

ULSS AUTHORITY 20 OF VERONA

Legal Office: 42, Via Valverde – 37122 Verona – Tel 045/8075511 Fax 045/8075640
Fiscal Code or VAT No. 02 573090236

OFFICE OF INTERNATIONAL RELATIONS

IIIrd EUROPEAN JURIDICAL FORUM ON SNOW

In view of a future standardisation of European laws on the subject of ski safety, which role can cover Law Project No. 102/2005 on the subject of “safety when practicing winter downhill run and cross-country skiing sports” of the Veneto Region.

Attorney Silvia Fiorio
Ulss 20 Verona
Office of International Relations

Office of International Relations tel. 045 8076040 e-mail: internazionali@ulss20.verona.it

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1. Italy and the European Union

Italy, through adhering to the executive treaties of the European Communities, introduced limits to its sovereignty in some determined sectors. The juridical foundation of these limits can be found in article 11 of the Constitution¹, where it is stated that "*Italy [...] allows under conditions of equality with the other States, limits of sovereignty needed for an order that ensures peace and justice among nations*". The partial transfer of sovereignty of the national Parliament is thus legitimised, in favour of community institutions, foreseeing direct effectiveness of community regulations in the Italian order. The specificity of the community order in fact, can be found in the power granted to the community bodies to issue juridical act on subjects transferred to them, which are immediately binding for the Member States.

The restrictions to sovereignty, which Italy approved through the ratification of the Community's institutive treaty, are consequently also imposed to the Regions, regarding subjects of their competence.

The power to bind the Member State to community decisions also includes subjects that would fall under regional competence, based on the internal organisation of the same State. Therefore, a critical problem arises in case the latter competence is present, relative to the identification of the body in charge to implement community provisions.

It would seem at least reasonable to assign decisional powers to the same Regions in case of subjects that fall within their competence. However, this conclusion does not appear so obvious in view of the constant community trend, which was confirmed repeatedly by the Court of Justice of the European Communities that assigns liability for possible violations of the community law to the State only, without recognising the internal division of powers and competences².

The Court of Justice in fact, stated in a sentence³ that a Member State cannot appeal to the guarantees foreseen by its own order for regional bodies in order to justify the compliance with community's obligations. Therefore the Member State remains towards the Union, the only subject liable to comply with the obligations deriving by community laws, since the body on which such obligations encumber based on internal state organisation is not recognised. In addition, in other sentences⁴, the Court confirmed that the notion of Member State includes only the Government authorities of the States belonging to the European Communities, and it cannot be extended to the executive bodies of Regions or independent communities, regardless from the entity of the competences assigned to the latter.

2. Italy and the Regions, in view of the recent national and European institutional reforms⁵

2.1 National reforms

The relation between Italy and the European Union, but more in particular, the intervention of the Regions in the community's legislative activity, has found formal acknowledgement with constitutional law No. 3/2001⁶ that introduced a specific discipline on the relations

¹ Art.11 Const. "Italy rejects war as an instrument of offence to the freedom of other populations and as a means for solving international controversies; it allows, in conditions of equality with other States, to the limitation of sovereignty necessary to an order that ensures peace and justice among Nations; promotes and favours international organisations that pursue this objective".

² Court of Justice of European Communities, sentence 27 March 1984.

³ Court of Justice of European Communities, case of European Commission vs. Italy (C-33/90).

⁴ Court of Justice of European Communities, sentences 21 September 1983, joint cases 205/82-215/82, 7 July 1987, joint cases 89/86 and 91/86; sent. 2 May 2006.

⁵ Ref. "Regions and federalism, Italy and Europe", Baldi, Bologna, Clueb, 2006.

⁶ Constitutional law 18 October 2001, No. 3 "Changes to title V of the second part of the Constitution",

between Regions and European Union, renewing articles 117 and 120 of the Constitution. Subsequently, also law No. 131/2003⁷ brought modifications to this effect.

