

Strategies of Actors Influencing Electoral Integrity: A Case Study of the Czech Republic*

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Abstract

The goal of this study is to examine the behaviour of electoral stakeholders that has influenced the quality of parliamentary elections in the Czech Republic since the 1998 elections. The text attempts to answer these questions: 'What kinds of strategies do political actors use in electoral processes that decrease the quality of elections?' 'Do these tactics vary over time?' 'Are they efficient?' 'Who are the actors?' The Czech Republic, as a newly established democracy, features comparably very high electoral integrity, while neighbouring countries experience (from time to time) electoral problems. This work aims to describe the behaviour of electoral stakeholders in order to understand whether they behave in a manner which maintains a high level of electoral integrity. The framework for analysis is constructed on the background of Andreas Schedler's work (2002; 2013) with respect to influencing the level of institutional rules or the game within those rules. The analysis consists of different kinds of data sources. Among these, election observation mission reports, parties' strategic documents (party manifestos), secondary analyses (providing the explanation of behaviour), and news (offering information about behaviour on a daily basis) are most important. The results will provide a description of primary electoral stakeholder behaviour, which then allows us to better understand how they affect electoral integrity.

Keywords: electoral integrity; elites; stakeholder; strategy; Czech Republic; parliament

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1. Introduction

Quality elections are a necessary condition for democracy. On the one hand, for those who understand elections to be the exclusive component of democracy (Schumpeter 2004;

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Huntington 1991: 5–13), a high level of quality is central to the quality of democracy and leads to a high level of electoral integrity, which is especially important during democratic transitions. On the other hand, the definitions of liberal democracy that use additional criteria, such as protection of individual rights, separation of powers, or the rule of law (Zakaria 1997: 22), make elections only part of the story. But what all of the definitions have in common is that they assume that elections are free and fair or based on a level playing field.

The terms ‘electoral integrity’ and ‘quality of elections’ are interchangeable in this work. To be clear, these terms differ from Pippa Norris’s well-known definition based on internationally shared principles and in this work the term is approached normatively. It is based on Andreas Schedler’s (2013: 83–87) concept of effective democratic choice, and the following negative strategies are based on this concept. While it includes the various dimensions of choice in democratic elections, the effects of the negative strategies are based on their impact on the indicators of good elections that were formulated by Sarah Birch (2011); these depict the individual parts of the electoral cycle as well (see below). To be clear, this study does not assess the quality of elections, but these concepts are helpful in understanding exactly why and how one’s behaviour may negatively influence the integrity of elections.

Empirical studies have shown the influence of historical, structural, and institutional background on the quality of elections (Birch 2008; 2010; Brusco et al. 2004; Kolev 2014; Lindberg 2006; Van Ham 2012; 2013; Zibblatt 2009). The outcomes of these studies certainly help to understand the general trends in the quality of elections, however, they still do not provide any helpful information when applied to some cases, among which the most striking are the USA, Rwanda, etc. (see Norris et al. 2014). In attempts to explain such outliers, it is therefore necessary to analyse the level of electoral actors and their behaviour more deeply.

In this study, I argue that it is worth using a framework based on observations in non-democratic countries to see whether any forms of electoral manipulations can be conducted in democratic countries, as it is possible that the same manipulations can be used in smaller scales. These manipulations can be present with various intensity at different time points and even small scale problems have the potential to intensify, if and when they are accepted by the public or other actors. In this sense, this is an instrumental case study which makes it possible to apply the concept based on experience from a non-democratic regime in a democratic country.

Additionally, the study enriches the research field of electoral integrity by combining disaggregation of various forms of malpractice or fraud on different levels. At the same time, various actors are associated with these negative strategies. Contrary to recent literature, this study goes beyond solely observing governmental actors and it differentiates various kinds of actors, their use of the negative strategies and their success in doing so.

The quality of democratic elections differs across countries, and (un)problematic elections are not made by themselves. The drivers of different trajectories of electoral integrity in given contexts are the political actors who are interested in electoral results. This study follows the work of Jarabinský (2015), who demonstrated that the overall quality of Czech elections to the Chamber of Deputies has been rather stagnate in recent years and that the reasons for this stagnation do not always seem to be the same. Therefore, the logical goal now is to examine the behaviour of important actors who influence the quality of parliamentary elections in the Czech Republic. The text attempts to answer these questions:

What kinds of strategies do political actors use in electoral processes that decrease the quality of elections? Do these tactics vary over time? Are they efficient? Who are the actors?

Until now, the behaviour of Czech electoral stakeholders in elections has been a matter for news and media rather than academic research (with the exception of studies connected to electoral campaigns). This study therefore offers a new perspective on Czech elections, which are otherwise quite substantively explored.

The Czech Republic, founded in 1993 after the transition from a nondemocratic communist regime to democracy, established formally free and fair elections by the law 247/1995 Coll. In the post-transitional era, the new democratic elections cannot, by their nature, prevent previous 'nondemocratic' incumbents from candidacy. The uncertainty of electoral outcomes must be achieved (Przeworski 1991: 13). Some incumbents thus usually get some seats in legislative bodies, whether as members of their original (or transformed) party or via their affiliation with another party. This premise is derived from the analyses of the post-communist arena in which, no matter whether they negate the hypothesis of the circulation of elites (Szelényi, Szelényi 1995; Wasilewski, Wnuk-Lipiński 1995) or confirm it (Staniszki 1991: 99–100; Szelényi, Szelényi 1995; Wasilewski, Wnuk-Lipiński 1995), it is demonstrated that there is no radical distinction separating previous 'nondemocratic' elites from the 'democratic' ones, but rather that the processes of change are '*path-dependent and involutionary*' (Szelényi, Szelényi 1995: 622). Therefore, the same actors who were incumbents during the nondemocratic era can influence the consolidation of the newly established democracies. As Rustow notes: '*during the formative period [...] part of the quarrel must ex hypothesi be between democrats and nondemocrats*' (1970: 345). Therefore, the assumption that the behaviour (or thinking) of these actors (and also some others who had grown up in the nondemocratic era) has completely changed under new circumstances can be rejected. On top of that, Norris adds that '*strictly speaking (...) every election is 'manipulated', even in the most democratic states*' (Norris 2014: 8).

The Czech Republic is one case in which the Communist party¹ has refused to substantially reform itself while some of its members also became affiliated with other newly established parties. This text, therefore, focuses on the behaviour of electoral stakeholders in the Czech Republic in order to understand whether their behaviour is unproblematic (or how it changes over time) with respect to the quality of elections. Mainly because of the (lack of) availability of long-term comparative data, this text will analyse the period from 1998 to 2013 electoral cycle.

It is reasonable to expect some problems connected with the Czech elections to the lower chamber of the Parliament, however, the insight provided by the comparative data is rather positively shocking. The Electoral Integrity Project ranked the 2013 Czech elections at 11th place in its overall integrity assessment of 132 observed legislative elections in the world since 2012 and 3rd place among Central and East European countries (Norris et al. 2016). According to V-Dem data (electoral democracy index), Czech elections have been ranked first among the Central and East European countries for almost the entire period from 1990 to 2012 (Teorell et al. 2016; Coppedge et al. 2016). Therefore, the Czech Republic is an appropriate case for study because it is a well-established electoral democracy and there is a theoretical expectation that problematic behaviour of electoral stakeholders can

be found within this democracy. This combination potentially provides a fruitful context for testing the following concept of negative strategies based on the experience from the nondemocratic milieu.

