

HAMMARSKIÖLD & Co

DNJV Conference

The core elements of the Swedish Bar's ethical rules

Krakow, September 24th 2016

1. The Swedish Advokat Ethical Rules

"The lawyer's self-regulation of the legal profession"

- The Swedish Bar statutes
- The Bar's guiding rules of professional conduct
- Chapter 8, Code of Judicial Procedure
- The Ethic rules are dynamic, are developed through the Disciplinary Board practice and guiding statements by the Board of the Swedish Bar Association
- The Rules only apply to the Advokats professional conduct



The Swedish Advokat Ethical Rules

- Core Values
 - Independence
 - Confidentiality
 - Conflict of interest
 - Client loyalty
- No "Advokat-monopoly" in Sweden



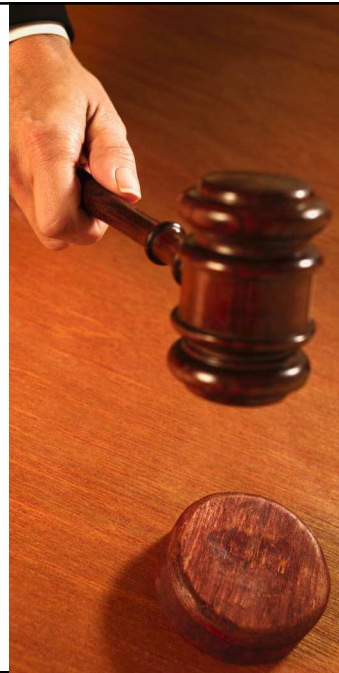
2. The Swedish Advokats role and main responsibilities

- The Advokats role in the judicial system
- Primary duty to show trust and loyalty towards the client and no one else?
- Completely subjective.
- The Advokats profession; not to seek truth or justice. "The client's truth equals my truth"
 - No positive duty of truth but must not "lie"
- Restricted by law and ethical rules ; no promotion of injustice "inte främja orätt"



The Swedish Advokats role and main responsibilities

- The client wants you to do something contrary to ethics or law
- The client admits but asks you to deny
- The client takes responsibility for some one else's actions
- The client wants you to draft an agreement that is contrary to law



3. Confidentiality

- The obligation of confidentiality is absolute and unlimited in time
- Regulated in the Swedish Code of Judicial Procedure section 8:4
 - Client consent
 - Prevent serious crime
- The Swedish Supreme Court decision

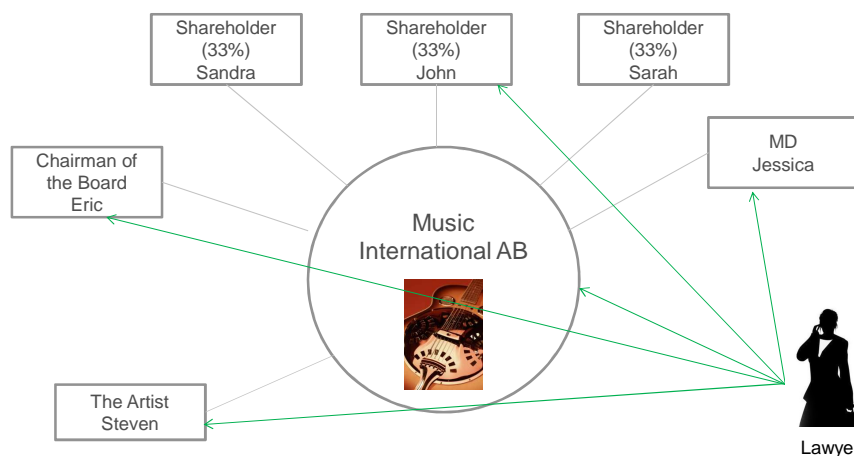


4. The Advokats absolute independence

- The state, courts and clients
- Only Advokats can be owners of an Advokatfirma
- Not employed by anyone other than an Advokat
- No sharing offices with anyone other than Advokater



5. Conflict of Interest? Who is really your client?



Conflict of Interest?

- The duty to inform
- The obligation to resign
- The Advokats conflict of interest extends to all other lawyers within the same firm "smittoregeln"
Two exceptions
 - The Advokats self interest
 - The newly employed lawyer from another firm
- The "summer trainee" decision



6. The relation to courts and authorities

- "Servants of the court?"
 - Do not litigate to keep the court happy, only your client
- Positive/negative duty of truth "sanningsplikt"
- Duty to find evidence – no prohibition to contact witnesses
- Duty to obey to the procedural laws?
 - The judgement by default ("tredskodom") in Malmö
 - The Market Court interimcase



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