The community's order, regarding Italian Regions in particular, finds specific reference in the first paragraph of article 117 of the Constitution⁸ that foresees a general clause of compatibility of the national and regional legislation with bonds deriving from the community's order itself. Even if such a provision is not completely new, its application contributes to change the entire meaning of the Regions' need to adapt to the community law. This need, in fact, does not constitute only a consequence of the State's community liability, but it appears to be strictly related to the compulsory uniformity of the order related to the latter. The special importance acknowledged by the new constitutional regulation to the compliance with community bonds, also shows the role that such element covers in the new system. Compliance with the obligations set forth by the community's order constitutes in fact a limitation to the regional legislative power, since it has the task of standardising the order. The community law, through this concept, is considered one of the main points of the unitary principle indicated by the Constitution.

In this view, the European datum appears to constitute a powerful unifying element of a system, which would be otherwise decentralised and autonomous, while the community obligation is seen as a commitment for the State.

For this reason, the reference made by article 117 of the Constitution to the community order, appears to find a more natural position, not regarding territorial independent bodies, but within the general principles of the Constitution, in view of the compliance with the obligation that binds Italy as a Member State, to the fulfilment of the commitments deriving from its participation to the European Union.

Article 117, second paragraph, recognises the discipline on the relations with the European Union as falling within the subjects of the exclusive competence of the State, while it places the discipline of the relations between Regions and European Union under the competent legislative power. Regarding this, the most relevant provision appears to be regulated in paragraph 5 of article 117, in which it is foreseen that, in relation to subjects of their competence, the Regions participate at direct decisions concerning the constitution of the community's legislative acts and deal with the implementation and execution of international agreements and acts of the European Union. This activity must obviously take place in compliance with the procedural regulations established by the State law that regulates the methods in which the substitutive power is exercised in case of non fulfilment.

Actually, the matter appears delicate. In fact, it does not seem possible to deny the fact for not assigning the power to Regions to implement the community's provisions on subjects of regional competence, would obviously represent an excessive limit to regional competences. Similarly, in case in which said executive power is actually assigned to Regions, a possible violation of community's provisions would be in any case attributed to the State that would find itself in the absence of the instruments to impose compliance with the community's obligations.

Such considerations proved to be of essential interest in the process of relations between the State and the Regions that, starting from a position of full closure by State bodies, evolved towards a greater participation of regional authorities regarding the relations with the European Union, such to attain constitutional legitimisation, acknowledged by law 3/2001.

published in the Official Gazette No. 248 of 24 October 2001.

⁷ Law 5 June 2003, No. 131 "Provisions for adapting the order of the Republic to constitutional law dated 18 October 2001, No. 3", published in the Official Gazette No. 132 dated 10 June 2003.

⁸ Art. 117, paragraph 1 Const. "The legislative power is exercised by the State and by the Regions in compliance with the Constitution, as well as with the bonds deriving from the community order and the international obligations".

2.2 The European Constitution

In 2004, 25 heads of State and Government signed a treaty in Rome that foresees a Constitution for Europe.

The Constitution represents the result of a long integration process characterised at the same time, by the on-going improvement of the integration and following expansions of the Union. Its scope, in addition to substitute the different treaties currently in effect that constitute the juridical foundation of the European Union, is mainly for giving a clear and fairly definite political structure to the EU regarding its institutions, competences, decisional methods, and foreign relations. In order to come into effect, the treaty that established the Constitution had to be ratified by all Member States, according to the relative constitutional regulations, through ratification by Parliament or by means of a referendum.

The text of the Constitution envisaged that the ratification process had to last two years and that it would come into effect by 1 November 2006.

Due to the obstacles met during the ratification by some Member States, the heads of State and Government decided to take a "meditation period" on the future of Europe, in view of the European Council in June 2005. This meditation period had the purpose of allowing an extensive discussion with the European citizens, in order to reach an approved modification of the treaty.

The final text of the treaty was approved during the informal European Council held in Lisbon last 18th-19th of October and it will be signed by the Member States next December. After undersigning it, the ratification process in all 27 countries will follow. The new treaty should come into effect possibly before the next elections of the European Parliament in June 2009⁹.

The Member States continue to maintain a primary role in the European Union, as confirmed in the treaty. In fact, the European Constitution entrusts an important and relevant role to Parliaments, in particular regarding the execution of the new acts, imposing their consultation and authorising them to contest these, in cases where they deem that a community action is not justified.

Some important rights are at the same time acknowledged and acquired¹⁰ also in favour of local and regional bodies.