But there is another reason for observing the Czech elections in the light of tendencies which have recently negatively affected democracies in Central Europe. As available V-Dem data show, the quality of elections (electoral democracy index) has slightly decreased in Hungary and Poland in recent years (Teorell et al. 2016; Coppedge et al. 2016). This corresponds to some authoritarian tendencies observed by some political commentators (e.g. Pehe 2016). The goal of electoral stakeholders is, among other things, to win future elections and therefore they are tempted to settle conditions in their favour. Assessments have shown that Hungarian civil liberties have been on the decline since 2012. This is due to several controversial changes, some of which negatively affected the quality of the 2014 elections, which in turn negatively impacted political rights in 2015 (FreedomHouse.org). A similar situation can be seen in Poland, however data on the impact it has had on parliamentary elections is still missing. However, as mentioned above, it is possible to expect an uneven playing field in the upcoming elections there. Therefore, it seems timely to observe the behaviour of Czech elites with respect to the first-order elections to see whether their behaviour fits the above-mentioned trend.

There are three main branches of electoral studies literature which deal with political actors' behaviour, i.e. studies of nondemocratic regimes (e.g. Magaloni 2010; Gandhi, Lust-Okar 2009), transitional literature (e.g. Bermeo 2010), and electoral engineering (e.g. Benoit 2004). These studies are not always necessarily directly connected to the quality of elections, but their findings may shed light on actor behaviour under different conditions. The first bunch of studies usually focuses either on the relationship between incumbents and the opposition in the electoral process and the ability of the latter to change any predetermined outcomes or it focuses on how authoritarian rulers succeed in staying in power. The transition studies focus more on decision-making processes bound to regime change. The last group, electoral engineering studies, is more typically found in studies of democratic regimes, because changing electoral rules is a legitimate tool for achieving the outcomes preferred by society. Based on the above-mentioned premise, this text builds upon the knowledge of all of these research fields.

The first part of this study, therefore, builds upon this knowledge and creates the framework for later analysis. Then the data is presented and processed. This is followed by the study of the Czech case, specifically including the types of negative strategies used and the impact they have, trends in the use of the negative strategies, and who the actors are who implement them.

2. Negative Strategies in Elections: A Framework for Analysis

The main findings of recent studies on the behaviour of electoral stakeholders are usually in line with the expected (or perceived) rational behaviour of electoral stakeholders (Benoit 2004; Bermeo 2010). The goal is to maximize electoral gain. When considering

tactics which deteriorate electoral quality, it is possible to observe two kinds of goals. The first is the short-term goal of winning upcoming elections. The second is the pursuit of the longer-term goal of increasing the odds of winning future elections.² This is in accordance with Shugart's (2008) contingent factors that drive the electoral system's change. Systemic failures, as a normative component, cannot change electoral systems by themselves. Contingent factors are, in this sense, a necessary condition for institutional change while including both short- and long-term goals.

Victory, however, especially in democracies, is usually linked to the ability to compete. This means that outcomes are not determined by the institutional design alone, but also by the behaviour of electoral stakeholders. Through the implementation of various tactics, stakeholders can influence electoral outcomes within the given rules. In theory, clear and unbiased rules actually prevent predicting who will win an election before the results are final, because everyone has theoretically similar chances. According to Mozaffar's and Schedler's (2002) work based on Przeworski (1988) and Tsebelis (1990), this makes it necessary to reduce the uncertainty of the rules. On the other hand, a great amount of uncertainty in outcomes should also be maintained, because it means that electoral stakeholders can behave freely within the given rules. Authoritarian leaders have two kinds of 'bad' goals: reducing the uncertainty of electoral outcomes (game) and increasing the uncertainty of electoral rules (meta-game). Achieving both of these goals increases an actor's ability to unfairly win. While the former should be linked rather with authoritarian actors, the latter is more characteristic for democratic ones (Mozaffar, Schedler 2002: 11). This differentiation also provides deeper insight into the logic of individual actors when they are involved in wrongdoings.

In the literature, behaviour which deteriorates electoral integrity can be seen as electoral systemic manipulations, frauds, and malpractice (Birch 2011; Jarabinský 2013; Vickery, Shein 2012). This negative approach to the quality of elections seems to be unsustainable, because as Schedler notes: '*The requirements of democratic elections are steep, the possibilities of subverting them manifold*' (2013: 101). However, the goal of this work is not to assess the quality of elections, but to understand the way that certain actors endanger the quality of elections, and therefore this approach is justifiable.

To achieve those 'bad' goals, only negative strategies are considered. In this study, a negative strategy is one which influences the quality of elections negatively. This means that the results of some strategies or behaviour are not necessarily intended and they can accidentally lead to the deterioration of an election. However, in practice it is very difficult to distinguish which behaviour is intended and which merely has negative side-effects on electoral integrity. Therefore, it is necessary to keep in mind that there is a very high probability that there is a great deal of data bias in terms of the strategies implemented in the real world. This is because, at this level of depth and extent, it is not possible to unearth strategies which were intended but never put into practice.

For this study, it is better to build the analysis on strategies defined by Schedler (2002; 2013) rather than by other authors (such as Birch 2011; Hyde 2008), because he provides more general strategies instead of specific tools for studying manipulation (e.g. corruption vs. vote-buying; exclusion of opposition actors vs. jailing of candidates, etc.). Besides that, Schedler's framework formulates general strategies of electoral manipulation, while other

Table 1: Strategies deteriorating the quality of elections on the level of rules and outcomes

Scheduler's original strategies	Meta-game (rules)		Game (outcomes)	
	To increase the uncertainty of rules	To reduce the uncertainty of outcomes		
Reserved positions	A1 Reserved positions	Only some seats are elected, not all of them		
Reserved domains	A2 Reserved domains	Restricting domains of potential winners from their effective decision making, limiting the jurisdiction		
Exclusion of opposition actors	A3 Non-standard legal exclusion of certain actors	Rules inconsistent with legitimate requirements (except those directly affecting voters) which exclude certain actors	B1 Illegal exclusion or inclusion of certain actors	Exclusion of certain actors (not voters) although they meet necessary requirements, or using the law against political dissent to guard the gates to electoral competition to keep opponents out of the electoral arena; complete physical elimination (not threats). Inclusion of those who did not meet the requirements
Fragmentation of opposition actors	A4 Legal restrictions on actors' cooperation	Setting rules which complicate free cooperation among parties	B2 Informal fragmentation of the opposition (corruption, intimidation)	Corruption and intimidation of political actors (not voters) which affect actors' potential coordination efforts
Subversion			B3 Creating or controlling a subsidiary party to take advantage of electoral rules (substitution)	Creating a party personally or institutionally connected to another party; these parties cooperate to circumvent the spirit of the law
Repression	A5 Repression (of civil and political liberties) through legal discrimination	Legal discrimination (except suffrage) and limitations of basic civil and political liberties (such as freedom of assembly, etc.)	B4 Repression (of civil and political liberties)	Unsecured environment; violation of physical integrity; state-made violence, state-tolerated violence; targeted economic pressures; restricting political and civil liberties; endangering personal integrity
Unfairness	A6 Legal restrictions on media and money	Unfair rules for access to resources and media, unfair conditions	B5 Practical media and monetary restrictions	Unfair practices of competition; limited space for opposition/other actors

Formal disenfranchisement	A7 Formal disenfranchisement	Legal suffrage restrictions		
Informal disenfranchisement			B6 Informal disenfranchisement / illegitimate enfranchisement	Exclusion of certain groups of citizens, killings, displacement, but also requiring discriminatory registration methods of identification in practice / carousel voting, buses, etc
Coercion	A8 Open voting	Public voting, non-binding secrecy of voting act	B7 Coercion	Citizens are not free in their electoral choice, they are forced to vote in certain way (usually under threats of force, economic deprivation, and social disapproval)
Corruption			B8 Corruption of voters	Voters are corrupted (vote buying; massive forms of patronage distribution)
Redistributive institutions of electoral governance	A9 Unfair rules of the electoral system	Votes are not equal		
Redistributive practices of electoral governance			B9 Unfair counting, tabulation, reporting of results	Votes are not treated equally
Tutelage			B10 Tutelage	Alternative (veto) actor's influence on an elected body when (s)he reduces the body's powers; on paper it is ok, but in reality there are other actors influencing the decision makers
Reversion			B11 Reversion	Coup in which a non-democratic actor nullifies results; keeping elected officials from their posts or ousting them before the expiration of their mandate

Source: Author and Schedler 2013.

authors (Birch 2011; Jarabinský 2013), who use a negative approach in assessing elections, combine negative strategies with positively defined categories in which they observe various kinds of problems. In other words, they simply don't provide the full range of negative strategies but combine them with general electoral areas.

