

SAFETY ON THE MOUNTAIN AND ON THE SKI SLOPES: A JURIDICAL PROBLEM, BUT MOSTLY AND ABOVE ALL OF CULTURE.

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THE MOUNTAIN BETWEEN LAW AND CULTURE

Facing the subject of “liabilities” on the mountain means confronting an entangled mass of elements that find only in part their origin and explanation in the world of law. For this reason in the present report I would like to try facing not only juridical matters but, as a matter of fact, develop a line of reasoning that lies beyond the law, in a strict sense, in order to examine wider subjects, but nevertheless linked to them.

The relation that man has with nature – and in the case that concerns us most, with the mountain – is always more subject to epochal changes. We know that the causes are multiple and cannot – as it often happens instead – be summarised in a laconic “times do change”. The law can certainly be a useful instrument for understanding the approach to the mountain by the mountain dwellers in the various eras, and it can also be a useful instrument for locating the best behaviours that the latter must keep in determined situations. However, we must not forget that man does not live only by law, but also by feelings and emotions and that – depending on the received training and the values that have been instilled – he may react in different ways to the events that he may experience throughout his life.

Therefore, without wishing to lessen the importance of the crucial role of the law, we must always ever more underline that the more the citizen is trained on the basis of healthy principles and habits, the more the regulations that the legislator proposes may find application and be respected. These are two rails that travel in parallel and at the same time they are interdependent to each other. A good citizen is whoever, having received a good education, has first of all developed a critical sense, a capacity of analysing the situations one at a time and then give a conscious evaluation on the concrete case that will bring him to a rational (hopefully) behaviour. The

concepts of consciousness and rationality are very dear to me because they enclose behaviours and conducts as a whole that mountain-goers should follow.

The real mountain dwellers – those that were born on the mountain – have the values and the difficulties involved in these places in their DNA. This is not the case for the Sunday mountain goers, or in any case for those who go to the mountain occasionally. The awareness of the place and of the different risks, to which they are being subjected by taking a walk in mountain areas rather than in a downtown street, sometimes is not so clear. This example may seem paradoxical, but unfortunately we know very well that the tragedies occurred due to a walk in gymnasium shoes near a glacier.

For this reason I believe that being aware of the risks hidden by the mountain is an important point to be attained, a result that must be pursued for a series of reasons. The first and most important is the fact that the citizen who knows the reality in which he moves is a more responsible, more careful citizen, who is unlikely to perform heedless acts.

Therefore, it must be questioned which could be the procedures for making people more aware and rational; I believe that the only path to take is that of knowledge, that of going back to the roots and to the values of the mountain, that of spreading the knowledge. The instruments for pursuing the aim of mountain alphabetisation may be several, from the *écoles de hameaux* which in Valle d'Aosta knew how to meet the alphabetisation requirements in the rural settlements to the first university courses that make the moves in the mountain regions. Within these two examples we can find many go-betweens, many subjects able to transmit the values, the notions and the discipline of the mountain. The question therefore does not concern only the law, but Culture in a broad sense. Culture brings about a greater critical sense, and to a greater awareness, and often goes with rationality. And which is the order that would not wish having aware and rational associates in their own choices? Investing on culture means to prevent problems and avoid the source of many problems.

We are not re-inventing the wheel if we state that a knowledgeable citizen is better than a non-knowledgeable citizen, and the reasoning according which the order that dictates fair and correct rules is a good order. Our point of view has been directed for a long time in seeking a “law on snow”, in seeking a discipline which “by elbowing” could find its own exact position in the middle of the world of the sources of law. It is true that this - in part - has been done, and it must not be forgotten that there is much more to be done (to say the contrary would correspond to a demonstration of arrogance and ignorance).

However, I believe that the jurists should not have blinkers which lead them into thinking that only jurisprudence may solve controversies and indicate the right way. We must take a further step; we must seek to reconcile the already difficult trade of the jurist with that of the educator. We must understand that the regulation that we are proposing today to the legislator will find application only when the citizen will be ready to assimilate it, that is to say, when people will be ready to receive it and respect it because they will understand the deep value, because the *ratio* that supports them will be deemed sensible and sound and because if that was not the case it would be necessary to take steps for modifying it.

