notion that combines the formal powers of the president with informal action that is sensitive to the context and to political interaction.

Tavits states that presidents operate within constraints, determined in particular by the 'partisan constellation and the strength of other political institutions especially the parliament and the government' (Tavits 2009: 35). Together, they create the political opportunity framework for presidential activism. Concerning the partisan constellation, Tavits (2009: 36), drawing on earlier studies by Shugart and Carey (1992) and Amorim Neto and Strøm (2006), notes that incentives for presidential agility are greater in a situation of cohabitation or divided government, 'in which the president and the prime minister represent different parties or coalitions'. The term 'cohabitation', originally associated with the French semi-presidential system, is thus more broadly applied to situations of ideological or political opposition between the two crucial men or women of the executive, and therefore its use in the Czech case is rational, at least for Zeman's presidency, which was decided by direct election. It is the mutual opposition that provides ideal conditions for conflict, and hence also for the growth of presidential activism. This line of reasoning of intra-executive tension has been empirically confirmed by Protsyk (2006) and Köker (2017). By contrast, political harmony between president and government coalition limits the space for mutual disputes, as there is no reason for them to arise. For instance, Köker (2017: 246) notes that the presidents used their legislative veto power more often during cohabitation than when president-government relations were unified.

There is some difference between cohabitation and divided government. The second term has its origin in the US situation, in which the president faces opposition in Congress. As used by Tavits, however, it is really a non-cohesive coalition that includes several parties representing different political stances. The parties are not necessarily ideologically distant, but may clash politically for various reasons. In other words, the non-coherence of the governing coalition is key, creating a basis for political conflict between the governing parties, which, as with cohabitation, increases presidential agility. The president may try to split the coalition and seek 'support for his or her own policy proposals

from some of the parties in government' (Anckar 2020: 138). Non-cohesive government (as the opposite of cohesive) can be considered a more accurate term than divided government.<sup>2</sup>

It is also worth noting that in Tavits's view, supported by other authors (Amorim Neto – Strøm 2006; Baylis 1996), the potential for activism is increased by the desire of some presidents to place themselves 'above parties' or by their non-partisan status, both of which may lead to their identification with broader social disapproval of the government (Tavits 2009: 38). This phenomenon can be observed, at least rhetorically, in all three Czech presidents, and in Havel's case in non-partisan form.

Furthermore, the minority or majority status of government is important for the behaviour of the head of state. The consensus in the literature is that minority governments significantly increase presidential involvement (Protsyk 2005; Tavits 2009; Schleiter – Morgan-Jones 2009; Köker 2017). The president simply has a good opportunity to test how successful he can be. Interestingly, this tendency is evident whether the president's party is in opposition or represented in government. The opposite occurs with single-party cabinets that rely on a majority in the assembly, against which the president finds it much more difficult to assert himself, as the institutions exhibit substantial cohesiveness.

Köker's findings about legislative vetoes are interesting: he notes that the president used this tool more often when the government commanded a very small majority in parliament. But again, internal cohesiveness plays a role. The author notes that divisions between and also within government parties (i.e. non-cohesive government) often weakened the government more than its small majority in parliament. Disagreement within a coalition government decreased the voting discipline of MPs and offered the president the chance to veto successfully (Köker 2017: 230–231).

Tavits (2009: 39) sees a link between the strength of the government and parliament. As she says, 'fragmented and minority governments usually stem from weak and polarised assemblies'. Strife in split institutions opens major opportunities for the president, as mentioned in the example of the success of presidential vetoes. However, contrary to the academic consensus on the correlation between minority governments and growing activism, the situation is somewhat different here. Unlike Tavits, Köker (2017: 228) argues that a major fragmentation of parliament does not necessarily have a significant effect. The Czech experience may also be an interesting example for evaluating these divergent views.

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2 The literature on coalition governance commonly uses the terms 'connected' and 'unconnected' (minimal winning) coalition, which is based on the ideological closeness or distance of the parties in the government (Axelrod 1970). But the problem is that in Czechia some governments were created by parties ideologically close formally, which nevertheless behaved in very inconsistent ways (and vice versa: some governments were ideologically heterogeneous, yet they acted consistently).



The approximate categorisation provided in Figure 1 serves to specify the intensity of presidential activism. The operationalisation of each category adapted to Czech conditions is as follows. *Low activism* means prevailing passivity of the president, who supports government and does not complicate the changes of ministers. He rarely – in less than around 3% of legislation<sup>4</sup> – uses the power to veto laws or invoke a constitutional review, and when he does, it is over politically insignificant legislation. In sum, the president plays the role of a ‘passive team-mate’ and could be described as an ‘observer’ or, at most, a monitoring ‘notary’.<sup>5</sup>

*Medium activism* is associated with more agile behaviour; the president is a kind of ‘regulator’ who participates in the formation of the government and in the replacement of ministers. In particular, he supports or opposes a certain political option, expresses reservations about certain ministers, puts forward his own ideas about what they should do, or delays the appointment and removal process. However, he does not promote his own government. The president can be critical of the intentions of government and quantitatively challenges between 3% and 6% of legislation including some important laws.

*High activism* manifests itself when the president tries openly and directly to promote his ideas about the composition of the government, including the position of prime minister. But the head of state is ready to coordinate and agree with at least some parliamentary parties and acts as a ‘co-designer’ of the cabinet. The president challenges 6% to 9% of legislation, often involving important laws.

*Hyperactivity* is when the president installs his own government and promotes his own ideas about filling ministerial posts; such a president could be described as a ‘creator’. Unlike the previous category, the president does not take into account the views of parliamentary (or government) parties – unless it is his own party. The president has become an extremely agile blocking player, routinely using vetoes and constitutional reviews, frequently on important pieces of legislation, and this activism exceeds the 9% threshold of all new legislation.

Data on the structure of governments and the fragmentation of the crucial lower house of parliament (Chamber of Deputies) is listed in Tables 1 and 2. Parliamentary fragmentation is measured using one of the most common metrics, the effective number of political parties (Laakso – Taagepera 1979), based on the number of seats held by parliamentary parties after the elections. The rule is simple: the greater the effective number of parties, the more parliamentary fragmentation (and vice-versa). The total number of laws is based on parliamentary data and their description (Kolář et al. 2013; PSP 2023). The percentage of vetoes has been calculated by the author.