On the other hand, it is easy to observe overlap among Schedler's strategies.³ Keeping that in mind, I define his strategies further (table 1) in order to avoid any overlap and I separate them according to the level of manipulation, i.e. manipulation of rules (meta-game) and outcomes (game).

It is clear that table 1 slightly differs from Schedler's table, in which every single row (15) corresponds to one of Schedler's (see 2013: 84) strategies. This is because the strategies have been separated into different levels of manipulation, and the concept for the context of democratic countries has been slightly stretched. As Gandhi and Lust-Oskar note, a '*view of authoritarian elections [is] conceptually similar to democratic ones and underscore important differences that remain to be explored. There are some important similarities that allow for the use of the same conceptual toolkit in studying democratic and nondemocratic elections*' (2009: 407–408). Last but not least, this is also due to the necessity to separate some overlapping categories.

In table 1, the respective levels of manipulation for each particular strategy are provided in the right sub-columns under both the meta-game and game columns. Unlike work which deals with the context of authoritarian regimes, it is important to consider all actors as having the potential to use strategies which can decrease the quality of elections. With this in mind, it might then be possible to understand the nature of democratic politics.

The perspective of the actors is considered in the analysis. There are clearly many electoral stakeholders, such as political parties, individuals, electoral officers, the judiciary, etc. Actors with no interest in electoral results can be manipulated by those interested in outcomes, and thus the latter are the ones worth analysing. For the purpose of this analysis, actors are separated into several categories, including government (defined by an individual or party in government), opposition (parliamentary party or individual outside government), non-parliamentary actor, administration, and other (such as president, judiciary, foreign country or organization, or NGO). The last category, other, was later developed into the categories of president and unknown (where it is impossible to identify certain actor).

3. Data for Analysis

The analysis uses qualitative content analysis, which is based on different kinds of sources. The most important are (election) monitoring reports (OSCE⁴ reports or other (N)GOs), laws (linked to elections), parties' strategic documents (party manifestos), secondary analyses (providing the explanation of behaviour), and judiciary complaints (addressed to the Constitutional court or to the Supreme Administrative Court). Then, there are other additional and supporting sources such as news reports (offering information about behaviour on a daily basis), expert opinions, and parliamentary voting records. These sources are the same as used in Jarabinský (2015) except for party manifestos, which are added for the purposes of this article.

A new data set dealing with the implemented strategies (certain behaviour) was created. Several indicators are considered for each strategy that weakened the quality of elections during the period between the 1998–2013 electoral cycles. Firstly, of course, it is the type of strategy based on the above-mentioned scheme. Here, certain kinds of behaviour which follow Schedler's updated strategies of electoral manipulations are treated as negative strategies. Next, the position of the offender of electoral integrity, i.e. whether it is governmental, oppositional, non-parliamentary, an administrative body, a president (as a later specification of category 'other') or unknown is taken into account. Then it is observed whether the strategy was successfully executed. What is meant here by 'successful execution' is simply that the strategy was transformed into reality, whether or not there was any resulting real impact. This variable is tricky, because observing the intentions behind some strategies is almost impossible. However, there are also strategies which were not successfully enacted. At this point, the possible bias towards strategies at the level of rules can be observed, because one can expect that intentions to influence rules should be more visible than those focusing on the game itself. On the other hand, the benefit of using this variable is that it provides a better picture for understanding latent pressures on electoral integrity. Anyway, the text always differentiates intended and enacted strategies. When a strategy is not identified as either intended or enacted, then it is an enacted strategy under discussion. Last but not least, the impact of the individual strategy on elections is considered. This impact range includes no impact (no impact on a particular part of the electoral cycle nor the results), minor impact (small scale problems, usually with minor impact on a particular part of the electoral cycle, which do not create overall bias in that part of the cycle nor in electoral outcomes), some impact (causes partial bias in a particular part of the electoral cycle or electoral results), major impact (causes clear significant bias in a particular part of the electoral cycle or in electoral results), and decisive impact (has a decisive influence on a particular part of the electoral cycle or it determines electoral results or the consequences of those results). This scale for assessment makes it easier to distinguish between democratic and non-democratic elections. For the non-democratic elections it is characteristic that they do not allow a change in electoral results (or, in this case, also deny the function of a particular part of the electoral cycle). Therefore, when some strategy is "decisive" in its impact it becomes a threshold separating democratic from non-democratic elections. Impacts are evaluated on both levels – meta-game and game. It is also necessary to add that the impact of intended strategies is estimated based on the theoretical expectations in a given context.

4. Negative Strategies Used in Czech Elections between 1998 and 2013

In examined period, the Czech Republic was considered to be a fully democratic country (Freedom House 2016). However, it is possible to observe that certain actors use some strategies which could lead to decreasing electoral integrity. Using the above-mentioned scheme of negative strategies, it is possible to empirically observe the following on the meta-game level: *non-standard legal exclusion of certain actors; legal restrictions on actors' cooperation;*

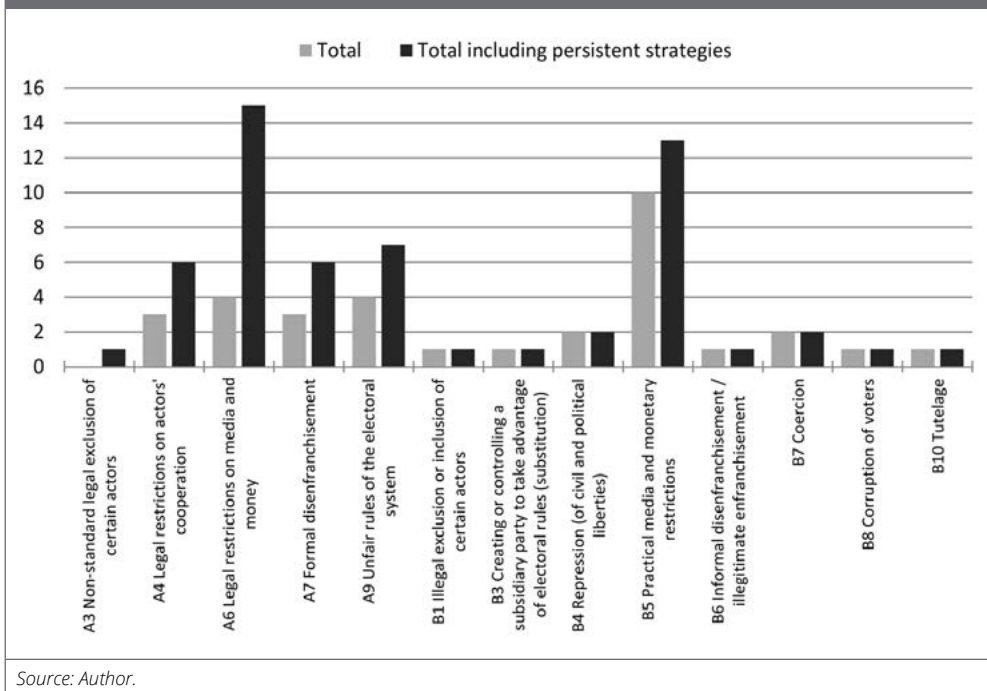
legal restrictions on media and money; formal disenfranchisement; unfair rules of the electoral system; and on the game level: illegal exclusion or inclusion of certain actors; creating or controlling a subsidiary party to take advantage of electoral rules (substitution); repression (of civil and political liberties); practical media and monetary restrictions; informal disenfranchisement / illegitimate enfranchisement; coercion; corruption of voters; tutelage. These strategies have different impacts and are used in different electoral cycles.

