

Klaus, defender of the Czech nation?

By [Adam Drda](#)

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The Czech president has found the one political way in which he could domestically justify his continued refusal to sign the Lisbon treaty.



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When a Czech politician finds himself in a spot of bother, he pulls out the Beneš Decrees and the property claims of Sudeten Germans expelled from post-war Czechoslovakia through the decrees. It is a card played regularly over the past 20 years by the Social Democrats, the Communists and the Civic Democrats (ODS). And now President Václav Klaus is playing it.

"Prior to ratification, the Czech Republic must at least have negotiated an exception" from the Charter of Fundamental Rights "similar" to that gained by the UK and Poland, Klaus said on 9 October. "That would provide us a guarantee that the Treaty of Lisbon will not lead to the reversal of the Beneš Decrees."

Notional threats to the decrees consistently elicit the desired response from the Czech public, but Klaus is primarily concerned about how politicians react. If he had delayed signing the treaty for any other reason, he would have been criticised because he is now de facto failing to respect the democratic system: multiple governments have supported the treaty, both chambers of parliament have approved it, and the constitutional court has accepted it once.

But the Beneš Decrees are a sacred cow feared by all. When the head of state puts them in play, political leaders nod their heads: Yes, the president is causing us problems, but the decrees are at stake, and that's something we need to address thoroughly. And so it is that the government of Jan Fischer has begun talks on the matter and that the head of the Social Democrats and most members of the largest party, the ODS, have expressed their understanding of Klaus's concerns. At a stroke, Klaus has become a "defender of national interests". Only the inconsequential Greens are talking of ousting him.

Most lawyers agree that the decrees cannot be reversed, since the charter does not apply retroactively. In any case, it is undignified to fear the courts and unwarranted to doubt so profoundly the European system of justice. It is, more importantly, indecent to be an international obstacle on account of decrees which were based on collective guilt and which legitimated the confiscation of assets from millions without due process. But the Czechs' fear is primarily irrational.

For Klaus himself, the driving factor is not the Beneš Decrees. He is executing a skilful tactical manoeuvre. For one thing, he criticised the treaty so vehemently that he does not now want to sign it without something to show for it.

Secondly, he gains time. There will now be international discussions and, spurred on by Klaus, 17 senators are already using that extra time, announcing on Monday (12 October) that they will expand a prior constitutional challenge. Until the court rules, Klaus cannot sign the treaty.

Thirdly, he has created a situation in which any pressure from the EU helps him: since he is defending "national sovereignty", the harsher the words from abroad, the more courageous he will appear to be.

And, fourthly, this may help Klaus, who has been systematically pulling the Czech political scene apart, to

pull down the head of the ODS, Mirek Topolánek, a man he hates and who forced the treaty through parliament.

The Czechs' problem is not Lisbon; it is that their representatives chose a president with autocratic tendencies who is using a badly constructed constitution (tailored to Václav Havel) to act as if the political system were presidential. The country is now in its most serious political crisis since 1989, with a government that lacks a proper mandate and a disintegrating parliament. All that plays into Klaus's hands.

Whether Klaus will eventually sign is unclear. "Of course, this is obstructionism", one senator said of the constitutional challenge. "We want to ensure Lisbon doesn't come into force." They are counting on David Cameron to put the treaty to the vote if he were to become the UK's prime minister before the treaty came into force, something they say he promised in a private letter to Klaus in September. What they can count on is Klaus's mastery of obstructionism.

Adam Drda is a Czech journalist, historian and author.