

Expert opinion:

Imagine you were asked to write an expert opinion and to answer given questions. How would you construe this opinion and which arguments would you use in order to persuade the court of your opinion?

Facts:

Married Vietnamese woman (Vietnamese citizenship) gave birth to a baby in the Czech Republic in 1995. The child has Vietnamese citizenship. Baby's biological father is a Vietnamese man (nowadays with Czech citizenship). The husband (Vietnamese citizenship) of the woman was inscribed in the birth certificate as a father of the baby under Czech law, despite the fact that he had disappeared without a trace two years before the birth of a child.

The child was brought up by his biological parents until 2003 when his mother disappeared without a trace as well. Therefore, the child was left in the Czech Republic without his legal representatives. The child now lives with his biological father and his family. The biological father would like to institute legal proceedings in order to deny the paternity of the legal father (husband of the mother's child) but he is not entitled to do it anymore.

The only person who is authorized to institute the proceedings is the office of the Supreme Public Prosecutor (see Art. 62 Family Law Act). The problem is that the commencement of the proceedings by the prosecutor is only discretionary, i. e. the prosecutor is not obliged to start the proceedings.

You are supposed to write an expert opinion and answer the following questions:

1. Do the courts of the Czech Republic have jurisdiction to decide on this case?
2. If the answer to the first question is yes, what law will the court apply to the substance and the procedure of the case?
3. Is the supreme public prosecutor entitled to commence the proceedings in this case?