

**Mr. Stefano Sensi**  
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*Ljubljana, 16. 5. 2018*

**Subject: Submission to the report on Bar Associations**

*Dear Mr. Stefano Sensi,*

*In accordance with your request, The Slovenian Bar Association has completed the questionnaire regarding Bar Associations prepared by the Special Rapporteur.*

*Please find the completed questionnaire in the attachment.*

*Kind regards,*

**Roman Završek, MSc**  
**President**



**Mandate of the Special Rapporteur on the Independence of Judges and Lawyers  
Questionnaire on the Role, Composition and Functions of Bar Associations**

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

The Bar - as a part of the judiciary - is an autonomous and independent service, regulated by law (Article 137 of the Constitution of the Republic of Slovenia). The activity of the Slovene Bar is based on the provision of Article 137 of the Constitution of the Republic of Slovenia, on the Bar Act, on the Code of Conduct for Lawyers, on the Lawyers' Tariff as well as on numerous internal acts of the Bar Association. Moreover, it is necessary to mention several international documents and relevant deeds, in particular the EU Directives and the Code of Conduct for Lawyers in the EU - by CCBE. Lawyers practising the legal profession in the Republic of Slovenia shall necessarily associate into the Slovenian Bar Association (Article 41 of The Slovenian Bar Act).

2. Does a professional association of lawyers play a role in the regulation of the profession? Yes.

If so, please provide information on:

- (a) the exact denomination of the body: The Slovenian Bar Association
- (b) the legal basis for its establishment (e.g. constitutional provisions; ordinary law or other): The Slovenian Bar Act; The Statute of The Slovenian Bar Association
- (c) whether the association has been established as an 'independent' and self-governing association:

The Slovenian Bar Association strives to be independent and self-governing, but unfortunately, it can be (and has been) subject to the influence of the Executive powers.

- (d) the composition and appointment process of the executive body of the association:

The Board of Lawyers consist of representatives of the regional assemblies. Each assembly has one representative for every 100 members who have joined. Representatives of regional assemblies are elected for a period of three years. The regional assemblies elect their representative to the Board of Lawyers and nominate candidates for the president and two vice presidents of the Slovenian Bar Association no later than the end of October of the year in which the mandate of current members of the Board of Lawyers expires.

The elected members of the Board of Lawyers take up office on the day of election of the President and two Vice Presidents of the Slovenian Bar Association. Candidates for the President and Vice Presidents may also be nominate by the Board of Lawyers.

3. 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:

Regarding the relationship with the Executive, Legislative and Judiciary powers the Slovenian Bar Association strives to ensure the autonomy an independence of the profession of lawyer which is prerequisite for the functioning of the rule of law.

The influence of the Ministry of Justice can be reflected in the functioning of the Bar Association through the adoption of legislation, which has already happened in the past.

4. Please provide information on the role that professional associations of lawyers play with regard to:

- (a) the admission process to the legal profession and the licensing of lawyers:

The Slovenian Bar Association regulates access to the profession of lawyer and practice by adopting the Code of Conduct, its Statue and by cooperating with Bar Association of other countries. In accordance with the third paragraph of the Article 1 of The Slovenian Bar Act the right to the law practice is acquired with admission to the Slovenian Bar Association. The admission starts with a submission of an applicant to the Board of Lawyers for entry in the register of lawyers. Before deciding on the proposal for entry, the Board of Lawyers shall require the competent regional assembly to give an opinion on whether the applicant is a trustworthy person to practice the profession of lawyer and an opinion on the suitability of his office spaces.

- (b) the conduct of disciplinary proceedings against lawyers:

The Slovenian Bar Association is a self-regulatory disciplinary body. Disciplinary bodies, which are organized in the scope of the Bar Association but independent from it, are Disciplinary Committees of First and Second Instance, Disciplinary Prosecutor and Disciplinary Board.

- (c) the provision of legal aid:

Legal aid in Slovenia is regulated by the Legal Aid Act for free legal aid and by the Criminal Procedure Code as well as the Mental Health Act for *ex officio* legal aid (as a special type of free legal aid). There are official lists for availability to practice *ex officio* or *pro bono* services on which an attorney may request to be registered. The lists are kept by the Slovenian Bar Association.

- (d) the protection of individual lawyers from any form of intimidation, hindrance, harassment or improper interference in the exercise of their functions;

In accordance with the Article 8 of The Bar Act investigation of the law office shall be permitted only subject to an ordinance of the competent court and only with reference to the records and objects explicitly stated in the ordinance of





investigation. The investigation shall not affect the confidentiality of other documents and objects. Present at the investigation of the law office shall be a representative of the Bar Association of Slovenia.

The lawyer shall not be subject to detention in criminal procedure, introduced against him for suspicion of criminal offense, committed at practising the legal profession, without preliminary consent of the Senate of three judges of a higher court, established on the territory of the court of first instance where the procedure is conducted. The ordinance of detention shall be communicated by the court to the Slovenian Bar Association (Article 7 of The Bar Act).

- (e) the development and implementation of legislation concerning the free exercise of the legal profession and the administration of justice

The Bar as a part of justice shall be an autonomous and independent service. Lawyers shall be engaged in the Bar as a free-lance profession (Article 1 of The Bar Act).

5. Is membership in the professional association of lawyers mandatory to practice law in your country? Membership in the Slovenian Bar Association is mandatory for all lawyers.