Nuclear Law Case Chart

Updated June 2022

The OECD Nuclear Energy Agency attempts to maintain the information contained in the attached table in as current a state as possible, but neither it nor any of its Members guarantees the accuracy, completeness, or use for any particular purpose of the information reproduced therein. If official information is sought, please contact the NEA Division of Nuclear Law (dnl@oecd-nea.org).

NUCLEAR LAW CASE CHART

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
ENVIRONMENTAL PROTECTION (ENV)							
Belgium	2019	Inter-Environnement Wallonie ASBL and Bond Beter Leefmilieu Vlaanderen ASBL v. Council of Ministers	ENV	The Court ruled that the ten-year lifetime extension of Units 1 and 2 of the Doel nuclear power plant established by Belgian legislation in 2015, constituted a "project" under the EU Environmental Impact Assessment Directive. Therefore, the extension should have been subject to an environmental impact assessment (EIA).	Court of Justice of the European Union	Case C-411/17, EU:C:2019:622	NLB 104
Canada	2014	Greenpeace Canada et al. v. Attorney General of Canada and Ontario Power Generation Inc.	ENV	Court allowed in part the challenge to the environmental assessment (EA) for the Darlington site, determining that the EA failed to comply with the Canadian Environmental Assessment Act (CEAA) as its analysis of hazardous substance emissions and on-site chemical inventories, spent nuclear fuel and severe common cause accidents was deficient. The EA was not quashed entirely as it was sent back to the Joint Review Panel for reconsideration on only those three matters and found that the applicant's Plant Perimeter Envelope approach was acceptable for an EA.	Federal Court	2014 FC 463	NLB 94

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Canada	2015	Canada et al. v. Greenpeace Canada et al.	ENV	Overturns the Federal Court decision and states that the environmental assessment (EA) is complete and has no gaps, that it was adequate and met the requirements of the relevant legislation, and that the licence to prepare the site, which was issued by the Canadian Nuclear Safety Commission (CNSC) on the basis of the EA decision, is reinstated. The Court of Appeal gave a good degree of deference to the expert scientific body that heard the evidence (the Panel, whose statutory task was to evaluate the potential environmental effects of the new build project), and reversed what it saw as the lower court's substitution of its view for that of the expert body.	Federal Court of Appeal	2015 FCA 186	NLB 96
Canada	2016	Greenpeace Canada et al. v. Attorney General of Canada and Ontario Power Generation Inc.	ENV	Court decided that there was no reviewable error made in an environmental assessment (EA) conducted by the "Responsible Authorities", the Canadian Nuclear Safety Commission (CNSC) and the Department of Fisheries and Oceans (DFO), for a nuclear project. The EA had concluded that the refurbishment and continued operation of the Darlington Nuclear Generating Station was not likely to cause significant adverse environmental effects. At present, at the appellate court level in Canada, there is a consistent message of deference to the Canadian nuclear regulator, the CNSC, in its EA decision-making.	Federal Court of Appeal	2016 FCA 114	NLB 97

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Czech Republic	2007	Jihoceske matky (NGO) v. State Office for Nuclear Safety	ENV	Applicant for a licence to operate Temelín NPP, Unit 1 in accordance with Section 9(d) of the Atomic Act is the sole participant in this proceeding and the entities defined in Section 70(2) and (3) of the Nature and Landscape Protection Act are not participants in this proceeding. It is sufficient, if public participation is ensured in those proceedings in which the environmental impact of such operations is directly considered (e.g. under Act No. 100/2001 Coll., On Environmental Impact Assessment). A different situation would arise if there were only a single administrative procedure to bring a nuclear power plant into operation. In such a case, a systematic interpretation would lead to a different conclusion and participation in such proceedings would also have to be granted to the civic associations whose main objective is to protect nature and landscape.	The Supreme Administrative Court of the Czech Republic	2 As 12/2006-111	n/a

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Czech Republic	2016	Brigitte Artmann v. Czech Republic	ENV	A member of the public submitted a communication to the Compliance Committee under the Aarhus Convention alleging that the Czech Republic failed to comply with its obligations under Article 3(9), Article 6 and Article 9 of the Aarhus Convention (specifically, that members of the public in Germany did not have the same possibility to participate in the decision-making procedure concerning the two new reactors at the Temelín NPP as members of the public in the Czech Republic). The Committee found that the Czech Republic failed to comply with Convention by not providing a clear requirement in its legal framework to ensure that public authorities, when selecting means of notifying the public, are bound to select such means which, bearing in mind the nature of the proposed activity, would ensure that all those who potentially could be concerned, including the public outside the territory of the Party concerned, have a reasonable chance to learn about the proposed activity. Regarding the decision-making on the Temelín NPP, the Committee is convinced that if the public participation procedure on the environmental impact assessment (EIA) stage were to remain the last possibility for the public concerned, including the public concerned in Germany, to participate in the permitting procedure for the Temelín NPP, the Party concerned would fail to comply with the Convention. On the other hand, the use of the "envelope" or "black box" approach at the EIA stage does not, in itself, constitute non-compliance with the Convention; however, if the permitting procedure were to continue without providing the public concerned with the opportunity to participate effectively in that stage, the Party concerned would be in non-compliance with the Convention.	Compliance Committee of the Aarhus Convention	ACCC/C/2012/71 Czech Republic	n/a

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Czech Republic	2018	V havarijní zóně JE Temelín (NGO) v. Ministry of Regional Development	ENV	Court decided that there was no reviewable error made in an environmental impact assessment (EIA) conducted by the Ministry of Environment and therefore the subsequent decision on the Ministry of Regional Development on the location of the structure of spent nuclear fuel storage is not illegal. The EIA process should primarily investigate possible (relevant) and not totally unlikely accidents. When examining each individual case or setting criteria or thresholds, account shall be taken of the risks of accidents arising from particular substances or technologies used.	The Supreme Administrative Court of the Czech Republic	7 As 225/2018-116	n/a
Finland	2015	KHO 13.1.2015/53	ENV	Local organisation appealed the decision made by the Centre for Economic Development, Transport and the Environment concerning deviation of the demands on the preservation of the environment under the Environmental Protection Act at the Hanhikivi 1 nuclear power plant construction site. The appeal was dismissed.	Supreme Administrative Court of Finland	3678/1/13	n/a
Finland	2017	KHO 9.2.2017/508	ENV	Local property owner appealed the decision made by the Regional State Administrative Agency concerning compensation of the harm caused by the cooling and waste water discharges sourcing from NPP (Loviisa NPP). The Court ruled that the original amount of compensation was adequate.	Supreme Administrative Court of Finland	3895/1/15 and 3925/1/15	n/a
Finland	2019	KHO 1.12.2014/3793	ENV	Local organisation appealed on the adequacy of Environmental Impact Assessment (EIA) regarding the environmental and water permits of the new Hanhikivi 1 nuclear power plant that is currently applying for a construction licence. The main issue was the disposal of spent fuel. The Court ruled that the EIA procedure had been performed appropriately and adequately given the stage of the process and the on-going separate process for disposal of spent fuel. The appeal was dismissed.	Supreme Administrative Court of Finland	3228/1/14	n/a

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
France	2007	Decision of the Conseil d'État Quashing a Decree Concerning a Nuclear Installation in Brennilis, for the Want of Public Information and Consultation	ENV	The Conseil d'Etat revoked Decree No. 2006-147 of 9 February 2006 authorising Électricité de France (EDF) to carry out final shut-down operations and full dismantling of the nuclear installation EL-4-D, a disposal facility for materials at the Monts d'Arrée (Brennilis) NPP in the Finistère. The Conseil d'État judged that the proceedings that led to the decision to grant a licence did not comply with the purposes required by European Law on Public Information and Consultation, notably Council Directive 85/337/EC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment.	Conseil d'État (State Council)	N° 292386; ECLI:FR:CESSR:2007: 292386.20070606	NLB 80
France	2009	Judgment of the Conseil d'État rejecting the claims made by environmental NGOs against the Decree licensing the construction of the EPR at Flamanville	ENV	Three associations for environmental protection entered actions for annulment against the Decree licensing the construction of the nuclear installation Flamanville 3. Among her recommendations, the Rapporteur Public considered that the Aarhus Convention had no direct effect in the domestic legal system and that the application comprised a full EIA that was submitted to the public before the licence was delivered. The Rapporteur Public also found that there was no infringement of the Council Directive 85/337/EEC of 27 June 1985, on the assessment of certain public and private projects on the environment, and that EDF had sufficient financial capacity to cover future dismantling costs. The Conseil d'État followed all of the Rapporteur Public's recommendations and rejected the three actions filed against the Decree licensing the construction of Flamanville 3.	Conseil d'État (State Council)	Decision N° 306242; ECLI:FR:CESSR:2009: 306242.20090423	NLB 83
France	2011	SARL Auxiliaire du Tricastin – SOCATRI (Areva)	ENV	Court acknowledged that no harm to the flora and fauna has been caused by the spillage of uranium-bearing effluent by SOCATRI following an incident in 2008 but as it temporarily led to modification of the normal water supply regime and restricted the use of swimming areas, the Court found SOCATRI guilty of polluting waterways and not declaring the incident without delay.	Court of Appeal of Nîmes	Judgment No. 11-00899	NLB 89

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
France	2011	Association Réseau sortir du nucléaire v. Electricité de France (EDF)	ENV	The Conseil recognised that all obligations required to obtain an authorisation for the full dismantling of the Bugey NPP (information delivery to the public, public survey, public debate) have been complied with by EDF.	Conseil d'État (State Council)	Decision (Request No. 324294)	NLB 89
France	2014	Association Réseau sortir du nucléaire and others v. ASN and Electricité de France (EDF)	ENV	The Conseil found no error in the ASN's (French Nuclear Safety Authority) assessment in not annulling two resolutions regarding reinforcements to the Fessenheim No. 1 reactor basemat. Environmental protection associations challenged the resolutions, stating that work on the basemat is a significant modification of a basic nuclear installation, which would require a new authorisation and a public enquiry.	Conseil d'État (State Council)	Decision (Request No. 367013)	NLB 96
France	2016	EDF v. Republic and Canton of Geneva relative to the Bugey NPP	ENV	The Conseil found that ASN (French Nuclear Safety Authority) resolutions prescribing additional safety requirements following the Bugey NPP 3rd PSR were not implicit authorisation decrees. Further, there was no "implicit or disclosed" resolutions of the Ministry of Ecology, Sustainable Development and Energy (MEDDE) and the ASN authorising the continued operation of the Bugey-2 and Bugey-4 reactors because reactors in France have no set time period for the operating life and as long as no decree is passed enforcing final shutdown and decommissioning, a reactor is authorised to operate under safe conditions. Lastly, to the extent that the ASN resolutions establishing the additional safety requirements do not constitute operating authorisations, they are not subject to a mandatory environmental impact assessment and do not require a notification as stipulated in the Espoo Convention.	Conseil d'État (State Council)	Decision (Request No. 373516)	NLB 98

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
India	2012	G. Sundarrajan v. Union of India and Others	ENV	Court dismissed eight writ petitions mostly claiming that the Kudankulam Nuclear Power Project (KKNPP) violated current environmental laws. Environmental clearance for KKNPP units 1 and 2 was obtained in 1989 at which time an environmental impact assessment report and a public hearing were not required as part of the clearance process. Court found that KKNPP has all necessary clearances, including environmental, and can therefore move forward with commissioning.	High Court of Judicature at Madras	Common Order dated 31-08-2012	NLB 90
Slovak Republic	2010	Friends of Earth luxe and others v. Slovak Nuclear Regulatory Authority (NRA)	ENV	The Compliance Committee found that the Slovak Republic failed to provide for early and effective public participation in the decision-making process with respect to the grant of an additional construction permit related to the Mochovce NPP. Recommended that the Slovak Republic review its legal framework.	Compliance Committee of the Aarhus Convention	Case C/41 (2009), ACCC/C/2009/41	NLB 88
Slovak Republic	2013	Greenpeace Slovakia v. Slovak Nuclear Regulatory Authority (NRA)	ENV	In 2008, the NRA approved modifications to construction, prior to the completion of the Mochovce NPP Units 3 and 4 by the licensee (Slovenske elektrarne) (Decision No. 246/2008). Greenpeace Slovakia appealed NRA Decision No. 246/2008 stating: it should be considered a "participant" under the Aarhus Convention to the administrative procedures for the approval of the modifications and that a full-scope EIA was required. In 2009, Greenpeace was admitted as a participant but in Decision No. 79/2009 the NRA dismissed Greenpeace's appeal. On appeal, the District Court found in favour of the NRA. On appeal, the Supreme Court overturned the District Court's decision and abolished Decision No. 79/2009 and therefore the NRA is obliged to renew the administrative proceedings on Greenpeace's original appeal against Decision No. 246/2008 and hold EIA proceedings. NRA reopened the administrative proceedings and issued a first Decision No. 761/2013 that denied the suspensory effect of the Greenpeace appeal on the NRA's 2008 decision.	Slovak Nuclear Regulatory Authority (NRA)	Decision No. 761/2013	NLB 92

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Slovak Republic	2013	Greenpeace Slovakia v. Slovak Nuclear Regulatory Authority (NRA)	ENV	Attorney General denied Greenpeace Slovakia's protest against Decision No. 761/2013.	Attorney General	[Unknown]	NLB 93
Slovak Republic	2013	Slovenske elektrarne v. Slovak Nuclear Regulatory Authority (NRA)	ENV	Slovenske elektrarne filed a constitutional claim with the Slovak Constitutional Court objecting to the denial of its basic rights by the Supreme Court judgment (requiring the NRA to renew its administrative proceedings on Greenpeace's original appeal against Decision No. 246/2008 and hold EIA proceedings) because its rights were directly affected by the judgment without being afforded the opportunity to participate and defend its interests.	Constitutional Court	[Unknown]	NLB 93
Slovak Republic	2014	Greenpeace Slovakia v. Slovak Nuclear Regulatory Authority (NRA)	ENV	Following a two-day public hearing, the NRC issued Decision No. 291/2014 dismissing Greenpeace Slovakia's appeal of Decision No. 246/2008, and at the same time confirming decision No. 246/2008. This decision closed Greenpeace Slovakia's claims.	Slovak Nuclear Regulatory Authority (NRA)	Decision No. 291/2014	NLB 95
Slovak Republic	2014	Slovenske elektrarne v. Slovak Nuclear Regulatory Authority (NRA)	ENV	Constitutional Court found it to be a breach of the licensee's (Slovenske elektrarne) right to be a participant in the Supreme Court proceeding. But, due to the already existing second instance administrative decision issued by the NRA in favour of Slovenske elektrarne (Decision No. 291/2014), it was not necessary to cancel the judgement of the Supreme Court and send the decision back for a new judicial procedure.	Constitutional Court	[Unknown]	NLB 95
Slovak Republic	2014	Greenpeace Slovakia v. Slovak Nuclear Regulatory Authority (NRA)	ENV	The NRA informed the Regional Court of Bratislava (the court of first instance review of administrative decisions) about the Constitutional Court decision, as well as about the existing valid second instance NRA decision (No. 291/2014). When the court asked Greenpeace Slovakia for their final statement prior to the adoption of the court decision, Greenpeace Slovakia withdrew its claim and the court ceased the proceedings.	Regional Court of Bratislava	[Unknown]	NLB 95

