

*Avella: "We run the risk of each country doing its own thing"*

# Standard rules on the snow for everyone

*The FIS rules represent the starting point for a modern European snow law which is the same for all EU member states.*

*Nowadays, skiers "follow" the snow, often moving from one location to another. Local laws are anachronistic; they pretend that skiers are a geographically-stable sportspeople. This is the opinion of Gianfranco Avella, Scientific President of the Organising Committee for the Snow Law Forum in Bormio.*

*Safety on the slopes is a problem which has once again come to the fore. On 20<sup>th</sup> December, the Italian Ministry of Transport approved a decree which refers to the rules for the conduct of skiers and snowboarders drawn up by the FIS (the International Ski Federation), although it has altered some of the basic rules concerning circulation and safety. This line of action conflicts with what has emerged from the first European Snow Law Forum which attracted top international jurists specialising in winter sports to Bormio. We spoke with Gianfranco Avella, State Attorney of Sondrio and Scientific President of the Organising Committee for the Forum in Valtellina.*

## ***State Attorney Avella, why are you not convinced by this decree?***

Because I have the impression that the danger which has been highlighted during our meeting in Bormio is actually occurring, namely that each country is taking its own line in terms of safety regulations for winter sports, and is doing so in complete disregard of the international nature of these sports and the increasingly more frequent trans-national slopes.

## ***What should be done then to guarantee the skiers' safety?***

The message which emerged from our Forum all be it with some division and dissension, can be summarised in two main points. Firstly that the FIS rules must constitute the "hard core" with which the regulations of all countries in which winter sports are practised must identify. The second point is that if the alteration or integration of the FIS rules is required then this should be done only by the FIS or with their involvement and accompanied by the acknowledgement of all countries in which winter sports are practised, at least in an international context. I would also like to point out that the presence of a standard snow law which applies to all countries in which skiing is practised guarantees not only the skiers' safety (which is a fundamental topic), but it also firmly guarantees people's freedom to move around. Then again, it is precisely this discussion which highlights the topical interest of the Forum which has just terminated and launches an important challenge for the next meeting.

## ***The first meeting has sparked considerable interest on the part of those who work in the industry and from the press. But what will happen now? What will you be doing between now and the next Forum?***

Our goal is perfectly clear. We are aiming for legal regulations which are the same for at least all the member states of the EU, especially in regard to circulation on the snow. Various proposals have already emerged from the first Forum which we will bring to the attention of the European Commission through Vice President Franco Frattini, who amongst other things is also responsible for safety and justice. We aim to cover certain

subjects in further depth in the second Forum, for example, we would like to stress the importance which should be attributed to the FIS rules.

***What do you mean?***

Nowadays various EU countries refer to the set of ten FIS rules, which has now become twelve. But these rules have no force of law. An important move by the European Union would be to absorb them in the provisions of a normative law. Another point on which we are adamant is that these rules should not be altered unless there is general agreement otherwise we will end up with each country going in its own direction. For example Italy recognises the right of way for those coming from the right but no other country has this rule which therefore creates confusion for skiers from other countries.

***This rule is part of an important law which has extensively ordered circulation on the snow. In your opinion should the Italian Parliament take a step back?***

Yes, it would be better to change this rule. We should avoid the risk of every country creating its own rules relating to safety. We must bear in mind that nowadays skiers "follow" the snow; they tend to move from one location to another throughout the season. We now have the famous trans-national slopes which are frequented by skiers from all over Europe. It is unreasonable to have rules that vary depending on whether you find yourself on French, Swiss or Austrian soil.

***Another rule was also discussed during the Forum: the one that dictates that one should only ski with a good view of the territory and of those who are in front of us. This is a good rule (which for example prohibits jumping when visibility is reduced). But this is yet another rule which does not exist in other European regulations...***

This in fact derives from a regional law in Lombardy. It could certainly be brought to the attention of the FIS and the European Community so that it may be absorbed in international snow law. It would not make any sense to leave it as a localised law. This is exactly the point which I am trying to make. People's freedom to move around lies at the foundations of the principles of the European Community. And the law must adapt itself to this fact. It can not fail to take into consideration the changes which are occurring and it can not pretend that skiers are geographically-stable sportspeople. This is not the case. Skiers move around, and they are doing it increasingly more so because this is the nature of modern society and this is also the fundamental principle on which the unification process of Europe is based.

***Another key issue emerged from the meeting in Bormio and concerns the presumption of liability in the event of a collision between skiers. Another Italian law which was subject to different opinions by the jurists, some positive and some negative. How can this contrast be resolved?***

I would like to make a distinction. This law regards the liability and the consequences that one is faced with in the event of a collision. On this level, it is permissible that there exist divergent regulations. These are the rules which directly concern movement on the snow and therefore safety must be the same for everyone. Of course if we manage to achieve a global and unitary law then this would be much better. As far as the law in question is concerned, it is true that it seems to be damaging for the skier who has been run over and injured, in that he shares fifty per cent of the blame for the collision with the other skiers who were involved. But if one considers the difficulty which exists in proving other people's liability, one must acknowledge that at least this law ensures that the person who has suffered the injury can recuperate fifty per cent of the expenses.

***The next Forum will not be an exclusively European meeting. It will be more international. Why have you felt the need to include countries from across the Atlantic?***

I can answer this with a comparative example taken from the situation on the highways. Anybody who has had the opportunity of driving in Great Britain knows that one must adapt beforehand to driving on the left-hand side of the road. The British custom of driving on the left is still an abnormality which creates unease and that, sooner or later, must be dealt with. In the area of winter sports we find ourselves faced with similar abnormalities. We believe that the skier must respond to the same safety rules

independently of the location in which he is skiing. If the rules are different then the risk of collisions and accidents only increases.

***So for a while now, as in other markets, users from extra-European countries have also appeared in the snow industry and whom we will probably see on our mountains more frequently. I am thinking of the Chinese, Russians and Koreans for example. Are these also the people with whom you want to talk?***

Yes, definitely. In the case of the tourist industry, Chinese consumers have arrived before the Chinese “products”. But which rules do consumers such as these abide by? This is why it is important to have an international snow law, above all for everything which concerns safety standards. We will be inviting experts in snow law from the East to the next Forum as we wish to internationalise the discussion as much as possible by opening up the meeting to all countries where skiing is practised and this included extra-European countries.