

ISSUE BRIEF **09.13.21**

Poland–Czechia Mining Dispute Highlights Clash of Local Interests, Global Climate Goals

Anna Mikulska, Ph.D., Nonresident Fellow, Center for Energy Studies

Eryk Kosinski, Professor, Law and Administration, Adam Mickiewicz University, Poznan, Poland; Visiting Professor, Ivan Kozhedub Kharkiv National Air Force University, Kharkiv, Ukraine

INTRODUCTION

An unprecedented conflict between Poland and Czechia is brewing on the countries' border.¹ At stake is the future of one of Poland's largest lignite mines, located in the city of Turów. According to the Czechs, who have filed a complaint with the Court of Justice of the European Union (CJEU), the open-pit mine violates European Union's (EU) environmental laws. In essence, the conflict has a local flavor but several aspects underscore its regional (EU-based) and global implications. The details of the dispute illuminate major hurdles that countries around the globe will face in eliminating coal from their energy mix—and underscore the need to develop local solutions to set an ambitious and actionable path toward decarbonization.

THE DISPUTE

On February 26, 2021, the Czech Republic filed a lawsuit against the Republic of Poland, with the CJEU accusing Poland of violating EU law in connection with the expansion of the Turów lignite mine, which supplies one of the largest coal power plants in Poland. The dispute over the mine is not new. Since at least 2015, Poland and the Czech Republic have engaged in intergovernmental talks on the cross-border impact of the Turów

mine and an extension of its operating license, with little to no effect. The recent escalation of the conflict is the most serious yet as Czechs complain that a cross-border environmental impact assessment was not conducted before an extension of the mine's production license. They also argue that the mine's activities negatively affect groundwater levels on their side of the border. The lawsuit calls for suspending the mine's operations in Turów until the CJEU ruling, a temporary (at least for now) but draconian measure that the CJEU approved on May 20, 2021.

In response, Poland ignored the injunction and requested a less restrictive legal remedy. It also initiated an intensive dialogue with the Czech Republic, hoping the latter will withdraw the lawsuit. With the EU summit as a backdrop, on May 24–25, 2021, a preliminary agreement was drafted and the parties set up a joint expert commission to investigate environmental issues related to the mine. However, subsequent negotiations to incorporate the expert findings into an intergovernmental agreement have yet to succeed. A series of negotiations rounds in August 2021 did not bring the countries to a definitive resolution, though parties have reported some progress. The Czech lawsuit has not been withdrawn and Poland still refuses to suspend mining in Turów.



The details of the dispute illuminate major hurdles that countries around the globe will face in eliminating coal from their energy mix—and the need to develop local solutions to set an ambitious and actionable path toward decarbonization.

ISSUES AT STAKE

Both Czechia and Germany know the above issues all too well, as they also mine lignite in their border regions (including along their borders with Poland) and, like Poland, are some of the world's largest lignite producers.

Issues like those raised by the Czechs in its CJEU complaint are not new and have been the subject of several controversies in recent years, including a less strained disagreement involving regions bordering Germany.² In fact, in 2020 the German border town of Zittau also voiced concerns about pollution and noise from the Turów mine.³ The Polish side—in trying to keep the mine going—usually uses arguments related to energy security and the economic welfare of the local community. The arguments of the Czechs and Germans more often reflect either general environmental concerns or point to negative externalities (e.g., access to and contamination of drinking water, as well as dust, noise, and collapsing land) that their border communities have to endure—while only Poland reaps the economic benefits (as described in the next paragraphs) generated by the activities of the mine and the power plant complex.

Turów is one of five lignite mines currently functioning in Poland. Its reserves hold approximately 330 million tonnes of coal with the capacity to produce between 10 million to 14 million tonnes annually. The mine supplies the nearby Turów Power Plant, which has a total installed capacity of 1.5 GW.⁴ The plant's net electricity production meets 5% to 7% of Poland's electricity demand.⁵ In addition, the Turów Power Plant is the only supplier of heating and domestic hot water for almost all of the Bogatynia region (population of about 18,000), including hospitals, schools, kindergartens, and residential buildings (i.e., 1,400 single-family houses), as well as commercial enterprises such as Citronex, whose greenhouses supply most of the tomatoes purchased by Poles at discounters in winter.⁶

The mine and power plant complex in Turów are also some of the largest employers in the Turoszów region and in the entire Dolnośląskie Voivodeship, with almost 2,400 and 1,200 employees, respectively. Additionally, almost 1,100 people are employed by their subsidiaries. If indirect employment by cooperating entities and

employees' families are added to the above, the mine and power plant complex become responsible for the stable income of about 60,000 to 80,000 people.⁷