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Slovak Republic	2013	Greenpeace Slovakia v. Slovak Nuclear Regulatory Authority (NRA)	ENV	Greenpeace Slovakia demanded that the NRA disclose the text of the preliminary safety report on Mochovce units 3 and 4 in accordance with Act No.211/2000 Coll. Freedom of Information Act, as amended. Greenpeace wanted information, especially environmental information, and the NRA dismissed Greenpeace's application in NRA Decision No. 39/2010, stating that such important information may endanger the public security if made publicly available. Greenpeace lodged a claim for review of the lawfulness of the decision with the District Court and the District Court decided in favour of the NRA, denying Greenpeace's claim. Greenpeace then appealed this decision to the Supreme Court, which reversed the District Court judgment. The case was then returned to the District Court. On remand, the District Court overturned NRA Decision No. 39/2010 and returned the case to the NRA for renewed administrative proceedings.	District Court	[Unknown]	NLB 92
Slovak Republic	2015	Greenpeace Slovakia v. Slovak Nuclear Regulatory Authority (NRA)	ENV	On appeal by the NRA to the Supreme Court, the judgment of the District Court was confirmed and NRA was required to re-open the previous administrative proceedings and include Greenpeace and the licensee (Slovenske elektrarne) as participants. A redacted version of the safety documentation for Mochovce Units 3 and 4 had previously been made available. When asked by the District Court if it wished to have access to the preliminary safety report, Greenpeace withdrew its appeal reasoning that the legislative restrictions on the disclosure of sensitive information and the cost of copying the redacted preliminary safety report was not justified without the ability to gain any relevant or meaningful information. Thus, the NRA closed the reopened administrative proceedings.	Supreme Court	[Unknown]	NLB 96

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2006	San Luis Obispo Mothers for Peace v. US NRC	ENV	San Luis Obispo Mothers for Peace (SLOMFP) challenged two NRC decisions in a proceeding to license an independent spent fuel storage installation (ISFSI) at the Diablo Canyon nuclear power plant. The first NRC decision declined to suspend the ISFSI licensing proceedings to await NRC physical security enhancements. The second NRC decision rejected contentions filed by SLOMFP relating to the NRC's analysis of the potential environmental consequences of a terrorist attack under the US National Environmental Policy Act (NEPA), as they had previously determined that an environmental analysis of the potential environmental consequences of terrorist attacks was not necessary in the matter of private fuel storage. The Court held that it was unreasonable for the NRC to refuse to consider the environmental effects of a terrorist attack on nuclear facilities and remanded the case to the NRC for further NEPA proceedings on the terrorist issue. However, the Court upheld the NRC's decision not to suspend its licensing proceeding and agreed that a licensing proceeding was not an appropriate forum to revisit the validity of NRC security regulations.	Federal Circuit Court of Appeals	449 F. 3d 1016 (9th Cir. 2006)	NLB 80
United States	2007	Pacific Gas and Electric Company v. San Luis Obispo Mothers for Peace, et al.	ENV	PG&E filed a writ of certiorari with the US Supreme Court, which was denied. The US Department of Justice (DOJ) agreed that the 9th Cir. decision on the NEPA terrorism issue was incorrect, but did not support Supreme Court review at the time.	Supreme Court	127 S.Ct. 1124 (2007)	NLB 80

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2007	Nuclear Information & Resource Service v. US NRC	ENV	The Court dismissed the claims that the Nuclear Regulatory Commission (NRC), in issuing a licence to the Louisiana Energy Services, LP (LES) Uranium Enrichment Facility in New Mexico, violated the Atomic Energy Act (AEA) by "supplementing" the environmental impact statement (EIS) after the hearing closed and determining that LES had presented a reasonable cost estimate for disposal of depleted uranium waste, as well as violated the National Environmental Policy Act (NEPA) by insufficiently analysing the environmental impacts of depleted uranium waste from the LES facility. The Court found that the petitioners' EIS claims under the AEA were irrelevant because the agency "prepared" an EIS before the hearing was completed. The Court also held that the petitioners had not presented sufficient evidence that the NRC's cost estimate was unreasonable. Additionally, the Court found the petitioners' NEPA claim unpersuasive as both the EIS and the administrative record demonstrated that the agency met the requisite NEPA "hard look" standard for assessing environmental impacts of waste disposal. Finally, the court dismissed the claim that NRC Commissioner McGaffigan should have disqualified himself from the licensing proceeding as it is presumed that administrative officers are objective and capable of judging a particular controversy fairly.	Federal Circuit Court of Appeals	509 F.3d. 562 (DC Cir. 2007)	NLB 81
United States	2009	Entergy Corp. v. Riverkeeper, Inc.	ENV	The Court upheld the EPA's reliance on cost-benefit analysis in determining national performance standards as well as permitting cost-benefit variances from those standards to determine the best technology available to minimise the adverse environmental impact of cooling water intake structures. In doing so, the Court applied the general rules of statutory construction and the *Chevron* standard of deference. It held that the Clean Water Act need not be interpreted so strictly as to require facilities to spend billions of dollars on improved cooling technology that would have little or no environmental benefit.	Supreme Court	556 US 208 (2009)	NLB 83

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2009	New Jersey Dep't of Env. Prot. v. NRC	ENV	A New Jersey state agency challenged the NRC's decision to relicense a nuclear power plant located in the state, arguing that an analysis of the environmental impacts of an airborne terrorist attack on the nuclear power plant was required by NEPA prior to relicensing. The Court ruled that the NRC was not required to consider terrorism in its NEPA analysis. NRC relicensing would not be a reasonably close cause of terrorist attacks and their resulting environmental effects as a terrorist attack lengthens the causal chain beyond the "reasonably close causal relationship" required. Amongst other justifications, the Court held that such an attack would be extraordinarily unusual, wrongful and independent of the NRC and would be far more responsible for resulting harms than the NRC's decision to relicense a nuclear plant.	Federal Circuit Court of Appeals	561 F.3d 132 (3rd Cir. 2009)	NLB 84
United States	2009	New York v. US NRC	ENV	The NRC's generic treatment of the environmental impacts of spent fuel pool fires at NPPs (finding that the risk is low and does not create a significant environmental impact within the meaning of the National Environmental Policy Act) was acceptable.	Federal Circuit Court of Appeals	589 F.3d 551 (2nd Cir. 2009)	NLB 85
United States	2010	Morris v. US NRC	ENV	Court upheld the NRC's issuance of a licence to conduct in situ leach mining for uranium on four sites, finding that the NRC's decision did not violate either the Atomic Energy Act or the National Environmental Policy Act because its consideration of airborne radiation at the sites was not plainly erroneous or inconsistent with the plain language of the regulation; it sufficiently considered the cumulative environmental effects of past and future operations; and the NRC's final environmental impact statement took a "hard look" at the environmental impacts of the proposed mining operations on groundwater.	Federal Circuit Court of Appeals	598 F.3d 677 (10th Cir. 2010)	NLB 85

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2011	San Luis Obispo Mothers for Peace v. US NRC	ENV	Neither the Atomic Energy Act nor the National Environmental Policy Act require the NRC to hold a closed hearing to allow public access to sensitive security information that are part of the environmental review that the NRC was required to complement by considering environmental impacts of terrorist attacks.	Federal Circuit Court of Appeals	635 F.3d 1109 (9th Cir. 2011)	NLB 87
United States	2011	Brodsky v. US NRC	ENV	Court held that the NRC has authority to issue exemptions to its fire safety regulation; a hearing is not mandatory for challenges to exemptions; the NRC reasonably determined that an environmental impact statement was not necessary; and the NRC's decision to issue the exemption was not arbitrary or capricious, in violation of the Administrative Procedure Act.	Federal District Court	783 F. Supp. 2d 448 (S.D.N.Y. 2011)	NLB 87
United States	2013	Brodsky v. US NRC	ENV	Court affirmed the validity of the NRC's actions regarding the issuance of exemptions to its regulations, but it reversed the District Court's decision regarding its conclusion concerning the right of the public to participate in the Commission's preparation of an Environmental Assessment (EA) and Finding of No Significant Impacts (EA/FONSI). In that respect, the Court found that the record before it did not adequately explain why the EA/FONSI excluded an opportunity for public comment. Case was remanded to the District Court with instructions to remand to the NRC.	Federal Circuit Court of Appeals	704 F.3d 113 (2nd Cir. 2013)	NLB 91
United States	2016	Brodsky v. US NRC	ENV	Court found that the NRC was not arbitrary or capricious, in violation of the Administrative Procedure Act, in considering risks from terrorism when determining that granting a nuclear power plant licensee an exemption from a federal fire safety regulation would have no significant impact on the environment under the National Environmental Policy Act.	Federal Circuit Court of Appeals	650 Fed.Appx. 804 (2nd Cir. 2016)	NLB 98

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2012	New York v. US NRC	ENV	The NRC update of its 2010 Waste Confidence Decision, which enables the NRC to license reactors or to renew their licences without examining the environmental effects of extended waste storage for each individual site pending ultimate disposal is a "major federal action" requiring the NRC to either (1) take a "hard look" at the environmental consequences of the revisions in an Environmental Impact Statement (EIS) or (2) develop an Environmental Assessment (EA) that demonstrates that the revisions will have no significant environmental impact and thus that no EIS "hard look" is required.	Federal Circuit Court of Appeals	681 F.3d 471 (DC Cir. 2012)	NLB 90
United States	2013	Beyond Nuclear v. US NRC	ENV	Court found that the NRC did not violate the National Environmental Policy Act in its review of the applicant's Environmental Report, which did not consider wind power as an energy alternative to relicensing. The Court found that a "reasonable alternative" is that which can bring about the ends of the project being contemplated; here, baseload power generation. In addition, the NRC was rational in relying on near-term technology as a proxy for energy alternatives during the renewal period.	Federal Circuit Court of Appeals	704 F.3d 12 (1st Cir. 2013)	NLB 91
United States	2013	Massachusetts v. US NRC	ENV	Court denied petition to reopen and suspend a licence renewal. Found that the severe accident mitigation alternatives (SAMA) analyses in the Pilgrim NPP supplemental environmental impact statement (SEIS) and the analysis of spent fuel pool environmental impacts (specifically as it pertains to spent fuel pool fires) in the generic environmental impact statement for licence renewal (GEIS) do not need to be updated because the Fukushima Daiichi nuclear power plant accident did not present "new and significant information".	Federal Circuit Court of Appeals	708 F.3d 63 (1st Cir. 2013)	NLB 91

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2013	Blue Ridge Environmental Defense League v. US NRC	ENV	Court rejected petitioners' claim that the Fukushima Task Force Report constitutes "new and significant circumstances or information" requiring supplementation of an Environmental Impact Statement (EIS), holding that the EIS in fact considered severe accidents and "precisely the types of harm that occurred as a result of the Fukushima accident." The Court also rejected the argument that the NRC's recognition of Fukushima as a "safety-significant" event automatically rendered it "environmentally significant" for purposes of needing to supplement the EIS.	Federal Circuit Court of Appeals	716 F.3d 183 (DC Cir. 2013)	NLB 91
United States	2015	DTE Electric Co. (Fermi Nuclear Power Plant, Unit 3)	ENV	Petitioners asked the NRC to suspend licensing activities because, without the "reasonable assurance findings" that a repository for spent fuel disposal is technically feasible, the petitioners argued that the NRC lacks a lawful basis under the Atomic Energy Act (AEA) to issue initial or renewed licences. The Commission reaffirmed its historic interpretation of the AEA that an explicit finding regarding the technical feasibility of spent fuel disposal is not required as a prerequisite to reactor licensing decisions.	Commission of the US NRC	CLI-15-4, 81 NRC 221 (2015)	NLB 95
United States	2018	Natural Resources Defense Council v. NRC	ENV	Plaintiffs argued that the US Nuclear Regulatory Commission (NRC) failed to comply with the National Environmental Policy Act by providing an inadequate Final Environmental Impact Statement (FEIS) before issuing a licence to an in-situ uranium mining facility. Upon review, the NRC Atomic Safety and Licensing Board (the Board) determined that, despite lacking sufficient information in the FEIS, the evidentiary statements made by NRC staff supplemented the FEIS. On appeal to the DC Circuit, following an appeal to the NRC Commission, the Court rejected the claim that the Board could not supplement the FEIS with evidentiary testimony after the issuance of the licence.	Federal Circuit Court of Appeals	Decision No. 16-1298, 2018 WL 472547 (DC Cir. 2018)	NLB 100

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2018	Oglala Sioux Tribe v. US Nuclear Regulatory Commission	ENV	The Oglala Sioux Tribe filed a petition for review on the grounds that the US Nuclear Regulatory Commission (NRC) failed to comply with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act of 1966 (NHPA) during the licensing adjudication procedure for an in situ uranium recovery project. They also challenged the NRC decision to affirm a decision by the Atomic Safety and Licensing Board Panel's (ASLBP) keeping the licence in place despite identification of deficiencies under NEPA and NHPA. The Court held they lacked jurisdiction over most of the Tribe's NEPA challenges because the NRC's adjudication was not yet complete, but did exercise jurisdiction over the Commission's decision to keep the licence in place pending completion of the NRC adjudication. Although the Court held that because the NRC considered the non-compliance to be "significant" they erred in requiring the petitioners to show irreparable harm in order to obtain vacatur or suspension of the licence, the Court did not vacate the licence, and instead remanded the case to the Agency for further proceedings. The administrative adjudication remains ongoing.	Federal Circuit Court of Appeals	896 F.3d 520 (DC Cir. 2018)	NLB 101
United States	2018	City of Boston Delegation v. FERC	ENV	The Court of Appeals for the District of Columbia upheld the US Federal Energy Regulatory Commission's (FERC's) authorisation of a project to upgrade Algonquin Gas Transmission, LLC's natural gas pipeline. The Court held that FERC adequately considered the cumulative impacts of other projects in its analysis, did not act arbitrarily and capriciously by declining to consider three projects in a single environmental impact statement (EIS), and appropriately relied on another Federal agency's analysis in addressing safety concerns about project activities near a nuclear energy facility.	Federal Circuit Court of Appeals	897 F.3d 241 (DC Cir. 2018)	NLB 101

