

DOVIDJENJA MONTENEGRO

May 2000

I can't begin to express my feelings for you all, the work we've done together and for Montenegro. My feelings are too big and my words too inadequate.

But I want you to know how deeply Montenegro and its people have affected me. The beauty of your mountains and the sea is reflected in the Montenegrin soul. More than many places on our planet, the character of the people mirrors the Montenegrin landscape. You have the strength and courage of the mountains. The vibrant openness of the sea, which warmly welcomes the well-intentioned stranger. As one of those strangers, I am very grateful.

The Montenegrin mountains provide an apt metaphor for the situation in which Montenegrins find themselves. It offers both incredible beauty and the ever present possibility of falling from great heights. If one is careful, wise, well-trained in the ways of the mountains, and persistent, the dangers can be overcome and great heights achieved.

Throughout history, we find that humans can more easily conquer mountains than live together peacefully with other humans. It is the great tragedy of our species. Yet I continue to believe that because we haven't yet managed it, peace and justice among all people is still possible. It requires that we continue striving for it, despite our failures and limitations. One of these days, we'll reach the top of the mountain and find paradise on the other side.

I am so moved by the hard -- and dangerous work you've all undertaken. You've chosen to confront the unknown in your quest for a better society. Change is not easy for people. We tend to cling to what worked in the past, even if it isn't working any more. It's part of our nature and it takes a lot of courage, foresight and faith to overcome. The task before you is both exciting and frightening. To decide what kind of judicial system is best for Montenegro today and for the foreseeable future. Many people in my country would love to have the opportunity to re-examine our legal system to such an extent. Yet the process of broad legal reform is not wholly enjoyable. It requires critical and thoughtful examination of the present system, laws and practices. What is good? What should be kept? What changed? Of equal importance, it requires critical and thoughtful examination of other systems, laws and practices, those that well-meaning foreigners would like to see adopted here because they work elsewhere. Many of these are the same well-meaning foreigners who offer support, financial and otherwise. When the support is so desperately needed, it is difficult to reject what is offered. That is one of the challenges you face.

Another challenge is moving the judiciary into its rightful place as a third, co-equal branch of government. You have begun that process and laid a good foundation on which to build. You have reinvigorated the Judges Association, established an office and hired and trained a professional staff person. You have visited your colleagues in other

countries, consulted them about their achievements and struggles, and established contacts which you can draw on into the future. Within weeks, you will establish a Judicial Training Institute, which will enhance the qualifications and professional status of all judges in Montenegro. You have much to be proud of, and ABA/CEELI is privileged to have assisted with these achievements.

That is the foundation. To build the first, second, third, etc. stories of this edifice of judicial independence will require far more. More than financial resources, it will require internal resources from you who are leaders in your profession. These internal resources are courage, stamina, dignity, persistence, assurance and all the virtues possessed by those who assume a leadership role and responsibility. You have battles ahead of you -- not only with those who wish things to remain as they are or even those who want to return them to the past. But also with those who share your commitment to justice. A judge becomes independent, not by asking permission or waiting for independence to be bestowed upon him or her, but by acting independently, on the basis of their principles and just laws. ABA/CEELI will support you in this process, but we can only be the support, not the champion.

You face challenges that your colleagues in other transitional countries have not had to face. Moving forward to build democracy and rule of law, while the shadow of fascism looms on the northern horizon. We have the example of Serbian colleagues -- those few incredibly courageous judges who have been dismissed from their positions for their independence, and the many who have succumbed to cowardice. While the former have lost their jobs, they have maintained their dignity and kept alive what it means to be a judge, to protect a rule of law, founded on justice. I am reminded of an often misquoted line from Shakespeare, "The first thing you do is kill all the lawyers." The power elite to the north seem to know the real quotation. Paraphrased, it is "If you want to establish totalitarian rule, the first thing you do is kill all the lawyers." I would add, or corrupt or coopt them.

These are difficult, difficult times. I can only surmise how difficult it is for you to do your work everyday under these conditions. You have my deepest respect and admiration. There should be a special heroes gallery of statues of all of you.

I would like to thank you for making me welcome in Montenegro, for working with me and, especially for teaching me about courage and how precious justice is. I will always carry you and Montenegro in my heart. And I will come back.

Thank you.