**Questionnaire on the role, composition and functions of bar associations**

1. *Please provide information on the way legal profession is organized and regulated in your country. What are the legal bases for its establishment (e.g. constitutional provisions; ordinary law or other)? Please indicate the main legal provisions protection the right of lawyers to freely join or create a local, national or international association, and mention the existing associations.*

A salient feature of the legal profession in Sweden is that there is no monopoly of legal services in Sweden. Any person may practice law, offering his or her services to the public, without the need for an authorization. Moreover, any person may call themselves a lawyer, regardless of any law degree or any other formal education.

Also, litigants are not required to hire qualified legal counsel in court. Anyone may appear before any court, on any level of the court system, representing himself or herself or another person.

Notwithstanding the attitude to the free choice of counsel before the courts there is a professional Bar of lawyers in Sweden – the Swedish Bar Association (*Sveriges advokatsamfund).* The members of the Bar have an exclusive right to offer legal advice under the professional title *advokat*.

The functions and organisation of the Swedish Bar Association are regulated in the Swedish Code of Judicial Procedure, Chapter 8.

1. *Does a professional association of lawyers play a role in the regulation of the profession? If so, please provide information on:*
2. *the exact denomination of the body;*

The Swedish Bar Association

1. *the legal basis for its establishment (e.g. constitutional provisions; ordinary law or other);*

The Swedish Bar Association, founded as an individual initiative in 1887, gained official status in 1948 when the new Code of Judicial Procedure entered into force.

The Swedish Bar Association is governed by the Code of Judicial Procedure and by its own Charter. Chapter 8 in the Code of Judicial Procedure stipulates that there shall be a general Bar Association and its Charter shall be ratified by the Government.

1. *whether the association has been established as an “independent” and self-governing association;*

The Swedish Bar Association is, at large, an independent and self-governing association. One of the corner stones of professional independence concerning members of the Bar, is that an *advokat* must always stand free from undue influence from sources outside the profession.

The Bar Association can be characterized as an association under private law, bearing some characteristics of a public law body. The Bar performs some public administrative functions, also involving the exercise of public authority. Into the latter category falls the requirements for membership of the Bar, supervision of the professional activities of an *advokat* and taking disciplinary measures against Bar members.

1. *the composition and appointment process of the executive body of the association.*

The Bar Association’s supreme body, the General Assembly, consisting of regional elected representatives, elects the Council of the Bar and the members of the Disciplinary Committee. The Council members (President, Vice President and 18 board members) are all members of the Bar. However, in the Disciplinary Committee, three out of 11 members are appointed by the Government. The Chief Executive Officer of the Bar is the Secretary General, appointed by the Board.

1. *Please provide information on the relationship between the association of lawyers and the Executive, Legislative and Judiciary powers. In particular, please provide information on the role of the Ministry of Justice and/or the judiciary in relation to the establishment and functioning of this association.*

The association frequently acts as a referral body in consultative processes and gives its opinions on virtually all new draft legislation.

The Government ratifies the Charter of the Bar Association. There are also several other formal and informal contacts between the Ministry of Justice and the Bar Association in dealing with judicial matters that involves the legal profession or the interest thereof or that of the Bar Association itself.

1. *Please provide information on the role of that professional associations of lawyers with regard to:*
2. *the admission process to the legal profession and the licensing of lawyers;*

The requirements for becoming a member of the Bar Association are laid down in Chapter 8, Section 2 of the Code of Judicial Procedure and in the Charter of the Bar Association. There are also certain absolute impediments to admission as a Bar member. Among the requirements for membership are:

* domicile in Sweden or another country within the European Union, the European Economic Area, or Switzerland,
* passed proficiency examination required for competency to a judge’s office, i.e. in Sweden, a legal degree equivalent to an LL.M.
* minimum three years’ experience of practicing law offering legal services to the public at the time of application,
* passed the Swedish Bar Examination after completing the mandatory training courses,
* reputation for integrity, and also otherwise considered suitable for the legal profession.

Special rules apply for applicants from other EU or EEA states, or from Switzerland, fulfilling the training requirements necessary for becoming a lawyer in their home countries.

The Council of the Bar considers, pursuant to Chapter 8, Section 3 Code of Judicial Procedure, applications for membership of the Bar or registration of a person authorized as the counterpart of an *advokat* in another EU-member state.

A decision denying admissions to the Bar must state reasons for denial. A negative decision can be appealed directly to the Supreme Court.

1. *the conduct of disciplinary proceedings against lawyers;*

Members of the Bar Association are required to observe certain specific duties. Most important is the general duty for a Bar member always to conduct his or her business in accordance with the professional standards provided for in the Code of Conduct, issued and adopted by the Bar. A member must perform the tasks, for which he or she has been charged professionally, with all due care and observe the Code of Conduct pursuant to Chapter 8, Section 4 of the Code of Judicial Procedure.,.

Members of the Bar are subject to supervision by the Board and Disciplinary Committee of the Bar Association, whose task is to ensure that members fulfil their duties when conducting cases before courts of law and in other aspects of their practice.

1. *the provisions of legal aid;*

The provisions of legal aid are laid down in the Swedish Legal Aid Act. The Government decides the amounts that forms the basis of legal aid provided by the State. . concerning both

1. *the protection of individual lawyers from any form of intimidation, hindrance, harassment or improper interference in the exercise of their functions;*

General criminal sanctions.

1. *the development and implementation of legislation concerning the free exercise of the legal profession and administration of justice.*

The Swedish Bar Association, founded as an individual initiative in 1887, gained official status in 1948 when the new Code of Judicial Procedure entered into force. The Swedish Bar Association is governed by the Code of Judicial Procedure and by its own Charter, the latter being affirmed by the government.

The Swedish Bar Association is, at large, an independent and self-governing association. Also, one of the corner stones of professional independence concerning members of the Bar is that an *advokat* must always stand free from undue influence from sources outside the profession.

The Bar’s Code of Conduct further strengthen the regulations, thus providing an ethical framework for the activities of the Bar members.

However, there is no monopoly of legal services in Sweden.

1. *Is membership in the professional association of lawyers mandatory to practice law in your country? In case membership is a prerequisite to practice law, please provide detailed information on the measures the State has taken to ensure access to justice in cases where there is a shortage of lawyers in the whole country or part of its territory.*

Practising law in Sweden does not require legal education or other qualifications. There is no monopoly of legal services in Sweden. Any person may practice law, offering his or her services to the public, without authorisation.

Moreover, any person may call themselves a lawyer, regardless of any law degree or any other formal education. However, the members of the Swedish Bar Association have an exclusive right to offer legal advice under the professional title *advokat*. The title is protected by law and is exclusively reserved for the members of the Bar. Notwithstanding the fact that litigants may be represented by anybody, in the vast majority of cases, Bar members is the legal representative. As a main rule only a member of the Swedish Bar Association can be appointed as a public defence counsel. However, the minimum requirement for such an appointment and for appointment as a legal aid counsel is that the person to be appointed holds a Degree of Master of Laws. A Degree of Master of Laws is also a requirement for admittance to the Swedish Bar Association.

However, according to the Act (1985:354) on the Prohibition of Judicial and Economical Assistance in Certain Cases, a person, who by gross negligence promotes a criminal act while giving legal advice, is liable for punishment and may be prohibited from continuing to give legal advice.