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2019	Interim Storage Partners LLC (Consolidated Interim Storage Facility)	ENV	The NRC Atomic Safety and Licensing Board (ASLB) issued a decision in the case challenging Interim Storage Partners, LLC's (ISP) licence application to build and operate a consolidated interim storage facility (CISF) for spent nuclear fuel and greater-than-Class C waste (SNF) in Andrews County, Texas. ISP seeks a 40-year licence to store canisters of SNF. The ASLB granted the Sierra Club's request for a hearing and petition to intervene based on the unavailability of ecological studies that ISP relied on in its Environmental Report. ISP provided these studies and requested the ASLB dismiss the contention. In response, Sierra Club filed an amended contention for the ASLB's consideration. Appeals by the other petitioners and the application are pending before the NRC Commission.	NRC Atomic Safety and Licensing Board	LBP-19-7, 90 NRC 31	NLB 103
United States	2021	Interim Storage Partners LLC (WCS Consolidated Interim Storage Facility)	ENV	Fasken Land and Minerals, Ltd. and Permian Basin Land and Royalty Owners (Fasken) sought to reopen proceedings against Interim Storage Partners LLC (ISP) regarding their application for a licence to construct and operate a consolidated interim storage facility (CISF). Fasken alleged that there was new information concerning the adequacy of the NRC staff's environmental analysis of transportation routes to and from the proposed CISF. The Board found that the contention was virtually identical to previous inadmissible contention and therefore did not warrant the reopening of proceedings.	NRC Atomic Safety and Licensing Board	LBP-21-2, 93 NRC __ (slip op.)	NLB 107
United States	2021	Interim Storage Partners LLC (WCS Consolidated Interim Storage Facility)	ENV	Fasken Land and Minerals, Ltd. and Permian Basin Land and Royalty Owners (Fasken) appealed the decision of the NRC Atomic Safety and Licensing Board not to reopen proceedings against Interim Storage Partners LLC (ISP) to the Commission who dismissed the claim. The Commission issued ISP a licence for consolidated interim storage facility (CISF). This decision is currently being appealed before the DC Circuit. The licence is also subject to a challenge before the Fifth Circuit Court of Appeals of its legality under a newly enacted state statute	Commission of the US NRC	CLI-21-09, 93 NRC __ (slip op.)	NLB 107

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2021	Friends of the Earth, et al. v. US Nuclear Regulatory Commission	ENV	The DC Circuit Court of Appeals dismissed a petition for review concerning the NRC's renewal of the operating licences for two nuclear power reactor units at the Turkey Point Nuclear Generating Station. The operator submitted an application seeking approval of a second 20-year renewal of its licences, making this the NRC's first issuance of a "subsequent licence renewal" (SLR). The plaintiffs sought a hearing concerning the plant's environmental impacts and the sufficiency of the NRC staff's environmental analysis. The NRC's Board denied the request and ruled that the NRC staff's Environmental Impact Statement was sufficient and that the plaintiffs were improperly challenging the validity of codified NRC regulations on generic environmental impact determinations. After the Board dismissed the hearing request, the NRC staff issued the renewed licences. The plaintiffs appealed to the Commission. While their administrative appeals before the Commission were still pending, they also sought judicial review of the decision to issue the licences. The DC Circuit dismissed the petition for judicial review as premature as only "final orders" of NRC licensing decisions can be challenged in federal court and held that the plaintiffs could not simultaneously seek judicial review during the pendency of their separate administrative appeal. The administrative appeals remain pending before the Commission.	Federal Circuit Court of Appeals	No. 20-1026 (DC Cir. 2021)	NLB 107
LICENSING AND REGULATION (LR)							

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Belgium	2018	Greenpeace Belgium v. Federal Agency for Nuclear Control (FANC)	LR	Greenpeace Belgium brought a case against the FANC contesting the legality of an authorisation for the transport of spent fuel. The claim was based on two parts of Euratom's Basic Safety Standards Directive: the failure of FANC to perform a justification study and an issue related to the ALARA principle. On the first issue, the Council held that a justification study is only required when the scope of the authorisation concerns an act that is considered a new type of practice, not those that have already been justified. On the second issue, the Council ruled that the application of the ALARA principle was correct, and therefore the regulator is not obliged to evaluate possible transport alternatives.	Raad van State [Council of State]	Nr. 241.575	NLB 102
Belgium	2020	Ruling by the Court of First Instance in Brussels, 3 September 2020, regarding Tihange 2	LR	The Court of First Instance in Brussels ruled in favour of the Federal Agency for Nuclear Control (FANC) regarding the restart of the Tihange 2 Nuclear Power Plant. The plaintiffs filed a claim against the FANC, the Belgian State and the operator, Electrabel, to prevent the restart of Tihange 2 in 2015 after hydrogen flakes were found in the reactor vessel in 2012. The plaintiffs alleged that the FANC made the decision to restart based on an insufficient examination, failed to act in a transparent way and intentionally withheld evidence from the public. They further claimed to be suffering psychological damage caused by the constant fear of an imminent severe accident because of the presence of the hydrogen flakes. The Court rejected these claims and held that the FANC had acted as a diligent regulator when evaluating the restart of Tihange 2 by conducting a thorough safety examination and communicating with the public clearly and transparently. Furthermore, the court held that no legal framework exists with regard to the phenomena of hydrogen flakes and their presence does not exclude the safe operation of a reactor vessel.	Court of First Instance in Brussels	[Unknown]	NLB 105

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Brazil	2009	Public Prosecutor v. National Nuclear Energy Commission (Comissão Nacional de Energia Nuclear – CNEN)	LR	Court confirmed the legality of the partial construction licence granted to Eletrobràs Termonuclear S.A. – Eletronuclear for preliminary works carried out at the Angra III NPP. The public prosecutor had filed a public claim against the National Nuclear Energy Commission (Comissão Nacional de Energia Nuclear – CNEN) arguing that its granting of the partial construction licence was not lawful as Act No. 6/189/74 does not explicitly mention partial construction licences, though it does allow for a licence under specific conditions as long as it is in accordance with CNEN's prerogatives. The Court found that CNEN acted within the limits of its regulatory powers.	1st Federal Court (Angra dos Reis region)	[Unknown]	NLB 85
Canada	2012	Fond du Lac Denesuline First Nation v. Canada (Attorney General)	LR	Appellants challenge a licence renewal decision made by the Canadian Nuclear Safety Commission (CNSC) respecting a uranium mine and mill operating licence held by AREVA Resources Canada Inc. (AREVA). Court recognised that the CNSC has jurisdiction to determine whether a constitutional duty to consult Aboriginal groups has been triggered by a potential licensing decision to operate a uranium mine and mill, and if so, whether that duty has been satisfied through its licensing process and decision-making. The Court also makes clear that for the constitutional duty to consult to be found, there must be evidence that a right may be harmed in some non-trivial, non-speculative way.	Federal Court of Appeal	2012 FCA 73	NLB 89

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Czech Republic	2009	Land Oberösterreich v. ČEZ as	LR	The Court held that a licence issued to a nuclear power plant by the competent authorities in the Czech Republic had to be valid in Austria due to the principle of mutual recognition of licences. Nuclear facilities can only be licensed by competent authorities if they comply with the required safety standards, which are, on a high level, uniform in the EU. This is because the Euratom Treaty and secondary legislation establish a common EU legislative framework for nuclear safety, ensuring the protection of the health and safety standards of EU citizens. Consequently, the provision of Austrian law that depended on the fact that the facility was operated without a licence could not be applied in the Austrian courts, in the case of the Czech nuclear power plant.	Court of Justice of the European Union (Grand Chamber)	Case C-115/08, ECLI:EU:C:2009:660	NLB 84 NLB 106
Finland	2019	KHO 29.8.2019/3864	LR	Local cooperative associations appealed the issuance of the operating licence for the new Olkiluoto 3-unit nuclear power plant claiming that the safety requirements concerning the area of NPP were not met and therefore the decision was unlawful. The Court ruled that no evidence concerning safety or other matters were found that would result in the decision being unlawful. The appeal was dismissed.	Supreme Administrative Court of Finland	1475/1/19 and 1805/1/19	n/a
Finland	2014	KHO 1.12.2014/3793	LR	Local organisation appealed the Decision-in-Principle (DiP) made by the Government and confirmed by the Parliament concerning the new, planned Hanhikivi 1 nuclear power plant. Since the national legislation does not allow for appeals against DiP, the appeal was not investigated.	Supreme Administrative Court of Finland	3228/1/14	n/a
Finland	2013	KHO 5.12.2013/3825	LR	NGO and private persons appealed the Government decision for uranium production in the Talvivaara mine claiming that the decision was unlawful. The Court returned the decision to the Government for re-consideration as to whether the application fulfilled the requirements that were set for granting the licence. Reconsideration was also needed because of the economic changes in the company after the licence was granted.	Supreme Administrative Court of Finland	1035/1/12	n/a

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
France	2007	L'affaire Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox et MOX v. France	LR	The European Court of Human Rights (ECHR) dismissed the claim of Collectif Stop Melox et MOX concerning a decree authorising increased production of nuclear fuels from mixed oxides uranium/plutonium (MOX) at the Melox plant. The applicant lodged an appeal against this decree to the Council of State in 1999, which was dismissed, and the plaintiff was required to pay FRF 5 000 (EUR 750) to the operator, Cogema. Before the ECHR, the applicant claimed a violation of Article 6§1 of the European Convention on Human Rights, on the grounds that the Council of State had not questioned the standing of a private-law company, Cogema, to intervene in an action against a ministerial decision. The ECHR held that there had been no violation of Article 6§1 and Cogema was entitled to intervene in litigation concerning a ministerial decision directly affecting its economic activity.	European Court of Human Rights (ECHR)	N° 75218/01; ECLI:CE:ECHR:2007: 0612JUD007521801	NLB 80
France	2011	Association trinationale de protection nucléaire (ATPN) v. Minister of Economy, Industry and Labour	LR	Court confirmed the government's refusal to immediately close the Fessenheim NPP. Such a decision must be made by decree by the Conseil d'État, after review by the NSA. The Court recognised that the NPP was not in compliance with the Law on Water but complainants had not demonstrated the existence of a serious risk posed by the water releases that would require a shutdown decision.	Administrative Court in Strasbourg	Tb. Adm. Strasbourg, n° 0805582	NLB 87
France	2013	Association trinationale de protection nucléaire (ATPN) v. Minister of Economy, Industry and Labour	LR	Conseil concluded that continued operation of the Fessenheim NPP does not pose any serious risk and dismissed a claim calling for the immediate suspension of operation of the Fessenheim NPP for insufficient consideration of seismic and flood risk, abnormal number of incident since 2004 and illegal water disposal standards.	Conseil d'État (State Council)	Decision (Request Nos. 351986, 358080, 358094, 358095)	NLB 92

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
France	2012	Atelier de technologie de Plutonium, Collectif antinucléaire 13 et Association les amis de la terre de France v. Prime Minister	LR	The Conseil refused to annul a decree authorising the French Alternative Energies and Atomic Energy Commission (CEA) to carry out the operations of final shutdown and dismantling of the Atelier de technologie de plutonium (facility for plutonium technology or ATPu) located at the Cadarache site. Conseil found that the insufficiencies of the hazards study as well as the risks entailed in final shutdown and dismantling does not require an annulment of the decree insofar as the operations are carried out in compliance with the ASN's (French Nuclear Safety Authority) requirements.	Conseil d'État (State Council)	Decision (Request No. 346395)	NLB 90
France	2018	La commune de Fessenheim,et al., la Fédération CGE-CGC Energies, et la Fédération FO Energie et Mines v. Prime Minister	LR	The Conseil decided to repeal Decree No. 2017-508 of 8 April 2017, which revoked the operating licence held by Électricité de France (EDF) for the Fessenheim NPP (Bas-Rhin, France). A claim to repeal the decree was brought by the municipality of Fessenheim and various trade unions in the region, on the basis that a revocation of a licence could only be issued at the request of a licensee, pursuant to Article L. 311-5-5 of the Energy Code. The Conseil held that revocation of the licence to operate had not been issued at EDF's request and therefore the decree should be repealed.	Conseil d'État (State Council)	Decision Nos. 410109, 410622, 410624	NLB 101
Germany	2008	Judgment of the Federal Administrative Court on the standing of third parties regarding attacks at interim storage facilities	LR	The German Federal Administrative Court overruled a decision of a Higher Regional Administrative Court and declared that residents in the vicinity of an interim storage facility may challenge the licence for that facility on the grounds that the necessary protection has not been provided against disruptive action or other interference by third parties. The Federal Administrative Court held that the protection against acts of terrorism at an interim storage facility is covered by the Atomic Energy Act and as such serves the individual rights of those who live in the vicinity of the facility. Additionally, the fight against terrorism by the State does not release the operator from its duty to take measures to protect the facility and its operation for which it is responsible. However, such protection of third parties does not apply to areas which the licensing authority has classified as residual risk (Restrisiko).	Federal Administrative Court	BVerwG 7 C 39.07	NLB 81

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Germany	2008	Judgment of the Federal Administration Court on the so-called "Biblis-obligations"	LR	The operator of Biblis nuclear power plant (NPP) challenged the decision of the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) requiring immediate shutdown of the NPP because of not "obviously insignificant" non-compliance with technical limits, measures or other specific safety-related requirements deemed to control incidents. The BMU also required the operator to inform the regulatory body immediately if it was no longer able to demonstrate the controllability of design basis accidents. The Court declared that the shutdown order was unlawful because it violated the principles that administrative decisions must be precise, clear and unambiguous as well as proportionate. It dismissed the case with respect to the operator's obligation to inform the regulatory authority when it has any doubt concerning the controllability of design basis accidents as this obligation was sufficiently clear.	Federal Administration Court	BVerwG 7 C 38.07; ECLI:DE:BVerwG:2008: 260608U7C38.07.0	NLB 82

