

• LEXCELLENCE •

**EEUSTAID - BUILDING OF CENTRAL AND
EASTERN EUROPEAN JUDICIAL CAPACITIES
FOR THE ENFORCEMENT OF EU STATE AID LAW**

Budapest, 31 May 2019





SHARING OF NATIONAL PRACTICES

SITUATION GAME 3 ABOUT THE DILLY'S WELLNESSHOTEL CASE



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We make a presumption: the legal debate concerning the tax rebate for Dilly's Wellnesshotel for the year 2011 was closed with a final judgement. Dilly's Wellnesshotel got its tax rebate for the year 2011.

Questions to the judges (to answer them in groups):

- ❖ Supposing that the CJEU gives an interpretation in the case in process as suggested by the advocate general, what are the possible consequences of a judgment like this (contradicting a previous one according to which a final judgment of a national court was made) in your national law as regards the tax rebate given for the year 2011 for Dilly's Wellnesshotel?
- ❖ According to your national law, is there a possibility to reopen the closed procedure considering the new (presupposed) interpretation contradicting the previous one according to which the final judgment of the national court was given?
- ❖ Presupposing that in your national law there is a possibility to reopen the closed case, and the Austrian tax authority asks the review of the final judgement, what decision would you make?



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Legal principles to take into consideration, questions to consider.

- ❖ principle of legal certainty and the principle of res judicata
- ❖ protection of legitimate expectations: could the judgment of 2016 give Dilly's Wellnesshotel legitimate expectations about its entitlement for the tax rebate?

What judges should take into consideration:

- ❖ no undertaking can have legitimate expectations about being entitled to a State aid



Thank you for your cooperation