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4 The threshold is based on the long-term average of the number of vetoes that Köker (2017: 59) puts at 4.5% for the Czech case, which is in the middle of the category of medium activism.

5 The terminology is based on Kopeček and Brunclík (2019).



**Table 1: Governments and the use of presidential powers**

President	Dates and prime minister	Government (prime minister's party listed first)	Vetoes (those successful)	Petitions to the Constitutional Court (those successful)
Václav Havel (1/1993–1/2003)	7/1992–7/1996: Václav Klaus I	Coalition right-wing majority cohesive (ODS, KDU-ČSL, ODA, KDS)	7 (3)	3 (2)
	7/1996–1/1998: Václav Klaus II	Coalition right-wing minority (ODS, KDU-ČSL, ODA)	2 (1)	1 (1)
	1/1998–7/1998: Josef Tošovský	Semi-technocratic presidential and minority (non-partisans, KDU-ČSL, ODA, US)	3 (0)	0
	7/1998–7/2002: Miloš Zeman	Single-party left-wing minority (ČSSD)	16 (0/1*)	5 (5)
Václav Klaus (3/2003–3/2013)	7/2002–8/2004: Vladimír Špidla	Coalition rather left-wing and non-cohesive with slim majority (ČSSD, KDU-ČSL, US-DEU)	0	0
	8/2004–4/2005: Stanislav Gross		9 (0)	1**
	4/2005–8/2006: Jiří Paroubek		4 (1)	
	9/2006–1/2007: Mirek Topolánek I	20 (2/4*)		
	1/2007–5/2009: Mirek Topolánek II	Single-party minority (ODS)	0	
	5/2009–6/2010: Jan Fischer	Coalition (unclear) right-wing and minority (ODS, KDU-ČSL, SZ)	4 (1)	
	7/2010–7/2013: Petr Nečas	Technocratic, but not presidential (formally supported by ODS, ČSSD and SZ)	13 (0/3*)	
Miloš Zeman (3/2013–3/2023)	7/2010–7/2013: Petr Nečas	Coalition right-wing with declining majority and increasingly non-cohesive (ODS, TOP 09, VV***)	13 (0)	
	7/2013–1/2014 Jiří Rusnok	Technocratic presidential	1 (1)	0
	7/2013–1/2014 Jiří Rusnok	Technocratic presidential	0	0
	1/2014–12/2017: Bohuslav Sobotka	Coalition majority, originally cohesive later non-cohesive (ČSSD, ANO, KDU-ČSL)	0	0
	12/2017–6/2018: Andrej Babiš I.	Single-party minority (ANO)	6 (0)	2 (0)
	6/2018–12/2021: Andrej Babiš II.	Coalition minority rather non-cohesive (ANO, ČSSD)	0	0
Since 12/2021: Petr Fiala	Coalition majority, cohesive despite ideological differences (ODS, KDU-ČSL, TOP 09, STAN, Pirates)	0	3	0

Notes: ODS: Civic Democratic Party; ČSSD: Czech Social Democratic Party; KDU-ČSL: Christian and Democratic Union – Czechoslovak People's Party; ODA: Civic Democratic Alliance; KDS: Christian Democratic Party; US: Freedom Union; US-DEU: Freedom Union – Democratic Union; SZ: Green Party; VV: Public Affairs, STAN: Mayors and Independent; TOP 09 and ANO use abbreviations as party names. In some cases, presidents concurrently vetoed two connected laws, but these are separately counted in the table. Sources: Based on author's own calculations and Chrástilová – Mikeš 2013, Havlík 2011, Jakl 2017, Kolář et al. 2013.

\* The last number indicates absolute vetoes, i.e. a veto at a time when the Chamber of Deputies was no longer in session and could not override the president.

\*\* Parliament quickly amended the relevant law and hence the Constitutional Court did not deliberate on this case.

\*\*\* Towards the end of the term, VV was formally replaced by a new, secessionist party.

**Table 2: Fragmentation of Czech parliament**

Parliamentary elections	1992	1996	1998	2002	2006	2010	2013	2017	2021
Number of parliamentary parties	9	6	5	5	5	5	7	9	7
Effective number of parliamentary parties	6.8	4.2	3.7	3.7	3	4.5	5.6	4.8	4.7

Source: author's own calculations based on the seats of political parties in the parliament according to Kolář et al. 2013 and the website of the Chamber of Deputies.

#### **IV. Appointment, dismissal and legislative powers of the Czech president**

The Czech constitution offers the president a lot of room for manoeuvre during the formation of the government due to its terseness. Article 62 simply notes that the president ‘appoints and recalls the prime minister and other members of the government and accepts their resignations, recalls the government and accepts its resignation’. Further, Article 68 briefly states, concerning appointments: ‘The president shall appoint the prime minister and, on the basis of the prime minister’s proposal, the other members of the government.’ The president is not obliged to appoint the leader of the largest parliamentary party, nor does the constitution specify any time period within which the president has to appoint a new prime minister and government members. The constitution simply demands that within 30 days of appointment the government is to ask parliament for confidence. Should the government fail to win this, the period within which it may continue to exercise office is nowhere specified. The constitution assumes that this would take place ‘temporarily until a new government is appointed’. In selecting the new (second) prime minister, the president again has free choice with no formal constraints and it is only if the second government appointed by him should fail that the power to appoint the (third) prime minister would pass to the speaker of the Chamber of Deputies (Šimíček 2003; Antoš 2019). This ‘third attempt’ has never occurred in practice.

Similarly, the constitution does not stipulate for the president any time period for recalling government members if they resign or if the prime minister proposes that they be removed; nor is there any established procedure for situations where the Chamber of Deputies passes a motion of no confidence in the government or it resigns. The assumption simply is that the president accepts the government’s resignation. Thus, the president enjoys a large degree of discretion in appointing and removing the cabinet and its members. Constitutional

conventions, such as have formed concerning this over time, have not been fixed (Wintr – Antoš – Kysela 2016: 157–161; Brunclík – Kubát 2019: 62–63).