We are in an extraordinary historic moment and we must have the strength and ability to exploit it: free circulation of persons within the European Community is a fantastic opportunity that is being granted to us; it concerns the free circulation of persons and of ideas, this is something that must not be forgotten. We are not constructing any longer the bases for the Italian mountain-goer, but rather those of a subject without borders. It is well known that at European level we are depositaries of a culture that is based on the same principle – those dictated by the mountain – but which sometimes we forget.

My intervention should therefore be a hypothetical research of a leader thread to follow, a grip for that poor bewildered citizen who believes in the values of the mountain, and who far too often stumbles losing the main road. Awareness and rationality, target-oriented to the culture of the mountain-goer, could help us in this hard journey. It is true that times have changed, but we must seek uncovering and finding the reasons that have lead to the changes that we have under our eyes. The

approach from the city to the mountain, of the “city dweller” to the mountain dweller today occurs in terms deeply different with those of the past. By using a term object of abuse, “globalisation” – the ease of communications, the fashion, taking possession of an environment considered still natural by those who are used to live in the smog and under stress - has brought about a concept that is very near to that of “colonisation”. To live on the mountain by bringing there the city civilisation, but bringing it exclusively for one’s own sake in order not to change one’s own, sometimes bad, habits.

On the other hand, it is true that without tourism and without the week-end “city dwellers”, what would happen to the mountain in terms of social-economic relapse? It is important to study a behaviour which is, in the first place, of information for these people, and then of prevention and avoid a blunt repression.

THE MAN/MOUNTAIN RELATION IN THE PAST

In order to single out the journey to take for reaching a culture of the mountain, I believe, first of all, that it is a good thing to understand how we have changed and how our relation with the mountain has changed.

By searching in the past it is easy remembering how from the historical point of view there has not always been a romantic vision of the mountain environments; only since the end of the eighteenth century there has been, in fact, a rediscovery of these places, a change of vision that has brought us into a change of the aesthetics and into a change of approach. For the Romans, for example, the mountain was nothing but a malevolent *impedimentum*, or better still, a real obstacle to movement. There are many letters by Roman officials on the sadness of being forced to live near a mountain. Instead, if we do not wish to go far behind in the past it is sufficient to compare the reactions that could have had the mountain dweller of the first sixties with respect to those of our days, to understand that there has been a change, and paradigmatic is the case of the skiing activity.

In those days, when ascending a snowy slope on the *ski lift*, it was not questioned whether the presumption of fault, that art 1681 of the civil code placed on

the carrier, was applicable. When descending on the ski slope it did not occur to place oneself as a user against the manager, and even less so it was questioned whether use of the ski slope could be framed in some contractual type or instead whether someone found himself in the presence of an atypical contract. If then someone found a fence in the path it was not questioned whether this was a typical or an atypical danger. Furthermore, if someone collided into another skier, the fracture was kept as a tribute to the principle of accepted risk and no one dared exploiting the presumption of fault for the exercise of dangerous activities.

Should we be nostalgic of these past times? Whatever is the answer that we wish to give, this must be well articulated and not be given as a mere yes or no.

I wish to state that this relation does not have the presumption of clarifying the heads and tails of civil liability, the principles to which it is inspired and the questions that even today are controversial in doctrine and jurisprudence. On the contrary, I consider more stimulating to reflect on how the approach of people towards the mountain is changing, on how – by the passing of time – access to the mountain has been opened to a multitude of persons with the *pro* and the *against* which can involve this kind of change and on the consequences of these novelties for our future course.

The leader thread that we shall seek to follow therefore is leading away from the institutional law lessons for going to touch, it is hoped, to a greater extent the substance, or better still the mountain and the relation that we can have with it.

On the mountain of the past, the requirement of establishing rules was not therefore particularly felt for deciding – in the presence of damage – whether it was the case of requiring payment and by whom, the costs for reinstating the previous situation or, eventually, compensation for damages. We started from the assumption that whoever would undertake a risky activity would be subject to the possible consequences. This, however, does not mean that a reference system of regulations did not exist.

In fact, if from one hand it is true that the general prescriptions of our order found application in the presence of damages on the mountain whenever it was requested by the damaged party, as much true is that the mountaineer mentality was

something autonomous that lived on a series of unwritten rules, among which that of whoever goes to the mountain assumes – regardless of whatever may happen – responsibility for the mountain touring or the skiing activity.

