



DATTELN 4: DIRTY RELIC OF THE COAL AGE



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STOPPING COAL-FIRED POWER GENERATION

Forests are burning, glaciers are melting, extreme weather events are on the increase in Germany and around the world. Time and time again, the German Federal Government insists that it is stepping up to the challenge. It has signed the Kyoto Protocol, the Paris Agreement on Climate Protection and has set national climate targets.

It appointed a commission to address the pressing issues raised by phasing out coal in a socially acceptable manner. It became a member of the "Powering Past Coal Alliance", an international coalition that wants to accelerate the phase out of fossil fuels. One of the alliance's guiding principles is "no new coal-fired power plants". The very same demand for 2020 and thereafter was made by António Guterres, Secretary General of the United Nations.

And what does Germany decide to do? It starts to phase out coal by commissioning Datteln 4, a power plant powered by bituminous coal. Even before any old power plants were decommissioned as part of the phase-out law, Datteln 4 went into regular operation on 30th May. This is an unbelievable failure regarding climate policy and an affront to the most urgent challenges of our time.

Ever since the first plans were published, **Friends of the Earth Germany (BUND)** and crucially the regional association from North Rhine-Westphalia, have been putting up fierce resistance to the power plant. Since 2007, **BUND** has submitted many legal actions and petitions against it, and has won time and time again.

It is clear that there is only one viable way of meeting the objectives laid out in our climate policy: phasing out coal by 2030 at the very latest and rapidly expanding the production of renewable energy.



BUND demands:

- ➔ Coal-fired power generation is phased out by 2030 at the latest!
- ➔ That negotiations to **shut down Datteln 4** are restarted.
- ➔ For the dirtiest power plants to be **shut down first!**
- ➔ A quick return to Germany's energy revolution with the rapid **expansion of renewable energy!**



CLIMATE, ENVIRONMENT AND HEALTH

Climate sinner Datteln 4

As stated in the land-use plan of 2007 and repeated by the operators and politicians at great length, Datteln 4 is intended to replace four other power plants. These are: Datteln 1-3, Shamrock in Herne, Knepfer in Castrop-Rauxel und Scholven D in Gelsenkirchen. However, these power plants were decommissioned in 2013 and 2014, a whole six years ago.

In order to get Datteln 4 connected to the grid despite the coal phase out, the operator Uniper offered to shut down its remaining four large coal-fired power plants that are still active. However, these were only operating at 21 percent of their capacity in 2019. In real terms, only a total of 589 megawatts were actually available on the market on average over the year, but Datteln 4 has a net output of 1,055

megawatts (MW). In addition, it is questionable whether the Federal Network Agency would even approve the decommissioning of these power plants due to their local role in the network. Moreover, this decommissioning is only planned for up to five years after the planned operation start date of Datteln 4. Although a new coal-fired power plant of this type is more efficient than an old one and therefore has lower specific emissions, it is also more cost-effective and for this reason alone is likely to be used at much higher capacity than the old plants that are being phased out. It is also particularly detrimental that supply contracts signed by RWE and Deutsche Bahn 15 years ago, only come into force once Datteln 4 has been commissioned. These contracts bind RWE, for example, to purchase electricity generated by coal from Datteln 4 for at least 25 years, and let us not forget that this begins in 2020, the very year when Germany's alleged withdrawal from coal-fired power generation should begin. This is electricity generated by bituminous coal that neither RWE nor Deutsche Bahn actually want to receive. With these completely obsolete and outdated supply contracts, the operator Uniper is undermining the general development of the market, in which electricity generated by bituminous coal has been being rapidly squeezed out for around five years, if only due to cost reasons alone.

As a result of political protectionism in favour of the illegally constructed coal-fired power plant, Datteln 4 is likely to run at a high capacity and push electricity generated by coal into the grid. This is blocking more efficient energy sources, especially from renewables from accessing the electricity grid. RWE is currently refusing to accept electricity from Datteln 4, although a final ruling on the validity of the supply contracts is still pending.

A study by the German Institute for Economic Research (DIW) also shows that the commissioning of Datteln 4, in combination with the outdated supply contracts, would cause a considerable amount of additional emissions, around 40 million tonnes of CO₂. The application documents for the power plant show that it can emit up to 8.4 million tonnes of CO₂ per year when operating at full capacity. Since Uniper has fixed supply contracts with RWE and Deutsche Bahn for a total of 863 of the 1,055 megawatts of its installed capacity, it is likely that it will operate at high capacity. Even if all of the other Uniper coal-fired power plants in Germany were to be shut down, this would not compensate for the high CO₂ emissions.