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Germany	2015	RWE AG v. Federal State of Hessen	LR	Following the Fukushima Daiichi nuclear accident, the competent regulatory authority of the *Land* Hesse ordered the operator of the nuclear power plants Biblis A and Biblis B, RWE Power AG (RWE), to suspend operation of the plants for three months in order to review the safety of the nuclear power plants in the light of the events in Japan. This order was a manifestation of the priority of nuclear safety. RWE took Biblis A off the grid while Biblis B was not in operation at that time due to a scheduled regular inspection. RWE challenged the order and filed an administrative lawsuit at the Higher Administrative Court of the *Land* Hesse (*Verwaltungsgerichtshof Hessen*). The Higher Administrative Court of the Land *Hesse* decided that the order issued by the competent regulatory authority of the *Land* Hesse was unlawful for both procedural and substantive reasons and violated RWE's rights. The Higher Administrative Court of the *Land* Hesse did not allow an appeal against the judgment. The *Land* Hesse objected to the non-admission of the appeal at the Federal Administrative Court (*Bundesverwaltungsgericht*). By order of the court, the Federal Administrative Court rejected this objection. Herein, the Federal Administrative Court dealt in particular with the significance of the fact that RWE was not heard prior to the issuance of the order by the competent regulatory authority of the *Land* Hesse.	Federal Administrative Court	BVerwG 7 B 18.13; 7 B. 19.13	NLB 93
India	2013	G. Sundarrajan v. Union of India and Others	LR	Court rejected the arguments put forward in the public interest litigation (PIL) petition which sought to obtain the closure of the Kudankulam nuclear power plant (KKNPP), based particularly on the larger reasoning that it is not for courts to scrutinise a particular policy (such as the government's nuclear energy policy) or decisions taken in fulfilment of that policy, in this case the establishment of the KKNPP. Of note, the Court stated that "cannot sit in judgment on the views expressed by the technical and scientific bodies in setting up of KKNPP plant at Kudankulam and on its safety and security."	Supreme Court	Civil Appeal No. 4440 of 2013	NLB 91

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Japan	2015	Petition filed by citizens from Kagoshima opposed to the restart of units 1 and 2 of the Sendai nuclear power plant v. Kyushu Electric Power Company	LR	Court rejected the claim against the restart of Sendai NPP finding that the safety goals established by the NRA took into account the latest expertise, including experience in the Fukushima Daiichi NPP accident and that as long as these safety goals are assured, the risk of a severe accident with the release of radioactive materials causing health damage should be insignificant to the public, if not assuring absolute safety; therefore, the court did not consider that there was any actual risk against the rights of residents.	Kagoshima District Court	2014 (Heisei 26) (ヨ) No.36	NLB 96
Japan	2015	Masada Tadashi and others v. Kansai Electric Power Co. Ltd.	LR	Court granted a temporary injunction against the restart of Takahama NPP Units 3 and 4 finding that nuclear regulatory requirements must be strict enough to ensure that a severe disaster never occurs at a nuclear power plant operating in conformance with the regulatory requirements. In reviewing the NRA's new regulatory requirements, the district court found that they do not address post-Fukushima safety measures and thus are not justified. The court also reviewed the risk of the Takahama NPP units without reference to the NRA's new regulatory requirements, finding that the units have many weaknesses that need to be addressed, with the Court outlining the required measures.	Fukui District Court	2014 (Heisei 26) (ヨ) No. 31	NLB 96
Japan	2017	Decision regarding operations at the Ikata NPP	LR	The plaintiff sought a preliminary injunction against operations at the Ikata NPP. The Hiroshima District Court (DC) ruled against the plaintiffs and denied their petitions. The DC determined that the Volcanic Effects Assessment Guide was based on the premise that the timing and extent of any eruption could be predicted with considerable accuracy and a considerable time in advance and concluded that this premise was not realistic. Thus, the Nuclear Regulation Authority's (NRA) decision is consistent with the purpose of the Act on the Regulation of Nuclear Source Material, Nuclear Fuel Material, and Reactors, even if the site is deemed appropriate. The DC held that the NRA's determination and the location of the Ikata NPP were appropriate.	Hiroshima District Court	2016 (Heisei 28) (ヨ) No.38, No.109	NLB 102

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Japan	2017	Decision regarding operations at the Ikata NPP	LR	The plaintiffs appealed the Hiroshima DC decision and the Hiroshima High Court (HC) issued a decision in favour of the plaintiffs approving the injunction suspending operation of the Ikata NPP. The HC decided there was insufficient evidence to support the judgment that the possibility of volcanic activity was sufficiently small during the period of operation and determined that the siting of the Ikata NPP was inappropriate because such an evaluation was impossible to carry out based on submitted arguments and premises. However, the HC did conclude that, apart from this issue, the Nuclear Regulation Authority's (NRA) Volcanic Effects Assessment Guide was consistent with international standards and affirmed that its content was appropriate.	Hiroshima High Court	2017 (Heisei 29) (ラ) No.63	NLB 102
Japan	2018	Decision regarding operations at the Ikata NPP	LR	The defendant petitioned the Hiroshima HC (HC) with an objection to the injunction, resulting in an appeal where the decision was overturned, and the plaintiff's complaint was dismissed. Like in the District Court decision, the HC noted the Volcanic Effects Assessment Guide was based on an unrealistic premise. Therefore, assumption of risk should instead be based on social common sense, meaning when risk is of such sufficiently low frequency as to not be regarded as a problem by the general public. Applying the theory of social common sense to this case, the HC found that the Nuclear Regulation Authority's (NRA) determination was not contrary to the purpose of the Act on the Regulation of Nuclear Source Material, Nuclear Fuel Material, and Reactors and concluded on appeal that the NRA's determination and the location of the Ikata NPP were appropriate.	Hiroshima High Court	2017 (Heisei 29) (ウ) No.62	NLB 102

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Japan	2020	Decision regarding operations at the Ikata NPP	LR	The Hiroshima High Court issued a second preliminary injunction suspending operation of the Ikata NPP. The plaintiffs brought this case before the HC on the grounds that it infringed their personal rights. The court held that the safety assessments conducted by the operator were insufficient in assessing potential earthquake and volcano impacts and therefore the Nuclear Regulation Authority (NRA) erred in granting a licence. The HC held that the Ikata NPP could not pass the Site Assessment in accordance with the Volcanic Effects Assessment Guide (VEAG). However, since social common sense accepts, to a certain extent, the risk of catastrophic eruptions, it would violate that principle to conclude that the plant does not recognise the existence of specific hazards based on this reason alone. In response, the HC partially modified the VEAG in consideration of social common sense to assume an eruption of a level just below that of the particular volcano's (Mount Aso) fourth largest eruption.	Hiroshima High Court	2019 (Heisei 31) (ラ) No.48	NLB 104
Japan	2020	Decision regarding the request for injunction against prior consent to restart Onagawa NPP	LR	Sendai District Court denied the petition for a preliminary injunction to block the prior consent of the local government for the restarting of the Onagawa nuclear power plant (NPP). The plaintiffs were residents close to the NPP who sought an injunction blocking the local government's prior consent claiming that the consent procedures are a crucial condition of restart and therefore present a significant threat or hazard to their personal rights. The Court held that there was no significant infringement on the personal rights of the plaintiffs as consent is not a necessary legal procedure for restart and there are other procedural regulations that must be carried out by the Nuclear Regulatory Authority (NRA). Furthermore, the plaintiffs failed to present *prima facie* evidence that these other regulations are a mere formality as they claimed, so it cannot be said that the NPP will immediately restart based on this prior consent. Therefore, an injunction against the consent is not warranted. However, this does indicate that there are more ways for individuals and groups to request injunctions than have previously been seen.	Sendai District Court	2019 (Reiwa 1) (ヨ) No.99	NLB 105

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Japan	2021	Injunction against nuclear power plant operation based on inadequate evacuation plans (Tokai-2)	LR	The Mito District Court issued an injunction against Japan Atomic Power Company (JAPC) to prohibit the operation of the Tokai No. 2 NPP, which has been offline since the March 2011 Fukushima accident. The Court granted an injunction based on a finding that the evacuation plans in the event of a nuclear accident were inadequate. The Court determined that the five levels of defence must be fully applied in accordance with the concept of defence in depth. If any of the defence levels are lacking or insufficient, the NPP should not be considered safe. The Court held that the safety of the nuclear power plant is reasonable among the first four levels of defence, but the fifth level of defence was insufficient. Therefore, it ruled that there is a specific risk and ordered injunctive relief enjoining operation of the NPP. JAPC filed an appeal with the Tokyo High Court.	Mito District Court	[Unknown]	NLB 107
Japan	2021	Prosecution on charges of professional negligence resulting in death and injury for the former TEPCO executives	LR	Three former executives of Tokyo Electric Power Co. (TEPCO) were acquitted by the Tokyo District Court of charges of professional negligence resulting in the death and injury of people living in the Fukushima prefecture at the time of the Fukushima Daiichi NPP accident. The Tokyo District Court determined that in order to avoid the consequences from the accident, the defendants would have had to take certain actions before early March 2011. However, the Court stated that it is doubtful that TEPCO could have completed these measures before the accident and the only realistic way TEPCO could have avoided the consequences from the accident was to have suspended the operation of the NPP before early March in 2011. The Court concluded that the former TEPCO executives did not have an obligation to suspend operation of the NPP before early March 2011, because it was not possible to foresee, beyond a reasonable doubt, the occurrence of a tsunami of sufficient scale to cause the Fukushima Daiichi accident. An appeal with the Tokyo High Court is ongoing.	Tokyo District Court	[Unknown]	NLB 107

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
South Africa	2007	McDonald & others v. Minister of Minerals and Energy & others	LR	The Court held that Regulation 3 of the National Nuclear Regulator Act 47 of 1999 (NNRA) was invalid based of the maxim *delegates delegare non potest* and represented an unauthorised delegation of the Minister of Minerals and Energy's regulatory power to the National Nuclear Regulator (Regulator). The plaintiffs sought to challenge the restriction of development of property located within a 5 km radius of the Koeberg Nuclear Power Station (KNPS) on the basis that Regulation 3 and any requirements created by the Regulator were invalid. The Court held that such delegation by the Minister under Regulation 3 was clearly unauthorised and amounts to an impermissible abdication by the Minister of the power to regulate. Further, the Court denied the Regulator's request to suspend operation of the judgment for a period of a year to avoid any gap created by the setting aside of the regulation and the requirements as development within the 5 km zone from KNPS is still governed by the terms of the Structure Plan (Guide Plan), which has statutory force and effect independently of the NNRA and one of the provisions of the Guide Plan is a restriction on further development within a 5 km radius of the KNPS unless such development forms an integral part of KNPS.	Cape High Court (Cape Provincial Division)	2007 (5) SA 642 (C)	NLB 80
Sweden	2006	Ringhals Aktiebolag	LR	Permit procedure for nuclear power plant according to the Environmental Code. The court found that an appropriate balance is established between, on the one hand, the governmental authorities for nuclear activities and, on the other hand, the environmental court if the authorities regulate the activity in more detail and the court makes a general assessment between the cost and the benefit that will be presented through the prescribed permit condition on further investigation measures.	Land and Environment Court of Appeal	MÖD 2006:70	n/a

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Sweden	2018	Swedish Nuclear Fuel and Waste Management Company (SKB)	LR	The court concluded that the activity (i.e. the final repository for spent nuclear fuel) is permissible if: • SKB produces evidence that the repository in the long term will meet the requirements of the Environmental Code, despite remaining uncertainties regarding how the protective capability of the canister may be affected by corrosion. • The long-term responsibility for the final repository according to the Environmental Code has been clearly assigned. Before permission is given, SKB must also provide a comprehensive report of the activity's surface operations and indicate the siting of two possible ventilation towers. The court gave this opinion to the Swedish Government. It is now up to the government to decide. (Unofficial English translation of the summary of the court's decision is available here.)	Land and Environmental Court	Case no. M 1333-11	n/a
Switzerland	2012	Ursula Balmer-Schafroth and others v. DETEC	LR	The Mühleberg NPP was originally granted a 40-year licence, to expire in 2012. In 2009, the Federal Department of the Environment, Transport, Energy and Communications (DETEC) repealed the time limitation in light of the establishment of the Swiss Federal Nuclear Safety Inspectorate (ENSI). This decision was appealed to the Federal Administrative Court, which was approved in part. The Court confirmed the revocation of the original time limitation, but stated that a new time limitation was required for policy reasons and DETEC had until mid-2013 to establish the new time limitation. The court cited safety concerns as the reason and stated that if the licensee wishes to extend the licence beyond the time limitation, it must file an application for such extension with DETEC accompanied by a comprehensive maintenance plan for the plant.	Federal Administrative Court	A 667/2010	NLB 89
Switzerland	2012	Ursula Balmer-Schafroth and others v. DETEC	LR	Court provided that DETEC must examine the merits of a request to revoke the operating licence for the Mühleberg NPP due to serious safety concerns.	Federal Administrative Court	A 6030/2011	NLB 90

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Switzerland	2013	DETEC and Forces motrices bernoises (FMB) Energie SA v. Ursula Balmer-Schafroth and others	LR	Court found in favour of DETEC and FMB, deciding that the Mühleberg NPP should be granted an unlimited-duration operating licence. FMB alleged primarily that the new time limit and the new deadline were illegal and arbitrary, while DETEC focused mainly on issues of institutional law, since it considered that the decision of the Federal Administrative Court went against the distribution of competencies purposely institutionalised by legislation between the administration (i.e. DETEC and the Swiss Federal Office of Energy – SFOE) and the safety authority (ENSI).	Federal Supreme Court	2C-347/2012	NLB 91
Switzerland	2021	Several private individuals v. Axpo Power AG and Federal Nuclear Safety Inspectorate	LR	The court rejected the main ground of an appeal concerning the seismic safety assessment for the Beznau nuclear power plant requested by the Swiss Federal Nuclear Safety Inspectorate (ENSI) after the Fukushima Daiichi nuclear power plant accident in 2011. ENSI had already requested seismic safety assessments from the Beznau nuclear power plant in 2016 and in 2017, it was determined that they fully complied with applicable legal requirements. ENSI was therefore not required to request new ones. However, the court did partially grant the appeal as, according to the applicable law in 2017 (at the time of the decision), ENSI should have requested an additional safety assessment. The court held that in such a case, ENSI must ask the Beznau nuclear power plant's operator for the relevant additional safety assessment, unless it had already requested new fault analyses in the meantime. As this was indeed the case and the review of the safety assessments provided was completed in February 2021, ENSI has no obligation to request new assessments.	Federal Supreme Court	2C_206/2019	NLB 106