The above mentioned is in contrast with today's different approach subsequent to the sport events at high altitude. Every weekend hordes of families are seen attacking ski slopes by means of comfortable cableways or mountain paths for a walk. This 360° opening to the city dwellers has involved a need of regulations of the mountain activities substantially for two reasons: on one hand for numerical reasons, seen the incredible increase of people on the mountain, and on the other hand because it was necessary to write on paper what our Alpine mountaineers in the past took for granted.

The opening of the mountain to the crowds is also derived by the improvement of the transport means, of roads and the infrastructures in general which have facilitated reaching the mountain destinations. I well recall when, as a still young and inexperienced Alpine mountaineer, I used to take my car in Genoa to reach mythical Courmayeur. The journey alone could be considered an odyssey. It started from the long and dangerous open to heavy traffic road of lower Piedmont to the Aosta Valley trunk road which passed through Aosta's downtown. But this long journey often ended up with an invaluable prize: the starry sky which late at night – thanks to a generous moon – allowed, near Pre St. Didier, viewing the Alps in all their majesty. These may seem the recollections of a nostalgic, but if you think harder, both in my little experience as a Sunday Alpine mountaineer, and to the umpteenth power experience for the great Alpine mountaineers, it can be seen how the mountain has always treated presents of magic moments only to those who have developed a certain spirit of sacrifice and have dedicated to it the right attention.

Even in the presence of the continuous progress and new technology these places still remain mysterious and inscrutable and if not treated with the due skill they can be very dangerous.

It is exactly for this reason that we find ourselves discussing about responsibility and culture. This is exactly the question: in case of damage who must be

considered responsible? And who in the presence of damage is liable to compensate the damaged party? We have previously said that in the past whoever ventured on the mountain assumed the responsibility of his actions, but today it is no longer so.

Seen the ever greater inflow of people on the mountain, the DNA of the true Alpine mountaineer is no longer sufficient to regulate the relations that are established among all those that patronize it. Since we found ourselves in front of this spasmodic increase of mountain-goers, the need started to be felt for common regulations for all at national or at least at regional level that touches with precision the mountain dynamics and gives an idea of what could happen in case of accidents both to the damaged party and to the damaging party.

It is certainly true that law has its importance for governing human relations, but – as indicated in the beginning – what about if our citizens were even more educated on the subject of the mountain? I believe that we shall succeed in finding that mixture, that koine, that synthesis that would render the mountain environment not only sparkling but also even safer. Needless to say that it would not solve all the problems, but I believe that anyhow the situation would change a lot. This kind of situation: good regulations and educated mountaineers would bring about a renewed attention to the mountain problem. It would allow understanding how to face it, how to render it available to the tourist inflows, without altering too many its features, how to reduce the costs, and how to exploit its resources, but above all would bring about educating/re-educating the mountain-goers into a responsible and respectful approach of the mountain environment in its various aspects.

FREE MOUNTAIN AND REGULATED MOUNTAIN

By widening the horizons of our reasoning, we can think of how the legislator can have a relationship with the mountain. The legislator can decide to leave the mountain in full freedom or to regulate it completely. He can move between these two extreme cases with different consequences on those who patronize it. If we have an exclusively free vision of the mountain the manager of the plants will try selling to skiers only a transport contract. That is to say, the mountain-goers will be left to act

in complete freedom, by regulating only the transport carried out by the cableway enterpriser and not regulating all the rest, among which for example the descent.

In the light of these considerations, can we state that it is a business selling freedom on the mountain and that it can also be evaluated a lot?

This is not a groundless question, effectively there are orders where this freedom is sold, think only of skiing that can be carried out in Canada or in most of the United States; costs are very high, but skiers are freely transported by helicopters or snowmobiles to the mountain top, while on descent they are free of doing as they please, in full freedom.

We can therefore distinguish a freedom granted in an almost uncontaminated space and a freedom granted in a circumscribed space anything but uncontaminated, as a matter of fact we could almost state fully “civilised”.