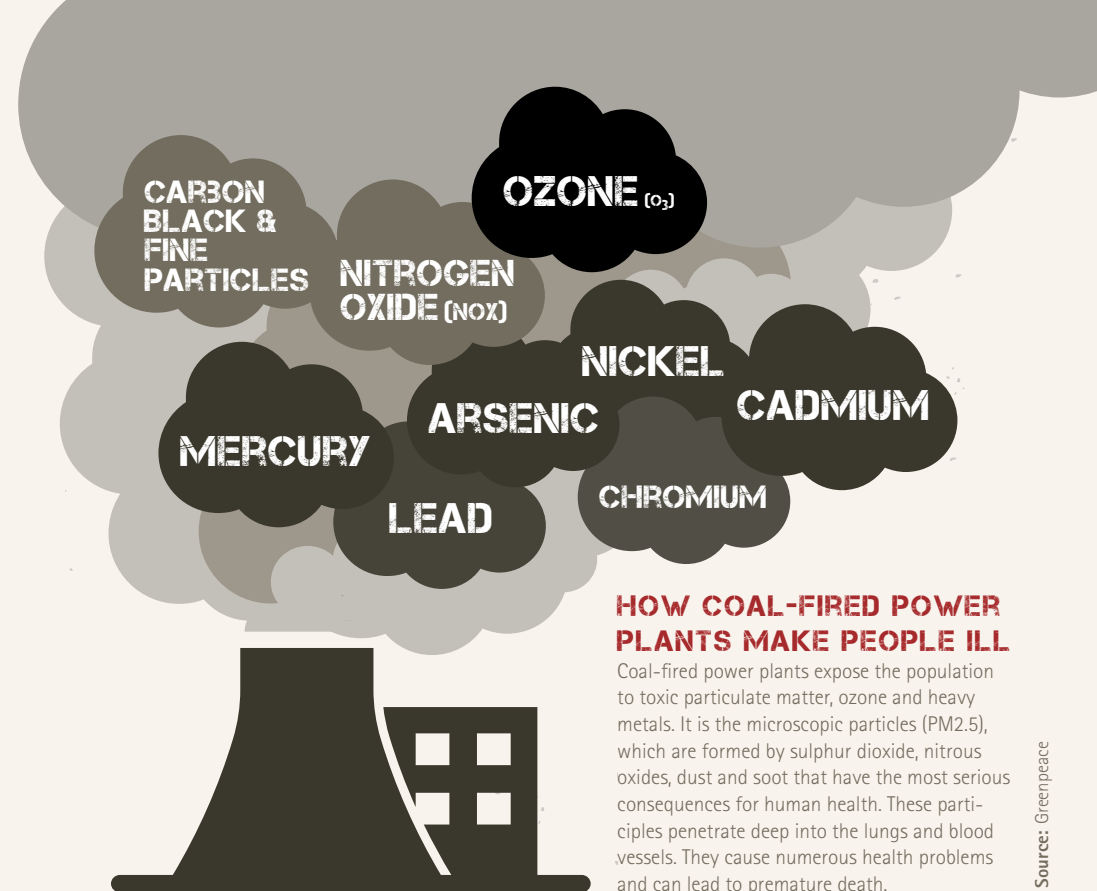
Environmental killer Datteln 4

Climate protection and environmental protection are inseparable, as is the case for coal-fired power plant Datteln 4. In addition to the **high additional CO₂ emissions**, it is inevitable that a **significant amount of pollution** will be caused. Considerable amounts of mercury will enter the Lippe River via airborne transmission and the cooling tower wastewater. The fish there are already unacceptably contaminated. The power plant will emit pollutants into the Special Areas of Conservation Cappenberger Wälder and Lippeauen, which are already polluted from various sources. The habitats there are already so heavily polluted that any additional pollution cannot be permitted. The power plant, coal port and coal storage facility cause local immissions of noise and particulate matter. The safety of local residents is also at risk because of the hazardous substances such as ammonia that are handled at the power plant site.

Throughout Germany, distances of 1,000 meters are being discussed for wind turbines, the state of North Rhine-Westphalia has even decided on 1,500 meters. But the gigantic coal-fired power plant Datteln 4 is located less than 450 meters away from Meistersiedlung, a purely residential area.

