

**“Don’t Trust the People”:
Lithuania’s Presidential & European Parliamentary Elections**



An elderly supporter of former President Paksas: Such people are referred to as "sugar-beets" by the respected Economist magazine

“If our citizens allow Paksas’s political corpse to be raised again, Lithuania will face the gloomy prospect of becoming a black hole on the outskirts of Europe.”

Lietuvos Rytas (7th April 2004)

Executive Summary

BHHRG has followed the progress of Lithuania’s political travails closely since the surprise election of Rolandas Paksas as the country’s president in January, 2003. The Group visited Lithuania in February 2004 as Paksas fought off allegations of corruption and compromising the country’s security by going over the heads of his parliamentary opponents to appeal directly to the people in a series of nationwide town hall meetings. BHHRG concluded that much of the information disseminated in the West about Mr. Paksas was biased and uninformed. The roots of the crisis fundamental to any democracy were never fully explored, namely, who gives a politician legitimacy ? Is it the voters or non-elected bodies like the constitutional court?

Can such a court pass retrospective legislation that effectively re-writes the rules according to which the political game is played? This is what the Lithuanian Constitutional Court did on 25th May 2004. The result was that Rolandas Paksas has been banned for life from holding any further public position.

In the presidential election that took place on 13th and 27th June former president Valdas Adamkus, defeated by Paksas 18 months earlier, regained office but only after beating off a strong challenge from another outsider, this time from Kazimiera Prunskiene who had been Lithuania’s prime minister between 1990 and 1991. Like Mr. Paksas Mrs. Prunskiene also came under attack for ‘leftist, pro-Russian’ bias. Her allegations of foul play in the counting of the votes were discounted.

Lithuania also held its first election to the European parliament on 13th June in tandem with the presidential poll. The recently formed Labour Party gained 5 of the country's 13 seats confirming predictions that it is the new star in the country's political firmament despite not putting up its own candidate to rival Adamkus for the presidency. The Labour Party is tipped to do well in parliamentary elections scheduled for October, 2004. However, the party's political orientation remains cloudy and the majority of Lithuanians who have lost out in the familiar pattern of post-Communist 'reform' may find themselves both surprised and disappointed as the Labour Party embraces British, New Labour market fundamentalism rather than the more socially-orientated policies they crave.

Introduction

"The people have lost the government's trust ...Wouldn't it be easier if the Government simply dissolved the People and elected another?"

Bertolt Brecht (June, 1953)

Lithuania continues to face a profound crisis of political legitimacy. The question to be decided is the most basic issue in any political order. Who rules in Vilnius? Does the Lithuanian people choose the politicians who will rule them or do their rulers choose whom the people may endorse? Although the Lithuanian constitution emphasises the inviolable sovereignty of the people, when it comes to presidential elections the Lithuanian political class seems to stick more to the Leninist dictum: Trust is good, but control is better.

Rather than allow the electorate to choose between any of the candidates meeting the registration requirements for the poll set for 13th June, on 25th May, 2004, the Lithuanian Constitutional Court ruled that a candidate already registered for the presidential elections was barred for life from standing for public office. That candidate was the former president, Rolandas Paksas. The Lithuanian Parliament had voted to remove him from office six weeks earlier. But the voters may not have been as disgusted with Mr Paksas as two-thirds of the MPs who had voted to impeach him. In any other country, an impeached president would be a haunted and disgraced figure, but in Lithuania it is the former president, Rolandas Paksas's continued popularity which haunts the political establishment which ruled him unfit to hold office.

Every time the Lithuanian political establishment has thought that it has solved the so-called Paksas problem over the last year, its expectations have been dashed. When allegations of impropriety first arose against the newly-elected president in autumn 2003, Rolandas Paksas did not fall on his sword and resign. Instead he fought back and defied the parliamentary majority ranged against him. Even when both the Constitutional Court and then the Lithuanian Parliament, the Seimas, voted to remove him from office, Mr Paksas refused to retire from politics. Instead his impeachment seemed to offer him an arena for a political comeback.

As a skilled and effective election campaigner, Mr. Paksas promptly took up the challenge of seeking the Lithuanian people's verdict and thereby reversing the parliamentary vote to impeach him. Already in the months before the final vote terminating his term in office, Mr. Paksas had been building up a remarkable comeback coalition by touring the country to rally support and seek to rebut the charges in public forums. A number of parliamentarians who were not previously aligned with Mr Paksas joined his cause.

From the point of view of Mr. Paksas's political opponents who had carried the impeachment in April, 2004, the prospect of a successful Paksas re-election bid was a nightmare. Nor was it a groundless fear. Opinion poll evidence in Lithuania has been flawed in the past, but anyone familiar with the tendency of local pollsters to exaggerate by 50% or

more the anti-Paksas vote and to downplay his support could see that in all probability, Rolandas Paksas would come ahead of the field in the first round of voting even winning outright.

The barring of Paksas's candidacy raises serious questions about the rule of law and democracy in Lithuania. One of the European Union's new members has set a precedent not only by impeaching its president but also by the frenzied efforts made to forestall him offering himself to the people's judgement. The fact that Mr Paksas could not be left to the electorate to dispose of is striking.

Unforeseen Consequences

The Lithuanian constitution foresees no punishment for a president convicted of breaching his oath of office except the disgrace consonant with that virtually unprecedented humiliation. The fact that its framers - many of them still alive today - failed to stipulate any consequences other than the loss of office for an impeached president is at the heart of Lithuania's current crisis. Clearly a significant section of the Lithuanian public did not accept the verdict of the Lithuanian parliament acting as the trial court for President Paksas until 6th April, 2004 and, in the absence of any law or constitutional text barring him from seeking re-election many thousands of supporters signed up to re-nominate him. This reality of a popular base for Mr Paksas challenged the assumption that even if an impeached and disgraced president were brazen enough to seek another term in office an outraged public would either provide too few signatories to register a candidacy or would overwhelmingly reject him at the polls.

