

Media release

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Villagers take legal action against Germany's "unconstitutional" coal law

Villagers who face losing their homes for coal mining as part of the German coal phase-out have launched constitutional court action to challenge the country's freshly adopted coal exit law.

The villagers claim that by guaranteeing the destruction of several villages for coal, Germany's coal exit law contravenes their fundamental rights to property, legal protection and dignity, which are enshrined in the German constitution.

The case is led by the local [Menschenrecht vor Bergrecht](#) ('human rights before mining rights') campaign and additional residents from the villages set to be demolished – 36 claimants in total.

Barbara Ziemann-Oberherr, from Menschenrecht vor Bergrecht, said: "Everyone needs to know that today, in the 21st century, people are losing their homes for coal mining, with the full approval of the German government. Our rights have not even entered into the equation in the writing of this law and that's why we're going to court. Our fight is just starting."

For the villagers, the scandal of the new coal exit law is paragraph 48, known as the "Garzweiler clause", which declares the expansion of the 48km² Garzweiler mine vital for Germany's energy security – despite [ample evidence](#) to suggest the opposite.

The issue for the villagers is that German mining law states that coal extraction is 'in the public interest' and allows for the demolition of homes to make way for it, overriding people's fundamental right to property.

This means that, left unchallenged, the Garzweiler clause cements the mine's licence to expand, secures the destruction of the villages and protects its owner RWE from legal objections.

The villagers' case argues that the Garzweiler clause infringes their rights and goes directly against the German constitution itself. The court case is a bid to have the provision overturned.

The group of claimants has grown exponentially in the last weeks. **New claimant Norbert Winzen** is part of the fourth generation to live on his family farm in Keyenberg. He said: "The farm has been the centrifugal force of my family since I was born. We are facing the loss of family homes and churches that are centuries old, the demolition of irreplaceable farmland and gardens, and the relocation of cemeteries. This is about house and home – that's why my family and I have joined with so many others to launch this case."

The **villagers' legal representative, Dirk Teßmer**, said: "I can see no justification for giving the Garzweiler mine this 'untouchable' status in the coal exit law – we don't have satisfying

evidence that the mine really is indispensable. The law in its current form violates the fundamental rights of my clients while protecting climate-damaging lignite.”

If the constitutional court agrees with this argument, the Garzweiler clause would cease to apply – potentially destabilising the whole coal phase-out agreement itself.

Prominent **energy expert and supporter of the group, Dr Volker Quaschnig**, said: “The clean energy transition must come sooner than German law says. Lignite plants in the Rhineland directly jeopardise the Paris Agreement goals.”

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Notes to editors

Resources

Videos from the Menschenrecht vor Bergrecht campaign can be found on the group’s [YouTube channel](#) (EN and DE subtitled versions available). Please credit Felix von der Osten / Kayla Kauffmann if using.

Photos for press use can be found on [Flickr](#). Please use the credits/information provided.

Menschenrecht vor Bergrecht is on [Twitter](#) – the livestream of today’s press conference is available there.

Further background

The ‘solidarity group’

Menschenrecht vor Bergrecht was formed in 2019, with a group of residents from the villages surrounding the Garzweiler II mine forming a ‘Solidargemeinschaft’ (solidarity group) and announcing their intention to fight for their homes all the way to the courts if they had to.

Originally, Menschenrecht vor Bergrecht announced its intention to take legal action against any decision by the local mining authority that would allow utility RWE to forcibly dispossess the villagers of their properties.

RWE has not approached the mining authority for this permission yet – though it must if it wishes to mine through the villages. When this situation arises, Menschenrecht vor Bergrecht intends to challenge this decision in court too.

The Menschenrecht vor Bergrecht solidarity group is leading the newly launched constitutional court challenge but extra claimants have joined the court case over the last weeks.

Coal, RWE and the German phase-out

Germany spent a long time agreeing its coal phase-out law. The government ordered the forming of a committee (the ‘coal commission’) to aid its formulation, but the eventual ‘coal compromise’ that was born, and that shaped the law adopted in July, has been heavily criticised by a wide range of groups – not least for its tardy phase-out deadline of 2038.

As part of the phase-out, RWE is set to receive €2.6 billion in ‘compensation costs’, despite ample evidence to suggest that coal in Europe is already unprofitable.

On the same day Menschenrecht vor Bergrecht formally launched in 2019, RWE held a press conference to announce its new, renewables-leaning strategy – but insisted it would still be necessary to demolish multiple villages for continued coal mining.

The Garzweiler mine

Already 48km² in diameter, the expansion of the Garzweiler mine would require the demolition of several villages. The intention of owner RWE would be to supply 645 million tonnes of lignite, the dirtiest form of coal, to Neurath, Europe's [second-worst coal plant for carbon emissions](#), until the plant's closure in 2038. The internationally recommended deadline to stop burning coal for power is 2030.

The German institute for economic research (DIW) [published a report in May](#) that disputes the need for the Garzweiler expansion.

Support for the case

Environmental law charity [ClientEarth](#) is supporting Menschenrecht vor Bergrecht's legal action.

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