Presidential powers of appointment are also concerned with other institutions (e.g. the members of the board of the Czech National Bank, the constitutional judges, etc.). The most conflictual field in relation to the government probably concerns the appointment of ambassadors because of the need for agreement between the head of state and the foreign affairs minister concerning particular people.

The second area analysed in this article is concerned with legislative powers. The president cannot initiate legislation but can veto laws (with the exception of constitutional laws). This power is relatively weak, because the president's veto can be overridden by an absolute majority of all members of the Chamber of Deputies and is therefore not as strong as in Poland, for example, where a much larger three-fifths majority is required to override the president's veto (Wintr 2015: 85–86). Situations at the end of the electoral term, when the Chamber of Deputies is no longer in session and so cannot override the president's veto, form an exception to this, making the president's veto absolute (this is in fact the equivalent of the pocket veto in the US). The president may also send a law that has been adopted by parliament to the Constitutional Court, if he or she considers it unconstitutional, and propose that the Court annul the law or its parts (Schorm 2004). In practice, this power allows the head of state to circumvent parliament and draw another veto player into the game (Tsebelis 2002).

### **4.3. *Václav Havel***

Václav Havel's international credit and massive popularity throughout his Czechoslovak presidency in 1989–1992 made him the only serious candidate for the office of Czech president. All parties of the right-centre government coalition, including the most important, Václav Klaus's Civic Democrats (ODS), as well as some of the opposition, supported his candidacy. However, there were noticeable differences, which reflected how close the various government parties were to Havel. The ODS was less enthusiastic than smaller parties and its support was tempered by earlier tensions between Havel and Klaus. But in the reality of 1993–1996, the interrelationships between the president and the prime minister were relatively peaceful. Havel focused most of his energies on improving the international reputation of the new Czech state. His engagement in the new republic's accession to NATO and the EU chimed in with government and ODS policy. Any clashes were rather indirect, and of mostly a prestigious and intellectual nature. Havel rarely commented on everyday politics, conceived his speeches largely as moral reflections and emphasised the importance of civic participation, tending to disdain political parties. Klaus, by contrast, made ref-

erences to the virtues of partisanship and to classical liberal economics (Myant 1995; *Wolchik* 1997: 185–187, Cirhan – Kopecký 2020: 96–97).

Klaus's dominance was not significantly weakened by the fact that his government was made up of four parties, or that the parliament was also highly fragmented (Table 1 and 2). Enjoying the aura of the father of a successful economic transformation and a capable manager during the process of dissolving Czechoslovakia, the prime minister dominated the government and politics and overshadowed Havel (Kysela 2007: 102; Kaiser 2014: 136–146). The level of presidential activism remained low.

Havel proceeded similarly in the legislative area, where he vetoed seven laws over a period of 3.5 years, i.e. slightly less than 3% of legislation. Vetoed acts were mostly of little political importance, with the exception of amendments to two lustration laws, which would have prevented some people linked with the communist regime from holding public office. Havel argued that a more generic regulation to protect such offices was needed (Chrastilová – Mikeš 2003: 139–140; Suk 2011: 181). The president also rarely asked the Constitutional Court to review legislation (Table 1). However, it was in this period that he first tried a procedure that would often be deployed later: once the parliament overturned his veto, he turned to the Constitutional Court (this was concerned with a politically insignificant act on authorised architects).

The 1996 elections provided Havel with a greater opportunity. The government parties hitherto lost their majority in the Chamber of Deputies. In the post-election consultations, the president played an important role as regulator of the new government formation, including by involving the leader of the opposition Social Democrats (ČSSD) Miloš Zeman in the negotiations. Zeman's party then allowed Klaus's new minority government to win the confidence of the Chamber. Several months later Havel increased his criticism of Klaus for the country's growing economic problems, and was supported in this by both small junior parties in government and by the opposition. The decline of Klaus's popularity and the breakdown of his authority in government created fertile ground for this. Thus, Havel exploited the disputes within the government to undermine the prime minister's position. Evidence of Havel's pressure includes his October 1997 response to the resignation of the foreign affairs minister of the ODS party. Havel demanded that the prime minister submit the name of a new minister acceptable to the two small government parties that very afternoon (Kaiser 2014: 217). The president thus contributed to Klaus's resignation a month later. In 1997, the President's poor health slightly hampered some of his actions, but it was not a major obstacle for him.

The shift into the category of medium presidential activism in 1996–1997 was obviously related to the minority and divided nature of the government (Table 1). The assumption of Tavits, that the decline of parliamentary fragmentation (Table 2) decreases activism, was not confirmed here.

After the fall of Klaus's government, Havel showed his preference for a government made up of non-political experts and appointed a technocrat and non-partisan – the governor of the central bank Josef Tošovský – as prime minister. However, to win confidence, Tošovský's government needed parliamentary backing, so he appointed as ministers a mixture of non-partisans and politicians of the government parties to date, including an ODS faction that opposed Klaus and later founded the Freedom Union. Havel was not involved in the selection of ministers and this role fell to Tošovský and his communications with party politicians. Nonetheless, the president's affiliation with the semi-technocratic government was evident and manifested in, for instance, the pressure he exerted on the opposition ČSSD to support the government. He ensured their willingness by promising, together with the prime minister, that the cabinet would only serve temporarily, until the early elections (Brunclík 2016: 16–17). Havel's 'co-designer' role in the construction of the new government can be taken as evidence of high activism.

The noticeable increase in Havel's non-legislative activism after 1996 was not so radical in the legislative area. Over the short two-year period before the early elections of 1998, the president vetoed five laws, representing about 5% of the legislation passed by parliament. (Three vetoes of laws during the period of Tošovský's episodic government must be seen in the context that they were first read in parliament when the Klaus-led government was in office.) Havel's objections to laws were most often concerned with unacceptable infringements of the principles of the rule of law due to procedural ambiguities and errors. These were not mostly crucial pieces of legislation although they were not insignificant (Chrastilová – Mikeš 2003: 141–153; Linek – Mansfeldová 2009: 57; Havlík – Hruběš – Pecina 2014). Quantitatively and qualitatively, it can be considered medium activism.

Despite fierce debates about the president's inappropriate interventions in domestic politics, the parliament in January 1998 confirmed Havel in office for another five years. As in 1993, he lacked a broadly acceptable political competitor, and the other candidates were only from the right and left partisan extremes.