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2008	Spano v US NRC	LR	The Federal Court of Appeals for the Second Circuit dismissed the petitioners' appeal of the denial by the Nuclear Regulatory Commission (NRC) of their petitions to revise the NRC's nuclear power plant licensing regulations so that a licence renewal would be subject to the same standards as an initial licence application. Petitioners challenged the denial on the grounds that the NRC did not provide petitioners with an opportunity to supplement their petitions, did not hold a hearing or conduct fact-finding, improperly relied on the existence of other administrative remedies and did not consider the "new information" and "new issues" raised in the petitions. The Court dismissed the claim that the NRC did not allow the petitioners to supplement their petitions, noting the distinction between an incomplete petition for rulemaking and one that is merely unpersuasive. Furthermore, the Court held that NRC's decisions to not hold a hearing or conduct fact-finding, rely on other administrative remedies and not consider "new information" and "new issues" raised in the petitions were reasonable.	Federal Circuit Court of Appeals	293 F. App'x 91 (2nd Cir. 2008).	NLB 82
United States	2009	Public Citizen, San Luis Obispo Mothers for Peace, and State of New York v. US Nuclear Regulatory Commission	LR	The Nuclear Regulatory Commission (NRC) determined that air-based attacks were beyond the scope of the design basis threat (DBT) rule because the federal government was responsible for defending against such threats. The petitioners alleged that in doing so, the NRC had acted arbitrarily, capriciously and in violation of law. The Court held that the NRC had acted lawfully in excluding air-based threats from the scope of the rule. In its decision, the Court recognised that the DBT rule considered the credibility of the threat, whether private forces could reasonably be expected to actively engage that threat and that there was also a low likelihood of damaging the reactor core and releasing radioactivity that could affect public health and safety. It also highlighted that relying on other governmental bodies to address the risk is not equivalent to ignoring the risk.	Federal Circuit Court of Appeals	573 F.3d 916, 919 (9th Cir. 2009), 10 C. F. R.	NLB 84

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2011	New Jersey Environmental Federation v. US NRC	LR	Court ruled that the NRC properly rejected the technical challenges related to concrete and the drywell shell because they were filed after the initial deadline for contentions and were not based on new, previously unavailable information. Regarding a technical contention on metal fatigue, the Court ruled that the NRC reasonably applied the elevated pleading standards in its regulation governing the reopening of a closed record. Finally, the Court deferred to the NRC's conclusion that its regulations require disputes to be raised with an applicant's submissions, not with the Staff's review.	Federal Circuit Court of Appeals	645 F.3d 220 (3d Cir. 2011)	NLB 88
United States	2012	Calvert Cliffs Nuclear Project, LLC	LR	The Board concluded that because Applicants in this case are owned by a US corporation that is 100% owned by a foreign corporation, Applicants are rendered per se ineligible, notwithstanding any other factors such as a negation action plan, to apply for or obtain a licence as long as the current ownership arrangement is in effect. The Atomic Energy Act states that a licence cannot be issued to any corporation if they are owned, controlled, or dominated by a foreign corporation or foreign government.	NRC Atomic Safety and Licensing Board	LBP-12-19, 76 NRC 184	NLB 90
United States	2013	Shieldalloy Metallurgical Corp. v. NRC	LR	Court deferred to the NRC's conclusions that: (1) the agency lacks authority under the Atomic Energy Act to retain jurisdiction over a site at a licensee's request where the state is willing to assume regulatory authority over the site and meets other applicable criteria; and (2) the NRC's agreement-state assessment, which requires that discontinuance of the NRC's regulatory authority not result in interference or interruption of the licensing process, did not compel the NRC to retain jurisdiction over the Shieldalloy site. However, on a third issue, the Court found that the NRC failed to explain how the state's rules governing licence termination were compatible with the NRC's restricted release provision. The case was remanded to the NRC for further explanation of this issue.	Federal Circuit Court of Appeals	707 F.3d 371 (DC Cir. 2013)	NLB 91

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2013	Shieldalloy Metallurgical Corp. (Decommissioning of the Newfield, New Jersey Site)	LR	The NRC responded to the DC Circuit's remand, explaining that because the state has adopted the objective of seeking to limit the use of restricted release, and because the state has adopted more stringent criteria for licence termination under restricted release than for unrestricted release, as well as more conservative criteria than the NRC's, the NRC deemed the state's regulations to be compatible with its programme under its agreement-state policy. Therefore, the NRC reinstated its transfer of authority over the Shieldalloy site to the state.	Commission of the US NRC	CLI-13-06, 78 NRC 155 (2013)	NLB 92
United States	2014	Shaw AREVA MOX Services, LLC (Mixed Oxide Fuel Fabrication Facility Possession and Use License)	LR	Applicant submitted a Fundamental Nuclear Material Control Plan (FNMCP), which contained a proposed automated material control and accounting system to satisfy certain NRC requirements for the control and accounting of special nuclear material. After two evidentiary hearings, it was found that the applicant's FNMCP complies with NRC requirements. Decision was appealed to the Commission of the US NRC.	NRC Atomic Safety and Licensing Board	LBP-14-01, 79 NRC 39	NLB 93
United States	2016	Nuclear Innovation North America LLC (South Texas Project Units 3 and 4)	LR	The applicant sufficiently demonstrated by a preponderance of the evidence that it is not subject to impermissible foreign ownership, control or domination, contrary to the Atomic Energy Act and NRC regulations. The applicant is pursuing two new reactor licences as part of a joint venture with Toshiba American Nuclear Energy Corporation (TANE), which is a wholly-owned subsidiary of Toshiba America, Inc., which in turn is a wholly owned subsidiary of Toshiba Corporation, a Japanese corporation. Decision was appealed to the Commission of the US NRC.	NRC Atomic Safety and Licensing Board	LBP-14-03, 79 NRC 267	NLB 94
United States	2017	Virginia Uranium, Inc. v. Warren	LR	Court found that under the Atomic Energy Act conventional uranium mining on non-federal land is not regulated by the US Nuclear Regulatory Commission (NRC). Therefore, a state moratorium on uranium mining is not pre-empted by federal law.	Federal Circuit Court of Appeals	848 F.3d 590 (4th Cir. 2017)	NLB 99

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2019	Virginia Uranium, Inc. v. Warren	LR	The Supreme Court upheld the decision of the 4th Circuit Court that the Virginia ban on uranium mining on private land is not pre-empted by federal law. However, while the Court felt it was inappropriate in this instance to ascertain the motivation of the state of Virginia in creating the ban, the decision did not rule out the possibility that a state's regulation, which was found to either intend to interfere, or have the effect of interfering, with matters close to the core of the NRC's authority could be pre-empted.	Supreme Court	139 S.Ct. 1894 (2019)	NLB 103
United States	2019	Holtec International (HI-STORE Consolidated Interim Storage Facility)	LR	The NRC Atomic Safety and Licensing Board (ASLB) issued a decision denying challenges to the licence application by Holtec International to build and operate a consolidated interim storage facility (CISF) for spent nuclear fuel and greater-than-Class C waste (SNF) in Lea County, New Mexico. Holtec is seeking a 40-year licence to store canisters of SNF. While the ASLB held that three petitioners demonstrated standing, it determined that none of their contentions were admissible. Appeals of the ASLB's ruling are pending before the NRC Commission and the NRC staff's review of the application is ongoing.	NRC Atomic Safety and Licensing Board	LBP-19-4, 89 NRC 353	NLB 103
United States	2021	Holtec International (HI-STORE Consolidated Interim Storage Facility)	LR	Fasken Land and Minerals, Ltd. and Permian Basin Land and Royalty Owners (together, Fasken) sought to reopen a proceeding regarding Holtec International's application for a licence to build and operate a consolidated interim storage facility (CISF). Fasken argued that the proposed CISF would interfere with mineral development in the area and that the NRC staff had insufficiently analysed this issue. The Commission denied Fasken's appeal and upheld the Board's previous determination. The Commission also rejected Fasken's motion to reopen the record to litigate issues concerning the NRC staff's analysis of land use, rights, and restrictions under and around the proposed facility, rejecting Fasken's argument that new and materially different information that had come to light in the form of public comments on the NRC's draft Environmental Impact Statement. The NRC's licensing decision is pending. A subsequent appeal brought before the DC Circuit is currently being held in abeyance pending said licensing decision.	Commission of the US NRC	CLI-21-07, 93 NRC __ (slip op.)	NLB 107

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2019	Public Watchdogs v. Southern California Edison Co.	LR	In August 2019, the public interest group "Public Watchdogs" brought suit against the licensees for the San Onofre Nuclear Generating Station (SONGS), Holtec International (Holtec), the US Nuclear Regulatory Commission (NRC), and others allegedly involved in negligent decommissioning activities at SONGS. It challenged, amongst others, licence amendments that the NRC issued for SONGS in 2015. The District Court for the Southern District of California dismissed the complaint for lack of jurisdiction and held that under the Administrative Orders Review Act ("The Hobbs Act"), a court of appeals had exclusive jurisdiction to hear Public Watchdogs' claims.	Federal District Court	No. 19-CV-1635 JLS (MSB), 2019 WL 6497886 (S.D. Cal. 2019) (unpublished)	NLB 106
United States	2020	Public Watchdogs v. Southern California Edison Co.	LR	In December 2020, the Court of Appeal affirmed the lower court's decision to dismiss the complaint. Under the Hobbs Act, courts of appeals have exclusive jurisdiction to review "final orders" of the NRC, which should be read broadly to include all NRC decisions that are preliminary, ancillary or incidental to licensing proceedings. As all of Public Watchdogs' claims related to NRC decisions on licensing, the claims fell under the scope of the Hobbs Act and therefore, the lower court lacked jurisdiction to hear them.	Federal Circuit Court of Appeals	984 F.3d 744 (9th Cir. 2020)	NLB 106
United States	2021	Public Watchdogs v. US NRC	LR	In September 2019, Public Watchdog challenged the NRC's denial of its petition under 10 CFR § 2.206 for an order suspending decommissioning operations at the San Onofre Nuclear Generating Station ("SONGS"). A decision not to institute an enforcement proceeding is presumptively unreviewable unless the NRC "consciously and expressly adopted a general policy that is so extreme as to amount to an abdication of its statutory responsibilities" or there is law providing "meaningful standards for defining the limits of [the NRC's] discretion" in declining to take enforcement action. Public Watchdogs did not overcome the presumption that the NRC's denial of the § 2.206 petition is unreviewable and the court dismissed the petition for review	Federal Circuit Court of Appeals	833 F. App'x 460 (9th Cir. 2021)	NLB 106

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2021	Virginia Electric and Power Company (North Anna Power Station, Units 1 and 2)	LR	The NRC's Atomic Safety and Licensing Board recently issued a decision denying intervention in "subsequent licence renewal" (SLR) proceedings concerning an application submitted by Virginia Electric and Power Company (VEPCO) for a second 20-year renewal of its operating licences for 2 nuclear power reactor units at the North Anna Power Station in Virginia. Various environmental organisations filed a hearing request, contesting portions of VEPCO's SLR application on the basis that it failed to discuss the environmental significance of the 2011 Mineral, Virginia earthquake. The Board denied the request for a hearing on the grounds that the safety impact of the 2011 Mineral earthquake had already been fully assessed by VEPCO and the NRC staff by a post-incident review and a seismic probabilistic risk assessment. An appeal of this decision is currently pending before the Commission.	NRC Atomic Safety and Licensing Board	LBP-21-04, 93 NRC __ (slip op.)	NLB 107
United States	2021	NextEra Energy Point Beach, LLC (Point Beach Nuclear Plant, Units 1 and 2)	LR	The NRC's Atomic Safety and Licensing Board recently issued a decision denying intervention in "subsequent licence renewal" (SLR) proceedings concerning an application submitted by NextEra Energy Point Beach, LLC (NextEra) for a second 20-year renewal of its operating licences for two nuclear power reactor units at its Point Beach Nuclear Plant in Wisconsin. Physicians for Social Responsibility Wisconsin filed a hearing request, seeking to admit various contentions challenging the adequacy or accuracy of safety-related and environmental information provided by NextEra in its SLR application. The Board denied their hearing finding their environmental contentions inadmissible and their safety-related contentions impermissible. An appeal of the Board's denial is pending before the Commission.	NRC Atomic Safety and Licensing Board	LBP-21-05, 93 NRC __ (slip op.)	NLB 107
RADIOACTIVE WASTE MANAGEMENT (RWM)							

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Australia	2020	Barngarla Determination Aboriginal Corporation RNTBC v District Council of Kimba (No 2)	RWM	The Federal Court of Australia dismissed the appeal by claimants regarding their eligibility to vote in a local ballot on land being considered as a potential National Radioactive Waste Management Facility (NRWMF) site. The claim was based on the issue of native title, which recognises that Aboriginal people have rights and interests to particular land that come from their traditional laws and customs and can co-exist with non-Aboriginal proprietary rights. The claimants hold native title to particular land in the local government but reside outside the boundaries of the local government; they argued they had the right to vote based on their native title. It is important to note that native title for the nominated land is not recognised.	Federal Court of Australia	[2020] FCAFC 39	NLB 104
France	2012	EDF v. Roozen France and Scté des Serres	RWM	A Saint Vulbas regulation on local development planning prohibits "land uses and occupations not connected with or necessary to the activity of the nuclear power station". The Prefect of Ain issued EDF a licence for the construction of a packaging and storage facility for radioactive waste (ICEDA – Installation de Conditionnement et d'Entreposage de Déchets Activés) on land in the Saint-Vulbas municipality, which is already home to the Bugey NPP. The court found that ICEDA could not be regarded as only necessary to the activity of the Bugey NPP as its purpose is the conditioning and storage of nuclear waste resulting from the decommissioning of the Bugey NPP reactor 1 as well as radioactive waste from other reactors at plants in the process of being dismantled.	Administrative Court of Appeal of Lyon	Judgments Nos. 12LY00233 and 12LY00290	NLB 90
France	2014	EDF v. Roozen France and Scté des Serres	RWM	The Conseil found that the ICEDA facility must be regarded as connected with and necessary to the activity of the Bugey NPP, although it will also be used, even if in a significant way, for the conditioning and storage of waste originating from other facilities. Therefore, the Conseil overturned the Court of Appeals ruling confirming the annulment of the construction licence for the ICEDA facility and referred the case back to the Court of Appeals.	Conseil d'État (State Council)	Decision (Request No. 362001)	NLB 94