In fact, the principle of the local and regional autonomy is explicitly approved, through an exhaustive definition of the principle of subsidiary character that allows raising the involvement of regional and local hierarchies onto a higher level.

In fact, one of the main challenges for the European Constitution is the subdivision of competences among the various administration and government levels inside the European Union.

The Regions, through their institutional bodies, wished to continue with their commitment in the reform process, by bringing forward the complex legislative *iter*, based on the new European Constitution, wherein they appear as inalienable, among the scopes of the European Union, the territorial cohesion, the prerogatives already recognised to the Regions Committee and the articulation of the principle of subsidiary character at the sub-state level. The principle of subsidiary character, which has been integrated for a long time in the European legislative process, establishes in fact, that the decisions must be taken at a level which is as much as possible closer to the citizens. Therefore, the decisions should be taken at a local, regional or national level, unless the European Union has exclusive legislative competences or there are reasons that cannot be disregarded for which the decision must be taken by the Union itself.

For the first time, the presence of the Regions in the Constitutional project of the European

⁹ Cf. http://europa.eu/reform_treaty/index_it.htm

¹⁰ Ref. "The role of local bodies in the European constitution bill", report by Professor Ruggiero Cafari Panico, 31 March 2004.

Union finds explicit definition, with the introduction of a local and regional level in the definition of subsidiary character. In its “protocol on the application of subsidiary character and proportionality principles”, it is in fact stated that “before proposing a legislative act, the Commission carries out exhaustive consultations. These consultations must keep in consideration the regional and local level of the envisaged actions”.

When the Commission deems that a scope can be attained in a more suitable manner at Union level, then it must justify its position. If the Regions Committee deems that the legislative proposal of the Commission violates the principle of subsidiary character, it can initiate an appeal at the European Court of Justice. Therefore, the Regions Committee, as a political meeting that grants saying to local and regional bodies in the heart of Europe, in such a way assumes an important role at European level.

The European Constitution was created in favour of European citizens, proving therefore to be also a Constitution envisaged for European cities and Regions, since it confers new powers and new responsibilities to the holders of an electoral mandate at local and regional level. This local and regional level is fully integrated in the constitutional text, which foresees a new subdivision of competences between the European and national level and therefore between the regional and local level. The protocol on subsidiary character was also reviewed in the same Constitution and the proportionality principle is officially ratified. The control mechanisms of these two principles were strengthened by means of conferring an active role to the Regions’ Committee. The local and regional autonomy therefore, appears to have been recognised at constitutional level as prevailing value for the Union and territorial cohesion has become a new and significant objective of the Union. It therefore concerns achievements attributable to the same Regions’ Committees proposed by the European Constitution.

The Constitution proposes the realisation of Europe not deriving from “above”, but that it becomes a structure where the communities’ institutions, the Member States, but also the local and regional authorities indicate the steps to follow. The latter in fact, since they are closer to citizens, detain a key intermediary role between the citizens and Europe by asserting on one hand the citizens’ point of view and on the other, by explaining the main European challenges¹¹.

In addition, it appears appropriate to indicate what was declared by the European Commissioner in charge of regional politics and of the 2004 institutional reform, regarding the role of the Regions in the future of the European Union: “Time has come for the Regions in Europe, this also means that Europe, when there exists trust between a State and its territories, must entrust in turn these territories in order to make them more aware and must also take into consideration their experience, culture and history”.

3. The new Italian regionalism

In the relation State-Regions, as in many other institutional aspects, the belonging of State Members to the European Union remarkably affected the national internal structures. In fact, some relevant subjects assigned to the Union are actually subjects that, due to the regulations within the Member States, often fall within the Regions’ administrative and legislative competence, thus creating many tensions.

This also occurred in Italy.

Actually, at first, the faculty of Italian Regions to implement the communities’ legislative acts was strongly opposed by the Italian central State, which barred Regions to have any influence in such sphere. The first permission was attributed, even if only to Regions with special statute, by law No. 183/1987, concerning the coordination of the policies regarding

¹¹ Cf. “European constitution: strengthening of the role of local and regional bodies, [www. aiccre.it](http://www.aiccre.it)

the belonging of Italy to European communities and the adaptation of the internal order to the communities' legislative acts, which gave faculty to implement advises and the communities' directives on subjects of exclusive competence, without treating subjects of concurrent competences. A further opening to regional instances was then reached thanks to law No. 128/98, regarding the fulfilment of obligations deriving from the fact of Italy belonging to the European Communities (community law 1995-1997).