But that's not all: within a 1,000-meter radius of the plant, there is a children's hospital that also treats children with lung diseases. The plume, which can be several kilometres high at times, will block the sun in some parts of the city. This is one reason why residents have been campaigning against the power plant for years.

Neither can the Datteln 4 power plant be justified by the argument that supporters repeatedly put forward, namely that the district heating supply is at risk. The town and region of the same name are currently supplied by a 13-kilometre-long pipeline from Herne without any problems. The existing power plant powered by bituminous coal is being replaced by a combined cycle power plant, which will ensure supply in the future with even less damage to the climate. In order to supply the district heating needs of the city of Datteln, Uniper already operates a gas-fired power plant on the site of the old coal-fired plants 1-3. To push this insanity in climate politics to the extreme, this gas-fired power plant for district heating is to be demolished when Datteln 4 is commissioned.



The Datteln 4 project is madness for the climate, the environment and people's health. The power plant should never have been built on this site. Nevertheless, the state government continues to push and promote it.

Datteln 4 is a deeply damaging project to generate electricity by coal, which customers do not want, but which harms the climate and poisons the environment while riding roughshod over the law.



Destroyed landscapes for Datteln 4:
Coal mining in the Russian Kuzbass region

Black ruin

However, the "black gold" claims many victims long before it arrives at the power plant, something that the importers willingly condone. Uniper sources its bituminous coal mainly from Russia, Columbia and the USA. **Human rights are disregarded** in the extraction of Russian and Columbian coal in particular and there are **fatal ecological impacts**. The Kuzbass Basin in Russia is now considered to be an ecological disaster area: the rivers, groundwater and air are polluted and this has serious consequences for human health. According to reports from human rights organisations, the Columbian coal companies that supply Datteln are respon-

sible for the displacement of 55,000 people. Paramilitary units linked to the coal companies are blamed for the killing of around 3,100 people. Hundreds of victims are still missing to date.

According to Uniper, only 25 percent of its coal is sourced in so-called "low risk countries". In 2018, only 46 percent of its coal came from suppliers who have signed the Better Coal Initiative's code of conduct. This is an initiative from coal importers to promote their own image, with dubious success. (Uniper Sustainability Report, p. 53).

LEGAL STATUS

History of planning approvals and objections

2005

In **2005** the **first plans for the construction of coal-fired power plant Datteln 4** are announced. The operator at this time is E.ON. There is resistance from the very beginning, but it is ignored by the North-Rhine Westphalian state government which is made up of the political parties CDU and FDP.

2007

In **2007** the District Council of Münster grants planning approval and **construction begins**. In the same year, **BUND NRW files a lawsuit against the planning approval decision** for the construction of a second port and the relocation of the Ölmühlenbach tributary river as part of the expansion of the coal-fired power plant Datteln. When **BUND** obtains an **initial temporary halt to construction** in 2007, E.ON makes a binding commitment to demolish the power plant and recultivate the site if it is definitively rejected in court.

2008

In **2008**, **BUND** goes to **the Higher Administrative Court** in Münster to file a legal challenge against the preliminary approval and the first partial immission control permit that were granted for the construction of the planned 1,050 megawatt coal-fired power plant. This lawsuit is extended in 2009 with a lawsuit against the partial planning approvals 3 to 5, accompanied by urgent summary proceedings.

2009

In **2009** the **Higher Administrative Court in Münster revokes the land-use plan for the power plant** following a lawsuit filed by a farming couple, and rules the city of Datteln has completely failed to take all interests into due consideration. In other words, the city has completely failed to consider the protection of the environment and interests of residents versus the economic interests of E.ON, as is necessary prior to granting planning permission. The location of the power plant is simply not suitable.

2012

In **2012**, the Higher Administrative Court in Münster **completely revokes** the planning approval for construction and operation due to the **BUND** legal challenge. **The construction of the power plant is suspended.**





Victory at the Federal Administrative Court:
A reason for Dr. Thomas Krämerkämper and Dirk Jansen from BUND and lawyer Dirk Teßmer to be happy (from left to right)



2013

In **2013**, the Federal Administrative Court in Leipzig confirms the ruling in favour of BUND. However, rather than stopping construction, the law is changed politically: the state government, which now consists of the political parties SPD and the Greens, decides to diverge from its own policies, which makes it possible to deviate from regional planning requirements. This is the only way the city of Datteln can draw up a new land-use plan.

2015

In **2015**, BUND launched an application for judicial review of the new land-use plan drawn up on this basis.