A radical change of the political playground was brought about by the early parliamentary elections in 1998, after which the so-called Opposition Agreement was created, by which Klaus's ODS pledged to tolerate a minority single-party government of Zeman's ČSSD in exchange for political concessions. This pragmatic agreement entered into by the two large parties was aimed against smaller centre-right parties, which it relegated to opposition and against Havel. The crux of the Opposition Agreement was fundamental constitutional reform that would radically curtail the president's powers, but this failed in the parliament's upper chamber (Šimíček 2003: 163). Havel described the Opposition Agreement as a restriction of political pluralism and was critical of it throughout its four-year duration; his position resonated strongly with the public (Roberts 2003).

The Opposition Agreement precluded any presidential influence over the make-up of Zeman's government. Havel semi-publicly aired his reservations about the foreign and interior ministers with respect to their earlier histories. However, Zeman stated that he would allow no personal veto by the president and Havel appointed all the ministers according to Zeman's proposal without much further ado. When replacing government members in subsequent years, the president occasionally expressed reservations, and sometimes was in no hurry to remove and appoint them; but in the end he always accepted the prime minister's proposals (e.g. Antoš 2019: 87).

However, this behaviour of Havel corresponding to medium activism displayed some characteristics of high activism. For example, with the president's appointment of ambassadors, where he disagreed with some of the proposed candidates (conversely the Foreign Affairs Ministry did not want to accept Havel's own candidates) and the result was a stalemate. In 2001, over ten Czech ambassadors were awaiting appointment by the president. Only towards the end of the Zeman government's term was this situation partially ameliorated when the Ministry of Foreign Affairs made concessions (Kaiser 2014: 250–251).

An even more interesting picture of presidential activism is offered by the legislative arena. Between 1998 and 2002, Havel vetoed 16 laws. This was about 4% of the legislation, which quantitatively corresponds to medium activism. However, the nature of the laws was significant and indicates a swing towards high activism. The president fought the Social and Civic Democrats on issues of mega-politics – 'matters of outright and utmost political significance that often define and divide whole polities' (Hirschl 2008: 94). For example, Havel opposed an attempt to limit the president's discretion in nominating members of the central bank's board, a major reform of the electoral system for the Chamber of Deputies, and an act on financing political parties. Table 1 shows that the Chamber of Deputies overrode all of the president's vetoes (with the exception of one absolute veto just before the elections, when the chamber was no longer in session), i.e. the alliance of the two large parties worked well. However, in all cases where Havel subsequently turned to the Constitutional Court – and this includes the three crucial acts mentioned – he succeeded. Again, as in the previous period, Havel suffered from a number of health problems, but this was not a fundamental handicap for him.

Havel's presidency during the Opposition Agreement era is interesting for his strained and often hostile relationship with a minority government, which, thanks to an alliance with the largest party of the opposition, limited his efforts to exercise influence on the government. However, in terms of the other appointments, where the Opposition Agreement posed no barrier, Havel successfully asserted his will and he was also active and successful in his resistance to the most important laws he disliked, thanks to his use of the Constitutional Court. The president's approach towards using his powers was determined by the weapons he was able to deploy effectively.

The last months of Havel’s presidency were linked to a new government, again led by ČSSD, but with a different prime minister – Vladimír Špidla. While campaigning for the parliamentary elections in spring 2002, Špidla distanced himself from the Opposition Agreement. After the elections, Havel welcomed the prime minister’s preference for a majority coalition government, even if it had only the minimum possible majority of one seat in the Chamber and was ideologically divided, as it included Christian Democrats and the Freedom Union as junior partners (ČTK 2002). Although, according to the theory, the existence of a divided government with a narrow majority tends to be favourable for activism, Havel’s positive attitude to this political solution prevailed. The president certainly did not behave as an opposition player as he did in the previous period and adopted an inactive position including on legislation.

In the context of radical change of presidential behaviour, it is interesting to note that parliamentary fragmentation after the 2002 and 1998 elections (Table 2) was the same. This indicates that this factor was of little importance. Table 3 provides a summary of Havel’s activism.

**Table 3: Activism of Václav Havel**

Period	1993–1996	1996–1998	1998–2002	2002–2003
Activism in appointments and dismissals	Low	Medium with a swing to high at the end of the period	Medium to high	Low
Activism in legislation	Low	Medium	Medium to high	Low

## 4.2. Václav Klaus

The second president, Václav Klaus, had a much more complicated election than his predecessor due to substantial competition and strong resistance to him personally. Klaus only succeeded in the third re-run of the presidential elections (the first two attempts to elect a president failed). Beyond ODS, Klaus was ultimately supported by some of the government’s deputies and senators including certain Social Democrats and even some Communists. Klaus’s efforts to convince the electors before he was voted in were, therefore, understandably accompanied by his emphasising the limited role of the president; such a role, he said, could only be strengthened ‘at complicated or fatal moments’ (Klaus 2003). Klaus repeatedly adhered to this promise mainly in the first years while resolving government crises, when he avoided clearly preferring the ODS.

Klaus’s approach was first on display in summer 2004, when ČSSD Prime Minister Špidla resigned after his party failed in European elections. Klaus responded by showing a willingness to allow the government coalition to continue

and ignored the ODS idea to call an early election. However, after consulting with party politicians, off the record, the head of state rejected the option of a minority Social Democratic government supported by the Communists, which enjoyed strong support in both left-wing parties. Klaus's negative position was influenced by the legacy of the former communist regime, on which the Communists looked back nostalgically (thus creating a strong public response). For that reason, the Social Democratic prime ministerial candidate, Stanislav Gross, together with other coalition politicians, had to meet an unusual condition before their appointment: to bring the president at least 101 signatures of non-Communist deputies. Though the existing government coalition of three parties had only the slimmest of majorities (101 votes exactly), they were able to meet the president's request (Havlík 2011: 64; Brunclík 2008: 292).