The faculty of implementing communities' directives was entrusted to Regions, without any whatsoever distinction, whether regarding subjects of their own exclusive competence or regarding those of concurrent competence. Actually, the course of the regulation envisaged the indication by the State of provisions of principles that could not be derogated and to which the regional laws should have adapt.

A sentence of the Constitutional Court of 1996¹² provided a great boost to this process of regional opening, in which the same Court was indicating cohesion as essential for the State, in its own internal institutional structure, in which the Regions belong, in view of the participation to the European integration process and to the obligations derived from it.

Subsequently, law No. 11/2005, by renewing the participation discipline of Italy to the legislative process of the European Union and of the executive procedures of the communities' obligations, better know under the name "Buttiglione Law", abrogated the previous legislation and introduced important novelties.

In particular, what is most important to underscore in this document, seems to be the procedure that brings to the adoption of some acts by the communities' institutions, namely the so-called ascending phase of the community law. Said participation in the formation and implementation of the community law takes place through the presence of representatives of local groups and through a constant flow of information by the government on the drawing up phases of community's acts. It is obviously foreseen a regional participation also during the descending phase of the community law, in the moment when the communities' legislative acts must be enforced on those subjects where a regional legislative power is foreseen.

3.1 State and regional competences

As already reminded, the participation of the Regions to the procedure that brings about the adoption of some acts by the communities' institutions, the so-called ascending phase of the community law, found regulation in law dated 5 June 2003, No. 131.

The previous constitutional law No. 3/2001, attributed the possibility to exercise the legislative power to Regions with Ordinary By-Law (since Regions with special by-law already have exclusive powers), only on subjects explicitly indicated in art. 117 Const. and only within the limits of a State outline law, that is to say, the essential principles on the subject (the so-called concurrent competence).

Law 131/2003 concerns redefining the subjects exclusively reserved to state legislative power and those concurrent, in which the State and the Regions cooperate, by listing for the first time, the subjects of exclusive regional competence. This reform was more commonly defined "devolution" and concerns in particular art. 117, Title V, part II of the Constitution. In this reform, the State-Regions Conference is also constitutionally acknowledged and the right to resort to the Constitutional Court in some determined cases is attributed to Communes and Provinces.

In addition, due to their national aspect, subjects are added to the exclusive state competence (art. 117, paragraph 2, Const.) that previously belonged to the sphere of concurrent subjects.

In this way, the concurrent competence (art. 117, paragraph 3, Const.) is characterised by

¹² Italian Constitutional Court, sentence No. 53 of 27 February 1996.

a substantial ambiguity, since the subjects that previously belonged to the exclusive state competence, are today transferred to concurrent competence, with reference to the regional sphere or regional character. According to this scheme, in subjects of concurrent legislation, the central State dictates the principles and the Regions dictate the detailed discipline, enjoying of an operative margin, which is taken based on the interpretation given to the principle of subsidiary character.

3.2 The sports order as concurrent subject

Art. 117 foresees at the first paragraph, a compulsory list of subjects subject to state legislative power and at the third paragraph, another compulsory list of subjects subject to concurrent legislation.

Among the subjects of concurrent legislation, it is also included the regional sports order. The sports order in fact, represents subject of concurrent competence only in case it is regional sports order¹³, while regarding the national sports order, the subject becomes of the exclusive competence of the central State.

The Regions, following the previously mentioned modifications to article 117 of the Constitution, dispose in fact of concurrent legislative competence regarding the sports order, with the exclusion of what concerns the order and administrative organisation of CONI and of the Institute for Sports Credit (art. 117, paragraph 1, letter g), functions that remain of State competence.

The Regions' legislative power within the sports order concerns among others, also the definition of the methods to entrust the management of sports facilities owned by public territorial Bodies to third subjects, the promotion of sports-recreational activities, the planning of prevention activities and the safeguarding of health in spots activities within the sphere of regional health plans¹⁴.

The modification to Title V of the Constitution therefore, introducing the sports order among subjects of concurrent legislation, assigned the most important and complex tasks to Regions and local Bodies.

