

1st EUROPEAN LAW FORUM ON WINTER SPORTS

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1st EUROPEAN LEGAL FORUM ON SNOW.

**Bormio-Valtellina-Italy: 2nd-4th December 2005.
“From snow laws to the snow law”.**

“FROM ALPS WITHOUT FRONTIERS TO A EUROPE WITHOUT BARRIERS”

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The title of this paper, which I am pleased to have been permitted to present, does not really refer to the content; it is, rather, a wish and a confirmation of my agreement with the objectives of this innovative and much needed Forum.

My wish is that the important present situation may breed a new initiative; an initiative that, stemming from a recent development (the Alps with no more frontiers), could, in the not-too-distant future, bring about an ideal Europe with no more barriers, having overcome the current obstacles to potential enjoyment of the mountains through clearly presented information based on simple rules.

My agreement is with the timeliness and importance of the topics raised for discussion by the Forum organizers, aiming to inspire the legislation, doctrine and law of national organizations through principles of cooperation and harmonization.

I am grateful for the opportunity to speak on behalf of the Italian Alpine Club (CAI), which favours the culture of taking action and informing others. The CAI is important to the nation, being:

- The longest-running organization dedicated to promoting awareness and use of the mountains (since 1863: one hundred and forty-two years of life and vitality). It has also been national public law institution since 1963.
- A body consisting of more than three thousand members in approximately eight hundred areas in every region of Italy, from Sicily to Friuli, the Aosta Valley and Piemonte.
- Asset manager of around seven hundred facilities (including mountain refuges and alpine camps) across the Alps and Apennines, with a total of 23,000 beds (for stop-overs or emergencies), as well as nature observatories and starting points for expeditions.
- An educational organization, with 4,500 instructors, companions, experts, operators, technicians and mountain/ski guides who are also charged with promoting recognition of alpine legislation and raising awareness of safety, good practice and respect for the mountain terrain.
- A founder and organizer of the National Alpine and Speleological Rescue Service, a civil protection structure set up in 1954 and today boasting 7000 workers (technicians, medics, avalanche or area search parties and voluntary rescue workers) who operate in hostile environments to provide reliable assistance in cases of need.
- An important contributor to conserving and educating the public on cultural heritage (through libraries, maps, photographs, films and museums).
- A “movement” which has witnessed and suffered from the problems under discussion at the Forum.

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To realize these dreams, however, we need men with new ideas, strong convictions and the determination to effect slow cultural changes which can, in turn, spark off results unimaginable just a short time before.

There is much potential for a “mountain Europe”: Just think, for example, of the Italian-French project financed by the European Union, entitled “Alpi senza frontiere-Alpes sans frontiers” (Alps without frontiers).

The project consists of a collection of topographic maps and cultural topoguides put together by the Italian and French Alpine Clubs, Military Geographic Institutes, National Geographic Institutes, as well as regions and districts across the Alps. The aim of the project was to eliminate the image of mountains as a frontier and, instead, propose to Europeans a shared land with a transnational identity.

It is a “reference model” and is travelling East via the paths and crests of the Alps (and through computer systems as well).

“ALPS WITHOUT FRONTIERS” demonstrates concretely and tangibly that it is possible to turn the principle of subsidiarity (central to European federalism) into a reality. As such, it is a useful model for the process of integration between our nations.

Let us return, however, to the subject of the Forum. The topic of this paper is a growing problem linked – in legal terms - to the use of the:

AVALANCHE BULLETIN: A TOOL FOR PREVENTION OR LAW ENFORCEMENT?

The number people passionate about snow is extremely high, even outside the skiing disciplines (down-hill, off-piste and cross-country skiing, snowshoeing, etc.)

Consequently, there is also much interest in finding out about the condition of the snowpack on the ground, the stability/instability of the slopes and the risk associated with the phenomenon of avalanche releases.

Years of hard work, comparisons, tests and collaboration between organizations in Italy - the Italian Avalanche Service (SVI), the alpine troops’ Meteomont, the Interregional Snow and Avalanche association (AINEVA), and the relevant Regional Offices – and abroad have produced an important Bulletin, issued and updated with excellent regularity.

The Bulletin is of a standard type (at European level) both in terms of the numbering and descriptions of the various risk situations.

The methodology used by the experts when collecting the necessary data to assess the risk, on the ground and in the air, is also uniform.

Ideally, we need a more precise (i.e. “identical”) interpretation of the data collected and the classification of the level of risk (e.g. “moderate” or “considerable”) in the bulletins for areas which are far apart but which have identical snow conditions. This will undoubtedly happen thanks to the continued collaboration between the above organizations.

BUT..... THIS IS NOT THE MOST PRESSING ISSUE.

The real problem is that the Bulletin should be used as a method of prevention as opposed to a method of law enforcement!

- A TOOL FOR PREVENTION: this is the real goal pursued for years and called for by

visitors to mountain areas. Having a tool which allows even those not based permanently in the mountains to inform themselves as to the snow conditions and consequent risks enables us to make decisions appropriate to the situation in question (e.g. safer routes, precise regulations on the behaviour of individuals and groups, etc.). In short, the Bulletin can be used to prevent accidents.

- A TOOL FOR LAW ENFORCEMENT: “The risk is grade 3 risk (considerable), everyone go home, or accept the consequences!” It is as almost as though the Bulletin had the value of court order or similar command.

However, those who know the enchanting world of the Alps and the snow know how many perfectly safe experiences they have had even with a grade 3 risk (considerable).

I repeat: with prudent decisions and behaviour.

Let me make a comparison: the sign at the slip road onto the motorway reads “Dense fog”. Does everyone go home? I do not believe this is the usual course of action.

Instead, drivers moderate their speed, leave a greater distance between themselves and the cars in front, switch on the appropriate headlamps and rear lights, and drive more cautiously.

If an accident occurs, I do not think that the blame is attributed merely to the fact of entering the motorway but rather to a failure to respect the conditions in the above ways.

After all, is the conscious taking of risks not a part of everyday life for most of us?

I would like to thank someone who I know is in this room: Ernesto Bassetti, president of the Italian Avalanche Service (SVI), because this paper is a result of reflections and sharing of ideas between the two of us over the last few days. Reflections which I know is shared by those at the International Commission for Alpine Rescue (CISA_IKAR) and the International Union of Alpine Associations (UIAA).

I will finish by saying that, thanks to today’s events, I believe my wish is closer to being realized. I hope for continued dialogue, discussion and cooperation between the peoples of the snow and those of the law, who have the ability to bring about jurisprudential orientations with consideration for what has been said and which allow EUROPEAN users of the Bulletin to enjoy the snow, not only in safety but also having clearly understood the “snow law” and not being impeded by barriers caused by differing legal interpretations of this law in our developing European nation.