

NUCLEAR LAW CASE CHART

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
ENVIRONMENTAL PROTECTION (ENV)							
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
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

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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
Czech Republic	2007	Jihoceske matky (NGO) v. State Office for Nuclear Safety	ENV	Applicant for a license to operate Temelin 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

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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

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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

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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	Judgement No. 11-00899	NLB 89
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	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	Decision (Request No. 367013)	NLB 96

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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 3 rd 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	Decision (Request No. 373516)	NLB 98
India	2012	G. Sundarajan 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 Austria 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

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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
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

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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

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Slovak Republic	2015	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

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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
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

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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
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 licenses 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 (D.C. Cir. 2012)	NLB 90

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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
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

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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 licenses. 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 (26 Feb. 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
LICENSING AND REGULATION (LR)							

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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 Eletrobrás 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
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

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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
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'Etat, 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	Decision (Request Nos. 351986, 358080, 358094, 358095)	NLB 92

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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	Decision (Request No. 346395)	NLB 90
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
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	[Unknown]	NLB 96

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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) (㊦) No. 31	NLB 96
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	

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Sweden	2018	Swedish Nuclear Fuel and Waste Management Company (SKB)	LR	<p>The court concluded that the activity (i.e. the final repository for spent nuclear fuel) is permissible if:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>The court has given 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 at: www.mkg.se/en/translation-into-english-of-the-swedish-environmental-court-s-opinion-on-the-final-repository-for-sp)</p>	Land and Environmental Court	Case no. M 1333-11	

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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
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

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 license as long as the current ownership arrangement is in effect. The Atomic Energy Act states that a license 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

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
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
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	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

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
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 licenses 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
RADIOACTIVE WASTE MANAGEMENT (RWM)							
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	Judgements Nos. 12LY00233 and 12LY00290	NLB 90

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
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'Etat	Decision (Request No. 362001)	NLB 94
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'Etat	Decision (Request No. 358882)	NLB 94
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	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 Court of Appeals	645 F.3d 428 (DC Cir. 2011)	NLB 88
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 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	NLB 93
RADIOLOGICAL PROTECTION (RP)							

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
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 judgement 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	Judgement 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
LIABILITY AND COMPENSATION (LC)							

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
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
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	[Unknown]	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	[Unknown]	NLB 100

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 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	[Unknown]	NLB 100
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 (U.S. 25 June 2012)	NLB 90
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

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
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 <i>forum non conveniens</i> 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 Court of Appeals	Case No. 15-56426 (9th Cir. 2017)	NLB 99
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

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
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
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
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 (trade mark 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

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
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
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 (13 th Act Amending the Atomic Energy Act). Vattenfall alleges that Germany breached obligations under the Energy Charter Treaty through the enactment of the 13 th 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

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
Germany	2015	RWE AG v. Federal State of Hessen	GEN	Following the Fukushima Daiichi nuclear accident, the competent regulatory authority of the <i>Land Hesse</i> 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 <i>Land Hesse</i> (<i>Verwaltungsgerichtshof Hessen</i>). The Higher Administrative Court of the <i>Land Hesse</i> decided that the order issued by the competent regulatory authority of the <i>Land Hesse</i> was unlawful for both procedural and substantive reasons and violated RWE's rights. The Higher Administrative Court of the <i>Land Hesse</i> did not allow an appeal against the judgement. The <i>Land Hesse</i> objected to the non-admission of the appeal at the Federal Administrative Court (<i>Bundesverwaltungsgericht</i>). 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 <i>Land Hesse</i> .	Federal Administrative Court	BVerwG Order 7 B 18.13; 7 B. 19.13	NLB 93

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
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

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	<p>Following the Fukushima Daiichi nuclear disaster, the legislator decided to accelerate the phase-out of nuclear energy (13th Act Amending the Atomic Energy Act). Nuclear energy subsidiaries of three of Germany's four largest energy suppliers and one company operating a nuclear power plant directed constitutional complaints (<i>Verfassungsbeschwerde</i>) against the 13th Act Amending the Atomic Energy Act. In its judgment, the Federal Constitutional Court found the 13th Act Amending the Atomic Energy Act 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 Federal Constitutional Court found the 13th Act Amending the Atomic Energy Act 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 Act Amending the Atomic Energy Act. With regard to the second area, the Federal Constitutional Court found the 13th Act Amending the Atomic Energy Act 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 Federal Constitutional Court 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 Federal Constitutional Court affirmed that an operating license for a nuclear power plant granted under public law does not generally constitute property.</p>	Federal Constitutional Court	1 BvR 2821/11, 1 BvR 321/12, 1 BvR 1456/12	NLB 100
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COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
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 (2d Cir. 2013)	NLB 92
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

COUNTRY	YEAR	CASE NAME	TOPIC	DESCRIPTION	COURT	CITATION	NLB Issue
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 Court of Appeals	848 F.3d 590 (4th Cir. 2017)	NLB 100