



REPUBLIC OF SLOVENIA
Ministry of Justice

**Judicial Forum: Relations between Ministry of Justice and Judiciary
Bled, 7 and 8 March 2002**

Prof. Dr. Savo Markoviæ
Federal minister of Justice
(Unofficial translation)

Dear ladies and gentlemen,

The relationship between the two levels of Ministries of Justice, the federal and the republican, is based on the proclaimed and generally accepted principles of the constitutional law. These principals are:

- The principal of the division of powers
- The principal of independent judiciary
- The principal of the rule of law

The significance of the relationship between the Federal Ministry of Justice and the Federal government lies in the agreement, that all these principals are being used unconditionally.

In short, I would like to comment on the character of the well-known federalism in Federal Republic of Yugoslavia. In regards to FRY, we cannot speak of some kind of typical federalism. The Yugoslav federalism is specific, especially because of its bilateral characteristics. The Federal State has only those competences in the field of society, assigned to it by its member States. In all other territories the federal State has no competences. In line of separation we have:

- The Federal ministry of Justice
- The Republic Ministry of Justice of the Republic of Serbia
- The Republic Ministry of Justice of the Republic of Montenegro

Allow me, just to say something more about the differences in the organization of the federal Ministry of Justice and of the republican judiciary system. Although the federal judiciary system is quite different from the republican, there are nevertheless particular similarities between the two systems. The federal judiciary system is composed of:

- The Federal Court
- The Federal Constitutional Court
- The Federal Senate for Offences
- The Supreme Military Court

In addition, there are also the Federal state prosecutors. The position of the Constitutional court and of the Supreme Military court is quite specific in regards to other federal judicial

organs, which are within the competences of the Ministry of Justice. With respect to the competences of the Ministry of Justice in relation to other judicial organs, it is necessary to highlight the particular position of the Constitutional Court and of the Supreme Military Court.

The actual selection of the Judges is based on the entrenched constitutional principles. Judges from the Federal Constitutional court and those from the Federal Court are elected by a majority vote among the Members of the Federal Parliament. The President of the FRY proposes these judges. The Ministry of Justice has no part in these procedures. Proposing the candidates for judges in judiciary organs is the result of the presidential or gentleman's agreement between the member states. Member states select a definite number of judges on the principle of parity. On the first constitutive sitting, the above stated judiciary organs elect the president from the already elected judges. The president is elected for a defined mandate.

The federal Ministry of Justice proposes a budget for the judiciary organs. This budget should, however, be greater, because without the financial independence one cannot speak of the judiciary independence.

On the other hand, the federal Ministry of Justice proposes a majority of laws regarding the judicial system and those effective on the entire territory of the FRY.

Let me remind you, that in the preparation of particular laws, the experts' opinion is always taken into consideration. The working groups, which prepare these laws, include experts from federal republics, Serbia and Montenegro, as well as judges from the supreme courts. If the laws under consideration are of specific nature, experts from their respective fields are invited to cooperate. For example, if executive laws are being formulated, judges from the Executive Courts are asked for advice.

After the entrenchment of democracy, both levels of governments have decided and obliged themselves to European and Trans-Atlantic integration. Because of the process of harmonization of our legislation with that of the EU, we are in constant cooperation with the experts of the European Council. In the area of harmonization great achievements have been made. For example: the reform of criminal legislation has already been accomplished. Thus, it is for the first time on the territory of the FRY, that the death penalty has been abolished and replaced with the penalty of a maximum sentence of 40 years imprisonment. The acceptance of this reform was accentuated by the positive examples given by the Republic of Slovenia and the Republic of Croatia.

We have also ratified many of the Conventions of the European Council, which relate to the problems of terrorism, corruption, and organized crime.

Thank you!