Impeachment is inherently a political process. Parliamentarians act as judge, jury and (some of them) prosecution. Precisely for that reason an impeachment process needs to reach a higher standard of plausibility than either a normal trial where doubts about the prejudices and motives of judge and jury probably don't exist or of a parliamentary vote where party and personal loyalty decide so much. Unless impeachment commands moral certainty it is tainted by the suspicion of political bias. Impeachments should not be launched without the confidence that their verdict will command a public consensus otherwise the political stability and fabric of a nation may be more damaged by the process than by the alleged misdeeds of the accused president. The less-than-overwhelming endorsement of the process by the Seimas (86 votes in favour, only one more than necessary) shows that this high standard was not reached.

Stop Paksas!

At first, the Lithuanian establishment seems to have hoped to use various forms of moral pressure to prevent Mr. Paksas seeking re-election. But the Lithuanian Central Election Commission refused to bow to the pressure from the parliamentary ethics commission to ban him in violation of the various constitutional and legal provisions preventing a limitation on candidates qualified by existing law and with the requisite number of signatures.¹ Therefore, on 4th May, with the presidential election looming on 13th June, the Lithuanian Parliament passed a retrospective law to prevent impeached presidents from standing for office for at least five years. It was passed by 64 votes to 17 with 5 abstentions. It was clearly a *Lex Paksas*. On 12th May, the Lithuanian Constitutional Court refused to hear an appeal against the new law filed by 1,370 citizens of the republic on the grounds that only political parties not private persons had the right to raise such issues with it.² 29

¹ See "An Iranian Solution to the Paksas Problem" <http://www.oscewatch.org/LatestNews>.

² See "Lithuanian Court upholds decision to ban impeached President", *The Moscow Times*, 12th May, 2004 www.rosbusinessconsulting.com/

parliamentarians then appealed to the Constitutional Court to rule on the validity of the retrospective law.



Leading Paksas opponent, Raimondas Šukys removed the beard (above) for his date with destiny

Among them was one unlikely appellant. Raimondas Šukys, deputy chairman of the Legal Affairs Committee of the Seimas as well a member of the special committee of inquiry into President Paksas and Prosecutor in the Seimas of the President, joined the other MPs who belonged mainly to the pro-Paksas minority in the Seimas. Mr. Šukys explained that he believed that the Lithuanian Parliament should not interpret the Constitution. That was the task of the Constitutional Court. In a meeting with BHHRG in Vilnius, Šukys had reverted to his pre-1991 persona by complaining that Mr. Paksas had further damaged his cause by refusing to “apologise” or even indulge in a period of “self-criticism”.

Whereas the other appellant MPs were hostile to the implications of the retrospective law as well as the principle of enacting a post-facto punishment not in law at the time of Mr. Paksas’s impeachment trial, let alone before it, Mr. Šukys wanted to see the ex-president forbidden from seeking re-election but in accordance with what he judged a more constitutionally appropriate manner, i.e. judicial interpretation not retroactive legislation.

Case for the Prosecution



Egidijus Kuris, Chairman of the Lithuanian Constitutional Court

On 25th May, the Lithuanian Constitutional Court issued a wide-ranging ruling banning any impeached person from holding public office for life. In other words, it went far beyond the retroactive law. Since the Constitutional Court's lengthy ruling has yet to be translated into English, Mr. Šukys kindly explained his understanding of the Court's decision and its reasoning to the BHRGs observers a few days after it was announced.

On the day of its judgement the Constitutional Court's chairman, Egidijus Kuris, and spokesperson, Ramune Sakalauskaite, were widely quoted in the international as well as the Lithuanian media saying that "The Constitutional Court found that the amendments to the law on presidential elections, under which people impeached from their posts cannot be elected for five years, does not run counter to the constitution,"³

"The law, banning an official removed from office via the process of impeachment, does not violate the constitution," court president Egidijus Kuris also told a hearing broadcast by public television. "The process of an impeachment is an instrument of self-defence. With this instrument society can protect itself from officials who breach the Constitution and deny the principles of the rule of law," The Court also ruled that an "under the constitution an impeached president can never again be elected president".⁴

On 26th May, 2004 *The Russian Journal Daily News* reported: "Lithuanian presidency closed to Paksas forever" and its account gave a clear guide to the breadth of the Court's ruling. Far from endorsing the retroactive law, Lithuania's Constitutional Court decreed a whole raft of new rules on banning would be candidates: "Lithuania's Constitutional Court on Tuesday barred any person, having been impeached from their office by the parliament, from taking another position that requires swearing an oath. In accordance with this decision of the Court, no person, after breaking an oath once, can swear an oath again. This affects the president, members of parliament, judges, and other officials who must swear an oath before beginning their duties in office.

The Constitutional Court discussed this question in reaction to complaints submitted to the main administrative court by supporters of the ex-president regarding the decision of the Sejm [sic.] which dictated that any office holder who has been impeached does not have the right to hold a position at the head of the government. The administrative court subsequently turned to the constitutional court, which gave its conclusions on Tuesday."