We are in fact in front of yet another business, if the “right of going skiing” is sold in the equipped skiing area, which we know very well, that defined by Law 363/2003. In this case the freedom of skiing is not sold at all but an unlike product is sold. We are dealing with boards indicating to us the destinations and the instructions of behaviour, with obstinate regulations both for the skiers and the *snowboards*, with an indication which locates where it is possible or not possible to perform competitions, and so on

This kind of business is very different from that which we have previously outlined; it implies a very complex management of the mountain which can easily destroy that freedom for which we were referring just now. This is the starting point, these are the uphill important choices and which differentiate the conducts that may be taken from those that instead will be prohibited, and the problems that could arise.

Under these mechanisms and under these dynamics the subjects that can differentiate the services given to the mountain-users by widening or by narrowing the freedom which we have previously mentioned are various. For example, the skiing area and the entire mountain Community have a considerable importance in the local development and localized by skiing. In Italy the Communes and the ski slopes

managers have always sought different businesses. Think of San Sicario where after 6 o'clock in the evening it becomes impossible to practice skiing, and think on the contrary of Sestriere where even at night the ski slopes are brightly lit.

Another freedom more often sold as a service is that of being able to ride a snowmobile and dine in out of the way areas on the mountains. Very beautiful adventures but that hide risks that ever more often we read in newspapers due to tiredness or – ever more often – to that last alcoholic drink too many.

There is an organised mountain management and equipped areas and there are actual owners besides the managers of these places. *Ab absurdo* in many cases we have a non owner (the manager) who is encumbered by civil-law and criminal law duties higher than those that fall upon the real owner. To this effect, it is to be noted how the obligation of information at the manager's charge increases by Parliamentary Bill of 30th of October. In fact, there are modifications to articles 4, 5, and 6 that aim enforcing the managers' information obligations and to strengthen signalling, especially in the presence of ski slope crossings.

In addition, specific supervision tasks are foreseen for the fulfilment of these obligations, the violation of which is sanctioned through administrative channels and the possibility by the managers to leave ski slopes or parts of them not compacted is foreseen, subject to appropriate signalling, for experimenting a widespread practice abroad, which allows users practising in complete safety skiing on not compacted snow, with speeds not necessarily lower (moreover, a suitable practice, as demonstrated by the experiences by other States in reducing the number of accidents in these stretches).

I am not sure which of this tale is a happy choice; I am afraid that these not compacted spaces will create jurisprudence questions for which we shall probably discuss at next year's forum.

In order to follow our leader thread we can anyhow see how in the case of the equipped skiing areas and in the Canadian scattered skiing fields the same thing is sought: a freedom – regardless of greater or lesser regulations – which risks decreasing considerably, should they be approved, those dirigisme thrusts of control

aiming to give to skiers a sense of safety as if they are taking a comfortable walk in the city.

To this effect, the question arose of how could a proof be found when in the middle of rescues these have been wiped out by snow, which by definition changes the conditions of the ground in a short time. In the past this probably would not have been even questioned, today this would be questioned and it is a good thing seeking an answer.

We know that on ski slopes we are not on a road suitable for vehicles where in case of an accident it is easy to find indications that may bring us in the reconstruction of the dynamics of the accident that took place.

What should it be done? Take a picture of all those that come close to us while we are skiing? Equip all skiing slopes with telecameras as someone has proposed? I hope that we shall not come to this. Should we ask ourselves if we want a world where we are always being monitored by telecameras? Let us not forget that even a very oppressive society can change dramatically the nature of the mountain.

From the different business systems and freedom attributions, and by different management by the Communes and the managers of the areas, arise dynamics that bring about consequences that are different, and also cultures that are different; these are the problems that we face every winter, and we must not forget it.

Depending on the legislator's approach, the approach of those that have success on the mountain should be different, for this reason the objective must be to educate, but above all re-educate. In the past, and despite of what we are in certain cases used to assert, the approach with the mountain, in its widest acceptance, was sometimes full of gaps, if considered under the present parameters. Man has always exploited the environment trying to bend it to his own requirements with the means that his intelligence, knowledge and the possibility of the times allowed him. Today, we admire the landscape, but the landscape is the fruit mainly of man's modelling action. And man's action has caused, also in the past, incalculable damages to the environment. It suffices reminding the extraction activity and the fusion of metals which, even in not so far away times has impoverished in a dramatic way our woodland wealth; it also

suffices reminding the reduction and in some cases the drastic disappearance of animal species, which today are once again present thanks to protection and re-introduction. These actions have not only allowed our forefathers to survive in a difficult environment, also because of the presence of hard and lengthy winters, but have resulted as a whole, less dramatic than what happens today since in those days the population was numerically scarce and the damages were consequently more limited.

