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Law-Making in an Era Characterized Once Again by an Insufficient Belief in Human Action

It is a great pleasure and a great honor for me and for my delegation to be here in Alabama, in the city of Montgomery, and to get a chance to address this distinguished audience in the State Capitol.

In one respect we came just in time. We have followed very closely the news of the destructive tornado that hit Alabama last week and were very sorry to hear about the victims of this terrible catastrophe. I want to use this platform to convey to you and to all affected families my deepest condolences.

Today, it is the first time I have the chance to visit Alabama after having visited the U. S. about 50 times before. To put it slightly ironically, I could say that I had not been invited. Until now. Thank you very much for it.

I came here as a President of the free and democratic Czech Republic, of a country which 17 years ago succeeded in getting rid of Communism, a country which quite rapidly, smoothly and without unnecessary additional costs overcame its past and transformed itself into a normally functioning parliamentary democracy and market economy, a country which is again an integral part of the free world, member of NATO and of the European Union, a good friend of the United States of America.

I came here with an important delegation to demonstrate our friendship with the U.S., to contribute to the intensification of our contacts with the Southern states, and to support our very active Czech community in the region.

I will conclude my visit in Washington D. C. tomorrow, meeting vice-president Cheney, Secretary of Defense Gates, Speaker of the House Nancy Pelosi, and other leading U. S. politicians.

I want to say a few words about something that was absent during most of my life spent in the communist era. I have in mind freedom, something the Americans value very highly, even though they did not experience its nonexistence or absence personally. As I find myself in the Alabama State Capitol, I would like to make a few comments on **the law-making and freedom** based on my personal experience both from the communist era and from my political roles in the last seventeen years. One of them was also the Speaker of the Czech Parliament in the years 1998 and 2002.

The normal way of legislation formation and of institution building is through **a long-term evolution**, which takes decades or centuries on condition the country has the advantage of having a continuous, uninterrupted, evolutionary development. Your country did have it but we – in the Czech Republic – were not so lucky. Until 1918 we were a non-sovereign country within the Austro-Hungarian monarchy. Then – for a relatively short period of time – my predecessors enjoyed very positive and productive 20 years of freedom. Then Hitler came and occupied the country for six

years and after him the Soviet communist empire took over for another 40 years. This irrational version of a totalitarian regime lasted practically till the year 1989.

We had to start anew. Our legislation formation after our Velvet Revolution in November 1989, when communism finally collapsed, was a consequence of an abrupt and fundamental systemic change. Law-making partly led the changes, partly followed them.

We did not rely on importing of legislation (as it happened in the East Germany or in Iraq) for several reasons. We did not have any model country to look up to, we were not forced to import foreign legislation, and – above all – **we understood that the citizens of our country wanted to be the “owners” and the “framers” of the legislative process, of their Constitution, of their laws.**

We did not have much time because we could not afford to have a legislative and institutional vacuum. We had to go through an accelerated internal law-making process based on a mixture of gradual law- and institution-building and of radical constructivism organized by the politicians responsible for the whole transformation process. I was one of them.

We were, of course, neither able to do it overnight, nor able to aim at creating a perfect system. Such a solution and such a system could be – hypothetically – achieved in a laboratory, but not in a democratic society with all its imperfections, competing ideas and divergent interests, with all the political maneuvering and rent-seeking. **There is, however, no other way how to do it – provided we want to keep a free and democratic society.**

Nowadays, the transition is over, and we already face the same problems and challenges as any other democratic society. **We have to continue solving the eternal question whether we want more of government or less of government,** whether we want small, restricted legislation or an extensive, big one. **I am very frustrated when I see the dangerous tendency of the current world to legislate everything. There is a growing belief: the more of legislation, the better. Anything not “legislated” becomes a priori considered suspicious. I disagree with this tendency completely but I have to admit that I am not on the winning side. At least in Europe these days.**

My other problem is connected with the currently fashionable and politically heralded idea of global governance, which asks for a

supranational legislation, for a legislation which goes beyond national boundaries. Again, we have to choose between nation-specific or international (continental or world-wide) rules, laws, standards, institutions. I know that excessive harmonization and standardization in a non-homogeneous area brings heavy costs, which is something we feel very strongly in the EU. This issue is frequently discussed under the banner of social, environmental, health, or labor dumping. In the EU one hears also the term tax dumping. This is another big issue for me.

I don't know the data about the share of federal and state legislation in your country. In the EU, however, 75% pieces of legislation come from Brussels these days, and only 25% are "home-made", that is, "produced" in individual member-countries of the EU. Exactly this is the reason for so many current disputes within the EU and especially disputes concerning the so called EU constitution.

I hope to learn something here. I hope to learn how you succeed in restricting the volume of legislation in a world of very high propensity to legislate; and how you succeed in keeping legislation close to your voters, to the citizens of Alabama, in an atmosphere of unification, standardization and harmonization.

I strongly believe it is our task to start changing the prevailing mood of our times.

Thank you for your attention.

Václav Klaus, State Capitol, Birmingham, Alabama, March 8, 2007