Thus, an immediate closing of the mine—as ordered by the CJEU's injunction—would not only result in the mine shutdown but also lead to the closure of the Turów Power Plant. This would mean the collapse of the local labor market, a huge increase in unemployment, and the bankruptcy of hundreds of companies in the region. Moreover, local government budgets and the Polish state treasury would also be negatively impacted, as the mine and the power plant are large and stable taxpayers. From a national perspective, an immediate loss of 5% to 7% of electricity resulting from an out-of-service Turów plant would also lead to potential breaks in supply and impair Poland's energy security, given the lack of immediate substitutes.

In contrast, noncompliance with the CJEU's ruling has not resulted in immediate negative effects for Poland. Whatever negative consequences Poland might potentially suffer (for example, fines imposed by the EU) would be diffused over time, as well as spatially (throughout all of Poland, not only Bogatynia and the Turoszów region), and spread across the entire Polish economy rather than focused on only one of its sectors.

LIGNITE VS. THE EU

Both Czechia and Germany know the above issues all too well, as they also mine lignite in their border regions (including along their borders with Poland) and, like Poland, are some of the world's largest lignite producers.⁸ Lignite is one of main sources of electricity in all three countries. In 2020, lignite-based electricity met 34.5% of total power demand in Czechia, nearly 21% demand in Germany, and almost 30% of power demand in Poland.⁹ In the context of the EU's very aggressive climate politics, the lignite activity in Poland, Czechia, and Germany may be surprising. Only Germany has made a formal commitment to abandon the extraction and combustion of lignite by

2038.¹⁰ The Czechs have not set a specific timeline, yet estimates point to 2040. In Poland, if one were to rely on the contract between the government and the miners signed in April 2021, all (lignite and hard) coal mines would stop functioning by 2049, with only a relatively small reduction by 2030. Many of the commitments, particularly in cases of Poland and Czechia, also lack an actionable path.

But the extended deadline on coal, as well as a lack of specificity about measures that would lead to a deadline, is actually by design. As explained in our previous work and illustrated so well by the Turów debacle described above, coal is not an easy fuel to eliminate, as environmental concerns are often countered by those related to economic development, social and labor issues, and energy security.¹¹

In addition, domestic political factors—while often overlooked—are also of importance. We have detailed the political power that Polish miners have numerous times before.¹² In a nutshell, particularly in hard coal regions, miners are a well-organized, locally concentrated political force that, especially during close elections (local and/or national), are able to impact the results and even pick the winner. As a result, the mining community can exert substantial influence on the decisions of national government. While lignite mining is more territorially dispersed than hard coal mining, its future is an indicator for both the hard and brown coal industry; negative actions against lignite are likely to galvanize societal and political forces in the hard coal region as well. It does not help the governments that miners are often politically well-organized and, hence, are able to effectively amass support for, or opposition against, a certain political party or faction.

On the flip side, strong action against cross-border pollution, which negatively impacts a certain political constituency, is a great political prop for anyone who wants to build political capital. In fact, some argue that the elections for the Czech parliament, scheduled for October 2021, contributed to the tightening of the Czech position on the Turów mine.¹³

BROADER IMPLICATIONS

For both Poland and Czechia, a possible trial before the CJEU would be unprecedented. It would also be a unique event in the history of the European community and the EU, as only six judgments on interstate cases have been rendered since 1979, and two claims were withdrawn. Poland is counting on the Czechs to withdraw the lawsuit but, in the meantime, is not willing to follow the CJEU's injunctive ruling, citing economic and energy security reasons.

This points to the limits of CJEU and EU power over EU members. The EU, as a whole, could impose penalties and/or—on the extreme end of the spectrum—even seek a country's exclusion from its ranks. Of course, the latter is rather unlikely as, particularly post-Brexit, any additional “exit” would likely shake the stability of the organization.

And herein lies a more general concern about the ability of international institutions to enforce transnational laws, even when they have strong institutional foundations, like that of the EU. Such enforcement is particularly difficult when international commitments collide with domestic interests, and when diffused, general, and long-term goals (such as those of climate action) are set against the specific and immediate interests or gains of a local community or a nation. Hence, for example, the Turów dispute resolution has mostly focused on measures that address local issues in bordering Czech and German regions and that keep the mine open—rather than those that would close the mine altogether, given lignite's high CO₂ emission levels and detrimental effect on Europe's climate action plans and Poland's commitments toward them.