Man, even the mountain dweller, today needs instead a continuous education able to reconcile the new environmental and market requirements with his own, by taking into consideration overpopulation and globalisation.

THE SOURCES OF THE SKI LAW

In the light of the original choice taken by the legislator (regulated mountain or not regulated mountain) another useful instrument for understanding the state of the art, is that of evaluating the instruments that are placed at our disposal by the legislator. A close examination of the normative situation is in fact only right in order to be able to understand how an innovative direction can move, but which it wishes to remain in any case linked to the traditional values of the mountain.

Depending on how the legislator decides to regulate mountain activities, the situation in fact may alter radically. We already know that the skiing law has been made positive in a long lapse of time and that at the present state in Italy, national law No. 363/2003 comes first in the boundless regional laws and in the conflicts that often are created between regional and state regulations.

In this historic moment – in particular with reference to skiing – we have reached through regional Laws, by passing through European Regulations and Directives for homogenous safety standards and finally by means of influences of the meta-juridical type such as the skier's Decalogue.

The unwinding of the sources is one of the main points to face in order to be able to place the good premises on which to base some reasoning. In fact it is not taken for granted that it is the State of having to legislate – as it actually happened in our case – not only because there are the Regions, but also because a private Regional law is being created continuously. We are witnessing daily, paradoxically in a continuous manner with the same insistence, centrifugal and independence thrusts.

We have a world system: that of the FIS which has created the skier's Decalogue. This should be a starting point for working together. On the contrary, Italy has driven away from some of these rules, creating sometimes embarrassment. In fact, it cannot be easily explained what originates a new inappropriate rule when the Decalogue previously envisaged a wise principle of behaviour to be respected. In any case, we shall subsequently better examine how some strange choices by the Italian legislator have brought about in some cases misinterpretations and in other cases real errors of evaluation; instead, the Parliamentary Bill approved by the Council of Ministers on 30th of October last is welcomed with esteem.

The truth is that although there is a Europe that wishes to unite the mountains, yet it has not produced concrete results. And for once, for setting the record straight, we Italians have been brilliant for having organised the first European forum on snow in Bormio. Here, jurists from all over the world, since 2005 meet every year to talk about future common rules, first at European level and then worldwide for winter sports by means of a meticulous and interesting comparison among legislation, doctrine and jurisprudence of the various Countries on the management of the equipped skiing areas, of the plants, of traffic circulation, of the role of the ski instructors schools, of the aspects of insurance and others more.

We know that the result – as it was easily expected – is a somewhat non-homogeneous picture that the Forum intends in fact to contain into acceptable limits if not altogether to eliminate, in respect of the principle of sovereignty, by using the normative or directional instruments that the European Union places at disposal.

LAW 363 AND NOVELTIES UNDER WAY

Even at the light of the recent modifications introduced to Law 363 a comparison that should have as object culture on the mountain, must be inserted into the agenda. We have previously mentioned the fact that also in the mountain sphere the normative choices that the single States execute in laying down the law are not neutral. If, for example; European countries disregard from what has been established at worldwide level by means of the FIS through the skier's Decalogue, it is obvious that by the passing of time the differences will bring about systems always more and more different and faceted, and the consequences – if only by time – would be certainly intended to influence on living together on the mountain and on the behaviours of skiers belonging to different Countries.

In our normative there are still subjects “full of gaps”, in the skiing activity – for example – the most stripped branch is certainly that of the rules of behaviour for the users, whose observance – joined to a more general sense of self responsibility – is the winning arm for containing at the minimum accidents and the connected social burdens.

It is only the case of reminding that the requirement of fixing uniform rules was already realised by the F.I.S. in now faraway 1967 when the well known skier's Decalogue (now Dodecalogue) was born, commonly accepted in all Countries.

Well then, that front of uniformity so laboriously reached has been paradoxically flawed exactly by Italian legislation, which, from one hand, assimilated incompletely these rules by transforming them into real juridical regulations (by forgetting, for example, to insert the obligation for whoever is entering the ski slope to give way to whoever is already passing through it or to consider the technical skill of the skier as one of the most important factors upon which to govern speed) and, on the other hand, introducing a rule completely new, that is to say that of the obligation to give way, in the crossing between ski slopes, to whoever comes from the right side, subject to other signalling.

