

COP 27

17 Key demands of „Lawyers for Future“

Successfull new international law solutions to deadly global catastrophes

1. Support the demands of „Fridays for Future“:

Listen to the Scientists, implement the Paris Agreement as soon as possible, keep to the 1.5° limit, net zero by 2035, phase out coal by 2030, 100% renewable energies by 2035, €100 billion subsidies for renewable energies, prevent climate catastrophe tipping point of the Amazon rainforest, permafrost and Antarctica, protect biodiversity, keep Lützerath, stop all state fossil subsidies, stop all state or "private" fossil investments, cancel the ECT immediately, stop the massive, internationally illegal Russian war of aggression. against international law that is blocking climate protection, Climate before nuclear war, Climate before political compromises, Climate before Profit, International Climate Justice for most vulnerable States, G 20 states pay for losses and damage of most vulnerable States, System Change not Climate Change, immediate climate protection-prioritising transformation of the entire global economy, Stop the Climate Criminals like Trump, Xi, Bolsonaro, Morrison, Putin, Murdoch, Modi, Stop Big Oil

2. Massive pollution of the atmosphere has been a crime under international law from at least 1976 to the present and into the future:

The findings of the International Law Commission (ILC) from 1976 to 1996 that the massive breach of international obligations so essential for the protection of fundamental interests of the international community

as the obligation

a) to peace and security and the refraining from aggression

b) to recognise the right of peoples to self-determination

c) to protect human rights, in particular by prohibiting slavery, genocide and apartheid

d) to protect the environment, in particular by prohibiting massive pollution of the atmosphere and the seas

constitutes a crime under international law,

[Yearbook of the International Law Commission 1976 Volume II Part Two \(un.org\)](#) p. 95/96, [Yearbook of the International Law Commission 1996 Volume II Part Two \(un.org\)](#), p. 60)

has been valid since then and will be in the future.

3. The duty to protect the atmosphere has been a supreme and peremptory obligation of international law ('ius cogens') at least since 1976 until today and in the future:

The findings of the International Law Commission from 1976 to 1996 that the massive breach of international obligations so essential for the protection of fundamental interests of the international community

as the obligation

a) to peace and security and the refraining from aggression

b) to recognise the right of peoples to self-determination

c) to protect human rights, in particular by prohibiting slavery, genocide and apartheid

d) the protection of the environment, in particular through the prohibition of massive pollution of the atmosphere and seas

constitutes a crime under international law

means that these internationally recognised superordinated and peremptory obligations are a 'ius cogens' according to Art. 53 Vienna Convention on the Law of Treaties (VCLT) and as such have been valid since then and will be in the future.

This also applies in particular to the duty to protect the atmosphere(cf. d)).

4. The UN Framework Convention on Climate Change (UNFCCC) and the Paris Agreement (PA) are also 'ius cogens'.

This is because, as a consensual further development and concretisation of the internationally recognised peremptory and superordinated 'ius cogens' obligation to protect the atmosphere, they are also 'ius cogens' according to Art 53 VCLT (last half-sentence).

5. The massive violation of the UNFCCC and the Paris Agreement is a crime under international law. Because of the "Success of Action" of the destruction of all humanity, genocide or crimes against humanity come into particular consideration.

Due to the consensual further development and concretisation of the internationally recognised peremptory and superordinated 'ius cogens' obligation to protect the atmosphere in accordance with Art 53 VCLT (last half-sentence) to the UNFCCC and PA, a massive violation of this is also to be assessed as a crime under international law.

And because of the "Success of Action" of the destruction of all humanity, these crimes under international law are to be assessed in particular as genocide or crimes against humanity.

6. Ius cogens' like the PA have two very effective enforcement mechanisms under international law:

a) Sanction through nullity of conflicting treaties (laws, subsidies, etc. analogously) according to Art. 53 VCLT.

b) Sanction through international criminal law

These two enforcement mechanisms of a 'ius cogens' cannot be excluded by treaty. Art. 15 PA, which excludes sanctions, is therefore null and void according to Art. 53 VCLT.

As 'ius cogens', the Paris Agreement can be very effectively protected and, above all, enforced on the basis of the legal consequence of the nullity of international treaties (or parts thereof) that violate a 'ius cogens', as laid down in Art 53 VCLT.

Therefore, Art. 15 PA (a part of a treaty) is void due to the exclusion of exactly this legal consequence as well as the exclusion of international criminal sanctions, which also cannot be excluded as protection and enforcement mechanisms of 'ius cogens'. Likewise guideline 9 of the "Guidelines on the Protection of the Atmosphere" [A/C.6/76/L.15 \(undocs.org\)](#) of the ILC of 11.11.2021

7. The duty to protect the environment has also been a 'ius cogens' at least since 1976 and the massive violation of this duty has also been a crime under international law since then; the new criminal offence of 'Ecocide' must therefore be adopted immediately.

see 2., punishable also because of the 'do-no-harm principle'. Therefore, the new international offence of 'Ecocide' in particular must be adopted immediately.