The Russia Journal went on to quote the Chairman: "An oath is not just a formality or a symbolic act. It is a commitment before the people. Repeating an oath would be fiction," declared the Constitutional Court's chair, Egidius Kuris. Consequently, ex-president of Lithuania, Rolandas Paksas, will be stripped forever of his right to contest for the position of president, member of parliament or any other high ranking government position. The chair of the main election commission, Zenonas Vaigauskas, announced today that Rolandas Paksas should cease his pre-election campaign, and that his name will not be listed among the presidential candidates."⁵

Not since Louis XIV used his power of mercy to "commute" the sentence of banishment on Nicolas Fouquet in 1664 to life imprisonment in solitary confinement in an Alpine fortress had an appeal had such a severe consequence for the appellant. The Constitutional Court's imaginative interpretation of what the drafters of the Constitution must have meant to include as a punishment for impeached persons but completely failed to mention was a masterpiece of jurisprudential invention. By definition, it is the Constitution - for the moment. But by taking upon itself such a dramatic power to interpret unwritten clauses (N.B. not poorly drafted ones)

³ See, <http://www.interfax.com/com?item=Lith&pg=0&id=5725499&req>

⁴ See, <http://sg.news.yahoo.com/040525/1/3kkc6.html>

⁵ See <http://www.russiajournal.com/news/cnewswire.shtml?nw=43928#n43928>

the Court has arrogated to itself a constitution-writing power. Even Mr. Šukys admitted that it was unfortunate that the drafters of the Constitution failed to anticipate an impeached person seeking re-election, and, by implication, having a good chance of being re-endorsed by the electorate.

An important aspect of the controversy surrounding the Constitutional Court's invention of the otherwise unwritten penalties for breaching an oath of office is that the Constitutional Court seems to have taken upon itself the role of other courts as the dispenser of justice by pronouncing judgement. Mr. Šukys seemed to suggest that Rolandas Paksas could put his case for standing as a candidate for the presidency to the Administrative Court. However, since the Constitutional Court has made a binding ruling (according to Mr. Šukys and other legal experts) such an appeal to the Administrative Court had no chance of success. In practice the Constitutional Court has ruled on a specific case not just a general question. Is that constitutional? Only the Constitutional Court can decide!

By taking up this political hot potato and determining the matter in such a categorical and politically controversial way, the Lithuanian Constitutional Court may have served the politicians who nominated its members well but may have damaged its standing in the eyes of many citizens.

Common Sense versus the Common Man?

The essence of the prosecution case as endorsed and enlarged by the Constitutional Court is that Rolandas Paksas violated his oath of office. This violation was proven by the Seimas's vote to impeach him. According to this argument, the violator of an oath cannot be trusted to keep the same vow again. Once an oath-breaker, always a perjurer is the view of Mr. Paksas's opponents as reinforced by the Constitutional Court's lifetime ban.

The problem with that view lies not so much with its logic as with its credibility with the public. The common sense view that a perjurer cannot be trusted to abide by an oath once broken in the future clashes with the apparent view of a large part of the public in Lithuania that does not accept the moral authority of the Seimas's verdict. Apparently, the majority of Lithuanian MPs do not have much moral standing in the eyes of their own electorate. Financial scandals and cronyism (even, allegedly, including judges) have pock-marked Lithuania's brief post-Soviet history. Many Lithuanians find it odd that politicians whose "misjudgements" have cost the taxpayer hundreds of millions of dollars go unpunished, and are even promoted while Rolandas Paksas is banned for life before any allegations against him or concrete damage to the public purse have been proven.

Spokesmen for the establishment ignore the cynicism of the man in the street. Anti-Paksas "experts" were found to inform the media that the Court's ruling was definitive in the political as well as the legal sense. For instance, "This is the end of Paksas' political ambitions, his final destiny after his previous unexpected rebirths," Lauras Bielinis, a political analyst at the Vilnius Institute for International Relations and Political Sciences, told the AFP news agency.⁶ But Lithuanian voters remained far from convinced that the palate of candidates decreed as suitable for them to choose from by the Court or the applause of the establishment was what they really wanted, or respected.

For all the alleged left-right split in Lithuanian politics between the ruling ex-Communists and the nationalist (and in the older generation sometimes ex-Nazi) Conservatives, in practice Lithuanian politics since 1991 has settled down into a cosy game of taking turns to run the country. What elsewhere might well be called a Red-Brown alliance viewed with horrified distaste, the emergence of Rolandas Paksas presented a threat to the comfortable web of "you turn a blind eye to my privatisation deals and I'll look away from yours." Few in Lithuania doubt that Mr. Paksas had trodden on the toes of powerful vested interests. At worst he was trying to promote interests outside the closed circle of the post-Communist elite cemented

⁶ Quoted on 25th May, 2004 <http://news.bbc.co.uk/1/hi/world/europe/3745957.stm>

since 1991, and at best he was genuinely seeking to investigate corrupt practices. Either way, he had to go for challenging the elite and its patrons in business or even in the mafia.

The instinctive dislike of genuinely competitive elections among the Lithuanian establishment was expressed by the country's first post-Soviet president, Vytautas Landsbergis, when he welcomed the banning of Paksas for life because "This otherwise calm election could become raucous and awful," as he told Ziniu radio.⁷⁷ Yet, Dr. Landsbergis enjoys very low poll ratings despite his standing as the Father of Lithuania's re-born independence. To many Lithuanians, he inaugurated not an era of freedom and prosperity but a downward spiral of poverty and scandal which continued even after he lost the presidency in 1993.

With Paksas banned by the Court, the candidates to replace him enjoyed little enthusiastic backing. The West's clearly favoured candidate, the one-term president, Valdas Adamkus, lacked the popularity which his boosters in the English-language media claimed. Any lustre his years in America (after fleeing with Hitler's troops in 1944 as a teenager) had given him had worn very thin by 2004. For instance, on 3rd June 2004, *Rosbalt* reported: "Lithuanian Voters Don't Like Any Presidential Candidates": "Voters dislike all five Lithuanian presidential candidates. This news was revealed in the results of a survey taken by the company *Spinter*, published in the Thursday edition of *Respublika*. Even the most popular candidate in the survey, former president Valdas Adamkus, is disliked by almost three-fourths of the country's citizens. The remaining four candidates for the Head of State position get a negative rating from over 85% of voters".