This pattern of behaviour, which could be characterised as medium-level activism, was redeployed by Klaus during another government crisis a year later. The ministers of a smaller centre-right government party, the Christian KDU-ČSL, resigned over the prime minister's scandals. However, Klaus did not accept their resignations, explaining that the Constitution did not stipulate the time frame within which he ought to do so, and he blocked Gross's efforts to hold on to the prime minister's office through an alliance with the Communists. Ultimately, Gross resigned under pressure and Klaus did not seek to prevent the emergence of a new government based on the existing coalition pattern; it was led by another Social Democrat prime minister, Jiří Paroubek (e.g. Brunclík – Kubát 2018: 81).

Paroubek got into a series of arguments with Klaus, not least due to the president's intense Euroscepticism. There was also confrontation over ministerial nominations, when in autumn 2005 Klaus refused to appoint the new health minister until the candidate resigned his leadership of a professional medical organisation. The dispute was resolved several weeks later when the candidate resigned from the medical body and Klaus appointed him (Kopeček 2022: 367).

While in his relations with governments, Klaus felt somewhat restricted because of the way he had been elected and stayed within the boundaries of medium activism, the same was not true for his vetoing agility. The president's hostile relationship with three ČSSD-led (and non-cohesive) governments was accompanied by 33 vetoes of laws (Table 1) representing about 7% of legislation. This corresponds to high activism, even when considering the importance of the laws, although clear cases of mega-politics were absent. Klaus, the economic liberal, most often explained his vetoes by what he saw as the excessive role of the state, but he dedicated his longest commentary to the Civil Partnership Act. This law probably became the most visible manifestation of the cultural struggle in the Czech Republic and Klaus justified his veto on conservative grounds (Klaus 2006).



Klaus used his veto power most often during the Paroubek government, 20 times in about a year, which represented 10% (!) of legislation and a swing towards presidential hyperactivism. The growth of the presidential veto during Paroubek's term was linked to the close parliamentary collaboration between the government Social Democrats and the opposition Communists in promoting a leftist economic agenda.

The president was apparently encouraged by the split of the ruling coalition and, at least in the early years, he also tried to exploit its narrow majority in parliament. However, the Chamber of Deputies overrode most of Klaus's vetoes, the only major exceptions being a few absolute vetoes at the time of the 2006 parliamentary elections when the Chamber was no longer working (Table 1).

Unlike Havel, Klaus did not use reviews by the Constitutional Court, which he pejoratively described as 'the third chamber of parliament', and he generally viewed the judiciary with disdain (Pospíšil 2013). Characteristically, the only petition Klaus sent to the Constitutional Court throughout his presidency was not in response to an act freshly adopted by parliament, but in consequence of his dispute with the president of the Supreme Court concerning the number of its vice presidents.

The June 2006 parliamentary elections created a new situation. The winner was ODS – close to Klaus – but it had a problem negotiating a majority government, because the Social Democrats and Communists together won exactly half the number of seats in the Chamber. The president first attempted to resolve the stalemate by appointing ODS leader Mirek Topolánek as prime minister, but his minority single-party government failed to win confidence in parliament. During a political crisis that lasted many months, Klaus pushed ODS and the Social Democrats towards an agreement on a majority government completed by the Christian Democrats, but this collapsed due to resistance in ODS. Topolánek therefore opted for a government by ODS and two smaller parties – the Christian Democrats and the Greens – reliant on two former Social Democratic MPs who promised to tolerate the government, thus ensuring its slim majority. Klaus described this solution as political corruption, and expressed his major ideological objections to the alliance between the ODS and the Greens, as well as to the foreign affairs minister nominated by the Greens.

Yet Klaus merely delayed the appointment of Topolánek's government by several weeks and he appointed it exactly as the prime minister had proposed. Thus, in fact, the president's opposition to the government felt like little more than a strong gesture; it did not present a departure from Klaus's medium activism to date. The president's actions (he would be aided by the government's minority status) were clearly restricted by his February 2008 re-election bid, for which the support of ODS was indispensable. Until re-election, Klaus occasionally showed his objections to the make-up of Topolánek's government and its policies. After re-election, Klaus lost the motivation to maintain good

relations with ODS, and after its failure in regional elections, spoke of ‘historically the greatest defeat of any political party’ in Czechia and blamed the prime minister in particular (Klaus 2008). This rhetorical hardening, however, still did not mark a fundamental shift from medium presidential activism.

A similar, slight shift took place in the legislative area and all four of Klaus’s vetoes came after his re-election. These vetoes, such as of a law preventing cruelty to animals, were more or less connected with the agenda of the Greens, who, along with the Social Democrats, supported a counter-candidate to Klaus in the 2008 presidential election. Overall, the president vetoed about 2% of the legislation during the two Topolánek governments and did not cross the threshold between low and medium activism.

Klaus’s opposition to Topolánek’s government was on full display during the government crisis in spring 2009. The government collapsed following a vote of no confidence in the Chamber of Deputies, when the Social Democrats, Communists and defectors from ODS and the Greens opposed it. Klaus then rejected Topolánek’s idea of his government remaining in power for a few more months until the Czech EU presidency ran out, even though a part of the opposition was in favour. Likewise, the president declined to entrust Topolánek with forming a new government. This situation pushed ODS, ČSSD and the Greens to reach a quick agreement on a new technocratic government led by the head of the Statistical Office, Jan Fischer, which Klaus accepted. Therefore, as in 1998, a technocratic government was created, and this time it was actually made up exclusively of non-partisans – yet it was not initiated by the president, but by political parties, which proposed their nominees (Brunclík 2016: 18). The formation of a technocratic government was not something exacted by the president; it was linked to parties’ efforts before early elections to avoid responsibility for a deteriorating economic situation and recent government scandals. Overall, Klaus’s behaviour during the spring 2009 government crisis was one of medium-level activism, as it had been in the past.

The duration of Fischer’s government was unexpectedly extended when the Constitutional Court cancelled an early election that had already been called (Balík 2010). During the single year this government was in office, Klaus vetoed 13 laws, which was his highest percentage (14% of legislation) for any single government. However, the president mostly vetoed laws that were initiated not by Fischer’s government but by various groups of deputies. The government did not enjoy solid parliamentary backing and some of the vetoed laws were approved despite its resistance. The Chamber, historically the least fragmented at the beginning of the parliamentary term (Table 2), had become completely chaotic in 2009–2010 as a result of the split of most parliamentary parties and the breakdown of party discipline. The president’s vetoing hyperactivism was therefore not primarily a conflict with the government, but with an extremely fragmented parliament.