Since the long-term and diffused/global nature of climate action makes it particularly difficult to adjudicate disputes and enforce judgments when international and country-level interests collide, to succeed climate measures must pay more attention to and, whenever possible, address national concerns. This requires a more detailed assessment of each country's social, economic, and political environment,

Enforcement is particularly difficult when international commitments collide with domestic interests, and when diffused, general, and long-term goals (such as those of climate action) are set against the specific and immediate interests or gains of a local community or a nation.

and tailoring commitments to suit a given country's needs, using any comparative advantage it may have. Admittedly, the process is much more burdensome and is likely to bring less expansive results, but it is also likely to be more actionable and may lead to higher levels of compliance while possibly avoiding outright conflict.

In many ways, such a careful and detailed approach can actually result in a much more comprehensive treatment of the issues at hand, with new and diverse solutions considered to exploit each country's comprehensive advantage.¹⁴ There is no one-size-fits-all solution to decarbonization and climate policy. The exit from coal is particularly difficult since one must consider myriad issues related to energy security, local or national impact, economic development, employment, and the social and political implications of all.

As such, the Turów example is instructive. And while an immediate closing of the mine is out of the question for the Polish side (even if it defies international climate accords and agreements), local concerns will likely lead to a more specific plan for the future of the Turów mine and power plant as the EU decarbonizes. Lignite is a particularly interesting example. It is usually mentioned in the context of high CO₂ emissions, but its local (often idiosyncratic) nature is rarely analyzed: its low calorific value means lignite cannot be cost-effectively transported over long distances. Hence, it usually becomes a center of local economic activity—including, as per the Turów example, power plants and heating districts—as well as a high energy-intensive industry.

In a way, the local, idiosyncratic nature of lignite mining regions points to some important, generalizable insights. In particular, it underlines that local energy sources are often very difficult to phase out, as their extraction and use often underlie the existence of entire local communities, including most commercial and noncommercial activity. Thus, for example, any attempt to close down a lignite plant without a long-term restructuring effort is likely to meet strong opposition—by both the local community and the government

of the affected nation. Therefore, to be successful, any climate action needs to incorporate local measures and address local issues affected by the economic restructuring of the region. As mentioned above, the results may take a while and be incremental, but could ensure an actionable path forward—one that, given the findings of the newest UN report on climate,¹⁵ the world desperately needs.

ENDNOTES

1. This brief is in part the result of Eryk Kosinski's work as the lead investigator in the research project "Regulation of the energy sector in the European Union and Ukraine. The comparison of purposes and legal means of regulation of the energy sector," funded by the National Science Centre, Poland, No. 2016/21/B/HS5/00054, Contract no. UMO-2016/21/B/HS5/00054.

2. Andrew Higgins, "Dispute Over a Coal Industry Pits Poland Against Its Neighbors," *New York Times*, May 30, 2021, updated August 26, 2021. <https://www.nytimes.com/2021/05/30/world/europe/poland-czech-coal-mine-environment.html>.

3. Paila Tamma, "Poland's coal appetite angers its neighbor," *Politico*, January 27, 2020, <https://www.politico.eu/article/poland-polish-coal-appetite-angers-its-neighbor-czech-republic-prague-germany/>.

4. J. Popczyk, K. Bodzek, "Energetyka XXI w. na Dolnym Śląsku. Alternatywa wobec rozbudowy odkrywki węgla brunatnego i bloku 450 MW w Turowie," S. 5, http://eko.org.pl/imgturysta/files/2020/Turow_ekspertyza%20Popczyk_Bodzek_0119.pdf.

5. Krzysztof Berenda, Zamknienie kopalni w Turowie. Co oznacza dla Polski?, RMF 24, May 21, 2021, https://www.rmf24.pl/fakty/polska/news-zamknienie-kopalni-w-turowie-co-oznacza-dla-polski,nld,5246699#crp_state=1.

6. Bartłomiej Derski and Rafal Zasun, "Czechy wycofają skargę na Turow. Polska zapłaci za inwestycje," Wysokie Napięcie. May 25, 2021, <https://wysokienapiecie.pl/37889-czechy-wycofaja-skarge-turow-polska-zaplaci-za-inwestycje/>.

