

Corporate Attacks: Health

Case Study: Coal-Fired Electric Plant

Investor-State Dispute Settlement (ISDS) grants corporations shocking powers to attack the laws we rely on for a clean environment, financial stability, affordable medicines, safe food and decent jobs. The cases are decided by tribunals composed of three private attorneys, some of whom rotate between serving as “judges” and bringing cases against governments. The tribunalists are paid by the hour and are unaccountable to any court system or electorate. Under U.S. trade and investment pacts alone, corporations have already won more than \$3.6 billion in taxpayer money, with \$34 billion still pending.

Vattenfall v. Germany I

Case Settled (environmental conditions rolled back)

Vattenfall, a Swedish energy firm, [launched a \\$1.9 billion investor-state claim against Germany](#) in 2009 under the Energy Charter Treaty over permits delays for a coal-fired power plant in Hamburg. [According to Vattenfall](#), delays of required government permits started when the state’s environmental ministry established “very clear requirements” for the plant, due to “the reports of the Intergovernmental Panel on Climate Change having alerted the public to the impending climate change.” Public opposition to the proposed plant focused on prospective carbon emissions and water pollution. Further delays, according to Vattenfall, occurred when the Green Party – which opposed the plant on environmental grounds – formed a coalition with the Christian Democrats after state elections in 2008. After Vattenfall litigated in domestic courts, the coalition government issued the permits to Vattenfall, but with [additional requirements to protect the Elbe River](#).

Rather than comply with these requirements, Vattenfall launched its investor-state claim against Germany, arguing that Hamburg’s environmental rules [amounted to an expropriation and a violation of Germany’s obligation](#) to afford foreign investors “fair and equitable treatment.” In response, Michael Müller, then Germany’s deputy environment minister, [stated](#), “It’s really unprecedented how we are being pilloried just for implementing German and European Union (EU) laws.” To avoid the uncertainty of a prospective investor-state tribunal ruling ordering payment of a massive amount of compensation, the German government reached a settlement with Vattenfall in 2010. The settlement obliged the Hamburg government to drop its additional environmental requirements and issue the contested permits required for the plant to proceed. The settlement also [waived Vattenfall’s earlier commitments](#) to mitigate the coal plant’s impact on the Elbe River. Any monetary payment extracted from German taxpayers in the settlement has not been disclosed. Vattenfall’s coal plant in Hamburg [began operating in February 2014](#).