

**Poland's comments on the Revised draft of A/CN.9/WG.III/WP.235 (Draft guidelines on prevention and mitigation of international investment disputes)**

1. Basically, the document lacks specific legislative proposals that could be the subject of greater analysis in the current state. The only such problem is actually the question of whether some of the topics should be included in the guidelines at all due to the level of generality of the document, the scope of regulatory powers of States and differences between jurisdictions (see valid comments of the EU, USA and Argentina). The document does not yet operate at the level of specific regulations (unlike e.g. the recent works of WG II, which must be assessed highly), but basically only at the level of "ideas" for regulations.
2. However, the document in its current form may constitute at least a valuable starting point for further work and a source of information (however, it is still far from being a ready-made official WG III document that would shape international practice in the subject matter). The document contains a collection of good practices / sources regarding good practices, which may be a source of reflection for some entities directly related to the topic of foreign investments and the resolution of related disputes. Although, regardless of the above, it must be admitted that the materials seem to have been collected in a rather random way - it is impossible to consider the document as ready-made guidelines, but this does not deprive it of its informative value regarding the current state of the issue of avoiding disputes.
3. Taking into consideration the above mentioned, we can share in particular the position expressed by the USA in the first comment (p. 2/20). If the document is to achieve its purpose as guidance on the prevention of investment disputes based on best practices in this area, the document should present a broader approach/more perspectives/specific methodology.
4. The proposal/eventual decision to postpone work on this document to a later stage (i.e. work before the Advisory Center, when it is established, and/or work within the intergovernmental forum - especially considering the planned scope of the guidelines) could be justified. The proposal of a more comprehensive set of best practices is also justified - as above. The current collection, although undoubtedly valuable at this stage, is also simply insufficient considering the goals of the document.