**Cases – Civil law**

Choose one of the four cases and send an email to jozef.stefanko@truni.sk stating the number of the case you have chosen

**Case No. 1 – Property**

Ivan spent the summer of 2011 in the south of the country at his friend's Erik's place. Among other activities, they had been utilizing a highly efficient portable sawmill device “WOODEX” for processing of wood from a nearby forest belonging to Erik's family. Having been extremely satisfied with its performance, Ivan asked Erik to sell him the device. Thus, on the 15th August 2011 the friends concluded an oral sale contract, under which, on the same day, Ivan paid Erik the sale price of 10.000,- € and took WOODEX with him to his home-town in the north.

In a few months, realizing the potential of WOODEX, Ivan started a small sawmill business in his home-town, whereby he is making a steady yearly profit of 10.000,- €, although heavy use has increased the maintenance costs of the device.

On the 20th September 2013 a random customer of Ivan's sawmill, Irena, after a closer observation of WOODEX, claimed it was her unique prototype that had been stolen from her backyard in 2005 and was also able to present evidence of her allegations. Erik’s explanation that the device was “somehow acquired” and brought to him by his family’s enterprise employees could not sufficiently refute Irena's claims.

**Questions:**

- Does Irena have any remedies under these circumstances? If so, against whom and in what extent?

- Does any other actor have any remedies/claims/counterclaims against other actors in the case under these facts?

- Would the legal standing of the parties change, if Irena visited Ivan's sawmill in September 2014?

- Try to think of the stakes of each party to these relationships (e.g. rightful interests worth protecting) and consider if they are reflected within your conclusion in an adequate and just way.

**Case No. 2 – Succession**

Marléne, a famous actress, who in her life travelled through a huge number of countries around the world, passed away on the 15th August 2011 at the age of 75, leaving behind assets worth 100.000.000,- €. The last 15 years of her life she spent living together with an elderly boyfriend Arnold. From her previous marriage, with her late husband Herman, she had three children: Anton (52), who as a mentally retarded individual spent most of his life in an asylum; Britta (50), an unmarried and childless daughter; Martha, a deceased daughter (died 2 years ago in a car crash), who left behind a husband and two sons (grandchildren of Marléne's). Marléne had not made a substantial testament, her family, however, did find among her belongings a dated and handwritten note, which read: “*I, Marléne (…) hereby disinherit my daughter Martha and all of her kin, because her reckless driving that brought about her death caused me a lot of mourning and sorrow that almost cost me my life. (place, date, signature)*”

**Questions:**

- Decide who, based on what legal title and how much (represented by monetary value of assets) will inherit from Marléne's assets. Explain also why (if at all) someone of the subjects would not be eligible for inheritance.

On the 20th September 2013 an attorney approached heirs of Marléne, claiming he represented a client, Chisomo (60, citizen of Malawi), who allegedly is Marléne's daughter, to which she gave birth secretly during a long-term shooting in south-east Africa in the early days of her career. No relative has heard of Chisomo before.

**Questions:**

- Does Chisomo have any remedies under these circumstances? If so, against whom and in what extent and what exactly should she undertake?

- Would the legal standing of the parties change, if

a) the attorney approached the heirs in September 2014?

b) meanwhile all of the money(assets) was spent by the respective heirs?

**Case No. 3 Family law**

**Marriage 1 part**

Lena is 16 years old girl, she is the Slovak citizen. She studies as a cooker. After short relationship with Turkish boy Mustafa (25 years old), she got pregnant. Mustafa is foreigner, his permit residence in Slovakia expires and only one chance how to avoid the deportation from Slovakia is to marry Lena. Lena and Mustafa are not having sufficient money to rent the flat and establish common household. Lena puts the application to court to approve the conclusion of marriage. Lena´s parents are refusing to support the marriage of them.

**Questions**

How would you as a judge decide about the Lena´s application?

How would you as a judge lead the court procedure?

