

The Bormio Forum: conclusion.

The 1<sup>st</sup> European Snow Law Forum in Bormio set a goal which was neatly summarised in the meeting's motto "From snow laws to the Snow Law"; we can safely say that this goal has been reached. Or rather that solid foundations have been laid in order to carry it out. This means that another Forum is needed, one which is based not only on a mutually informative policy but is also practical, operational and aimed at eventually covering specific aspects of the heterogeneous snow sports scene by agreeing on priority interventions.

These two intense days of speeches and reports from Austria, Germany, Switzerland, France, Spain, Slovenia and naturally Italy, have provided a meticulous and interesting comparison of legislation, jurisprudence and law from various countries regarding the management of equipped skiable areas, the management of installations and facilities, circulation on the snow, ski schools and instructors, off-piste skiing and ski mountaineering, insurance-related aspects and much, much more.

As previously imagined the outcome has painted a somewhat inhomogeneous picture. And it is precisely this lack of homogeneity that the Forum intends to contain within acceptable limits or even eliminate if possible in the name of supremacy by using regulations and policies supplied by the European Union. In short, a standardised law which is sorely needed due to the growing mobility of snow sports. As far as we are concerned this mobility has been more than adequately demonstrated by the statistics presented by Dolomiti Superski (the largest European ski consortium) which registered even more foreigners than Italians in Alto Adige in the 2004/2005 winter season. This is definitely an ambitious goal but if it comes to fruition will also be able to function as a model for non-European countries specialising in winter tourism.

The area which requires the most legislative production for all countries participating in the 1<sup>st</sup> Forum is definitely the sector which concerns means of uphill transport. The management of the majority of these facilities is frequently outsourced to private companies or sometimes directly managed by public corporations as happens in France. However it is also the sector that is best covered by European directives which ensure extremely high and consistent safety standards.

With regard to the preparation of equipped skiable areas, the regulatory attention is predominantly geared towards planning and environmental issues rather than to the general safety conditions (absence of hydrogeological dangers and avalanche-related occurrences). Less well known is the need to discipline the technical criteria when creating a slope, in terms of width, longitudinal and transversal gradient, lateral protection, etc. Signage has already been standardised.

As far as the manager's responsibility regarding maintenance defects goes, the law has by now certified everywhere the distinction between atypical dangers, which must be removed or at least opportunely marked, and typical dangers, which by their very nature can not be removed and as such must be included in the acceptable risk factor and accepted by the user.

The path to becoming a qualified ski instructor is not uniformly governed. There continue to be substantial differences regarding grades, levels and requisites to becoming a qualified ski instructor. This subject is incorporated in the extremely complex theme of reciprocal acknowledgement of qualifications and the European Union has already intervened here with various directives. Rumour has it that there is an idea to institute a new figure, the "European instructor".

Ski mountaineering and off-piste skiing are still relatively uncharted territory, as is probably to be expected, bar the need to safeguard the public's safety.

The most unprotected area from a regulatory point of view, except for in Italy and Slovenia, and one which requires maximum attention, is definitely rules of conduct for users. A combination of abiding by these rules and a more general sense of self-responsibility is the winning formula for reducing both accidents and the related social contributions to a minimum. The F.I.S. already recognised the need to set standard rules for all users in 1967. This is how the famous skier's handbook came into being, which has since been updated and universally accepted in all countries (not just the countries affiliated with the sector's largest international body). However, this front of standardisation which was so hard to achieve has been paradoxically damaged by Italian legislation. On one hand these rules have been incompletely absorbed and transformed into true legal regulations (for example, the obligation of those entering the piste to give way to those already on the piste was forgotten as was considering a skier's technical abilities as one of the most important factors by which to regulate one's speed). On the other hand a new rule was introduced regarding the obligation to give way to the right where pistes cross unless

otherwise indicated. This anomaly did not escape the attention of an alert Austrian. It would have been much more appropriate to officially postpone the handbook, respecting the criteria of standardisation with the added advantage of not having to then alter the standard should the F.I.S. rules ever be varied.

Tardy repentance (fruit of the Forum?) may be ascribed to the publication of the Ministerial Decree 20.12.2005 in the Official Gazette dated 24.12.2005 which reproduced the skier's handbook having amended the aforementioned infringements but included the previously criticised new rule. The confusion goes from bad to worse! One asks what possible legal value can be attributed to the Ministerial Decree as its enactment is not in the least provided for by the Law 363/2003, when confronted by statutory provisions with more or less the same content!

The discussion regarding administrative sanctions still remains open; sanctions which the Italian law has introduced indistinctly for all violations of behavioural standards and which will probably remain nearly always unapplied.

Finally, the problem of insurance coverage regarding third party liability raised great interest. Compulsory or optional insurance? A useful pointer emerged from the French report on this subject. Here the indemnity fund foreseen for the travelling on the roads has been extended by some authoritative legal rulings also to damages sustained in the event of a collision whilst skiing which is caused by an unidentified skier.

As you may gather from this extremely concise summary, we certainly do not lack material with which to work at following Forums where we aim to modestly reinforce the results that have emerged from the comparative study of the systems of the most representative European countries on the snow sports scene.

Carlo Bruccoleri