2017

In **2017**, the state government of SPD and the Greens issues a new immission control permit. The power plant has changed ownership and now belongs to E.ON spin-off Uniper. In the same year, BUND files a lawsuit against this new permit.

So far, BUND has won all lawsuits against the Datteln 4 power plant. And BUND is still taking legal action, which means the planning permission for Datteln 4 is not yet legally binding.

RWE and Deutsche Bahn

Deutsche Bahn and the electricity company RWE signed contracts to purchase electricity from Datteln. The two RWE contracts were signed in 2005 and 2006 and together have a combined capacity of 450 megawatts. They specify a minimum term of 25 years. The Deutsche Bahn's supply contract was signed in 2007. As a major customer, Deutsche Bahn will thus use 413 MW of the 1,055 MW available at the power plant to supply electricity to the rail network. This is an unwelcome legacy for both companies, and not only because the prices agreed at the time are far above today's market price.

Deutsche Bahn is aiming to be climate-neutral by 2038 and electricity generated by coal harms its carbon footprint and its image. In addition, the company's owner, the German federal government, cut the rate of value-added tax as a measure to incentivise rail travel to meet climate policy targets. RWE is currently in the process of phasing out coal itself and is not interested in purchasing 450 MW of electricity generated by coal every year. RWE has made several attempts to cancel the contract, so far without success.



A break from the Coal Commission

Faced with the growing pressure from climate change to push ahead with the energy revolution, the German government appointed the "Growth, Structural Change and Employment" commission, also known as the "Coal Commission". It brought together representatives from politics, trade unions, industry, environmental organisations and residents to formulate recommendations for phasing out coal in a socially acceptable manner. Following tough negotiations, the commission came to a consensus on the lowest common denominator, which the German federal government then promised to implement without modifications. One recommendation of the commission was that Datteln 4 should not be put into operation:

"The commission continues to recommend that the permission for the construction of new coal-fired power stations is no longer granted. For power plants that have already been built but are not yet in operation, the commission recommends that a solution be negotiated so that these do not go into operation." (Final report, p. 62)

According to the final report from January 2019, it took a year until a draft law was finally put before the federal cabinet in January 2020. The "Coal Phase-out Act" was passed by the Bundestag on 3rd July 2020, with the Alliance 90/The Greens and Die Linke voting against it. Alongside other shortcomings in climate policy, any mention of the rejection of Datteln 4 seems to have vanished. It is true that the construction and commissioning of new bituminous and lignite-fired power plants was prohibited, except in cases of:

"bituminous and lignite-fired power plants which had already obtained a construction and operating permit in accordance with the Federal Immission Control Act before 29th January 2020." (Coal Phase-out Act, §53, from 07.07.2020))

In doing so, the federal government is going back on its promise to implement the recommendations of the Coal Commission without modifications and is creating a new "Datteln Act". However, the power plant's planning permission is not legally binding due to the ongoing legal proceedings of **BUND**.

Current situation

The Finnish energy company Fortum acquired almost 70 percent of Uniper's shares in the first half of 2020. Since the Finnish government is now the majority shareholder in Fortum, the German problem of Datteln 4 will thus also become a Finnish problem. Admittedly, Fortum is, by its own admission, primarily interested in Uniper's gas infrastructure, but since it now owns the coal-fired power plant Datteln 4, it does not want to part with it (and above all its supply contracts). Therefore, **BUND** has appealed to the Finnish government to match actions to the words of its publicised climate friendly policy in Germany too. It simply does not make sense that Finland wants to phase out coal-fired power generation by 2029, but at the same time commissions a new coal-fired power plant in Germany. This is where the Finnish government must maintain its credibility in climate policy and bring an end to the Datteln 4 project.

Three of **BUND's** legal challenges are still pending:

1. A lawsuit against the construction of the coal port (2007)
2. An application for judicial review of the new land-use plan (2015)
3. A lawsuit against the new immission control permit (2017)

Legal proceedings are also being conducted by **BUND NRW** against the neighbouring Trianel coal-fired power plant in Lünen. **BUND** has successfully stopped this power plant in the past, and the newly issued permits are being reexamined again. The challenges are based on the immission control permit and the water permit. The challenge to the water permit was recently judged in favour of **BUND**. The pollution discharged by both power plants affects the same areas that are protected under European law. Both approval procedures are closely linked to one another due to their considerable cumulative effects. The lawsuits against Datteln 4 are suspended until the court has ruled on the Trianel coal-fired power plant in Lünen, a situation that can be changed at any time.