Klaus's justifications for his vetoes were not dramatically different from those in the past; most often he noted that the laws contained sections that were economically (or otherwise) nonsensical, deforming the market economy and clear rules (Kolář e al. 2013: 300). The right-wing president evidently sought to act as the role of a legislative brake. Yet as in the past, he had little success.

Shortly before the 2010 parliamentary elections, there was a change in leader for the Civic Democrats, when Topolánek quit after one of many scandals and Petr Nečas, who was much closer to Klaus, became the new chair. After the parliamentary elections, this closeness facilitated the formation of an ODS government with the centre-right TOP 09 and a centrist, populist formation, Public Affairs (VV). Klaus entrusted the business of negotiating the government to Nečas, even though the Social Democrats were the formal winners of the elections. The president was able to bolster his decision, which broke with the informal custom to date of allowing the winner of an election to try to form a government, thanks to a quick coalition agreement between ODS, TOP 09 and VV and the fact that the Social Democrats and the Communists had a minority of seats in the Chamber.

This approach, supporting a particular government option, remained within the category of medium presidential activism. In the following years, Klaus did not deviate from this category and entered into conflicts within divided government, acting as a 'regulator'. Surprisingly, the interventions sometimes helped the VV, whose leader developed a good relationship with Klaus for a time. This was most conspicuous during the spring 2011 government crisis, when the prime minister decided to push VV out of the government over concerns about that party's connection with a private security agency, and proposed the removal of most of its ministers. During this crisis, Klaus dampened the excited emotions and contributed to a compromise among the government parties and only partial ministerial changes (Havlík – Hloušek 2014). However, Klaus's efforts to maintain Nečas's government cohesion was short-lived; in spring 2012 there was a rift in VV, and its leader and some deputies went into opposition.

Klaus's involvement in the legislative sphere (13 vetoes, 5% of laws) from 2010 to 2013 also corresponds to medium activism. Some of these laws were very important – for example, a pension reform, which Klaus vetoed with the argument of the lack of a broader political consensus. However, the trend is particularly interesting. Klaus's legislative activism increased when the originally substantial majority commanded by Nečas's government in the Chamber shrank following the VV rift and the government became dependent on a few deputies whose positions were uncertain. Until this shrinkage of the majority, the president had only vetoed three laws; but in the following (and last) year of his presidency, he blocked another ten. Nečas's government often found it difficult to muster the votes to override presidential vetoes. The president's behaviour contradicted the assumption of the theory that the president would be passive vis-à-vis a politi-

cally close prime minister, but fully confirmed another premise, namely that if the government has a slim majority in the Chamber, the president will be more eager to veto laws. Table 4 summarises Klaus's activism during his terms in office.

**Table 4: Activism of Václav Klaus**

Period	2003–2006	2006–2010	2010–2013
Activism in appointments and dismissals	Medium	Medium	Medium
Activism in legislation	High with a swing to hyper-activism at the end of the period	Low with a swing to hyperactivism at the end of the period	Medium

### 4.3 Miloš Zeman

Unlike his two predecessors, Miloš Zeman at his election as president in January 2013 was not dependent on support from parliamentary parties. This was due to the transition from a parliamentary to a popular election, where his (extra-parliamentary) party, bearing his name, was sufficient to serve as an organisational base for the campaign. The ČSSD, which Zeman once led, was divided about him. This was connected with the (indirect) presidential election ten years before, when some of his social-democratic colleagues opposed Zeman and he failed. At the time of the 2013 presidential election, some Social Democrats – including their leader Bohuslav Sobotka – feared Zeman's revenge, but other politicians in the party advocated for him.

Zeman aimed his presidential election campaign and the first months of his presidency against Nečas's government, emphasising its inability to deal with the economic recession, and this created a hostile cohabitation. Its most conspicuous moment was when Zeman completely blocked the appointments of new ambassadors after the Ministry of Foreign Affairs refused to nominate two of his supporters in the presidential race (Šedo – Vérteši 2018: 37). The Zeman-Nečas cohabitation only lasted for about four months, because in summer 2013 the prime minister resigned following an enormous scandal.

Even that signal of high presidential activism subsequently moved up a level because Zeman played the central role in forming the new government. He rejected the request of the former government coalition that they be given a chance to create the new administration, interpreted the relevant article of the Constitution as giving him 'the right to appoint anyone as prime minister' and argued that the government 'did not have to have a political mandate', because a cabinet of experts was needed to govern the country (Právo 2013a; Právo 2013b). The president chose as prime minister a minister in his earlier government, Jiří Rusnok, who, though formally non-partisan, was associated with

the president's party. Zeman proceeded autonomously and without agreement with the former government coalition or the parliamentary opposition, thus using much greater constitutional discretion than Havel had with his Tošovský-led semi-technocratic government of 1998. What emerged was a presidential, technocratic cabinet. Like Prime Minister Rusnok, some ministers were close to the president and some had stood on behalf of Zeman's party in the autumn 2013 early elections (Hloušek 2014: 109–110; Brunclík 2016: 19–20).

Zeman thus embarked on a path of hyperactivism, which relied on underlining his popular legitimacy granted to him by popular elections. (He repeated this argument later in other disputed situations.) The Chamber of Deputies was much more fragmented than at the beginning of the term (including many formally independent MPs), and unable to function as a strong counterweight to the president. However, despite the president's intense efforts at persuasion, Rusnok's government failed to win parliamentary confidence. By voting to dissolve itself, the Chamber limited the duration of Rusnok's government, although Zeman left this cabinet in office for a full three months after the early elections (Hloušek 2014: 113–114; Hanley – Vachudova 2018: 281).

The 2013 early elections restricted the president's leeway for activism. Zeman's own party failed in the elections and, after the vote, a group of Social Democrats associated with the president, who secretly discussed the deposition of the party leader (Sobotka) with him, were publicly compromised. The president delayed the appointment of Sobotka's new government, and objected to some proposed ministers (some of the reasons were quaint; for example, one nominee was found deficient by Zeman because he had not published enough). Yet the obstructions by the head of state that lacked support in parliament were unable to overturn a solid agreement on government entered into by three parliamentary parties that commanded a substantial majority in the Chamber: the Social Democrats, ANO (meaning YES in Czech), a new party created by the businessman, Andrej Babiš and the junior Christian Democrats. Ultimately, the president appointed the government as Prime Minister Sobotka had proposed it.