4.1. Types of Negative Strategies and Their Impact

Negative strategies used during the observed period are demonstrated in graph 1. The light columns count every individual, actively demonstrated, negative strategy while dark columns are for strategies which are counted each time they are present, i.e. even if their effect is still active even when the strategy is not actively being implemented.

It is evident that actors use a wider variety of negative strategies at the electoral game level than at the level of rules (5:8). Actively conducted negative strategies are used slightly more (14:19) at the game level. However, taking into consideration the persistency of these strategies, those oriented toward electoral rules are more persistent over time (35:22). That means, if actors change a law in some negative way, this law will remain in future elections as well. The influence on the quality of elections is therefore long-term.

Graph 1: Number of individual strategies used between 1998 and 2013 electoral cycles



It seems that it is worth it to implement the negative strategies which influence the laws governing the media as well as those which impact party financing, because the effects of these strategies are the longest. Among these practices are both restrictions on advertising in electronic media (in this case television and radio, not the internet) (1998–2013) and inequalities in party financing (1998) (see Jarabinský 2015: 351–358).

While the goal of restricting advertisement is, in general, to create level playing field for electoral competitors⁵, the financial inequalities usually advantage bigger parties. On the other hand, additional finances for parties gained by new subsidies from other elections (2002–2013) increase the negative impact of party financing on the fairness of elections (Outlý undated). The dark side of campaign financing is the lack of transparency; this is so ensured by the law that it seems impossible to get any detailed information, except in the case when a party is willing to provide it. The big discrepancy between the light and dark columns for *legal restrictions on media and money* depicts the fact that most of those negative strategies were used earlier (in the 1998 and 2002 electoral cycles) and therefore are persistent for a longer time. This is mainly due to party financing. When the law favours bigger parties by giving them extra money, after the change of the government those ‘new big parties’ profit from this law as well and, therefore, do not have incentives to change it.

The control over the media is a similar story for the entire observed period. Critics of media regulatory bodies exist mostly outside of the parliament (such as non-parliamentary parties, non-government organizations, or experts), because parties represented in the Chamber of Deputies control the composition of those bodies. This situation does not seem to change. This alone does not implicitly mean that the media are biased by the governmental control, but they may be prone to bias and only practical observations can reveal whether this is true or not.

Other negative strategies are also persistent. Among them are *unfair rules of the electoral system* which were modified mainly during the so-called ‘opposition agreement’ era between 1998–2002, when the two biggest parties⁶ agreed to institutional changes which were expected to favour both of them to the detriment of smaller parties (see Koudelka 2000: 92–93). Because some of those electoral provisions were later partly dismissed by the Constitutional Court, parties needed to quickly react to this situation in the light of ongoing elections. The result of all this was that some problematic provisions were added (and some old provisions were carried over) to the law (see Jarabinský 2015: 360–362). As the two additional columns in graph 2 illustrate, those negative strategies which successfully changed the law had less impact than the intended strategies.⁷ On the whole, the inability of political elites to react adequately caused smaller scale problems but the result was still influenced by a negative behaviour.

Attempts to modify the electoral threshold are also connected with the period of ‘opposition agreement’ (see Charvát 2013: 120–125). One of those attempts was successful and has remained constant since then; this complicates the cooperation of smaller parties. It is caused by the threshold’s additive nature, when one party needs to get 5% of votes to pass scrutiny, while a coalition of parties needs to reach 10%, or 15% of votes (for two, or three and more parties, respectively). This offers very limited incentives for creating coalitions; this is clearly a calculated move. On the one hand, big parties defended proposed new rules for mandates allocation with the argument that this mechanism provides incentives for

small parties to concentrate into bigger coalitions or blocks, while, on the other hand, the application of these thresholds for coalitions would endanger smaller parties' presence in the Chamber of Deputies if they fail to reach the high threshold.

The higher value of persistent *formal disenfranchisement* is connected to the constantly problematical voting from abroad which has only been possible since 2002 (OSCE 2002: 6). The organizational capacity is not adequate however, and the law only provides the opportunity to vote in person at officially designated locations, which are usually not easily accessible. This is also evident from the relatively low numbers of votes from abroad (see Volby.cz 2016).

To sum up the negative strategies found at the meta-game level: the persistency of the negative strategies can be primarily traced back to the era of the 'opposition agreement' during ČSSD's governance, when it was supported by the biggest opposition party, the ODS. Actors' negative behaviour from this era can be mainly considered to be intentional. Some negative practices were also caused by inability to offer better solutions and by political decisions which preferred some solutions over others, usually with small negative effects. Some negative strategies were also used prior to the observed era but remained persistent. However, most of the actively implemented negative strategies used after the 2002 elections to try to influence the law were rather unsuccessful. This means that the roots of electoral problems caused by the law are found in the era between the 1998 and 2002 elections, i.e. the era with the most stable government of the observed period. In this sense, an unthreatened government can be dangerous for the political system itself, because it can set biased electoral competition rules in order to gain advantage. In this case, however, political deals were made mainly between the governmental ČSSD and the oppositional ODS, which supported the government. This means that newly formulated laws had to be in compliance with both parties' goals; this complicated negotiations on some bills, with respect to the context at that time.

In general, problems at the game level can, in some societies, trigger protests and other actions against elections or their results simply because it is the 'visible' part of elections. These problems are not expected to be common in well-established democracies. These problems are also rather irrelevant in the Czech elections in general, albeit with one exception. Practical media and monetary restrictions are most often used to gain illegitimate advantage in elections. This indicator is primarily understood as activities such as securing extra time in the media, placing more advertisements than are allowed, using restricted resources to conduct a campaign, or using lies or questionable content to discredit an opponent. These practices are among those with the biggest impact on shaping voters' minds (see graph 2). This is an area which is paradoxically foremost in the public eye, but people often do not consider it to be a problem. It helps to form voters' preferences and therefore decreases the need for other more obvious electoral flaws. The media landscape is not biased simply by any kind of negative act but, as graph 2 shows, in the Czech landscape these practices have had some impact. This can be seen in the 1998 elections, when parties agreed not to use billboard campaigns, yet they did not follow this 'gentleman's agreement' and this gave a quite substantial (evident) advantage to those who did not participate or who broke the rule. Attempts to influence parties' advertising opportunities were evident in given period as well; various parties at the Ministry of Finance refused to pay state sub-

sidies to some parties which had qualified for additional financing in the previous elections (Škraňková, Kopecký 2006; Novinky.cz 2006). Similarly, publishing information from the so-called 'Kubice report'⁸ in all of the major media only a few days before the 2006 elections caused a great deal of controversy, with probable effects on the election results.⁹ These practices indicate that party(ies)/individual(s) in power or with access to serious resources are able to abuse this systemic advantage to disadvantage their opponents in campaigns. On the other hand, these practices seem more often to be simply opportunities offered up by certain situations rather than actively searched out. However, politicians do not hesitate to utilize these opportunities even when they are amiss.

What these practices have in common is that there is no adequate punishment which would outweigh the gains resulting from this behaviour. Examples of this are seen in the lack of any real punishment for violating the 'gentleman's agreement', as well as in the court's delayed decision in the Ivan Langer (ODS) and Pavel Severa (KDU-ČSL)¹⁰ cases (they were accused of leaking Kubice's report), the minimal impact of that decision, and the possible alternative reading of the law specifying conditions for parties' subsidies based on their electoral results. Actors denying their actions seem to be the key to decreasing the intensity of their punishment.

Interestingly, parties that lack the necessary political resources, but which do hold large economic resources, have the media advantage. This is the case of the ANO¹¹ party, whose leader (Andrej Babiš) gained a huge amount of air time in both the public and private media (in spite of legal restrictions) via his commercial activities (Rada pro rozhlasové a televizní vysílání 2013). This made him the only visible candidate able to campaign in electronic media (except the internet) in 2013. He also skewed the media landscape to his advantage by buying several influential media outlets, however, the plurality of media has been maintained. These practices open new opportunities for parties, or rather their representatives, to be more visible in the media through their private business activities. This is not just the case of non-parliamentary parties (as in Babiš's case) but this can be one way to get around the law.