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
France	2014	EDF v. Republic and Canton of Geneva and City of Geneva	RWM	The French Environmental Code provides that decrees authorising the construction of the ICEDA (radioactive waste conditioning and storage facility) can be challenged by third parties in particular due to the dangers that the operation of the INB may cause to the environment and to human health but here, the Conseil declared that the petitioners have not demonstrated a direct and certain interest to seek an annulment of the decree authorising the construction of the ICEDA facility taking into account its activity, its characteristics and their distance from the site.	Conseil d'État (State Council)	Decision (Request No. 358882)	NLB 94
France	2018	Greenpeace France v. ORANO CYCLE	RWM	The Court dismissed Greenpeace's France's request for summary judgment to view the contracts between the Australian Nuclear Science and Technology Organisation (ANSTO) and ORANO CYCLE regarding a trade agreement on the reprocessing of spent fuel from an ANSTO research reactor. The Court dismissed Greenpeace's claims, specifying that although Article L. 542-2 of the French Environmental Code prohibits the disposal of radioactive waste originating from a foreign country, it is possible to introduce and store waste and spent fuel originating from a foreign country for treatment or reprocessing if certain requirements are met.	Cherbourg High Court	No. 18-00061	NLB 102
Poland	2015	Local referendum in the Commune of Różan regarding a new radioactive waste repository	RWM	Masovian Voivod annulled a resolution adopted by the Municipal Council to hold a local referendum regarding siting a new radioactive waste repository for both procedural and substantive objections. The Voivod concluded that a local referendum is not a tool to prohibit the siting of a specific type of construction investment on the commune territory because the municipal council has exclusive competence on this field.	Masovian Voivod (Governor)	Judgment of 3 July 2015	NLB 96
Poland	2015	Local referendum in the Commune of Różan regarding a new radioactive waste repository	RWM	Masovian Voivod annulled a second resolution by the Municipal Council to hold an identical referendum regarding the siting of a new radioactive waste repository in the commune of Różan. The Municipal Council appealed this decision to the relevant voivodship administrative court.	Masovian Voivod (Governor)	Judgment of 28 December 2015	NLB 97

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2008	Carolina Power & Light Co. v. US	RWM	The plaintiffs Carolina Power & Light Company and Florida Power Corporation (collectively "Progress Energy") claimed damages of approximately USD 91m from the US Department of Energy (DOE), under the terms of DOE's Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Waste (Standard Contract). DOE's liability was previously established and the amount of damages was the sole issue in this case. The Court considered Progress Energy's claimed damages and the DOE's counterclaims, rendering a final judgment for Progress Energy in the amount of approximately USD 83m.	Court of Federal Claims	82 Fed. Cl. 23 (Ct. Cl. 2008)	NLB 82
United States	2009	EnergySolutions, LLC v. Northwest Interstate Compact on Low-Level Radioactive Waste Management, Michael Garner, the State of Utah, and the Rocky Mountain Low-Level Radioactive Waste Compact	RWM	In 2007, a company operating a private LLW disposal facility in Utah ("EnergySolutions") applied to the NRC for a licence to import LLW from Italy. The Northwest Interstate Compact on Low-Level Radioactive Waste Management ("NW Compact", which includes Utah) passed a 2008 Resolution prohibiting EnergySolutions from importing foreign LLW for disposal at the Utah site. EnergySolutions then sued the NW Compact. The Court ruled that Congress did not grant the NW Compact any authority over non-Compact LLW disposed in private facilities. Interstate compacts cannot regulate or otherwise burden interstate commerce in the absence of unambiguous, explicit consent from Congress. The NW Compact and Utah appealed the decision.	Federal District Court	No. 2:08-CV-352 TS (D. Utah 2009)	NLB 84

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2010	EnergySolutions, LLC v. State of Utah	RWM	The issue in this case is whether the Northwest Interstate Compact on Low-Level Radioactive Waste allows its member states to exclude LLRW from disposal at a Utah site. EnergySolutions is the owner and operator of a facility for the disposal of LLRW located in Clive, Utah. Utah is a member state of the NorthwestCompact, and required EnergySolutions to obtain permission pursuant to the Compact for the importation and disposal of LLRW from a decommissioned reactor in Italy. The member states, including Utah, voted to deny this approval, based on exclusionary authority it claimed through the federal statute approving the terms of the Compact. EnergySolutions contends the Clive Facility should not be subject to the authority of the Northwest Compact. It claims the Compact has limited authority only over regional disposal facilities, which does not include the Clive Facility. The district court concluded the Northwest Compact does not regulate the disposal of waste at the Clive Facility. The 10th Cir. Disagreed, holding that the terms of the Compact control in this situation, and the member states were within the bounds of their authority when they denied permission regarding this waste. Case reversed and remanded.	Federal Circuit Court of Appeals	625 F.3d 1261 (10th Cir. 2010)	n/a
United States	2011	In re: Aiken County	RWM	Petitioners challenged the Department of Energy's (DOE) attempt to withdraw its application for a licence to construct a repository for high level nuclear waste at Yucca Mountain. Petitioners also challenged the DOE's apparent decision to abandon development of the repository. Court determined that petitioners' claims were not ripe.	Federal Circuit Court of Appeals	645 F.3d 428 (DC Cir. 2011)	NLB 88

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2013	In re: Aiken County	RWM	Petitioners asked for a writ of mandamus in 2011 ordering the NRC to resume the licensing process for a nuclear waste repository at Yucca Mountain in Nevada. At the time the Court held the case in abeyance for Congress to clarify the issue. In 2013, with neither Congress nor the NRC having acted to change the status quo, the DC Circuit granted the petition, reasoning that NRC's inaction had gone on too long in spite of explicit direction from the court and, therefore, that the circumstances merited mandamus. The Court held that the NRC must continue the licensing process so long as funds remain and that the NRC may not rely on communication from the President or members of Congress to violate its statutory obligations.	Federal Circuit Court of Appeals	725 F.3d 255 (DC Cir. 2013)	NLB 92
United States	2013	US Department of Energy (High-Level Waste Repository)	RWM	Commission issued an order setting forth an incremental course of action for resumption of the Yucca Mountain licensing process consistent with the Circuit Court's decision and the resources available to the NRC. This order instructed the NRC staff to complete the remaining volumes of the Safety Evaluation Report (SER) and requested that the Department of Energy complete the Environmental Impact Statement (EIS) supplement for consideration and potential adoption by the NRC staff. The Commission declined to resume the contested adjudication.	Commission of the US NRC	CLI-13-08, 78 NRC 219 (2013)	NLB 93
United States	2018	Texas v. United States	RWM	The petitioner sought relief under the Nuclear Waste Policy Act claiming the DOE's intention of consent-based siting was a violation of the Act and holding the NRC proceedings on Yucca Mountain in abeyance was also a violation of the Act and the Court's decision in In re Aiken County. As a majority of the petitioner's claims fell outside the 180-day limitation period prescribed in 42 USC Sec. 10139(a)(1) the Court addressed this issue and held that the limitation period was not jurisdictional. The Court also held that the petitioner lacked any basis to challenge the discrete actions that were not time-barred as they were of "no legal consequence" and did not constitute a final decision or action subject to challenge under the Nuclear Waste Policy Act. The Court dismissed all of the petitioner's claims, concluding that they did not meet the statutory requirements of timeliness or finality.	Federal Circuit Court of Appeals	891 F.3d 553 (5th Cir. 2018)	NLB 101

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
RADIOLOGICAL PROTECTION (RP)							
France	2011	Association française des maladies de la thyroïde and CRIIRAD v. Pierre X.	RP	Following the Chernobyl accident, a complaint for "involuntary grievous bodily harm" was filed alleging that authorities had minimised the significance of radioactive pollution in France and that they were therefore responsible for an increase of thyroid-related illnesses since 1986. The trial judge found that the elements of "involuntary grievous bodily harm" were not satisfied but she charged the former Director of the Central Department for Protection against Ionising Radiation (SCPRI) with "aggravated deceit". The Court of Appeals dismissed the case against the SCPRI Director as it was not demonstrated that he had in bad faith given wrong, inexact or substantially inaccurate information, failed to provide appropriate controls of foodstuffs tainted by radioactivity or failed to take precautions after the Chernobyl accident, and that, as a result, the elements of deceit or other crimes are not satisfied.	Court of Appeal of Paris	Investigation Chamber, CA Paris 4° section, 7.09.11 (rejet)	NLB 88
France	2012	Association française des maladies de la thyroïde and CRIIRAD v. Pierre X.	RP	Court confirmed the Court of Appeal's judgment dismissing the charge of "aggravated deceit" against the former Director of the Central Department for Protection against Ionising Radiation because the causal link was not proven with certainty and bad faith was not demonstrated.	Court of Cassation, Criminal Chamber	Decision No. 11-87531	NLB 91
France	2012	Radioactive effluent of Golfesh, Fédération Réseau Sortir du Nucléaire and others v. EDF	RP	In 2010, a significant amount of radioactive effluents from an NPP operated by EDF was accidentally released into the environment following a series of technical faults. Dismisses charges against EDF relating to the absence of environmental protection training for staff, insufficient volume of fluid retention in case of accident and insufficient volume of the sump pit. Finds EDF guilty for the absence of an alarm system appropriate to the risk and for non-compliant storage and disposal of liquids.	Court of Appeal of Toulouse	Judgment No. 1200867	NLB 91

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Greenland	2011	Heinz Helmuth Eriksen, Bent Hansen and Brigit Lind v. European Commission	RP	Court dismissed three appeals from Danish workers involved in clean-up activities of nuclear pollution after a US military plane carrying nuclear materials crashed in Greenland in 1968 and caused widespread pollution. The Plaintiffs argued that their subsequent illnesses (or death) were a result of their involvement in this incident, which entitled them to damages. The Plaintiffs sued the European Commission for the Commission's failure to adopt measures against Denmark. The Court found that there was no unlawful conduct by the Commission for not adopting measures against Denmark to comply with the 1996 Basic Safety Standards and that the Commission's only possibility to act was to bring an infringement procedure against a member state, but this is a discretionary power.	Court of Justice of the European Union (5th Chamber)	ECLI:EU:C:2011:10	NLB 88
Poland	2013	Petition submitted by the Polish Commissioner for Human Rights on the constitutionality of provision of the Regulation of the Minister of Health of 18 Feb. 2011	RP	Tribunal stated that by issuing a regulation implementing a EURATOM Directive that determines the conditions for safe use of ionising radiation for all types of medical exposure and the qualifications required from medical physicians to control radiological equipment, the Minister of Health exceeded its competences provided by the Polish Constitution. Moreover, requirement for medical physician to obtain a relevant certificate is not a limitation of the freedom of occupation as it is beneficial to them.	Constitutional Tribunal	Judgment of 30 July 2013 (Ref. No. U 5/12)	NLB 96
United Kingdom	2007	Decision of the Wick Sheriff Court Fining UKAEA for Plutonium Exposure	RP	The United Kingdom Atomic Energy Authority (UKAEA) pled guilty to breaching various sections of the Health and Safety at Work Act 1974 after two workers at the Dounreay nuclear plant were exposed to radioactive plutonium whilst carrying out work related to the storage of lead bricks and their disposal as intermediate level waste. A GBP 15 000 fine was issued and the UKAEA has since implemented improvements required by the nuclear installations inspectorate.	Wick Sheriff Court	[Unknown]	NLB 80

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United Kingdom	2007	Commission of the European Communities v. United Kingdom of Great Britain and Northern Ireland	RP	The European Court of Justice (ECJ) held that the United Kingdom failed to fulfil its obligations under Article 53 of Council Directive 96/29/Euratom. Article 53 of the Directive obliges Member States to bring into force laws, regulations and administrative decisions to ensure that "where Member States have identified a situation leading to lasting exposure resulting from the after-effects of a radiological emergency or a post practice", specific measures are to be taken. However, the UK has only imposed an obligation to intervene if a situation of radioactive contamination results from a present or past activity for which a licence was granted. The UK Government admitted the validity of the Commission's claims and stated that transposition of the article into national legislation is in process.	Court of Justice of the European Union (3rd Chamber)	Case C-127/05; ECLI:EU:C:2007:338	NLB 81
LIABILITY AND COMPENSATION (LC)							
India	2015	Yash Thomas Mannully and another v. Union of India and others	LC	The constitutional validity of the Civil Liability for Nuclear Damage Act, 2010 (CNLD Act, 2010) was upheld. It does not interfere with the Indian Constitution's guarantee of the right to life of the citizens under Article 21. Further, the court held that there is no reason to doubt the independence of the Atomic Energy Regulatory Board (AERB); since the AERB operates according to internationally accepted standards and codes, the Board can prescribe its own methodology for deciding the existence of nuclear damage; the CLND Act provides sufficient flexibility to raise claims and that there is no error in the provision since the "law of limitation" is well-accepted; and constituting a Special Tribunal is not arbitrary.	High Court of Kerala	W.P.(C). No. 27960 of 2011, 422 KLW 240 (21 August 2015)	NLB 96