It is striking how far Mr. Adamkus's official poll ratings fell once Paksas was removed from the race. It seems that not even the pollsters and their selected respondents could make the effort to pretend that he enjoyed the affection of the vast majority of Lithuanians who had, after all, ejected him in favour of Paksas after only one term in office. Maybe Mr. Adamkus remained the favourite to win, but he was hardly the popular choice.

It is precisely because the political class in Lithuania enjoys very low levels of respect that its verdict on Paksas carries much less weight with the common people than might have been expected. However, the Lithuanian establishment is not alone in its isolation from public opinion.

The South Korean Model?

Eight time zones away, there are significant comparisons between the impeachment crises in both South Korea and Lithuania. In each case a president faced a hostile parliamentary majority elected at a different time. Both Roh Moo-hyun and Rolandas Paksas had offended their country's main ally, the United States - Roh by pursuing a conciliatory "sunshine policy" towards North Korea and Paksas by defeating a long-term US citizen, Valdas Adamkas, while criticising privatisation deals with American companies.

On 15th May 2004, the South Korean Constitutional Court voted to reverse the impeachment pronounced by the country's National Assembly on 12th March. President Roh Moo-hyun had faced a hostile majority in the Parliament who had charged him with breaching his presidential oath to serve the whole nation by appearing to favour one party. The president had also come under fierce attack from the parliamentary majority, outraged by his lack of support for the Iraq War. Hadn't America saved South Korea from totalitarianism in the 1950s and thereby earned an eternal bond of gratitude and service?

But few people thought that the technical basis of the impeachment was the real motive for the attempt to remove President Roh from office. Roh's election to the presidency had antagonised the dominant political class who saw him as an upstart and interloper. All impeachments are political processes. Under the guise of court proceedings a political battle is fought out. But the South Korean electorate thought differently. In the April, 2004 general

⁷⁷ http://www.eastcapital.se/vid.php3?menu_id=31&lang=en&id=193

election the pro-Roh, Uri Party, swept away the 196 – 2 anti-Roh majority in the outgoing parliament. So overwhelming was the victory of the President's supporters that the South Korean Constitutional Court backed away from confirming the outgoing parliament's vote of impeachment.

Of course, after the 12th March vote to impeach Roh, Seoul was convulsed by mass demonstrations in favour of the president. 70,000 students and others rallied to his cause. Lithuanians have proved much more reluctant to demonstrate their political views in public. A number of people told this Group's observers in Lithuania in late May 2004 that threats had been made against known sympathisers of Rolandas Paksas warning them that they might lose their jobs if they publicly backed him. Whatever the truth of these charges, BHHRG's observers recalled how reticent voters had been to state their views in the presidential elections 18 months ago, despite the fact that many must have voted for Mr. Paksas. For all its post-Soviet hype, Lithuania remains a country marked by the politics of fear. Caution is not a characteristic of the genuinely free citizen.

What Next?

Whereas in South Korea, the Supreme Court (silently) acknowledged the will of the people as clearly expressed in the general election and reversed the parliamentary impeachment vote, in Lithuania it is precisely the Constitutional Court which has pre-empted the judgement of the people. The Lithuanian Court chose to go beyond even what Paksas's parliamentary enemies sought. Like it or not, the Court made itself a central player in a political crisis by taking the initiative to enact a far-reaching constitutional law not expressed in any part of the written text. Leaving aside a likely appeal to the ECHR in Strasbourg as the Court's ruling cannot now be directly challenged in Lithuania, it may not be the final word on the matter.

Various possibilities remain open to the Paksas camp for challenging the lifetime ban. First of all, a constitutional change might be pushed through by referendum. Or, the composition of the Court might alter as new judges replace the existing ones when their terms expire. Parliamentary elections due in the autumn might produce a majority which would not accept judges known to agree with the current Court's anti-Paksas stance. As in America, nominations to the Constitutional Court could become bitterly contested.

Depending on the election results, especially those in the parliamentary elections in the autumn, Mr. Paksas looks set to remain a power in the land. If his supporters were to gain a parliamentary majority, or even a share in power later this year, the question of either changing the Constitution by referendum or of slowly reforming the composition of the Constitutional Court by parliament's refusal to accept the nomination of more diehard anti-Paksas judges is a possibility. Naturally, the existing anti-Paksas majority in the Lithuanian establishment will fight against any such change.

Like it or not, the Lithuanian courts, especially the highest court, have become politicised as a result of the Constitutional Court's lifetime ban on Rolandas Paksas. So long as he wishes to play a political role, that ban and the Court which enacted it will be part of the hurly-burly of politics.

Europe to the Rescue?

Has Paksas a chance of seeking redress from the European Court of Human Rights? It was striking that Raimondas Šukys who had welcomed the Constitutional Court's initiative in inventing the ban on oath-breakers which the drafters of the Constitution itself had failed to spell out in their text, became rather narrowly legalistic when the question of an appeal by Paksas to ECHR was raised.

Šukys argued that the ECHR's jurisdiction did not extend to such issues. Whereas the absence of a clear text in the Lithuanian Constitution had left the field wide open to interpretation by the Court in Vilnius, in Šukys's view Article 3, protocol 1 of the ECHR's

charter only guarantees the right of appeal to the court in questions relating to the formation of legislative bodies.⁸ Since the Lithuanian president was not a legislator, ergo, the ECHR would have no competence in deciding cases from Lithuania about whether anyone's human rights had been infringed by a ban on a person's participation as a candidate. This interpretation of the ECHR's mandate would leave it open to a hi-jacked Constitutional Court to start laying down further restrictions on presidential candidates without any recourse to Strasbourg. Indeed, it would leave only the streets as a means of challenging a Constitutional Court which had usurped both legislative and elective functions. In short, denying the jurisdiction of the ECHR could be dangerously provocative.