7. "Najwiekszy pracodawca w regionie, Turów 2044, <https://turow2044.pl/najwiekszy-pracodawca-w-regionie>
8. Krzysztof Debiec and Michal Kedzierski, "Lignite in the Czech Republic and Germany: controversies and prospects," OSW, March 31, 2021, <https://www.osw.waw.pl/en/publikacje/osw-commentary/2021-03-31/lignite-czech-republic-and-germany-controversies-and-prospects>.
9. Kerstine Appunn, Yannick Haas, and Julian Wettegel, "Germany's energy consumption and power mix in charts," Clean Energy Wire, August 3, 2021, <https://www.cleanenergywire.org/factsheets/germanys-energy-consumption-and-power-mix-charts>; "Modernizing the European lignite triangle," Agora-Energiewende, Forum Energii, https://www.agora-energiewende.de/fileadmin/Partnerpublikationen/2020/Lignite_Triangle/EN-Modernising_the_European_lignite_triangle.pdf.
10. "Germany: Law on Phasing-Out Coal-Powered Energy by 2038 Enters into Force," Global Legal Monitor, Law Library of Congress, August 31, 2020, <https://www.loc.gov/item/global-legal-monitor/2020-08-31/germany-law-on-phasing-out-coal-powered-energy-by-2038-enters-into-force/>.
11. For a general overview, see Anna Mikulska, "The Long Goodbye: Why some nations cannot kick the coal habit," Kleinman Center for Energy Policy, April 1, 2019, <https://kleinmanenergy.upenn.edu/research/publications/the-long-goodbye-why-some-nations-cant-kick-the-coal-habit/>. For details on Poland's coal reliance see, for example, Anna Mikulska and Eryk Kosinski, "Explaining Poland's Coal Paradox," *Forbes*, March 28, 2018, <https://www.forbes.com/sites/thebakersinstitute/2018/03/28/explaining-polands-coal-paradox/?sh=13aa914c4867> or Anna Mikulska, "Poland, Europe, and the Coal Conundrum," *Rienergia*, September 4, 2018, <https://rienergia.staffettaonline.com/articolo/33129/Poland,+Europe+and+The+Coal+Conundrum+/Mikulska>.

12. Mikulska, "Poland, Europe and the Coal Conundrum, *Rienergia*, 2018; Anna Mikulska, "Poland's Love Affair with Coal: Can EU Do Anything About It," *The Energy Collective*, April 5, 2018, Group <https://energycentral.com/c/ec/polands-love-affair-coal-can-eu-do-anything-about-it>.
13. "Sasin: Nie mozna liczyc na szybkie porozumienie z Czechami w sprawie kopalni Turow," Bankier.pl., July 12, 2021, <https://www.bankier.pl/wiadomosc/Wicepremier-Sasin-nie-spodziewa-sie-porozumienia-ws-Turowa-przed-wyborami-w-Czechach-8152217.html>.
14. Kenneth B. Medlock, "Energy Transition, Covid-19 & a World of Uncertainty," *Oxford Institute for Energy Studies*, July 2020, <https://www.bakerinstitute.org/research/energy-transition-covid-19-comparative-advantage-and-world-uncertainty/>.
15. United Nations, "IPCC report: 'Code red' for human driven global heating, warns UN chief," UN News, August 9, 2021, <https://news.un.org/en/story/2021/08/1097362>.

See more issue briefs at:
www.bakerinstitute.org/issue-briefs

AUTHORS

Anna Mikulska, Ph.D., is a nonresident fellow for the [Center for Energy Studies](#) at the Baker Institute for Public Policy and a senior fellow at the Kleinman Center for Energy Policy and the Foreign Policy Research Institute.

Eryk Kosinski, is a professor of law and administration at Adam Mickiewicz University in Poznan, Poland. He is also a visiting professor at Ivan Kozhedub Kharkiv National Air Force University in Kharkiv, Ukraine.

center for
ENERGY STUDIES
Rice University's Baker Institute for Public Policy

This publication was written by a researcher (or researchers) who participated in a Baker Institute project. Wherever feasible, this research is reviewed by outside experts before it is released. However, the views expressed herein are those of the individual author(s), and do not necessarily represent the views of Rice University's Baker Institute for Public Policy.

© 2021 Rice University's Baker Institute for Public Policy

This material may be quoted or reproduced without prior permission, provided appropriate credit is given to the author and Rice University's Baker Institute for Public Policy.

Cite as:
Mikulska, Anna and Eryk Kosinski. 2021. *Poland–Czechia Mining Dispute Highlights Clash of Local Interests, Global Climate Goals*. Issue brief no. 09.13.21. Rice University's Baker Institute for Public Policy, Houston, Texas.

<https://doi.org/10.25613/M1PK-HH22>