It would have been extremely more appropriate to operate a formal deferment to the Dodecalogue, by respecting the criterion of uniformity, with the additional advantage of not having to modify the normative, in case the F.I.S. rules should have been varied.

Finally the new formulation of article 8 of law 363/2003 – as modified by Parliamentary Bill approved last 30th of October – introduces, however, modifications to the rule of behaviour in relation of speed, extending it more generally to the control of behaviour of the skier, assimilating in this manner the Decalogue rule of the skier, which bears the obligation of keeping a moderate speed in relation to the technical skills of the skier, since even a moderate speed may not be in any case suitable for a skier with scarce skills and vice versa so.

It is also envisaged that whoever does not have an adequate command of the skiing technique cannot access the ski slopes classified as difficult, and this for the purpose of discouraging a conduct that may result dangerous for the skier himself and for others, moreover, without rendering more severe this rule, the respect of which is left to the evaluations of competent subjects for the control, for which they can be helped by ski instructors.

This rule leaves some degree of doubt since already in the past we knew that the black ski slope was reserved for the experts and the green left to beginners.

What does therefore change the rule? Probably when we shall go skiing we shall find a board on which it is written “ski slope for expert skiers”, but I do not believe that some result may be obtained without a homogeneous cataloguing on the difficulties of the ski slopes.

We have all lived the odd experience of going through green ski slopes convinced that these were black or vice versa, not due to the sadism of the ski slope manager, but because often depending on the skiing area and on the Regions the evaluations, unfortunately do change.

In substance, the evaluation of the difficulty of the ski slopes – depending on the skiing area – is too variegated for giving information that is really assimilated as universal.

Therefore, managers are not subject to any obligation of supervision with respect to subjects who access difficult ski slopes, but a rule of conduct is introduced addressed directly to the skier and to his responsibility.

It therefore remained open for discussion the administrative sanctions that Italian law has introduced for all the violations indistinctly of the rules of behaviour and that, as was easy to foresee, would have remained almost always unapplied. The

Bill approved on 30th of October seems to give a rational, concrete and conscious thrust towards a greater clarity and knowledge of the more problematic questions.

The normative has some gaps in relation to the activity of prevention and supervision, to be considered instead fundamental for guaranteeing safety in the practice of winter sports.

Furthermore, the sanctioning system was left incomplete and not uniform due to the different state of actuation in the Regions and such dissimilarity had determined specific problems for the skiing areas comprising the territory of more than one Region.

In this way the absence of sanctions of immediate effectiveness was realised, such as withdrawal of the *ski-pass*.

The inspiring criterion of the present Parliamentary Bill was that of strengthening the prevention and the supervision measures for the purpose of offering to all users of winter sports a “safer product”, but these modifications touch several points that go beyond supervision.

It is therefore clear that not even skiing, obviously, was able to escape the traps of law. As it is inevitable with almost all the phenomena that rise to a certain importance in society, law has found a dimension of its own for indicating and clarifying what must be and what must not be done during the skiing activity.

The nostalgic of the past state as a rule that skiing should not have any rules other than that of common care which could on its own suffice for the protection of one’s own and others’ safety. This could ideally have effect, but practical experience teaches that, in the actual facts, the general principles must find a concrete application. Substantially, it is a good thing that there exist sources and possibly that these may also be clear, if then a good rule is addressed to an aware and responsible user, undoubtedly the results could improve.

Art. 15, introduces modifications to art. 21 of the law, which already determines among the competent subjects for supervision, for control and for rescue those belonging to the police forces.

It is expressly envisaged that the Regions determine additional specific figures to be used in the supervision and rescue activity in order to have a vast typology of subjects to whom these duties will be assigned.

It is also envisaged by decree of the Minister of the Interior (*Home Office Minister*), in agreement with the other Ministers having competence on this matter, that the aspects related to the issue of sanctions, be disciplined (even with reference to the collection of data), by determining a minimum number of personnel – referred as a whole and indistinctly to public and private personnel – to be assigned to the supervision activity and the determination of convention types and that the minimum requirements of the subjects assigned to the supervision and rescue service be established. It appears evident that the forecast related to fixing of the requirements, procedures of selection and training of the subjects assigned to the supervision services (letter c of the decree) makes reference only to private personnel, while for what concerns the minimum requirements of the subjects assigned to rescue (letter f) it is equally evident that it should be referenced by way of priority to the private personnel, considering that as far as the police force applies without prejudice the normative already in force.