The ECHR rarely contradicts the received wisdom of the Euro-Atlantic elite and might be reluctant to quash the Lithuanian Court's ruling, though how it would justify retrospective legislation by the Court would make for interesting reading. Like it or not Lithuania is not an island but a part of the common European legal space. Of course, there are other areas of the ECHR which can be explored by Paksas's supporters in order to seek redress at Strasbourg.

Lithuania as a Model for the EU?

Already on 23rd February, 2004, the Chairman of the Constitutional Court, Egidijus Kuris, insisted that the impeachment of Rolandas Paksas was a precedent for the EU. He announced that "Actually, Lithuania is now working over a chapter of the history of European constitutional law."⁹ Raimondas Šukys concurred with this. In his interview with BHRG on 28th May 2004 he repeated the argument that the Constitutional Court's ruling barring Paksas as well as the impeachment process was a precedent for European jurisprudence.

In other words, little Lithuania is setting the tone for its bigger brothers in Europe. There are many political leaders there who might reflect on the implications for them of the Lithuanian Constitutional Court's wide-ranging and innovative interpretation of its powers. Silvio Berlusconi is an obvious target for this European model, but Jacques Chirac could also be threatened. At present, the President of the French Republic can only be removed from office by death or a treason charge, but that could alter.

It is easy for outsiders to dismiss Lithuania's political crisis as a local difficulty. However, as a member of both the EU and NATO, the country's sordid political travails affect hundreds of millions of people outside its borders. Who rules in Vilnius is a factor in determining how Brussels, Luxembourg and Strasbourg will operate. In Europe, as Lenin would have remarked, everything is connected to everything else. Turning a blind eye to Lithuania's growing legitimacy gap dividing its politicians from the people will not stop it becoming a problem for Europe.

Presidential and European Elections, 13th June, 2004

BHRG's representative was present in Lithuania for the presidential election held on 13th June, 2004. Elections to the European parliament were held simultaneously. 5 candidates stood in the presidential poll while 12 parties contested the European election. By holding the polls on the same day Lithuania avoided the embarrassment of a spectacularly low voter turnout such as that registered in other 'New European' countries that day – for example, in Estonia, Poland and Slovakia. The reason for the different levels of participation was the greater interest engendered in Lithuania by the presidential election, although politicians themselves were keen to participate in the Euro poll, registering to stand as candidates in unprecedented numbers. No doubt, they were encouraged by the agreeable set of perks offered to Euro MPs by Brussels.

Presidential election: The 2004 presidential campaign proper only took off after the Constitutional Court banned Rolandas Paksas from standing as a candidate on 25th May.

⁸ For European Convention on Human Rights, see, <http://www.echr.coe.int/>

⁹ See <http://www.infolex.lt/portal/ml/start.asp?act=news&Tema=1&str=8876>

Whatever the legal niceties put forward for removing him from the race, if he had he been allowed to run he would have probably won convincingly, maybe even in the first round of voting. Had the authorities resorted to manipulating either the conduct of the poll or the counting of the votes (or both) the government in Vilnius was all too aware that Mr. Paksas had become something of a lightning rod for the thousands of Lithuanians who felt abandoned by the cosy power structures that run the country. Beyond a certain point, election fraud becomes too difficult. Better remove the problematic candidate from the race altogether.

With Paksas out of the way, pre-election polls still put former president Valdimir Adamkus in the lead. Adamkus, we were told, had abandoned the previous 'hands-off' approach to campaigning which had led to his ignominious defeat in the 2003 poll. Now, he was touring the country meeting voters in what was trumpeted as a 'blossom of hope' campaign. How far his 'meet the people' activities extended is debatable – in polling stations he visited in and around Vilnius, BHHRG's representative learned that there had been no sightings of Mr. Adamkus in the region.

Commentators were now quite open in their categorization of Lithuania as a divided society where the 'haves' wanted the kind of pro-Western, reform policies espoused by Adamkus while 'the rest' demanded a more socially inclusive head of state. According to local pundit Lauras Bielinis, "Most people in Lithuania have a low level of political culture".¹⁰ These commentators and their echo chamber in the local media effectively wrote off those they considered to be poor and uneducated, even though the disadvantaged probably account for at least 80% of the population. In a demonstration of their disgust with the local elites, thousands of ordinary Lithuanians had attended town hall meetings across the country held by disgraced President Paksas in the months leading up to his impeachment – BHHRG was present at one such packed meeting in February 2004. It also accounts for the fact that nearly half the electorate does not bother to vote at all any more.

The apparat's decision to re-anoint Adamkus as its candidate was perverse. At 77 years of age and with recent health problems, the elderly American-Lithuanian will be 83 when his term of office ends. Even youthful, pro-Western Lithuanians told BHHRG on 13th June that they thought Mr. Adamkus too old to be president. The Group also learned that even the political class in Lithuania had resented the clique of American advisors who had surrounded the former president during his first term in office. However, it is likely that the Americans had been profoundly humiliated by the 2003 result and determined for it to be put right as a matter of national (US) honour. This meant pushing Mr. Adamkus forward again and forcing him down the throats of the weary Lithuanian public. According to Stephen Mull, US Ambassador to Lithuania, "the [impeachment] process has shown the strength of democracy and democratic institutions in Lithuania".¹¹

There were many other younger, reform-minded types who would have happily stood on the same pro-NATO, pro-reform agenda. What about Viktor Uspaskich who, with his much-touted popularity and personal wealth mysteriously failed to declare his candidacy? Adamkus's chances of success should also have been reduced when the rightwing Homeland Union-Conservatives refused to endorse him and put up their own candidate, Petras Austrevicius, Lithuania's former chief negotiator with the EU.