The real novelty in any case consists of the fact that for Regions, the concurrent legislative power is linked to the compliance of the main principles foreseen by the State legislation, and not by the limit of national interest and other Regions.

Therefore, this way, also the subsidiary principle appears regulated with particular reference to the administrative tasks of territorial bodies, assigning said functions *in primis* to local bodies, except in case there are conferred to Regions to ensure a unitary application.

The matter that arises at this point concerns the correct and univocal definition of the concept "sports order", since the constant and diffused interpretations bring about deeming that the State only wished to be in charge of the monitoring of the agonistic sports system. It does not however appear clear if Regions have powers to issue laws and rule independently from the issuance of an outline law by the State that establishes the essential principles on the sports order.

In general, the constant trend appears directed towards the faculty assigned to Regions to claim the legislative power, by taking the principles to comply with, from the current state legislation on the subject.

¹³ *Regional legislative competence on the subject of the "sports order": an apparent novelty*, Carlo Padula, *Rivista Le Regioni*, published by Il Mulino.

¹⁴ Italian Constitutional Court, sentence No. 424/2004.

The Regions therefore assume a role that we can somehow define as “Ruling of Sport” in their territory, since they also have the possibility to impose themselves as points of reference, for all the subjects of the regional sports sphere.

The general conditions and instruments, also of financial character, provided or found, will determine the actual feasibility of what set forth by the new constitutional legislation.

In being cautious regarding the extensive interpretation of the concept "sports order", it is not possible however in any way regardless of the general willingness of Regions to:

- assume an effective ruling role regarding sports and in particular at amateur level.
- legislate in all aspects relative to sports world granted by the legislation.
- supply addresses and coordinate initiatives for a suitable and rational development of sports facilities,
- intervene with own measures and actions to support safety.

The afore mentioned programming logic cannot be only limited to the structural aspect, but it must also tend, within an overall picture, to identify territorial priorities in order to promote and valorise the sports activity, safety in sports activities and leisure time and the diffusion of support initiatives suitable to protect the users' health.

Therefore the Regions, within the sports order and in the sphere of competences to be assigned, issued laws aimed at the promotion of the sports practise by carrying out interventions in favour of local bodies, amateur associations, organisations consisting in the granting of contributions for building or restoring facilities or to carry out initiatives and sporting events.

4. Outline law 363/2003 on the subject of safety when practising amateur downhill run and cross country skiing winter sports, and regional laws¹⁵

The right willingness of the legislator to set rules to the participation at public contests, such as ski slopes, where many and serious accidents occur due to heavy traffic, which in particular increased during the last few years, was certainly a positive and due gesture. In this way, in fact, the invitation to regulate such sphere was positively welcomed even by some Italian Regions.

Regarding what has been stated above, many Regions, even because they were particularly interested in such sport practice, regulated in details the principles set forth by the previously mentioned law on safety when practicing amateur downhill run and cross country skiing winter sports, No. 363/2003. Therefore, some typical and traditional activities of alpine populations were regulated at regional level, as well as the professions of ski instructor and alpine guide, the opening of ski school and the order of ski slopes.

It must be pointed out that the majority of regional laws pursue well-deserving and exemplary objectives, representing to this effect also an important auxiliary help for reference sectors.

In this view, also the Veneto Region initiated the complex procedural regulation *iter*, within the outline law sphere even if up to today it has not conceived a final text.

The safety question when practising skiing, and more in general downhill run winter sports, became so important, such to determine a first intervention of the Italian legislator with outline law 363/2003. This law, which also outlines the principles for the safely management of skiing areas, also dictates the main principles on the subject, thus

¹⁵ Law 24 December 2003 No. 363, Regulations on the subject of safety when practicing amateur winter downhill run and cross country skiing sports, *Official Gazette* No. 3 of 5 January 2004.

outlining the sphere within which the Regions must legislate in detail subsequently. As foreseen by article 22 of the previously mentioned law, in fact, “the Regions must adapt their legislation to the provisions set forth by law and to those that constitute the main principles on individual and collective safety when practicing skiing and other winter sports”. In this way, the previously mentioned concurrence on sports order between the State and the Region is applied which, thanks to the contextual immediacy, also regarding the territorial sphere, assigned a primary role to the Region in specifying and indicating the law. Therefore, the necessary integration is conceived, in order to properly answer to the request of increased safety in the amateur ski sector.