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Japan	2017	Petition filed by citizens from Fukushima v. Government of Japan and TEPCO	LC	Court acknowledged that both the government and the Tokyo Electric Power Company (TEPCO) were liable for the Fukushima Daiichi NPP accident. The Court determined that the government not only failed to account for a tsunami but also failed to exercise its regulatory authority over TEPCO, considering this to be irrational and illegal. The government and TEPCO were ordered to pay equal compensation for damages.	Maebashi District Court	2013 (Heisei 25) (ワ) No.478 2014 (Heisei 26) (ワ) No.111, No.466	NLB 100
Japan	2017	Petition filed by citizens from Fukushima v. Government of Japan and TEPCO	LC	Court rejected the claim that the government should be held liable for failure to exercise regulatory authority over the Tokyo Electric Power Company (TEPCO), but found liability on the part of TEPCO for the Fukushima Daiichi NPP accident. While recognising that the government did not take preventative measures against tsunamis, the Court found that the government was not irrational in prioritising preventative measures against earthquakes.	Chiba District Court	2013 (Heisei 25) (ワ) No.515, No.1476, No.1477	NLB 100
Japan	2017	Petition filed by citizens from Fukushima v. Government of Japan and TEPCO	LC	Court recognised that both the government and the Tokyo Electric Power Company (TEPCO) were liable for the Fukushima Daiichi NPP accident. The Court determined that the government could foresee the tsunami and failed to exercise effective regulatory authority over TEPCO. The failure to take preventive measures was found to be irrational and illegal. The government and TEPCO were ordered to pay equal compensation for damages as both parties were found at fault.	Fukushima District Court	2013 (Heisei 25) (ワ) No. 38, No.94, No.175 2014 (Heisei 26) (ワ) No. 14, No.165, No.166	NLB 100

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Japan	2019	Petition filed by citizens from Fukushima v. Government of Japan and TEPCO	LC	The plaintiffs filed a lawsuit seeking a total of JPY 1.44 billion in damages against the government and TEPCO. The Court allowed the claim against TEPCO but denied government responsibility, which both parties appealed. The decision was rendered on the following points: whether the government had regulatory authority; whether the tsunami was foreseeable; and whether the accident could have been prevented had regulatory authority been exercised. The Court found that the government did have the regulatory authority to order TEPCO to enact protective measures. However, the level of foreseeability of the tsunami was low and, even if regulatory authority had been exercised, the protective measures advocated by the plaintiffs likely would have been incomplete at the time of the Fukushima accident. The Court found that the government did not act unreasonably by failing to order the adoption of protective measures and therefore liability cannot be established under the State Redress Act.	Nagoya District Court	2013 (Heisei 25) (ワ) No.2710, No.5612 2014 (Heisei 26) (ワ) No.884 2016 (Heisei 28) (ワ) No.612, No.5238	NLB 103
Japan	2020	Petition filed by citizens from Fukushima and nearby prefectures v. Government of Japan and TEPCO	LC	The Court reviewed a class action lawsuit in which the plaintiffs sought compensation for damages from both the State and TEPCO after being forced to evacuate their homes due to the Fukushima nuclear accident. Basing its judgment on Supreme Court precedents, the Court acknowledged the State's responsibility by following the conventional framework that dictates whether a claim for compensation is justified or not based on the State's non-intervention. The Court found both the State and TEPCO equally liable and ordered compensation of approximately JPY 1.01 billion. This marks the first time the appellate court explicitly ruled the illegality of the State in a compensation lawsuit over the Fukushima accident. In response to this judgment, TEPCO and the State appealed to the Supreme Court.	Sendai High Court	2017 (Heisei 29) (ネ) No.373 2020 (Reiwa 2) (ネ) No. 56, No.62	NLB 106

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2007	Massachusetts Institute of Technology & Massachusetts General Hospital v. US	LC	The US Court of Federal Claims vacated a 2002 decision in which it held that under the Price-Anderson Act (PAA), plaintiffs were entitled to recovery of legal fees and costs incurred in defending a private tort suit concerning the medical misuse of nuclear technology. The original private tort case, *Heinrich v. Sweet*, dealt with alleged medical misuse of an NRC-licensed research reactor at the Massachusetts Institute of Technology (MIT). In a following suit, *Sweet, Massachusetts Institute of Technology & Massachusetts General Hospital v. United States,* the plaintiffs sought reimbursement for legal fees and costs they incurred in defending the *Heinrich* lawsuit, invoking a 1959 PAA indemnity agreement between MIT and the Atomic Energy Commission. The Federal Claims Court rejected the government's threshold argument that the PAA does not cover medical malpractice claims and held that the plaintiffs were entitled to indemnification of litigation costs. Subsequently, on a motion by the government, the Federal Claims Court vacated its original liability ruling as moot, noting that "a determination regarding the proper scope of the indemnity provisions of the Price-Anderson Act should await another case in which the litigation triggering the act's indemnity provisions squarely address the parties' liability under that act."	Court of Federal Claims	75 Fed. Cl. 129 (2007)	NLB 80
United States	2012	Cook v. Rockwell International Corp.	LC	Plaintiffs alleged a public liability action under the Price-Anderson Act (PAA) for trespass and nuisance claims against the former operators of the Rocky Flats Plant. Plaintiffs' claimed they suffered property damage, in the form of diminished value, caused by the release of plutonium from the Plant resulting in contamination of their property. Federal District Court ruled in Plaintiffs' favour, granting compensatory and punitive damages in an amount totalling over USD 926 million. On appeal, the Court of Appeals held that the District Court erred in its application of the PAA and its interpretation of State law, and that to establish the occurrence of a nuclear incident, a plaintiff must show – and not merely assert – they have experienced one of the injuries enumerated in the definition of nuclear incident. The Supreme Court denied a petition for review.	Supreme Court	618 F.3d 1127 (10th Cir. 2010); cert denied, 2012 WL 2368857 (25 June 2012)	NLB 90

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2013	Cooper v. Tokyo Electric Power Company	LC	Dismisses lawsuit brought by US military personnel against TEPCO because the complaint as originally filed was barred as non-justiciable under the political question doctrine. The Court allowed the plaintiffs to file an amended complaint.	Federal District Court	990 F. Supp. 2d 1035 (S.D. Cal. 2013)	NLB 93
United States	2017	Cooper v. Tokyo Electric Power Company	LC	The Court held that the provision in Article XIII of the Convention of Supplementary Compensation for Nuclear Damage for exclusive jurisdiction in the courts of the accident country did not strip US courts of jurisdiction over claims arising out of nuclear incidents that occurred prior to the CSC's entry into force. Also held that District Court did not abuse its discretion when it did not dismiss the lawsuit on grounds *of forum non conveniens* or international comity, even though it recognised that Japanese courts would provide an adequate alternative forum and that millions of Fukushima claims then had been resolved in Japan with payments more than USD 58 billion.	Federal Circuit Court of Appeals	860 F.3d 1193 (9th Cir. 2017)	NLB 99
United States	2019	Cooper v. Tokyo Electric Power Company	LC	The District Court in San Diego dismissed the Cooper lawsuits on various grounds, notably that Japanese law should apply. Plaintiffs appealed the Court's order to the US Court of Appeals for Ninth Circuit.	Federal District Court	[Unknown]	NLB 102
United States	2020	Cooper v. Tokyo Electric Power Company	LC	The US Court of Appeals for Ninth Circuit affirmed the decision of the US District Court dismissing the case on grounds of international comity and the applicability of Japanese law's channelling provision. The Court held that the District Court correctly found Japanese law applies to the case and did not abuse its discretion when it dismissed the claims against TEPCO on international comity grounds. The Court also held that Japan's interests would be more impaired than California's if its law were not applied and dismissed the claims against GE with prejudice. The Court did not address other grounds for appeal, including *forum non conveniens* or the applicability of the CSC. The appellants filed a Petition for Rehearing and Rehearing-En-Banc of the decision.	Federal Circuit Court of Appeals	960 F.3d 549 (9th Cir. 2020)	NLB 104

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2021	Cooper v. Tokyo Electric Power Company, Inc. and General Electric Company	LC	The plaintiffs filed a *certiorari* petition seeking to overturn the 9th Circuit Court of Appeals decision which upheld the dismissal of the lawsuit on grounds of choice of law for General Electric and international comity for TEPCO. The Supreme Court denied the petition without comment.	Supreme Court	No. 20-730, 2021 WL 1163742 (29 Mar. 2021)	NLB 106
United States	2019	Imamura v. General Electric Company	LC	The plaintiffs brought a claim before the US District Court against General Electric (GE) and others seeking monetary and punitive damages on counts of negligence, strict liability and violations of various articles of the Civil Code of Japan. GE moved to dismiss the Imamura lawsuit with prejudice, based on lack of subject matter jurisdiction, *forum non conveniens* and failure to state a claim. The defendants argued that the exclusive jurisdiction of Article XIII of the CSC should apply. Their argument also referenced court decisions in similar lawsuits, including the decision to dismiss the Cooper and Bartel II lawsuits and the Japanese Supreme Court's decision upholding the constitutionality of the channelling of liability to the operator. The District Court dismissed the Imamura lawsuit only on the grounds of *forum non conveniens*.	Federal District Court	371 F. Supp. 3d 1 (D. Mass. 2019)	NLB 102
United States	2020	Imamura v. General Electric Company	LC	The US Court of Appeals for the First Circuit affirmed the decision of dismissal by the US District Court on the grounds of *forum non conveniens*. The First Circuit's decision was limited to the issue of *forum non conveniens* and they held the District Court did not abuse its discretion in finding Japan an adequate alternative forum. However, the First Circuit noted that though the District Court assumed arguendo that it had jurisdiction to hear the case despite the exclusive jurisdiction provision of the CSC, they decided to leave the issue "for another day" because they agreed with the *forum non conveniens* ruling. The First Circuit further said it saw no abuse of discretion in this determination and concluded that even if plaintiffs are allowed to litigate in Massachusetts, Japanese law would likely apply through choice of law rules. The plaintiffs did not seek review by the US Supreme Court.	Federal Circuit Court of Appeals	957 F.3d 98 (1st Cir. 2020)	NLB 104 NLB 106

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2019	Bartel v. Tokyo Electric Power Company	LC	Counsel for the Cooper plaintiffs filed another lawsuit, Bartel v. TEPCO, that they sought to have consolidated with the existing action. The new action was dismissed on jurisdictional grounds, with the Court holding that there was no specific personal jurisdiction and no subject matter jurisdiction over TEPCO and General Electric, respectively. Rather than filing an amended complaint or appealing the dismissed action ("Bartel I"), counsel for the plaintiffs filed another action in San Diego ("Bartel II"). The District Court in San Diego dismissed the case on various grounds, notably that Japanese law should apply. This decision was appealed to the US Court of Appeals for the Ninth Circuit.	Federal District Court	371 F. Supp. 3d 769 (S.D. Cal. 2019)	NLB 102
United States	2018	Holland v. Tokyo Electric Power Company, Inc. and General Electric Company	LC	The Cooper plaintiffs filed a separate lawsuit in the US District Court for the District of Columbia. The Court issued an order continuing its stay of this lawsuit until resolution of appellate proceedings for Cooper and Bartel II, with a joint status report due 14 days after the appellate resolution.	Federal District Court	Case No. 18cv000573 (D.DC 2017)	NLB 102
United States	2021	Holland v. Tokyo Electric Power Company, Inc. and General Electric Company	LC	Following the March 2021 rejection by the US Supreme Court of the *certiorari* petition filed by the plaintiffs in the Cooper case, the Parties in the present case agreed to dismissals without prejudice.	Federal District Court	Case No. 18cv000573 (D.DC 2021)	NLB 106
United States	2018	Park v. Tokyo Electric Power Company and General Electric Company	LC	A lawsuit was filed in the Southern District of California on behalf of four US civilians working in Japan at the time of the Fukushima NPP accident. The Court issued an order staying the proceedings until the conclusion of the appellate proceedings in Cooper v. Tokyo Electric Power Company, Inc. and General Electric Company and Bartel v. Tokyo Electric Power Company.	Federal District Court	Case No. 18cv2121 (S.D. Cal. 2018)	NLB 102
United States	2021	Park v. Tokyo Electric Power Company and General Electric Company	LC	Following the March 2021 rejection by the US Supreme Court of the *certiorari* petition filed by the plaintiffs in the Cooper case, the Parties in the present case agreed to dismissals without prejudice.	Federal District Court	Case No. 18cv2121 (S.D. Cal. 2021)	NLB 106

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
NUCLEAR TRADE AND NON-PROLIFERATION (TR)							
Canada	2010	Her Majesty the Queen v. Yadegari	TR	Canadian citizen found guilty of attempted export of pressure transducers to Iran. The possession of pressure transducers in Canada does not in itself require a licence or permit, but because they could be used in enrichment processes they are considered nuclear-related dual-use items and thereby subject to regulatory control for the purposes of import and export. Their export requires a permit under Canada's Export Control List as well as a licence issued by the Canadian Nuclear Safety Commission (CNSC) under the Nuclear Safety and Control Act (NSCA) and regulations. In addition to being convicted of failing to comply with the regulatory requirements to obtain an export permit and to obtain an NSCA export licence, the defendant was convicted of seeking to sell products to someone in Iran, prohibited by Canadian law implementing UN Security Council Resolutions on Iran.	Ontario Court of Justice	R. v. Yadegari, 2011 ONCA 287	NLB 86
Canada	2011	Her Majesty the Queen v. Yadegari	TR	On appeal from the 2010 Ontario Court of Justice conviction, the Appeals Court was satisfied that the link to Iran had been well-established in the evidence before the trial judge, making the conviction under the UN Act reasonable. The Appeals Court slightly reduced the sentence for the UN offence, in recognition of an error by the trial judge in finding that the transducers were to be used for a nuclear-related purpose. Of note, the decision reflects the Appeal Court's interpretation of the Nuclear Suppliers' Group Guidelines, as they have been incorporated into Canadian law.	Ontario Court of Appeal	2011 ONCA 287	NLB 88

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2009	United States v. Eurodif S.A.	TR	The petitioner and its subsidiary sought to uphold a ruling by the US Department of Commerce that separative work unit (SWU) contracts for uranium enrichment are contracts for the sale of goods, not services, and therefore subject to anti-dumping tariffs assessed by the Commerce Dept. under Section 731 of the Tariff Act of 1930. Applying the general rules of statutory construction, the Court upheld the Commerce Dept.'s interpretation and its assessment of an anti-dumping tariff. The Court held that form should be disregarded for substance and "economic reality", stating that the true nature of the transaction should govern rather than its contractual label.	Supreme Court	555 US 305 (2009)	NLB 83
GENERAL LITIGATION (GEN)							
Belgium	2010	Constitutionality of the 2008 Programme Act	GEN	Court found that the nuclear taxes imposed by Belgium on nuclear operators and shareholders of Belgian NPPs in 2008 are lawful. The Court found that there is no unreasonable difference in treatment between them and the producers of non-nuclear generated electricity and other players in the Belgian electricity market, such as electricity importers, transporters, distributors and suppliers.	Constitutional Court	Decision No. 32/2010	NLB 85

