

## **Webinar on Intra-EU Investment Protection**

### **Example Submission Paper**

SleepWell Ltd an EU company, incorporated and headquartered in Poland, operates several hotels across the EU, specialising in package holidays for ornithologists and other wild animal lovers. It wishes to further expand to Germany, another EU Member State whose wetlands are famous amongst animal watchers. It sets up the operation in 2015. Today its biggest earnings stem from morning bird-watching exhibitions to the nearby wetlands.

- (a) In 2017, in an effort to attract more tourism, Germany passed legislation to give cash and tax incentives to hotels that provide cheap accommodation. SleepWell Ltd which normally operates luxury hotels decided to make use of such incentives and expanded into cheaper accommodation and has turned some of its properties into motels and hostels.

The law has proved a success with holidaymakers, however, with an unintended consequence of attracting big groups of rowdy stag-do and bachelorette parties. Germany conducted an economic review and concluded that these types of tourists, who only stay for one night, do not contribute to the economy and actually are a burden on local services. Consequently, in 2019 Germany revoked the incentives.

- (b) In 2020, Germany passed legislation banning short-term holiday workers who do not speak the local language from taking up employment in hotels on its territory. SleepWell hotels rely heavily on migrant workers from Poland especially those trained in bird-watching.
- (c) In 2021, in an effort to transpose a (fictional) EU directive on the protection of wetlands, Germany imposed a partial ban on access to wetlands. The new legislation allows only small groups of up to 5 people to enter the wetlands at 1-hour intervals with a locally accredited guide. This accreditation is only available to nationals or long-term residents (3+ years) of Germany.
- (d) In 2022, Germany decided to strengthen the ban and block any private persons from accessing the wetlands before 14:00 on the weekends.

SleepWell Ltd believes that all the decisions of Germany interfere with its rights under EU law and brings claims in front of German local courts to fight the 2019, 2020 and 2021 legislations on the basis of EU law. It is also convinced it should receive compensation for the alleged breaches.

Elaborate in writing with reference to EU law, including rights and principles, the claims that SleepWell Ltd might bring in front of the local courts and what are the limitations to such claims.

In addition, the company believes that the 2022 legislation violates the EU directive. Does your court have the obligation to refer the claim to the CJEU why/why not? And if so, please describe the applicable procedure.