The impulse of prevention derives therefore from the State, but in such a way that the Regions can adapt it to the territorial needs mostly focused on the daily search for safety. It is true that such legislative ferment, influenced by more awareness on this matter, in Europe is subjected to the state, even if it appears that it is the local body that must draw up the main legislations based on the relative needs.

During the years in which law 363/2003 was in force, some critical points on the discipline arose and in particular, the matter relative to safety was object of attention during the last skiing season. In fact initiatives were started, also in collaboration with the Regions, to awaken all the operators of the sector, on the improvement of safety and the prevention measures. A bill¹⁶ was passed only a few days ago, indicating the modifications to law 363/2003, which, after a first approval by the Council of Ministries, was submitted for the evaluation by the State-Regions Conference. During the discussion with the Regions, which expressed in general a positive opinion on the text, some modifications were applied to meet the observations proposed by the Regions themselves on some technical points¹⁷.

5. Law project No. 102/2005 of the Veneto Region on safety when practicing winter downhill run and cross-country skiing sports¹⁸

It is useful reminding how the Italian Regions were obliged to adapt their legislations in accordance with law No. 363/2003, within six months, to the principles contained in the national law. As confirmed by many sources, the obligation to adapt, actually, should be seen as an important event to regulate the activity in a uniform way (in this case skiing) and to try bringing a concrete contribution to the improvement of safety on ski slopes. Some Regions, despite still not having reached a final law text, are working in this direction.

The Veneto Region, recalling in fact law No. 363/2003, deemed suitable to take action by proposing a bill that includes the essential principles set forth by the state legislation on safety when practicing winter sports, trying to harmonise and adapt the territorial context to the previously mentioned rules. This proposal presented by the Veneto Region, No. 102/2005, concerning in fact safety when practicing winter downhill run and cross country skiing sports, regulates the subject on prevention, in compliance with the state's provisions, within the sphere of individual and collective safety when practicing skiing and other sports on snow.

Thanks to the direct contact with the entire spheres concerning the practice of winter sports and thanks to the collaboration and easy communication with the daily operators of the sector, the experts and the associations, the Region can give a better appraisal of the local realities and obtain in this way a wider view of the territorial needs regarding safety.

¹⁶ Bill bearing modifications to law dated 24 December 2003 No. 363, on safety when practicing winter downhill run and cross country skiing sports

¹⁷ Report describing the bill bearing modifications to law dated 24 December 2003 No. 363.

¹⁸ Bill dated 14 December 2005 No. 102, Regulations on the subject of safety when practicing winter downhill run and cross country skiing sports, VIII legislature, www.consiglioveneto.it

This seems to have been the scope pursued by the state legislator when he assigned the sports spheres to regional concurrent competence, therefore when he adapted the law issued by central bodies to the most tangible local needs. A territory with high mountain density and with high “ski culture”, as it may be defined so, such as the Veneto Region, could not remain insensitive towards the national research to solve the problem that, particularly during the last few years, was even more felt due to the accidents, even of a serious nature, that took place on ski slopes. The previously mentioned regional bill, that redefines the regulations on safety when practicing amateur winter downhill run and cross country skiing sports, was presented to the Chairmanship of the Regional Council in 2005. Nevertheless, by 2004, the Veneto Regional Council acknowledged state law No. 363/2003, which establishes the obligations and duties for competent subjects, approving a bill that, during these last few months, was submitted to the Council Commission pending discussion and eventually modified, in order to be finally approved next year. The previously cited bill, as previously mentioned, was formulated to meet the need for a legislative adaptation by the Veneto Region to state law No. 363/2003, since it falls into a promotion logic of economic development of the mountain areas, with an equal focus on users of skiing areas and ski lifts, as well as on the safeguarding of the environment and the Veneto territory.