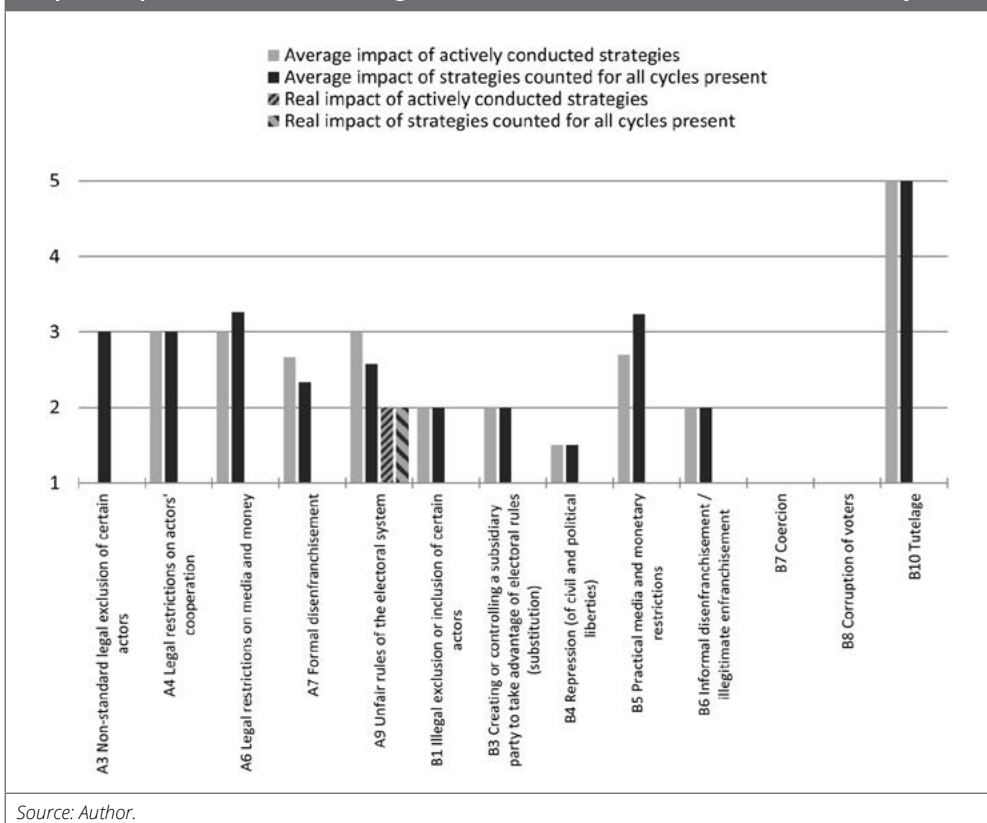
In the same elections, some parties used transparent accounts (contrary to previous practice), however, much information about campaign financing was still inaccessible. Political party and campaign financing very slowly improved over time, in that parties slowly provided more information, however, the control mechanisms are still weak and while the financial transparency is improving, non-transparent black holes where money can be directed to still remain.

Another important negative strategy is *tutelage*, which was used only once but which possibly had the greatest impact. This unexpected strategy in a democratic regime is connected to the 2010 electoral cycle and President Zeman's appointment of a government which did not have enough support in the Chamber of deputies. This government was not even the result of any negotiations. Rusnok's government, which stayed in power without parliamentary support for more than 6 months, made a number of decisions (Brunclík 2016: 20). This act is inconceivable in a parliamentary regime in which the government should be created and controlled by the parliament, because it restricts MPs' ability to control government. The characteristics of this strategy is, however, similar to previous cases: a special instance of a governmental crisis together with an alternative reading¹² of the

Constitution provided the president this opportunity and he faced no real punishment for this action because he had already taken office, and the next presidential elections were in the distant future.

Graph 1 also illustrates that most kinds of negative strategies had been used in very limited number. These are often connected to smaller (non-parliamentary) parties which attempt to circumvent laws. For example, they successfully avoided following the rules for registering party-lists, just as Party AZS¹³ did back in 2002 when some of their lists were registered without paying the necessary fees (*illegal exclusion or inclusion of certain actors*), or when the DS¹⁴ party, after its dissolution in 2010, used another party, DSSS¹⁵, which was chaired by the mother of the chair of the DS for candidacy of DS's candidates (*creating or controlling a subsidiary party to take advantage of electoral rules (substitution)*). This made the law which prevents extremist parties from elections ineffective. There were also cases of *repression (of civil and political liberties)* when two members of ČSSD (in 2006) were physically attacked, but it did not affect their candidacy. Similarly, there were security issues at some of ČSSD's campaign meetings in 2010 in which the party suffered some attacks. These stopped after ČSSD changed its campaign strategy. In 1998, the electoral administration

Graph 2: Impact of individual strategies used between the 1998 and 2013 electoral cycles



was the source of another problem. Public officers disenfranchised some (mainly Roma) people through their (sometimes intentional) misconduct during the process of granting Czech citizenship after Czechoslovakia's separation (Romové v České republice 2000). In both 2002 and 2006, some attempts to influence electoral results by distributing incomplete voting ballot envelopes to voters were also reported, as was (never clearly proved) very small scale vote buying.

The average impact of the later strategies is minor, as graph 2 demonstrates. This makes these activities rather insignificant. They are often caused by smaller non-parliamentary parties, the administration or unknown individuals. Some of the behaviours are closely connected to the context (especially quality of the law), therefore only some of them should be considered to be a source of inspiration for the behaviour of politicians in the future. On the other hand, the above-mentioned problems tended to be one-off events/practices and they were not repeated.

To sum up the impact of the negative strategies (graph 2) between the two levels of competition, it is evident that those negative strategies actively conducted on the meta-game level have a greater impact compared to the game level (2.92:2.15). This is also true of the impacts seen on both levels for the negative strategies, including those constantly present which are counted for all electoral cycles (2.83:2.22).

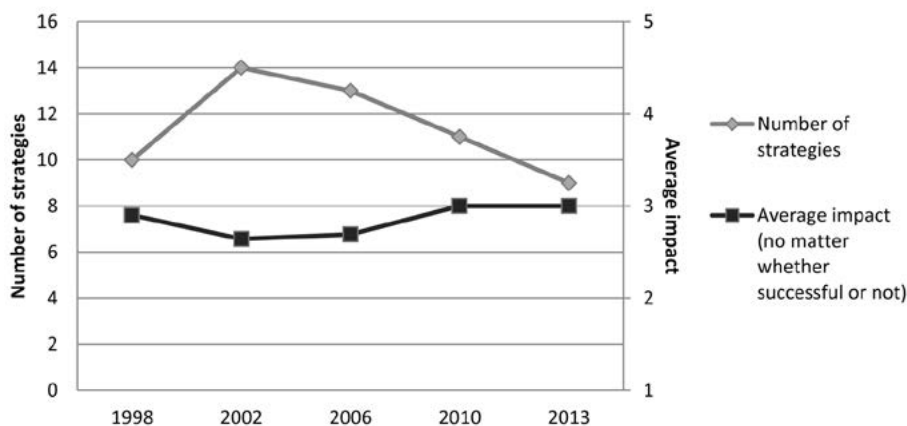
4.2. Trends in Using Negative Strategies

Graphs 3 and 4 provide insight into the number¹⁶ and average impact of negative strategies. Their number is not very high and it is pretty clear that successfully executed (not just intended) negative strategies are present at smaller scales in some electoral cycles. It is obvious from graph 3 that the number of negative strategies has decreased since 2002, while their impact has increased. Comparing this with successfully executed negative strategies (graph 4), it is clear that in 2002 there was the highest number (3) of unsuccessful negative strategies; this slightly moves the trend in the amount of these strategies, but not in their average impact.