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Canada	2008	Brunswick News Inc. v. Her Majesty the Queen	GEN	The plaintiff applied to the New Brunswick Minister of Energy under the provincial Right to Information Act for copies of two feasibility studies concerning the construction of a second nuclear power reactor at Point Lepreau, New Brunswick. The Minister provided a copy of one study but refused access to the other study in its entirety based on certain provisions of the Act. In addition to the grounds provided by the Minister, Atomic Energy of Canada Ltd. (AECL) claimed the study was legally protected by the Act's confidentiality provision, para. 6(a). The Court concluded that the study in its entirety was not subject to release on the basis of the confidentiality provision. To note, a new provision was added to the federal Access to Information Act (ATIA) to provide a general exclusion from the provisions of the legislation with respect to records containing information under the control of AECL, and the Canadian Parliament has expressed an intention to exclude records from the ATIA such as the ones considered in this case. However, it is too early to determine the extent to which such a provision may be interpreted by Canadian courts in the future.	New Brunswick Court of Queen's Bench	2008 NBQB 299, [2008] N.B.J. No. 329	NLB 82
Canada	2009	Linda Keen v. Attorney General of Canada	GEN	Ms. Keen, the former President of the Canadian Nuclear Safety Commission (CNSC), submitted an application for judicial review challenging the legality of the Order in Council that removed her as CNSC President. The Court dismissed the application, finding that the decision had been lawful as the minimum procedural fairness obligations that were required in order to remove an "at pleasure" appointee had been observed. The Court's decision also confirms that removal of a designation as President does not silence the decision-making voice of a Commission member.	Federal Court of Canada	2009 FC 353	NLB 83

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Canada	2009	Atomic Energy of Canada Ltd (AECL) v. AREVA NP Canada Ltd	GEN	Court dismissed the major aspects of a claim that was brought by AECL against AREVA alleging violation of its intellectual property rights (trademark infringement, passing off and copyright infringement), considering that the sophistication of the industry and the lengthy and detailed procurement processes would make any chance of "subtle influence on consumer behaviour" effectively impossible.	Federal Court	2009 FC 980	NLB 85
Canada	2009	R v. Bruce Power Inc.	GEN	The Court found that when the Crown prosecutor comes into possession of a defendant's document that is protected by solicitor-client privilege and litigation privilege, it will be presumed that prejudice will be caused by use of the document. Although this is a rebuttable presumption, here, the presumption had not been rebutted. The Court held that the purpose of the internal investigation was to prepare a strategy for litigation in contemplation of charges and underlined that it is abusive to seek to use such information against a person, the sanctioning of which could be seen to erode the notion of solicitor-client privilege that is fundamental to the Canadian justice system. The court was satisfied that the appropriate remedy in this matter was a stay of the charges laid against Bruce Power.	Ontario Court of Appeal	2009 ONCA 573	NLB 84

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Canada	2021	Regan Dow v. Canadian Nuclear Safety Commission	GEN	The Federal Court of Appeal (FCA) of Canada upheld the ruling of the lower courts that the CNSC is not empowered to adjudicate disputes between private parties or grant remedies to those who submit external complaints. The complainant alleged their former employer had taken disciplinary action against them for giving information to the CNSC. The CNSC investigated the complaints and failed to find an evidentiary basis to substantiate the claims or to ground the prosecution of a regulatory offence under the Nuclear Safety and Control Act (NSCA). The complainant applied to the Federal Court for judicial review. The Court dismissed the application for judicial review, finding that the complainant lacked standing because they were not directly affected by the decision. The Court also determined that the disposition of the complaint does not deprive the complainant of a legal remedy to which they might otherwise have had recourse. The complainant appealed the decision to the FCA. In upholding the lower court's decision, the FCA confirmed the CNSC's and the lower court's understanding of the NSCA and its offence provision in paragraph 48(g). The FCA ruled that while the offence provision is meant to prevent and punish a licensee for taking action against any would-be whistleblower and discourage retaliation, it is not a true whistleblower protection provision as the NSCA provides no remedial powers relevant to the whistleblower.	Federal Court of Appeal	2021 FCA 117	NLB 107
Czech Republic	2009	V havarijní zóně jaderné elektrárny Temelín ČEZ, a. s	GEN	The rules laid down in the Act on Free Access to Information, also apply to ČEZ which is considered as a "public institution" because: first, ČEZ was established by decision of the state in the course of the privatisation process; second, the company is effectively controlled by the state, which is still its majority owner and the profits of the company also compose a portion of state budget revenues; and finally, there is a public interest served in the function of the company.	Supreme Administrative Court	2 Ans 4/2009-93	NLB 86

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Germany	2012	Vattenfall AB v. Federal Republic of Germany	GEN	Vattenfall, a Swedish company holding shares in three German nuclear power plants, demands compensation from Germany for the legislator's decision to accelerate the phase-out of nuclear energy following the Fukushima Daiichi nuclear disaster (13th Act Amending the Atomic Energy Act). Vattenfall alleges that Germany breached obligations under the Energy Charter Treaty through the enactment of the 13th Act Amending the Atomic Energy Act. Germany has raised various objections with regard to the Tribunal's jurisdiction. In addition, Germany requests the Tribunal to declare that Germany did not breach obligations under the Energy Charter Treaty and to dismiss accordingly all of Vattenfall's claims with prejudice.	International Centre for the Settlement of Investment Disputes	ICSID Case No. ARB/12/12	NLB 90
Germany	2015	Kernkraftwerke Lippe-Ems GmbH v. Hauptzollamt Osnabrück	GEN	The Court of Justice of the European Union found the German nuclear fuel tax to be compatible with EU law and with the EURATOM Treaty. In addition, the Court of Justice of the European Union confirmed that the German nuclear fuel does not constitute a state aid incompatible with EU competition law. The German nuclear tax law is designed to raise revenue with a view, inter alia, to contributing to fiscal consolidation and in accordance with the polluter-pays principle, to a reduction in the burden entailed for the Federal budget by the rehabilitation required at the Asse II mining site, where radioactive waste from the use of nuclear fuel is stored.	Court of Justice of the European Union (3rd Chamber)	Case C-5/14; ECLI:EU:C:2015:354	NLB 96

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Germany	2016	E.ON Kernkraft GmbH, RWE Power AG, Kernkraftwerk Krümmel GmbH & Co. oHG and Vattenfall Europe Nuclear Energy GmbH v. Federal Republic of Germany	GEN	Following the Fukushima Daiichi nuclear disaster, the legislator decided to accelerate the phase-out of nuclear energy (13th Act Amending the Atomic Energy Act – "13th AtG Amend."). Nuclear energy subsidiaries of three of Germany's four largest energy suppliers and one company operating a nuclear power plant directed constitutional complaints (*Verfassungsbeschwerde*) against the 13th AtG Amend. In its judgment, the Federal Constitutional Court (FCC) found the 13th AtG Amend. to be compatible with constitutional law, except for two marginal areas that required adjustment on account of Article 14 Para. 1 of the Basic Law (freedom of property). With regard to the first area, the FCC found the 13th AtG Amend. to be incompatible with Article 14 Para. 1 insofar as it does not provide for appropriate settlement for investments that had been made in legitimate expectation of the additional residual electricity volumes allocated in 2010 by means of the 11th Act Amending the Atomic Energy Act (lifetime extension), but were devalued by the revocation of these additional volumes by the 13th AtG Amend. With regard to the second area, the FCC found the 13th AtG Amend. to be incompatible with Article 14 Para. 1 insofar as it does not provide for appropriate settlement for residual electricity volumes that were allocated to the Brunsbüttel, Krümmel and Mülheim-Kärlich nuclear power plants under the 2002 Phase-out Act and cannot be produced otherwise within the same group of companies by 31 December 2022. The FCC rejected the argument that the revocation of the prolongation of the operational lifetimes or setting fixed end dates for power operation at the individual nuclear power plants constituted an expropriation of property. The FCC affirmed that an operating licence for a nuclear power plant granted under public law does not generally constitute property.	Federal Constitutional Court	1 BvR 2821/11, 1 BvR 321/12, 1 BvR 1456/12	NLB 100

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Germany	2021	Ruling by the Federal Constitutional Court in Karlsruhe of 7 December 2021 regarding the ban on the handling of nuclear fuel in the ports of Bremen	GEN	The Federal Constitutional Court ruled in favour of the German nuclear industry and held that a decision by the Government of the Land Bremen to amend its Port Operations Act (Bremisches Hafenbetriebsgesetz) was incompatible with the Basic Law and therefore void. The German nuclear industry filed suit before the Administration Court of Bremen who found in favour of the plaintiffs that the amendment is unconstitutional and that the principle of federal loyalty was violated. The court decided to submit the question of constitutionality to the Federal Constitutional Court. The Court stated that as the exclusive power to enact legislation on the utilisation of nuclear energy lies with the Federation, the Land Bremen does not have the legislative competence to adopt such an amendment and as such the law is void. Furthermore, the Court held that the Land Bremen is contradicting Section 4 Atomic Energy Act. The Government of the Land Bremen declared that in accordance with the ruling of the Federal Constitutional Court, Bremen's Port Operations Act will be amended.	Federal Constitutional Court	2 BvL 2/15, ECLI:DE:BVerfG:2021: ls20211207.2bvl000215	NLB 107
United Kingdom	2018	Republic of Austria v. European Commission	GEN	Austria challenged a 2014 decision by the European Commission declaring state aid compatible with measures to support Hinkley Point C nuclear power station on the grounds that supporting nuclear energy was not an objective of common interest because of conflicts with environmental objectives or principles. Austria also challenged the necessity and proportionality of the decision. In 2018, the General Court dismissed Austria's claims on the basis that the measures to support Hinkley Point C were necessary to fulfil the objective of public interest of promotion of nuclear energy set out in the Euratom Treaty.	The General Court (Fifth Chamber)	Case T-356/15; ECLI:EU:T:2018:439	NLB 105

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United Kingdom	2020	Republic of Austria v. European Commission	GEN	The Court of Justice of the European Union (CJEU) rejected Austria's appeal of the decision of the General Court, affirming the judgment and the Commission decision. The CJEU stated that the Commission correctly identified the development of nuclear energy production as an economic activity and confirmed that the aid measures adopted by the United Kingdom were proportionate. In line with the reasoning of the Advocate General (ECLI:EU:C:2020:352), the CJEU established that the compatibility of state aid pursuant to the TFEU does not depend on the pursuit of an objective of common interest. The Court also held that state aid for an economic activity falling within the nuclear energy sector cannot be declared compatible with the internal market when it is shown to contravene EU environmental law. Finally, the Court acknowledged that a member state is free to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply.	Court of Justice of the European Union (Grand Chamber)	Case C-594/18 P; ECLI:EU:C:2020:742	NLB 105
United States	2012	Entergy Nuclear Vermont Yankee, LLC v. Shumlin	GEN	Court granted a permanent injunction against the enforcement of two state laws based on its finding that these laws were primarily motivated by radiological safety concerns and therefore pre-empted by the Atomic Energy Act (AEA). As the US Supreme Court had previously ruled, the AEA vests exclusive jurisdiction over the radiological health and safety of an NPP in the NRC and States are pre-empted under the US Constitution from regulating such matters – States are only allowed to regulate economic and other non-safety aspects of nuclear power.	Federal District Court	838 F. Supp. 2d 183 (D. Vt. 2012)	NLB 89
United States	2013	Entergy Nuclear Vermont Yankee, LLC v. Shumlin	GEN	Court upheld the District Court conclusion that the State legislature was primarily motivated by radiological safety concerns and expressly sought to avoid expressing those concerns in order to evade federal pre-emption. Because the State was primarily motivated by concerns about radiological safety, and because the State's stated purposes for the laws were unpersuasive, the Court upheld the grant of permanent injunction based on its finding that the two laws are pre-empted by the AEA	Federal Circuit Court of Appeals	733 F.3d 393 (2nd Cir. 2013)	NLB 92

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2017	United States v. Energy Solutions, Inc.; Rockwell Holdco, Inc.; Andrews County Holdings, Inc.; and Waste Control Specialists, LLC.	GEN	Court enjoined Energy's Solutions' acquisition of Waste Control Specialists, two competitors in the market of the disposal of low-level radioactive waste, as the acquisition would have anticompetitive effects. Because the case did not involve health and safety issues or protection of the public from radiological hazards, the US Nuclear Regulatory Commission was not a party to the case and did not take a position with respect to the proposed acquisition.	Federal District Court	2017 WL 2991799 (D. Del. 2017)	NLB 99
United States	2017	Virginia Uranium, Inc. v. Warren	GEN	Petitioners argued that under the Supremacy Clause of the US Constitution, a state conventional uranium mining ban was pre-empted by the Atomic Energy Act because it was motivated by radiological safety concerns associated with downstream activities that the NRC regulates: milling and tailings storage. Court affirmed a US District Court ruling that conventional uranium mining is not under the exclusive regulatory authority of the US Nuclear Regulatory Commission under the AEA, and it can therefore be regulated by Virginia under state law.	Federal Circuit Court of Appeals	848 F.3d 590 (4th Cir. 2017)	NLB 100
United States	2019	Virginia Uranium, Inc. v. Warren	GEN	The Supreme Court upheld the decision of the 4th Circuit Court that Virginia ban on uranium mining on private land is not pre-empted by federal law. However, while the Court felt it was inappropriate in this instance to ascertain the motivation of the state of Virginia in creating the ban, the decision did not rule out the possibility that a state's regulation, which was found to either intend to interfere or have the effect of interfering with matters close to the core of the NRC's authority could be pre-empted.	Supreme Court	139 S.Ct. 1894 (2019)	NLB 103

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
United States	2019	State of Nevada v. US Nuclear Regulatory Commission and David A. Wright	GEN	The state of Nevada brought a petition for review challenging the decision of Commissioner David Wright of the US Nuclear Regulatory Commission (NRC) not to recuse himself from the licensing proceeding for a proposed nuclear waste repository at Yucca Mountain, Nevada. Referencing past decisions and statements regarding Yucca Mountain made by the Commissioner, Nevada felt he could not be an unbiased judge in the licensing process. The NRC moved to dismiss Nevada's petition. The Court issued an unpublished *per curiam* opinion granting the NRC's motion to dismiss on the ground that the case was not ripe for review because it "rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all[,]".	Federal Circuit Court of Appeals	No. 18-1232 (unpublished) (DC Cir. 2019)	NLB 102