The counterweight of the strong majority coalition thus pushed the hyperactivist Zeman back to the limits of what can be identified as medium activism. This enforced decline in activism contrasts with the relatively high fragmentation of parliament after the 2013 elections (Table 2), making it clear that this factor was not of greater significance.

After Sobotka's government was appointed, its relations with the president improved. For the first time in his presidency, Zeman became less activist. However, a change took place at the end of 2015 when the prime minister criticised the president, who, in an effort to boost his flagging popularity, took the lead in an anti-refugee campaign during migration crises. The fierce mutual confrontation lasted until the 2017 parliamentary elections and was enlivened by many presidential witticisms, such as when, during one of his tours of the country,

he answered a question from the audience as to how to get rid of the prime minister. 'Other than in the democratic way, there is also a non-democratic way, the Kalashnikov automatic rifle', he said (Aktualne 2016).

During this period, Zeman became closer to the deputy prime minister and ANO leader Babiš, who fought Sobotka's Social Democrats for the same set of voters. Zeman defended Babiš in numerous controversies, including a police investigation into misuse of a European subsidy during the construction of the Stork Nest Farm resort, which was part of the deputy prime minister's business empire. The informal pact with Babiš was crucial for Zeman's course of action during the spring 2017 government crisis, when Sobotka sought to push Babiš into opposition in a very unexpected way. Zeman suggested that he could accept the planned resignation of Sobotka without this causing the resignation of other members of the government. Sobotka therefore changed his intention and proposed to dismiss Babiš. The president delayed and only accepted Sobotka's demand when the ANO leader concluded that the prolongation of the government crisis was damaging to him (Šedo – Věřeši 2018: 16–17; Cabada 2018: 66). Overall, the situation showed the president's involvement in conflicts within a divided government and a medium-level of activism.

The disputes in Sobotka's government were correlated with the president's legislative steps when most of his vetoes occurred during a period of intense government disputes in 2016–2017. The most discussed of the president's vetoes was concerned with a conflict of interest act, dubbed Lex Babiš, which directly concerned the deputy prime minister, as it restricted the members of government with regards to their own companies bidding for public contracts. When the parliament rejected the president's veto of Lex Babiš, Zeman turned to the Constitutional Court – this was exceptional, as otherwise, he virtually ignored the institution – as Klaus had (Table 1). Zeman used six vetoes (less than 2% of laws), more sparsely than Klaus or Havel typically did. In that respect, it was low activism.

Zeman's preferment of Babiš had a fundamental impact on politics after the autumn 2017 parliamentary elections. Babiš's ANO was the formal winner of the contest, but no mainstream party would govern with him because of the controversies, including his prosecution that had arisen around him in the meantime. The president, however, insisted on Babiš as prime minister and would not allow any other candidate, even when Babiš's first single-party minority government failed to win the Chamber's confidence in January 2018. This was a *quid pro quo* for Babiš's assistance with Zeman's re-election at the time, when ANO fielded no presidential candidate of its own and supported Zeman.

Zeman's push for Babiš, despite his political isolation, was helped by the composition of the Chamber of Deputies, where, with the exception of the dominant ANO, numerous small parties were often politically distant from each other (Table 2). The parties were effectively fewer than in the previous elections, but this reduction of parliamentary fragmentation was not essential. There was no

strong and cohesive counterweight to a president who was aligned with the largest party. After Babiš had ruled for six months without confidence, ČSSD, despite strong resistance within the party, agreed to form a coalition government with ANO, which would be supported in parliament by the opposition Communists. The situation with regard to the intensity of Zeman's interference corresponds most closely to high activism, even though ANO was not the presidential party.

This evaluation confirms the president's behaviour in personnel ministerial appointments to this minority and divided government. Zeman's discretionary interventions mainly targeted ČSSD; this was fuelled by his earlier aversion to this party. Even before the appointment of Babiš's coalition government in summer 2018, Zeman objected to the foreign affairs ministerial candidate, who had opposed him recently during the presidential election, and enforced his removal from the list of ministers. A year later, Zeman blocked for a considerable time the removal of a Social Democrat minister of culture, then refused to appoint his designated successor (arguing he was insufficiently educated) and forced the prime minister and the Social Democratic leadership to propose an alternative candidate. The dependency of the prime minister and the government on the president was also manifest, though less conspicuously, during the selection or removal of some other ministers, where their relations with the president were taken into consideration (Kopeček 2022: 431–432). Contrasting with the high level of activism in relation to Babiš's government was a complete passivity in the legislative sphere and the president did not veto any laws (Table 1).

The day after the parliamentary elections in late 2021, the president was out of politics as he was rushed to an intensive care unit. Babiš lost a key ally, and the opposition parties formed a government which was ideologically diverse; but it cooperated until the end of Zeman's presidency. Before the appointment of ministers, the president's health improved somewhat and he attempted – as he had with Babiš's previous government – to have a Pirate Party foreign affairs ministerial candidate replaced, referring to his insufficient education and mutual differences of opinion. The new prime minister Petr Fiala (ODS) refused to replace the candidate. Under the threat of having action brought against him at the Constitutional Court for overstepping his powers, the president yielded and appointed the government without any change.

The cohabitation of Fiala's government with the outgoing president continued to be conflicting and, for example, shortly before he left office, Zeman refused to appoint a new environment minister, thus delaying the appointment process (the government decided to wait for a new president). However, as after the 2013 elections (the early days of Sobotka's government), Zeman was again pushed back to the limits of medium activism. It became clear that the unified and strong parliamentary support of Fiala's government put a brake on the president's attempt to restore for himself the key political role, but that did not mean his complete passivity.

A notable side effect was Zeman’s revived interest in legislative matters, when he vetoed three laws of the Fiala government, including an amendment to the state budget law. As a proportion of all legislation, Zeman slightly exceeded the 3% veto threshold, thus abandoning his previous legislative passivity. Table 5 offers a summary of Zeman’s activism.