There were five candidates in the race. Apart from Adamkus and Austrevicius, they were Vilija Blinkeviciute, Ceslovas Jursenas and Kazimira Prunskiene. Blinkeviciute, Minister of Social Security and Labour, was nominated by the Social Liberals. Ceslovas Jursenas, nominated by the ruling Social Democrats, is deputy speaker of parliament and had been one of the main ideologists of Paksas's impeachment. Kazimira Prunskiene was the best-known face among the opposition to Adamkus having been an early promoter of Lithuanian independence and prime minister from 1990-91.

¹⁰ "Dismal political culture, but Lithuania is learning" *The Baltic Times*, 1st-7th July, 2004
www.baltictimes.com

¹¹ Arnas Lazauskas "The Head of State is Impeached" *Lithuania in the World* Vol.12 No.2, 2004.
www.liw.lt It is interesting to note that this publication is Lithuanian Airlines give-away publication. It must be the first glossy magazine of its kind to contain such blatantly political material

During the 1990s Prunskiene headed the left-wing Farmers and New Democracy Party. She stood as a candidate in presidential elections in 2002 when she was forced to acknowledge that she had been investigated for collaboration with the KGB. Even though such connections were officially disproved she was ordered to append the allegations to her campaign literature. In 2004, no such demands were made of Mr. Jursenas who, from 1973 - 75 and later between 1983 - 88 had been a consultant at the Department of Ideology in the Central Committee of the Lithuanian Communist Party.

Results of the first round of voting:

Valdas Adamkus	30.18%
Kazimira Prunskiene	20.60%
Petras Austrevicius	18.7%
Vilija Blinkeviciute	15.9%
Ceslovas Jursenas	11.49%

Turnout: 48.40%

As no candidate received 50% of the vote, Prunskiene and Adamkus went on to contest a second round held a fortnight later on 27th June. Although Paksas's advisors had urged voters to write in the former president's name in the first round of voting, they decided to support Prunskiene on 27th June.

While voting proceeded calmly on 13th June, BHHRG's representative noted various unsatisfactory aspects to the poll. Firstly, large numbers of people were registered in many polling stations, in some places nearly 5000 - an unheard of number in most Western countries. This meant that polling stations often gave the appearance of being hives of activity even though only c. a quarter of those registered actually voted in many places during the day. Voters had not only to show identity cards or passports to receive ballot papers, they also had to produce a polling card (or, 'certificate' as it was called). Apparently, these certificates were to be delivered in person by a member (or members) of the commission. However, BHHRG also heard that some commission members had left the cards in peoples' letter boxes. Undelivered voting cards were kept in polling stations for collection by those who had somehow missed the delivery process and were handed out on presentation of identity documents.

Also exceptional was the large number of postal votes recorded during both rounds of voting - 171,350 in the first round, 223,288 on 27th June. In central Vilnius, polling station No. 1, for example, 1166 out of 2443 of those registered voted by post. The commission chairwoman said that c. 300 people had voted that way in the past. BHHRG had noted large numbers of empty, obviously vacated properties in central Vilnius during long walks around the city in early June 2004. Who could be sure that the 'ghost' inhabitants of such properties were not still on the registers? As usual, the reason given - and accepted - for such large numbers of postal votes was that people were away in the country, although BHHRG noted that it was raining hard on 13th June. Commission members were also required to be present to oversee the postal voting, something that prima facie compromises the secrecy of the ballot. In both rounds, Mr. Adamkus received the largest number of postal votes.



Looking like the King of Ruritania:- Valdas Adamkus in full presidential regalia

As Adamkus was the candidate of the elite one has to speculate as to why such people cannot manage to attend a polling station on election day? Unlike the 'poor and uneducated' they are likely to be car owners. The argument that they are all on holiday or at their weekend dachas doesn't hold water either as Adamkus also received the largest number of postal ballots in mid-winter 2002-3 when no one was likely to be holidaying in the countryside. More intriguingly, in his first shot at the presidency in 1998, Mr. Adamkus narrowly won the election by a mere 14,256 votes. His opponent at the time, Arturas Paulauskas, was well ahead in the first round with 46% of the vote. However, according to reports at the time "votes cast by post helped Adamkus achieve the edge he needed".¹²

As recent events in the UK have demonstrated, postal voting is a recipe for fraud. It provides all kinds of opportunities for inflating the turnout at elections as well as removing that most precious element in the democratic process - secrecy of the ballot. However, while there was publicity and alarm raised in the UK over abuse of the postal voting system leading up to the 10th June European elections, no one in Lithuania seemed troubled by their own postal voting system. Even Rolandas Paksas and his advisors thought it 'normal' for large numbers of people to vote this way even though polling day is a Sunday and voting usually takes place in easily accessible local schools.

The involvement of electoral commissions in delivering the voting invitations and supervising the conduct of the postal voting process gives cause for concern that the secrecy of the ballot could have been compromised.¹³ As BHHRG has pointed out in the past, many Lithuanians with tenuous holds on scarce jobs and resources will be easily pressurised by the authorities. Older voters know what it means when 'The Party' requires them to behave in certain ways. According to Article 54, ballot papers shall "be delivered by a postman to voters who are not able to arrive for voting at a post office or at a polling district on the polling day due to health reasons". The Group's observers were told that postmen had pressurised such people to vote for Mr. Adamkus in the presidential election of 2002-3.

As it happened, the polls in Lithuania once again turned out to be wrong, this time for failing to anticipate Prunskiene's strong showing. As the second round approached, polling data now put the two candidates almost neck to neck. The media started to smear Mrs. Prunskiene as

¹² Paul Goble "A Defining Election" www.lithuanian-american.org/bridges/issue1/election.html

¹³ See, Article 54, Law of Election of President for the rules covering postal voting. Election legislation can be found at www.vrk.lt/index.eng.html

a crypto-Communist candidate with “connections (like her partner in crime, Rolandas Paksas) “to the east”¹⁴ someone “who stands for a drift back to socialist, even Soviet stagnation”¹⁵ Such people never reveal the strong, ongoing connections between Lithuania’s political elite and Moscow. On 8th July, in explaining the likely fall-out for Lithuania from the Yukos affair¹⁶, Prime Minister Brazauskas “told journalists that he sees no tragedy if the Yukos stake passes to the control of the Russian state”.¹⁷ The truth is the opposite of the media hype: it is politicians like Brazauskas, not Mrs. Prunskiene or Rolandas Paksas who have strong links with Russia, particularly with companies, like Yukos and Gazprom.