The efficacy¹⁷ of these negative strategies is slightly higher among those successfully executed than those also counted as intended strategies (graph 5). The decrease in efficacy between 1998 and 2002 is caused by the use of a wider range of negative strategies with no real impact on the results. Since then, however, the efficacy of intended negative strategies has systematically increased. This means that electoral stakeholders attempt to invest in negative strategies with greater impacts on electoral results rather than in multiple, less effective strategies and they cease doing things with no real impact. The slight decrease in the successful negative strategies in 2006, however, depicts the fact that these harsh strategies can sometimes fail in their implementation.

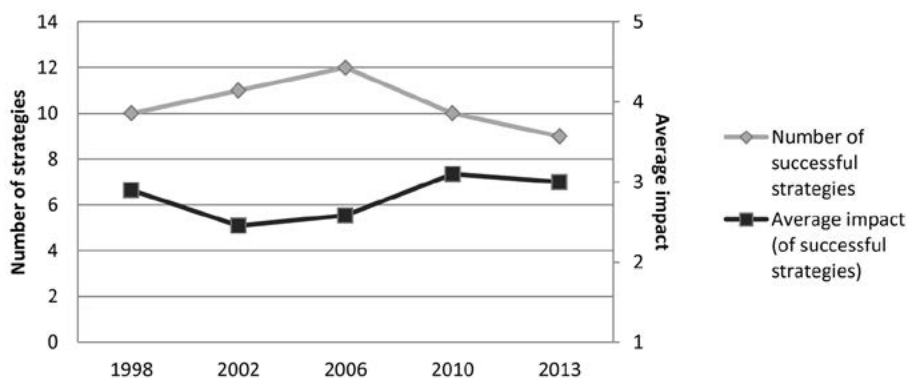
In general, individual types of strategies are not constant over time (graph 6). In fact, only three negative strategies connected to the level of rules are present during whole observed period. These are *legal* and *practical media and monetary restrictions*, and *formal disenfranchisement*, which are characterized by persistent problems caused by changes in problematic laws in 2002 which, however, did not necessarily improve their quality and

Graph 3: Number of attempted and successful strategies and their average impact between 1998 and 2013



Source: Author.

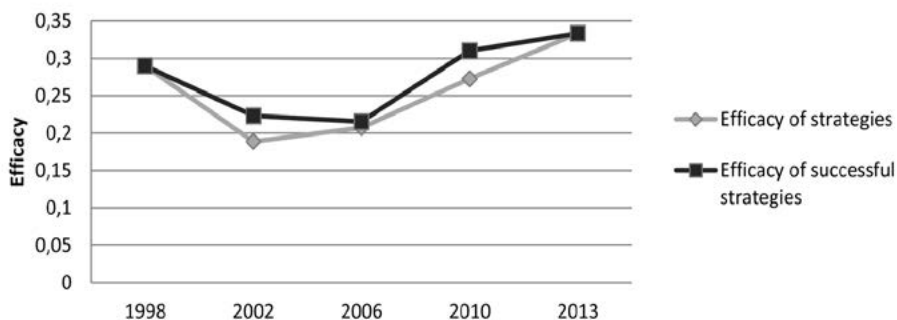
Graph 4: Number of successful strategies and their average impact between 1998 and 2013



Source: Author.

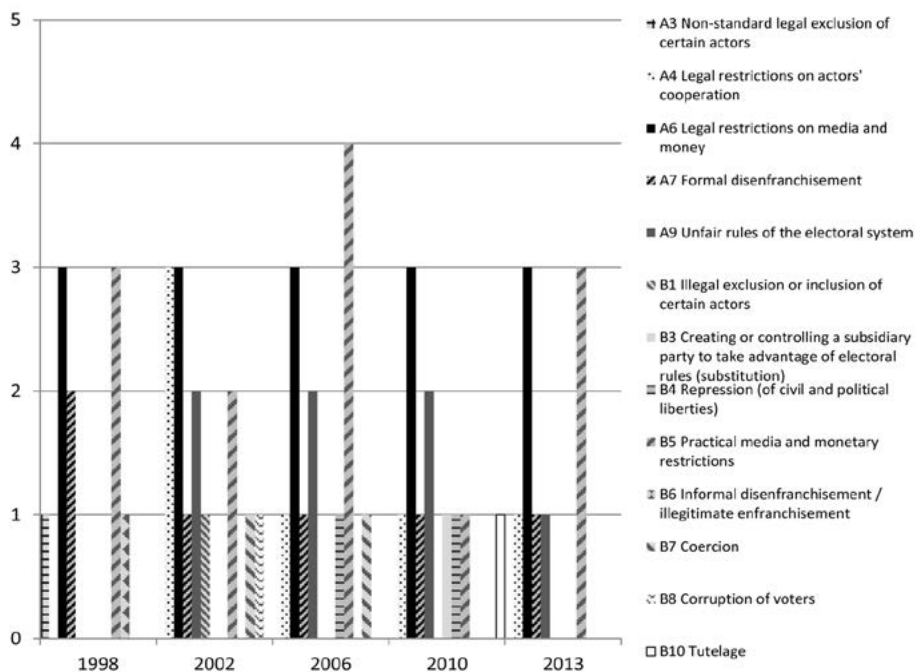
therefore led to other problems. Since 2002, the strategies of *legal restrictions on actors' cooperation* and *unfair rules of the electoral system* have always been present. The rest of negative strategies are used rather episodically and they do not appear more than in two electoral cycles. This implies that once negative strategies are applied on the meta-game level, they almost always (4 out of 5 cases) cause long-term problems. On the other hand, these strategies, at the game level, seem to be weaker (political parties or candidates perhaps do not dare to use fully negative strategies) in their impact and this could be one of the reasons why actors do not continue to use them in the longer-term (except *practical media and monetary restrictions*).

Graph 5: Comparison of the efficacy of all strategies and those successfully executed between 1998 and 2013



Source: Author.

Graph 6: Presence of negative strategies in particular electoral cycles from 1998 to 2013



Source: Author.

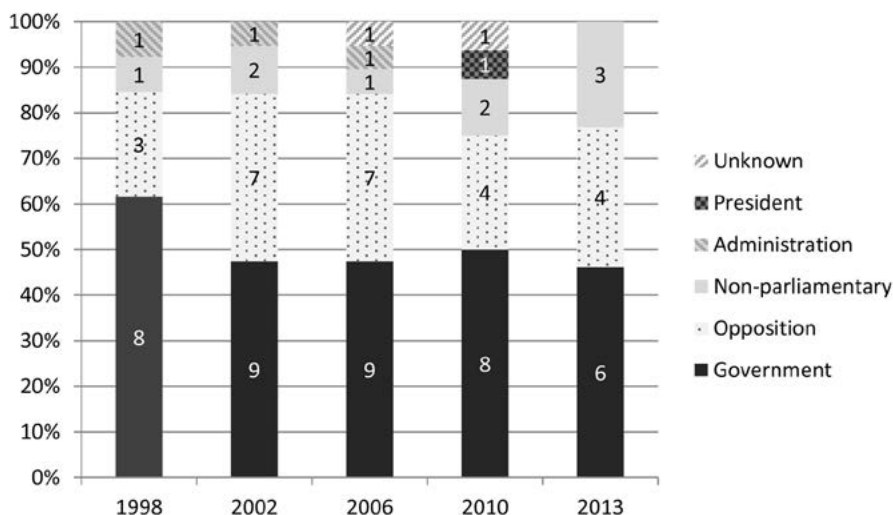
4.3. Perpetrators

Scholars usually expect that the government is the main perpetrator of electoral fraud, because of its access to resources. On the contrary, the opposition and other actors are perceived to be those who pursue their rights in somehow oppressive or biased conditions, which should therefore make the competition fairer. In the Czech Republic, the number of negative strategies used is not very high. The 1998 elections correspond to the above-mentioned expectation, although even there it is possible to observe some negative strategies made by non-governmental rather than governmental actors. Since 2002, the trend has slightly changed. Non-governmental actors are more involved in wrongdoings and they produce a bigger share of negative strategies than governmental parties (graph 7). On the other hand, negative strategies made by governmental parties are more concentrated among a smaller number of actors.