Is according the Slovak and other legal system important the will of Lena´s parents not to support the marriage? Does the court have to take it into consideration?

**Marriage 2a part**

The court approved the Lena´s application. Lena and Mustafa geo married. After Lena got know that Mustafa doesn’t love her and his only one aim of getting marry was to get permit residence in Slovakia, Lena claims to court to the annulment of marriage.

**Questions**

How would you as a judge decide about the Lena´s application? Take into consideration another legal system.

**Marriage** **2b part**

The court approved the Lena´s application. Lena and Mustafa got married. After Lena got know that Mustafa is married with one woman in Turkey she claims to court to the annulment of marriage.

**Questions**

How would you as a judge decide about the Lena´s application? Take into consideration another legal system.

Describe the differences between null marriage and non-marriage (apparent marriage).

**Marriage 3a part**

The court approved the Lena´s application. Lena´s aunt gifted her 5000 eur to organise the wedding celebration. Using this money, Lena organized and paid all services connected to wedding. Cause the Mustafa had a lover in Turkey he refused to get marry Lena and returned to Turkey.

**Questions**

Can get Lena any compensation from Mustafa?

**Marriage 3b part**

The court approved the Lena´s application. During the celebration ceremony when Lena and Mustafa declared the will to get married and before the Mustafa signed his will into protocol (the book of marriages), he got heart attack. From the sphere of Mustafas relatives, lives his mother only. Mustafa is the owner of real estate and according the Turkish inheritance law, if the person isn’t married, his parents do inherit.

**Questions**

Mustafas mother asks you if she can claim for inheritance.

**Marriage 3c part**

The court approved the Lena´s application. Lena and Mustafa got married. Two weeks after that the court annulated the marriage. Lena´s cousin Jan got her married. Lena´s son was born.

**Questions**

Who is the father of Lena´s son?

Describe the presumption of paternity

Make legal analyse of the Decision of Constitutional Court of Slovak Republic Nr. PL. ÚS 1/2010-57 from 20. April 2011.

**Marriage 3d part**

The court approved the Lena´s application. Lena and Mustafa got married. Lena´s and Mustafa´s son (Kemal) was born. When the Kemal became 2 years old, Mustafa travelled with Kemal to Turkey for 2 weeks holiday. Lena couldn’t travel due to the job obligations. Mustafa decided doesn’t return to Slovakia any more and to stay with Mustafa in Turkey. Lena doesn’t agree to move to Turkey and want the Kemal return to Slovakia.

Questions

Advice to Lena legal possibilities to get Kemal return to Slovakia.

**Case No. 4 Family law**

**Case 4a**

The woman A lives in same-sex couple with B. A is the mother of child C. According to the Slovak Family Law regulating the filiation by adoption adopter(s) may be spouses, the spouse of the child’s parent, the surviving spouse of the child’s parent, or adopter or, in exceptional cases, a sole person. It means the adoption is available to married and unmarried opposite-sex couples. The Slovak courts didn’t allow B to adopt the biological child of A (it means C).

**Case 4b**

A and his wife B had a daughter D. A separated from his wife and has been living with a man M. During the divorce proceedings instituted by B. The district court and also court of appeal awarded parental responsibility for daughter D to his ex-wife B rather than to himself exclusively on the ground of his sexual orientation.

**Case 4c**

The A is the mother of two children. She divorced her husband. The husband became the parent with care of the children. A as the non-resident parent, was required to contribute maintenance to childs. According to Slovak Family Law the amount of maintenance is determined by the court both according to the entitled person’s justified needs and according to the obliged person’s faculties, capacities and means. According to law and courts practise the maintenance is to be reduced where the absent parent had entered into a new relationship, married or unmarried.

A had been living with another woman in an intimate relationship. A applied the reduction of the maintenance. The district court and also court of appeal took no account of same-sex relationships.

Question:

Express your opinion and reasons if there had been or if there had not been the discrimination solely on the grounds of sexual orientation in these 3 cases.