In the run off held on 27th June, Adamkus won but unconvincingly with 52% of the vote against 47% for Prunskiene. While Prunskiene won in many of the more socially deprived areas she (the left-wing candidate) also picked up votes from Austrevicius (right-wing) in Kalvarijos. Meanwhile, Adamkus won in the Sakiai district, an impoverished region where Rolandas Paksas seemed to have a strong following as observed by BHHRG in February 2004. Mrs. Prunskiene challenged the final results, arguing that the number of completed ballots had mysteriously increased after the conclusion of the count in 46 Kaunas precincts.¹⁸ Kaunas, Lithuania’s second city, has always been touted as the main centre of Adamkus support. It has also suffered inexplicable power cuts during the tallying of the votes at election time. However, her complaints have been rejected by the Central Election Commission and there is no indication that the matter will be taken any further.

On 22nd June, six days before the second round of voting, agents of the Special Investigation Service (SIS) had raided the premises of several political parties, all supporters of President Adamkus. The raids were part of a wide-ranging corruption inquiry into allegations of bribe taking by certain politicians from the Vilnius central heating company, Rubicon.¹⁹ Even the mayor of Vilnius, Arturas Zuokas, fled to Poland fearful of arrest. He returned the next day, but this was peculiar behaviour from someone who claimed to have nothing to hide. It was suggested that the timing of the raid was politically motivated and that the lead investigator was a Paksas supporter who was seeking to influence the outcome of the vote on 27th June.

In fact, despite the regime’s seeming stranglehold on all levers of power in the country, including politicians of both right and left, it is possible that many lower rank police and security personnel resent the cosy sharing of the spoils and are genuinely determined to clamp down on corruption. As the election campaign unfolded, the Vilnius District Court was in the process of investigating 3 politicians for malfeasance connected with the sale of Lithuania’s Mazeikiu oil refinery to the US firm, Williams International in 1999.²⁰ As Adamkus had played a leading role in securing and promoting this unpopular deal, it has to be asked how he won back the presidency on 27th June while reports coming out of the courtroom only served to remind voters of how he helped give away the family silver, literally for nothing?

However, although BHHRG concluded that ordinary Lithuanians despised the Western-favoured political class and accepted former President Paksas’s credentials as a fighter against corruption, Paksas and his Liberal Democratic Party are unlikely to benefit from any exposures of scandal among the elites. Those who pull the strings are always one step ahead of the game and they have decided who will emerge victorious when the Augean stables have been cleansed – that is, if they ever are.

¹⁴ Vladimir Socor “Lithuania’s Election-Eve ‘Coup de Theatre’ ” *Wall Street Journal*, 25th-27th June, 2004

¹⁵ “Elites,gherkins and sugar-beets” *The Economist*, June 26th 2004 , www.economist.com

¹⁶ Williams International sold its share in the Mazeikiu refinery to Yukos in 2002

¹⁷ “No tragedy if Russian govt. gets Mazeikiu shares – PM” www.interfax.com 8th July, 2004

¹⁸ Steven Paulikas “Adamkus triumphs, Prunskiene appeals” *The Baltic Times*, 1st – 7th July, 2004 www.baltictimes.com

¹⁹ “Lithuanian MPs took bribes worth almost 100,000 euros” www.laisvaslaikrastis.lt , 29th June, 2004.

This web site has a number of useful articles detailing corruption within Lithuania’s political class.

²⁰ “Ghost of Mazeikiu sell-off continues to haunt politicians” *The Baltic Times*, 27th May-2nd June 2004, www.baltictimes.com



A pro-European Union banner in Vilnius with the English-language version upside down

European Elections: Enter the Labour Party: On 13th June, Lithuania also held its first elections to select 13 MPs to the European Parliament. From the established parties the Social Democrats won 2 seats, the Liberal-Centrist Union, 2, Homeland Union 2, Liberal Democrats, 1, Farmers and New Democracy, 1. Although Paksas's Liberal Democrats might have expected to gain support after the acknowledged unpopularity of the impeachment process, the main winner was the upstart Labour Party led by Viktor Uspaskich, a former Social Liberal MP, which won 5 seats.

Lithuania's Labour Party is a classic jack-in-the-box creation which suddenly appeared in October 2003 and immediately took a lead in the opinion polls. It mirrors similar parties that have emerged, seemingly from nowhere, in several former Communist countries. For instance, the Smer (Direction) party in Slovakia and Bulgaria's National Movement for Simeon 11 were created to drain support away from genuine opposition parties – in the case of Slovakia, from Vladimir Mečiar's HZDS and in Bulgaria, from the Socialist Party (BSP). As Paksas continued to attract large numbers to his meet-the-people sessions the possibility presented itself that large numbers would vote Liberal Democrat in parliamentary elections scheduled for October, 2004.