The best possible outcome of this text would be, of course, no use of negative strategies. However, this is a rather unachievable goal. When negative strategies are present, it should be in an environment which allows all actors to use these strategies. Their negative consequences could therefore balance, to a certain extent, possible bias.

In this case, the results indicate that Czech democracy allows electoral stakeholders to use strategies which negatively influence the quality of elections, and therefore partially the quality of democracy. Since 2002, governmental actors do not hold a monopoly on negatively influencing electoral integrity as is typical instead in hybrid or authoritarian regimes. That means there is no one-sided bias, which can be considered as a good thing.

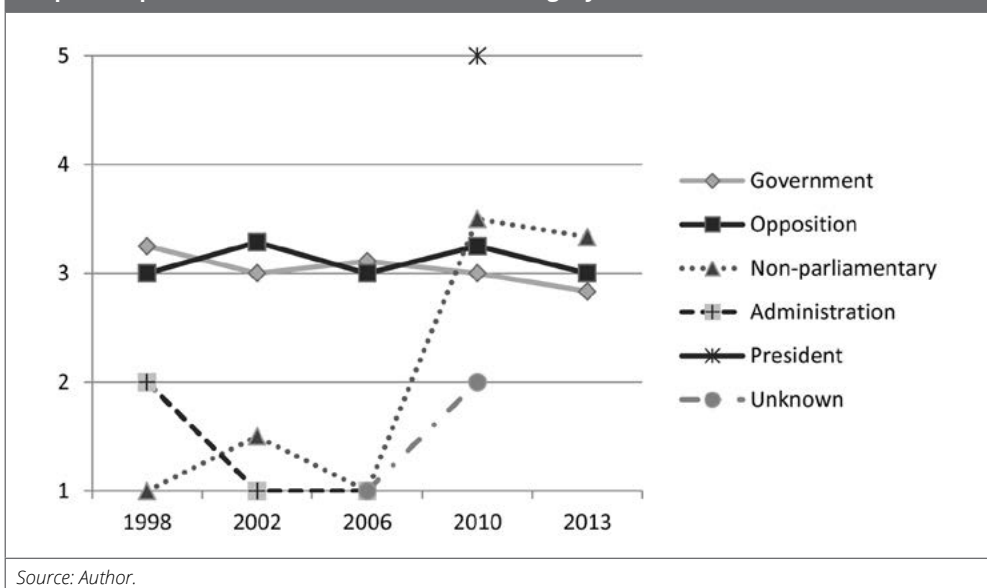
Graph 7: Shares of negative strategies used by individual actors between 1998 and 2013



Source: Author.

In the context of the above-mentioned findings it is also necessary to stress actors' uneven impact on electoral integrity (graph 8). It is possible to see that the impact of intended negative strategies in which opposition parties were involved surpass the figures of governmental parties in three out of five electoral cycles. The impact of these strategies (since 2010) is even higher for non-parliamentary parties in last two elections. This indicates that since 2002 (with the exception of 2006), non-governmental actors who are standing for election implement negative strategies which have greater impact more often than governmental actors do. The order of impacts of strategies of government, opposition, and non-parliamentary actors in the last two elections (see graph 8) seems to suggest that the further the actor is from public resources the stronger strategies he/she/it uses. This trend is quite surprising because the opposite is to be expected. It actually means that the poor starting position of an actor can cause his/her/its more daring behaviour as he/she/it is involved in stronger negative strategies. The increasing impact of negative strategies depicted earlier in graph 3 and 4 is therefore caused mainly by non-governmental actors.

Graph 8: Impact of certain actors on electoral integrity between 1998 and 2013



5. Conclusion

This study described how Czech electoral stakeholders behave in first-order elections with respect to their ability to decrease electoral integrity. Results show some expected phenomena, such as the use of negative strategies in a democratic regime, which are mainly linked to the pre-election day period with a focus on media at both the meta-game and game levels. It is also very clear that meta-game level strategies are more persistent over time,

which indicates the unwillingness of actors to rectify the consequences of previously used negative strategies. In addition to the persistent negative effects, there are also the high costs of voting from abroad which exclude many potential voters from voting. On the other hand, many of the observed negative strategies are used only occasionally, and these strategies are connected mainly to the game level.

This discrepancy between the two levels is characterized also by the fact that negative strategies used on the level of game are generally weaker in their impact than those strategies used with the aim to influence electoral rules. This could be the reason for the episodic use of strategies on the game level perhaps because potential costs for 'too daring' manipulations could be too high and therefore these strategies seem rather ineffective. However, other explanations are also possible, such as MPs' legislative immunity, the possibility of spreading the responsibility for certain law in the context of coalition governments, lower costs for such behaviour than for any kind of mobilization, etc. This is however out of the scope of this analysis.

What is more important is the fact that denying committing negative strategies on the level of the game seems to be expedient for perpetrators; it allows them to minimize the potential costs of a wrongdoing. This way of dealing with accusations is more dangerous lately, as 'post-truth' politics has come to characterize the new culture in the political world. The strategies at the level of the game are, in the Czech case, rather reactive to the actual contextual situation, while those negative strategies focusing on the electoral rules are more prepared and elaborated. This implies, in general, a need for a more elaborated legal framework which does not count on good political culture, because in practice various unexpected incentives arise and electoral stakeholders instinctively use these situations to their favour, even when they behave inappropriately, which they deny or justify while referring to problematic provisions of the law.

The efficacy of negative strategies is also interesting, because it increases over time and the efficacy of successfully executed negative strategies is slightly higher than when it is also counted for unexecuted strategies with potential impact. In this case, the former means that electoral stakeholders leave aside strategies with no real impact while they stick to using more effective negative strategies. The latter is rather caused by the fact that unsuccessful negative strategies were present in situations with a greater number of negative strategies with milder effects.

The behaviour of non-governmental actors standing for election is also interesting. They seem to be more willing to use harsher versions of certain strategies than their governmental counterparts (or than they themselves would, if they were in government). In fact, this is a quite unexpected result, because this trend flows away from access to public resources. On the other hand, overall bias towards one kind of actor is not evident, because the use of negative strategies among electoral stakeholders balances this disproportionality to a certain extent.

It is necessary to add that the impact of strategies of actors in government and opposition is more or less the same during the observed period. Other actors are in this sense more unpredictable, which could make them a threat to the system and which could be dealt with by imposing some clearer rules or ethical standards on (mainly) political actors.

All of this proves that the stagnating (although high) quality of Czech elections (Jarabinský 2015) in recent years faces internal pressures from a whole range of actors, some of whom may be a potential threat in the future, especially when some kinds of behaviour in society or controlling institutions becomes accepted. The time frame of this work goes, however, beyond the scope of the Jarabinský's (2015) analysis because situations which happened a long time after the announcement of election results are also observed. It seems that the biggest threats for recent Czech democratic elections come from those unpredictable actors with big funds or influential strategic positions in the system. The threats of those actors could increase if they become successful and if they stick to using the same types of negative strategies.

On the other hand, it is necessary to keep in mind that the results do not say as much about the quality of the Czech elections as about the behaviour of electoral stakeholders. This analysis provides a picture of actors' behaviour and not the overall picture of electoral integrity, even though they are interconnected.