**Table 5: Activism of Miloš Zeman**

Period	2013	2014–2017	2017–2021	2021–2023
Activism in appointments and dismissals	High to hyperactivism	Oscillation between medium and low	High	Medium
Activism in legislation	Low	Low	Low	Medium

## V. Discussion and conclusions

The Czech experience shows that the perfect opportunity for presidential activism is offered by a combination of non-cohesive governments and their minority status. This is confirmed, for example, by President Havel and Prime Minister Klaus’s second government (1996–1997), President Zeman and Sobotka’s government towards the end of his term in 2016–2017, and most strikingly, by the same president and Babiš’s second government (2018–2021). Activism is also stimulated by the hostile relationship of an opposition-leaning president with a politically distant government. This is best documented during the time of the Opposition Agreement (1998–2002), or cohabitation, as shown by Zeman with Fiala’s government at the end of his presidency. These findings are consistent with theoretical expectations about presidential activism.

Sometimes, to a certain extent, a president in such a situation may be hampered by the need to take into account his re-election bid. This was evident with President Klaus and his relationship with the minority Topolánek-led government (2007–2009). However, as shown by Zeman’s behaviour before his 2018 re-election, the effort to win the support of the largest party, Babiš’s ANO, increased presidential activism. Thus, re-election considerations can both increase and decrease activism, depending on the political context.

Furthermore, a large window of opportunity for presidential agility was offered by the absence or collapse of a coalition majority, typically as a result of a political crisis. This is best illustrated by Zeman’s installation of his own presidential technocratic government in 2013, Klaus’s ‘veto offensive’ in 2009–2010 and, in a somewhat weaker form, Havel’s involvement in the creation of a semi-technocratic government in 1998. The first and second examples were especially characterised by chaos and extreme parliamentary fragmentation at the end of a term, which facilitated or encouraged the president’s activism.



However, the practice has repeatedly shown that high parliamentary fragmentation alone does not automatically support the growth of presidential activism if there is a majority cohesive government (albeit with several coalition parties). This is evidenced by Klaus's government in 1993–1996 or slightly less distinctly by Sobotka's government in its first years after 2014. This can be taken as a contribution to the theoretical debate outlined in the introduction between the different views of Tavits and Köker, where the latter questions the essential importance of parliamentary fragmentation, which the Czech case confirms.

The Czech example supports the theoretical assumption that the internal cohesion of the government acts as an apparent constraint on activism, especially when combined with a majority government. Cohesion effectively decreases activism, even if it does not eliminate it completely, despite any presidential dislike of the government arrangements. This is vividly illustrated by, for instance, the beginning of Sobotka's government in 2014 and Fiala's government in 2021, when President Zeman delayed their formation and questioned ministers, but did not dare to block them. Some limits on the president's expansiveness, thanks to the relative cohesion of the government and the ability to ensure external support in parliament, were manifest even during the creation of minority governments (of the Social Democrats in 1998 and Topolánek's second government at the turn of 2007). A specific factor in Havel's and Zeman's cases was their poor health. However, it did not act as a major constraint for either of these presidents, although a certain limitation of their agility was noticeable at some moments.

Three decades of Czech experience also show that low activism – i.e. the de facto prevailing passivity of the head of state – is rather exceptional. In line with theory, this is helped by the close relationship between the prime minister and the government on the one hand, and the president on the other, as was the case with President Havel and the government in 1993–1996 and, with some reservations (due to its episodic nature), the government after the elections in 2002. Other examples illustrate that even a seemingly close-to-government president can behave actively. The directly elected Zeman, although close to Babiš's 2018–2021 coalition government, was strongly activist (except in the legislative sphere). Another case, albeit with less activist speed, was Klaus's role of 'regulator' of the Nečas government.

There is a clear correlation between the loss of some backing in parliament of Nečas's government and President Klaus's appetite for confounding its legislative designs. Klaus had sought to exploit a similar legislative opportunity afforded by a government's slim majority before, during much more conflictual cohabitations with Social Democratic prime ministers (2003–2006). The theoretical expectations concerned with growing activism in a situation of a slim parliamentary majority are thus fully borne out by the Czech experience.

The transition to popular elections had a specific impact, as it manifested itself differently in the areas of government appointments and dismissals on the

one hand and legislation on the other. Havel and Klaus felt relatively free in their attempts to obstruct legislation; however, they entered less than Zeman into the heart of the political regime. For both, their indirect election by parliament placed a certain internal limitation on their actions, and put a brake on excessive discretion during the discharge of their presidential powers vis-à-vis the governmental focal point of the parliamentary regime. They simply saw that there were some boundaries set by the parliamentary parties. Havel's most radical activist step – the installation of the presidential semi-technocratic government of 1998 – still respected his obligation to agree about the government with at least some of the parliamentary parties. Klaus had to deal with many more governmental crises than Havel, but his role as a 'regulator' in this area remained unchanged.

Popularly-elected Zeman was much less active throughout his presidency than both his predecessors in the matter of laws. There are multiple factors, one of which is that Zeman learned lessons from his predecessors, who were not particularly successful in their legislative activities (with the exceptions of the absolute vetoes at the end of the term of the Chamber of Deputies and Havel's use of the Constitutional Court). Another factor, probably still more important, was that Zeman concentrated his efforts on directly influencing governments, which seemed to offer him much better prospects, and this was a more attractive strategy than the not very promising legislative vetoes. This was accompanied by his attempt at a breakthrough into the political regime when he installed and sustained Rusnok's technocratic government without the agreement of parliamentary parties. Later, Zeman followed this up by promoting Babiš as prime minister and then co-determining the character of Babiš's government, including choosing some of the ministers. Here Zeman conspicuously overstepped the boundaries laid out by Havel and Klaus and his popular election played a role in this.

The new mode of presidential election thus has increased the systemic risks of destabilising Czech democracy. Of course, Zeman's border-crossing may not be repeated by the second popularly elected president, Petr Pavel. However, the risk remains that a future president will try to usurp more powers by claiming the legitimacy of direct election. Therefore, it would be beneficial to clarify the constitutional procedure and rules for the appointment and removal of governments, as well as individual members of the government, including setting time limits for the president's actions.

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