The bill in particular,

- regulates safety when practicing winter sports,
- defines the equipped skiing areas and assigns the task to provide for their identification to the Regional Council,
- confirms the obligations of managers of skiing areas,
- foresees the obligation of the latter to supply the Regional Council with a list relative to the accidents that occurred on ski slope, in order to send the data to the competent Ministry for health,
- establishes the amounts of pecuniary administrative sanctions for some specific violations to behavioural rules for managers and skiers,
- defines the bodies in charge of monitoring,
- assigns the power to inflict sanctions and collect the relative profits to Communes and Provinces
- establishes also additional sanctions for managers and users,
- foresees the institution of a new figure in charge of safety on skiing areas, the so called the ski slope responsible (*pisteur*), who identifies the tasks and the duty to collaborate with the competent and supervising bodies.

In the report relative to the bill of 2005, reference is also made to regional law No. 18/1990 on public cable lines, ski slopes and programmed snowfall. In this way, the principles common to the laws are indicated, and the additional obligations and new guarantee instruments foreseen by law No. 363/2003 are introduced. Actually, an additional project of regional law No. 103/2005 was combined with the same bill, which regulates public cable ways, ski slopes and programmed snow fall. These bills have in common provisions relative to safety when practising amateur downhill run and cross country skiing winter sports. In fact, in the last bill, the powers-duties of managers of equipped skiing areas are indicated, regarding maintenance, safety measures of ski slopes, signalling and protection measure for users, by regulating first-aid service, introducing the figure of responsible for ski slope (*pisteur*) and dictating regulations relative to the conduct of users.

6. The regional law of the Veneto Region on ski safety in the European Union

It is being questioned, therefore, whether it makes sense talking about European legislative harmonisation on safety when practicing skiing, by discussing a local

experience.

Actually, the European integration and regionalism phenomena are apparently in contradiction, but when they are implemented, they converge towards the same objective, that is to say, the overcoming of the limited national dimension. And, upon closer examination, what is the aim or trend of both phenomena taken into consideration coincides with the source and origin of the same evolutionary processes: the reaction to nationalisms and the centralisation of power¹⁹.

The Venice Regional bill on safety when practicing amateur winter downhill run and cross country skiing sports, covers a unique role in defining the actual practices of implementation of the state directives.

In view of a European harmonisation of state legislations, it is not possible not to consider the realities that focus the attention to the detail, thinking in this way of keeping the main objective firm, towards a reality that is as extensive as possible.

It remains, in any case, to consider that it appears to be the local reality, in this case regional, to have contacts with sports associations, territorial bodies, operators of the skiing sector, organisations and institutions in charge of first-aid and prevention, in addition to have the closest contact with the beneficiaries of the services.

It therefore seems possible to believe that the whole view of the activities to be implemented, even at practical level, can be better faced from a regional point of view, even if it is anticipated that the subject will acquire a European context.

Aware perhaps of such a situation, the State legitimately proposes rules and essential principles, entrusting detailed legislations to whoever is more in contact with the problem and fights the daily difficulties. Therefore, it does not appear possible to disregard the details at regional level, when defining safety and prevention in the skiing activity.

There are in fact state priorities that seem to reach a regulation, sometimes even based on a contingent oriented push, if not actually when oriented by the media. Some spheres are renowned and are subject to legislative action only when the situation becomes more dramatic and then they leave space to other subjects, in the absence of the necessary support.

On the contrary, there are regional spheres that live every day with the requirement of seeing implemented such a sector as that of ski, which characterises to a great extent, the tourism and sports activity in the Veneto Region territory. The regulation of this sphere therefore does not appear for the Region to be only a matter of choice, but it becomes a need and a duty so as to render even safer and more informed the skier who is facing the mountains of the Veneto Region.

This does not mean that the Region cannot see its decisions acknowledged at a European level. Also in view of the fact that in the project of the European Constitution more importance is given to the role of local realities, it was sensed that when addressing a legislative proposal to the States, it must actually not disregard from requesting and acknowledging proposals or indications originating from those that better know the cultural and territorial realities and that can also promise an effective control and application of an eventual European provision to this effect.

It is useful, in any case, underlining how, up to date, the European Constitution is living a troubled period full of discussions and modifications. It therefore remains hoping that the role of the Regions, outlined as relevant in the Constitution, will not be subject to a reorganisation, but on the contrary, stimulation for growth.

¹⁹ Ref. "The Regions and the State-Regions' connecting bodies in the process of European integration - a definition of the political trend" by M.P. Larnè, 2005.