Footnotes:

1. Komunistická strana Čech a Moravy.
2. See for example Simpson (2013), who argues that electoral manipulation can influence other actors and future competitions.
3. E.g. the overlap between *redistributive institutions (practices) of electoral governance* as defined by Schedler (2013: 97) which covers most technical aspects of other strategies, with *formal (informal) disenfranchisement, unfairness, fragmentation* of opposition, etc. (see Schedler 2013: 84).
4. Organization for Security and Co-operation in Europe.
5. However, the strategy is negative because it restricts another democratic principle – freedom.
6. ČSSD, as the only member of the minority government, and ODS, as the biggest opposition party.
7. These additional columns are used when an average impact of successfully implemented strategies differs from that counted for both successful and unsuccessful strategies.
8. This was a secret police report which could potentially disadvantage the ČSSD party in elections based on unconfirmed circumstantial police evidence; this played a big role in the electoral campaign right before an election day.
9. Right before the elections, this report was thought to negatively affect the ČSSD, but some experts later postulated that this case could also have had a positive effect on the party (Mlejnek 2010).
10. ODS – Občanská demokratická strana was the main opposition party, KDU-ČSL – Křesťanská a demokratická unie – československá strana lidová was a smaller party in the coalition government. Langer and Severa were members of the chamber's Committee for defence and security.
11. Akce nespokojených občanů.
12. The Constitutional provision that the President '*appoints and recalls the Prime Minister and other members of the government...*' (Art. 62 of the Constitution of the Czech Republic) is based on the *assumption* that the President does so with respect to electoral results.
13. Akce za zrušení Senátu a proti vytunelování důchodových fondů.
14. Dělnická strana.
15. Dělnická strana sociální spravedlnosti.
16. Counted as actively conducted strategies. Persistent strategy is counted only when this strategy was conducted before the observed period.
17. Efficacy is counted as impact of negative strategies divided by their number.

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Appendix: Methodology for the Description of Negative Strategies of Actors in Elections to the Chamber of Deputies in the Czech Republic

Sources:

There are 5 main data sources: monitoring reports (OSCE, USDoS); laws connected to elections or electoral competition; judiciary complaints or decisions (depending on availability) – these are the highest level of decision making, i.e. the Constitutional Court and the Supreme Administrative Court; secondary analyses of certain parts of electoral cycles (used in cases where other data sources are unavailable or missing and in disputable situations to deepen the knowledge of the case); and party manifestos of main political parties (successful in given elections). These sources were examined properly to get an overall picture of the Czech elections to the Chamber of Deputies. They provide long-term election monitoring data to reach many aspects of elections. They also provide detailed legal framework for elections, which is extended by the data initially from people and electoral stakeholders and which can raise complaints about elections (in given legal framework). Mainly secondary analyses provide an insight into situations where some measure or action could provide other results than those intended. All of these aspects are, however, assessed with respect to a normative democratic approach towards electoral integrity.

The coding process had several stages. Firstly, there were 5 basic data sources (as specified above). This means that one data source (e.g. election monitoring report) was examined and during that examination other sources could be examined (e.g. laws, secondary analyses, etc.) based on the information from that primary source (i.e. monitoring report). After that, the main electoral laws were examined in a similar fashion, etc. This reduced the dependence on statements from one information source and increased precision in assessing whether certain behaviour is (or could be) in compliance with a particular negative strategy or not. But the process of assessing the impact of this strategy on electoral results or bias in a certain part of the electoral cycle is even more important. As described, the knowledge from the above-mentioned main sources was enriched by each other as well as by other sources, such as the media, parliamentary voting records, and expert opinions.

Coding:

Before the explanation of coding and based on the above mentioned, it is necessary to stress that one's behaviour/event is not necessarily coded as a piece of information in a document, but rather as a conglomeration of pieces of evidence connected to certain behaviour. Therefore, this is not a quantitative content analysis, but rather a qualitative one. The unit of analysis is therefore single strategy, however, for more precise assessment it is sometimes necessary to use more data sources.

Based on the following, this is rather qualitative research and therefore the validity of results is higher due to the use of more data sources, especially for, let's say, disputable situations. The reliability is here rather small compared to quantitative studies, because the only

check here was made by a sort of intra-coder reliability. The coding was made irregularly over a longer period of time (approximately 1.5 years). However, the sequence of coding was made with respect to the time of elections, i.e. the 1998 elections were coded first, then 2002, etc. The time gap between those elections and the scale of the research made it possible to check whether the coding of the same or similar situations in later elections remained the same as in the previous ones. In this sense, the only problem here appeared during the first switch from the 1998 to the 2002 electoral cycle when evaluating the impact of a few strategies. Then, it was necessary to create more precise definitions of the values added to the variable 'impact' (that lead to formulations which allow for the assessment of the worsening of impacts, whether on a certain part of the electoral cycle or on electoral results). With the introduction of these new definitions, these problems are no longer relevant.

Each of the above-mentioned sources was coded independently by one coder to correspond with Schedler's updated schema which distinguishes negative electoral strategies on two levels. Firstly, these are strategies aiming to influence electoral rules: reserved positions, reserved domains, non-standard legal exclusion of certain actors, legal restrictions on actors' cooperation, repression (of civil or political liberties) through legal discrimination, legal restrictions on media and money, formal disenfranchisement, open voting, unfair rules of the electoral system. Secondly, there are another set of strategies by which actors attempt to influence the competition and elections inside the given legal framework: illegal exclusion or inclusion of certain actors, informal fragmentation of the opposition (corruption, intimidation), creating or controlling a subsidiary party to take advantage of electoral rules (substitution), repression (of civil and political liberties), practical media and monetary restrictions, informal disenfranchisement/illegitimate enfranchisement, coercion, corruption of voters, unfair counting, tabulation, reporting of results, tutelage, reversion. Definitions of these strategies are in table 1 in the text.

The instigator of each strategy was also coded. All observed or subsequently identified offenders were first coded as parties or individuals that were considered to be party representatives. This made party affiliation the first step in coding this variable, while in second step this party (or parties) was (were) coded with respect to the given position in the context, i.e.: government (parties or individuals involved in the government), opposition (parliamentary parties – those in an elected body – which are not in the government), non-parliamentary party (which is not part of the elected body), administrative body (as a part of public administration or body which ensures the running of elections or a specific part of an election), and the category 'other'. This category was later developed into the categories 'president' and 'unknown'. It is necessary to add that more than one perpetrator can be present in one strategy (e.g. re-allocation of free air time in media from one party (usually non-parliament) to another (usually parliamentary or governmental)).

The year of elections was coded with respect to the electoral cycle connected to the given election year. That means that events preceding given elections could happen a long time before the election year and also events connected to election results and their aftermath could happen after the announcement of election results. However, the year of the election day was coded.

Coding of execution (success) of a given strategy has two possible options: yes or no. 'Yes' stands for those events/actions/behaviour which were enacted. 'No' stands for those events/

actions/behaviour which were supposed to happen but which were not successfully enacted (e.g. failed attempt to change electoral law). Success here simply means that something happened, with no regard to whether it had any impact or not.

Impact of given strategies is considered with respect to their influence on the given part of electoral cycle or on electoral results. These parts of the electoral cycle are defined by Sarah Birch's (2011) categories of democratic elections: right to vote, opportunity to vote, right to stand for election, equal information, free expression of preferences, accurate counting, neutral vote-to-seat conversion, and effective dispute adjudication; and one additional category from Schedler's (2002: 39, 41) scheme: irreversibility of election results. Coding is made on a 5-point scale: 1 – none (no impact on a particular part of the electoral cycle nor on the results); 2 – minor (small scale problems, usually with minor impact on a particular part of the electoral cycle which do not create overall bias in that part of cycle nor in the electoral outcomes); 3 – some ((potential) causes of partial bias in a particular part of the electoral cycle or the electoral results); 4 – major (causes clear significant bias in a particular part of the electoral cycle or in the electoral results); 5 – decisive (decisive influence on a particular part of the electoral cycle or it determines the electoral results or their consequences). No matter whether a particular part of the elections or their results were influenced, the worse of those assessments (i.e. the higher number) of impacts was coded.