→ **A milestone:** **BUND** obtained a historic ruling on Trianel at the European Court of Justice, which strengthened the rights of environmental organisations in Germany to file legal challenges and enabled environmental organisations throughout Europe to have comprehensive access to the courts.





One thing is clear: As long as the lawsuits against Datteln 4 have not been ruled on, the "sword of Damocles" will hang over the project; is the prospect of demolition without compensation. The Finnish state and majority shareholder Fortum would therefore be well advised to follow the recommendations of the Coal Commission and seek a solution for decommissioning through negotiations.

The horrendous compensation payments made in this regard by various politicians are completely unjustified. On the one hand, the operators have already written off high amounts in the millions on the power plant, on the other hand, Uniper would run it for a maximum of 18 years, rather than the planned 40 due to the coal phase-out. There is no money to be made from coal anyway nowadays.

DATTELN IN NUMBERS

LEGAL STATUS

3 BUND-LAWSUITS
pending



STOPS TO CONSTRUCTION ACHIEVED
– at the very least

2014

16.5.2014: Lawsuit brought by the City of Waltrop against the state of NRW on the legitimacy of the procedure to diverge from its own policies in relation to the amendment to the regional development plan. Legal challenge is dismissed when heard on first instance; no appeal lodged. The proceedings are thus concluded.

2015

JUNI 2015: Members of the Interest Group (IG) Meistersiedlung launch an application for judicial review of the land-use plan.

ON 5.9.2015, the City of Waltrop applied for a judicial review of the new land-use plan 105a at the Higher Administrative Court in Münster.

2017

2017: Lawsuit of affected parties in the IG Meistersiedlung against the immission control permit.



BUND-LAWSUITS
lost



2020

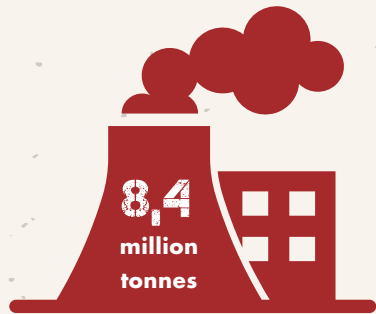


is when Germany's **largest illegal construction** is planned to start regular operation.

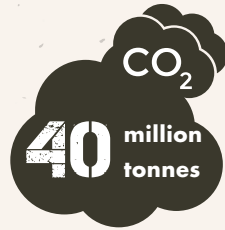


70% is the share that **finnische** Finnish state-held company Fortum owns of Datteln-operator Uniper.

Climate killer



of **carbon dioxide** could be emitted **each year** (maximum).



of additional **CO₂ emissions** caused by the commissioning of the power plant.



coal **phase-out**.

Environmental sinner

75%

of the coal comes from **high-risk countries**.



is the amount of **bituminous coal** that the power plant consumes **each hour** when operating at full power.

1.000 METRES,

or actually a lot less, is the distance between the Datteln chimney and a **children's hospital**.



LINKS

More information on Datteln 4 from **BUND**:

- www.bund-nrw.de/datteln

DIW study commissioned by **BUND** ("Climate protection, not coal pollution: What are the obstacles in phasing out coal and what needs to be done")

- https://www.bund.net/fileadmin/user_upload_bund/publikationen/kohle/kohle_ausstieg_diw-studie.pdf
- https://www.bund-nrw.de/fileadmin/nrw/dokumente/Energie_und_Klima/2019_11_14_BUND_Hintergrund_Datteln_4_web.pdf

New approval procedure for E.ON power station Datteln 4. Short summary of the **BUND** statement dated 27.05.2015

- https://www.bund-nrw.de/fileadmin/nrw/dokumente/Energie_und_Klima/2015_05_29_Kurzzusammenfassung_Datteln_4_Stellungnahme.pdf

Statement from the Federal Environment Agency on the Trianel ruling

- https://www.umweltbundesamt.de/sites/default/files/medien/481/dokumente/auswertung_eugh-urteil_trianel_verfahren.pdf

Coal Phase-out Act (draft version)

- https://www.bmwi.de/Redaktion/DE/Downloads/G/gesetzentwurf-kohleausstiegsgesetz.pdf?__blob=publicationFile&t=6

Final report of the "Growth, Structural Change and Employment" Commission

- https://www.bmwi.de/Redaktion/DE/Downloads/A/abschlussbericht-kommission-wachstum-strukturwandel-und-beschaeftigung.pdf?__blob=publicationFile





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