8. Compensation for losses and damages resulting from crimes under international law can be claimed and enforced before the International Criminal Court (ICC) in accordance with Art. 75 Rome Statute.

"Losses and damages suffered by victims of climate change, in particular by the most vulnerable states, can be claimed and enforced against the perpetrators of crimes under international law before the International Criminal Court (ICC) in accordance with Article 75 of the Rome Statute.

9. The Energy Charter Treaty (ECT) is null and void according to Art. 53 VCLT

as it (even according to the EU Commission) massively violates the Paris Agreement; which is a 'ius cogens'.

10. EU-trade agreement with Canada (CETA) is null and void according to Art. 53 VCLT,

as it fundamentally violates the Paris Agreement as 'ius cogens' and therefore further may not be ratified.

11. Claims for damages by corporations against states because of fossil investments are exclude

In bilateral and multilateral trade and investment agreements, "the protection of investments in fossil fuels must be excluded" in order to achieve the internationally agreed climate targets, as now also demanded by the EU Parliament:

„Nr. 61: Expresses concern at fossil fuel investors suing governments before investment tribunals, within the context of investment agreements, for pursuing policies on climate, the phasing out of fossil fuels or the just transition; calls for consistency between bilateral and multilateral investment agreements and internationally agreed upon climate objectives by excluding the protection of fossil fuel investment“ [Texts adopted - UN Climate Change Conference 2022 in Sharm-el-Sheikh, Egypt \(COP27\) - Thursday, 20 October 2022 \(europa.eu\)](#)

12. Protecting the climate is not a matter of political compromise and discretion, but a constitutional and international legal obligation to achieve climate neutrality:

We explicitly support the EU Parliament's reference No. 19 regarding the upcoming COP 27 to the "climate decision" of the German Constitutional Court:

"19. Recalls a recent ruling by a Member State's constitutional court that climate protection is not a matter of political discretion and that the constitution's provision on environmental protection imposes a constitutional duty on the state to achieve climate neutrality" [MOTION FOR A RESOLUTION on the 2022 UN Climate Change Conference in Sharm El-Sheikh, Egypt \(COP27\) | B9-0461/2022 | European Parliament \(europa.eu\)](#)

13. National achievement of PA targets instead of insufficient compromises and majority decisions

Not only the Government of Germany but the governments of all signatory states to the Paris Agreement must not retreat to national political compromises and parliamentary majority decisions when it comes to climate protection, but must first and foremost fulfil their national duty to achieve the goals of the Paris Agreement. In this respect, the Federal Constitutional Court had translated its famous "climate decision" into several languages at once.

14. International realistic and fastest possible achievement of PA targets through drastic COP agreements instead of insufficient soft compromises,

"Down-sizers" and deniers face international criminal law:

because the Parties are absolutely obliged to implement the PA and phase out greenhouse gasses and completely change to renewable energies as quickly and highly effectively as possible in order to keep to the 1.5° limit to save humanity from the acute threat of complete extinction through climate catastrophe.

Accordingly, the governments of the Parties to the PA cannot retreat to compromises and majority decisions - let alone unanimous decisions - also at the international level of the COP, but they must take decisions - at least by a majority - by which the goals of the Paris Agreement are achieved as quickly as possible and actually realistically. Otherwise, "down-sizers" and refusers may even face international criminal law!

15. The "veto right" in the UN Security Council is null and void according to Art. 53 VCLT:

The right of veto in the UN Security Council is in principle null and void according to Art. 53 VCLT in analogous application, since the exercise of the right of veto would block necessary decisions of the UN Security Council, which regularly serve the protection and enforcement of the highest and mandatory international law ('ius cogens').

16. Convene a "Nuclear and Climate Disaster Emergency Special Session" of the UN Security Council and the UN General Assembly:

To avert an imminent "fossil nuclear war" and, in particular, to avert the global climate catastrophe, which is already very far advanced, a "Nuclear and Climate Catastrophe Emergency Special Session" of the UN Security Council (without veto power) and the UN General Assembly should be convened immediately. In particular, the above positions and new international law solutions of the „Lawyers for Future“ should be discussed in detail or explicitly adopted.

17. Especially for a successful COP 27, all the new international law solutions of the „Lawyers for Future“ should be discussed comprehensively as well as in detail and put into practice

in order to finally enforce serious and highly drastic but successful majority resolutions of the COP 27, in particular for an immediate end to the hitherto very profitable and highly criminal destruction of the atmosphere through fossil production and emissions, and to resolve the investment of all available resources in the global expansion of renewable energies, in order to actually successfully protect humanity from the acute threat of global doom, the new international law solutions of the „Lawyers for Future“ should be discussed in detail and comprehensively put into practice.