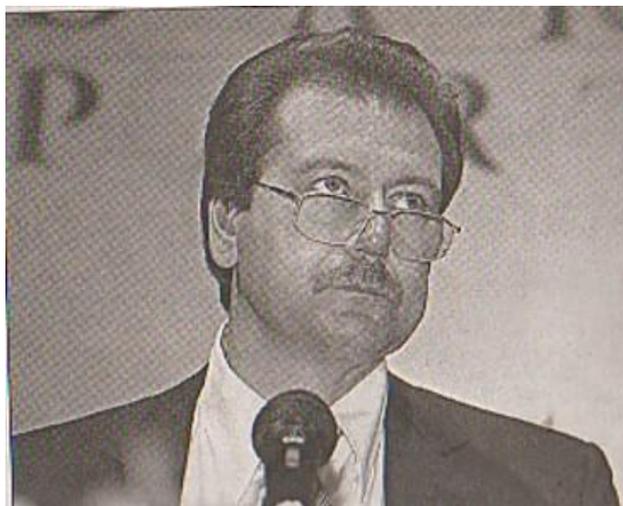


A poster for the new Labour Party which won the largest number of seats in the European elections. Note, US media company Clear Channel owns the billboard

In the circumstances it is not surprising that Lithuania's new Labour Party should arouse suspicions.

Although tailored to attract those who have lost out on the benefits of reform, Labour is led by a multi-millionaire businessman, Viktor Uspaskich, who the media tells us is "very "popular". According to a reliable source close to the American political establishment, The Jamestown

Foundation,²¹ “veteran U.S. Democratic Party campaign consultant Joe Napolitano helped advise LP’s campaign”, advice that will not have come cheaply. On top of this, the same media that denounced Paksas (and, later Prunskiene) for cultivating contacts with “the east”, makes no comment on Uspaskich’s Russian background. According to The Jamestown Foundation “he moved to Lithuania from Russia”.²² In fact, Uspaskich receives jocular write-ups in the press for owning a large gherkin factory. Contrast this with Paksas’s campaign funder, Yuri Borisov, who was denounced for his Russian ethnicity and is still threatened with expulsion from Lithuania where he was born and where he has lived for most of his life.



Viktor Uspaskich: Lithuania's latest political star despite being of Russian origin

Uspaskich is very much in the same mould as Bogoljub Karic, a Serbian entrepreneur, who was recently bounced into the Serbian presidential election as the candidate whose riches would rub off on ordinary Serbs. Like Karic, Uspaskich has promised a huge hike in pension payments for Lithuania’s large number of elderly, impoverished residents if he wins the parliamentary election in October 2004. Of course, the real purpose of Karic’s candidacy was to take votes away from the West’s nemesis, Radical Party candidate, Tomislav Nikolic, which he probably did. Ukraine’s Yulia Timoshenko is from a similar mould - the entrepreneur with the popular touch.

The image of the benevolent magnate with only his employees’ interests at heart is a crude reversal of the voracious Capitalist portrayed in Communist propaganda of old. However, much of the old Communist propaganda has stuck and most ordinary people in the east do not buy into the businessman-with-a-heart-of-gold model. The unfriendly reception given to Russia’s oligarchs is the most egregious example of such hostility.

None of this will alter the fact that Uspaskich and his party of fiery fighters against graft and corruption will be foisted on the Lithuanian public by fair means or foul in the October poll. Apart from Ona Jukneviene who worked at one time for the World Bank, none of the candidates on the Labour Party’s European election list was known to the public. And, as if to underline its bogus left-wing credentials, Uspaskich himself supported (right-wing) Austravicius in the first round of the presidential election. He has since refused to deny speculation that, should Labour win the October poll, he would offer the post of prime minister to Austrevicius “I would be pleased to see him in government” he said.²³ At the same time, he announced that the president elect (the right-wing Adamkus) “would find it easiest to work with the Labour Party because their manifestos contained a large number of similar

²¹ www.jamestown.org/publications_details.

²² *ibid*

²³ “Lithuanian Labour Party leader keeps eyes on premiership” www.bbcmonitoringonline.com 3rd July 2004

provisions".²⁴ The party was remarkably coy about which faction it would join in the European Parliament, where it has since been welcomed into the Liberal Democrat fold.

As the Labour Party will likely power to victory in the Autumn parliamentary election, BHHRG noted with interest that the party had deployed large numbers of observers in polling stations on 13th June, always a sign that there are deep pockets to pay for a fleet of retainers. The 22nd June police raids on the old established Conservative and Social Liberal parties will only serve to bolster support for the new, squeaky-clean team or, at least give the authorities a reason to explain its sudden success with a reportedly jaded public.

Conclusion



Lithuanian poll dancers - one of the country's major exports

Unlike its supine Baltic neighbours in Latvia and Estonia, Lithuanians have put up something of a fight as they are dragged into the brave new world of 'reform'. The extreme measures resorted to in order to silence Rolandas Paksas demonstrate how far the anti-democratic forces that run the country will go to silence dissent and cut out those who do not belong to the magic circle that took power during the collapse of Communism in the early 90s.

In the June elections, the authorities in Lithuania used various tactics to shore up support for the bogus democratic process - like the widespread use of postal voting which serves to inflate participation in the election process and, at the same time, deliver the 'right result'. A new populist party was also created in Autumn 2003 to finally eliminate Paksas's support base, including his Liberal Democratic Party. The new Labour Party promises to increase social benefits for the poor while aligning itself with the most free market politicians in the country, like Mr. Adamkus. Genuine oppositionists, like Prunskiene or Rolandas Pavilionis, an academic and Paksas supporter who has launched his own election bloc For Order and Justice in time for the October poll, are denounced as Soviet throwbacks by the overwhelmingly pro-regime Lithuanian media.

Meanwhile, large numbers of young people are leaving Lithuania - the numbers have increased since the country entered the EU in May 2004. The situation facing those seeking work is such that many educated young ladies prefer to work as table dancers in the industrial north of England rather than chance their luck in the precarious job market at home.²⁵ They, like many of their countrymen vote but in one way only - with their feet.

²⁴ *ibid*

²⁵ See a typical advertisement on page 7 of *The Baltic Times* for "Table Dancing Operator" who can "Earn in excess of 1000 euros per week" www.baltictimes.com 1st-7th July, 2004