For the supervision and rescue service, conventions can be drawn up between the managers and the subjects of which under paragraph 1 of art. 21 and, in case that this personnel is insufficient, can be used in this order, the qualified personnel from the Regions or from the staff of the managers themselves.

In this manner a system is created by which the presence of the personnel assigned to supervision is ensured in all the plants, without this involving any increase of the police forces used today on the basis of the normative in force; in fact, widening the personnel's force with qualified subjects for exercising the supervision activity could, as a matter of fact, allow the police forces to perform a coordination role and to be unburdened from secondary tasks.

The possibility of experimenting electronic systems of control and to improve the collection of statistical data on accidents for the purpose of a better use of strengthening the safety measures is also envisaged.

To subjects in charge of supervision tasks, who are not public officers, are assigned powers of notification, collection and putting on record, by analogy with the provisions for competent subjects, to issue sanctions on the subject of road traffic

(articles 17, paragraphs 132 and 133 of law dated 15 May 1997 No. 127 and art. 68 of law dated 23 December 1999 No. 488).

Finally, the role of the ski instructor is confirmed to be not as that of subjects who ascertain violations, but for signalling to the supervisors' in charge all incorrect behaviours (and not only those in relation to speed, such as it is envisaged at present). The Parliamentary Bill of 30th of October is therefore welcome, even if some observations will be afforded. The introduction of precise definitions certainly appropriate and shared is envisaged, but there are also prescriptions without any particular concrete importance. Reference is made in particular to art.19 which would not be modified, thus the principle of presumption in complicity in fault in case of collision between skiers, until proof of the contrary, remains unchanged. All skiers would thus contribute in remaining exposed, as they are at present, to the obligation of compensation for damages to the extent of fifty per cent of the total damages to which the other skier involved in the collision was subjected, in case they are unable to demonstrate of being totally without fault.

CONCLUSIONS

I consider the modifications of Law 363 substantially positive and I believe that they could be material for the hard work that will be due now to the various courses that are now opening in the mountain sphere. In the first place, I am rejoiced by the recent project by the Trento University with an applicative laboratory which proposes introducing students into studying the rules on the subject of safety in the practice in winter sports of descent and cross-country skiing, with particular respect to the analysis of Italian and foreign jurisprudence on the subject of skiing liability, both civil and penal.

This can be a good instrument of spreading that widens the horizons and creates a managing class for the mountain, although it is true that it will take time, but the results will certainly be positive.

The subjects treated in the course can lead us back to the three thematic modules taken as reference by our Forum: 1) the system of rules on the subject of safety in the sport of descent and cross-country skiing and its sources; 2) the civil

liability of the skier, the ski instructor and the ski school, as well as of the manager of the plants. The insurance profiles; 3) the penal liability of the skier, the ski instructor and the ski school, as well as of the manager of the plants.

Welcome is also the Mountain University in Valle d'Aosta, which is taking an important role in the Valley. The creation of University structures in these mountain areas is also a way for avoiding the escape to the city, thus blocking the stream of youth who go away and finally creating a youthful texture with ideas for a reality in step with the times.

We can keep on with the Mountain University, proposed by the CAI – *Club Alpino Italiano* (Italian Alpine Club) – whose objective of the Mountain University of the Italian Alpine Club would like to be that of organising – by using the existing resources and experiences – a high level structure, with technical, scientific and didactic competences, capable of training the persons in charge of teaching the various branches of learning from the technical and cultural point of view in close collaboration with the Italian Alpine Club activity.

We could continue with more examples, but these data are sufficient for understanding that the main road cannot but be this: a specialisation on the subjects of the mountain. It may well be that a dash of *marketing* could be added to the operation, all the activities are noteworthy, but I do not know how much these are known beyond the places of reference and in the circles patronized by the insiders. Finally, our contribution should be that of making ourselves available for bringing the message of the Forum and the opening of the mountain in such a way as to provide incentive activities of such sort that may only improve the future approach between man and the mountain.