



THE LEGAL DIMENSION OF NATURAL RISKS

A legal approach to mountain risks



**THE MOUNTAIN, WHAT DEFINITION
ACCORDING TO THE LAW?**





The mountain, a special environment

The law defines the mountain as a specific environment regarding the following main criteria:

- natural handicaps : in particular the steep gradient that characterizes most mountainous areas
- difficult climatic conditions linked to altitude

The text thus states the consequences of these constraints on the exercise of certain economic activities and on the implementation of developments in mountain areas.

In addition to the economic impacts, the mountain is subject to numerous hazards that may manifest themselves with varying degrees of severity.





The mountain, an attractive space

Beyond its traditional activities (agricultural, pastoral, forestry, craft activities, etc.), the mountain is seen as a space of freedom.

As such, it is marked by sustained tourist traffic and constitutes one of the preferred supports for the practice of nature sports which are experiencing real enthusiasm.

The mountain, an attractive space

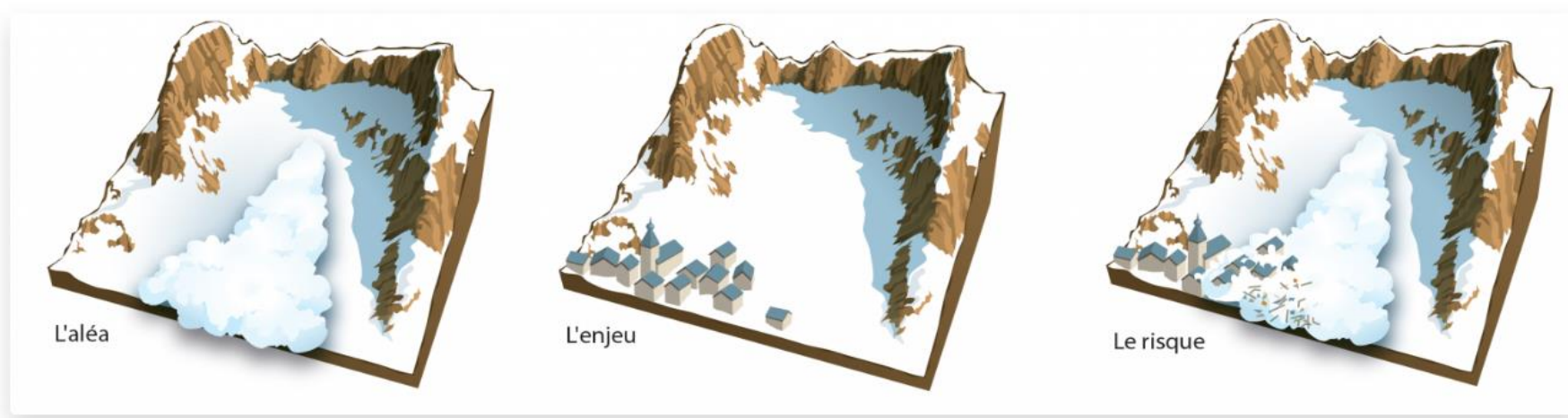
Sports Code, article L. 311-1:

"Nature sports are practiced in spaces or on sites and routes that may include roads, land and underground passages in the public or private domain of public authorities or belonging to private owners, as well as state or non-state waterways"

In practice, nature sports or outdoor sports include all physical and sporting activities, competitive or recreational, motorized or not, which are practiced in natural spaces (on and underground, on and under water, but also in the air), that is to say in spaces which are generally not enclosed and not or only slightly developed (even if certain nature sports, such as alpine skiing, may require the construction of heavy equipment such as ski lifts).

The mountain, a risky environment

RISK
Summer
School
2024



Source : In « Les risques naturels en montagne », F. Naaïm-Bouvet et Didier Richard, édition QUAE 2015

The diversity of hazards, faced with multiple challenges (in particular massive crowds or even over-crowding of sites, development of infrastructures, aging of infrastructures), expose to increasing risks.

Natural risks (avalanches, landslides, falls and landslides, torrential floods, floods, forest fires, etc.) or anthropogenic risks (technological, building, transport, etc.) are significantly amplified, in frequency and intensity, by the effects of climate change.

RISK MANAGEMENT IN THE MOUNTAINS: WHAT LEGAL FRAMEWORK?



The question of taking climate change into account

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Within the framework of public policies for mountain development, implemented mainly by the State and local authorities, the law insists on the need:

"To take into account and anticipate the effects of climate change by supporting the adaptation of all economic activities to its consequences, particularly in the agricultural, forestry and tourism sectors" (Mountain Law, article 1 – 3°; Provisions introduced by the modernization law of December 28, 2016)

The urban planning code specifies that: "Tourist development and, in particular, the creation or extension of new tourist units take into account the communities of interest of the local authorities concerned and the vulnerability of mountain areas to climate change" (article L. 122-15).

The question of taking climate change into account

Note: conclusions of the public report "Mountain resorts facing climate change", Court of Auditors, February 2024

The Court considers that faced with "very marked climate change in the mountains", the economic model of the resorts is running out of steam and "adaptation policies are not up to the challenges".

The Financial Jurisdiction recommends in particular :

- To establish a new governance over larger territories
- To improve the preservation of resources and the enhancement of natural spaces (e.g. by rationalizing ski lifts)
- To allocate a share of ski revenues to financing the transition

Risk prevention in the mountains : developments and constructions

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As part of the action of public authorities in matters of town planning, the prevention of foreseeable natural risks and technological risks is established as a general objective under the terms of article L. 101-2 of the town planning code.

The environmental code thus provides that the State must draw up a plan for the prevention of foreseeable natural risks (PPRN), such as floods, landslides or avalanches (article L. 562-1), for municipalities exposed to one or more of these risks. The local urban planning plan (PLU) takes into account the requirements of the PPRN

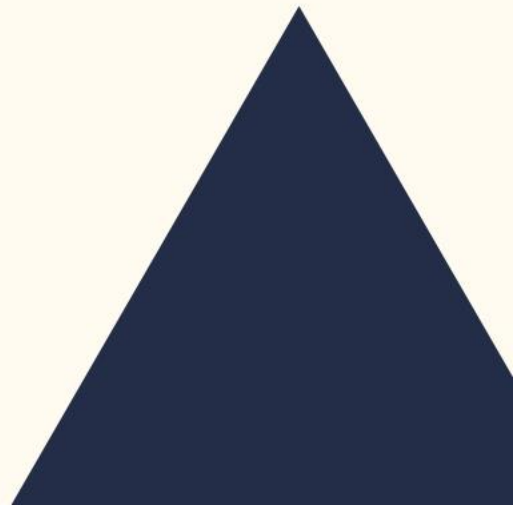
In mountain areas, in the absence of a PPRN, town planning documents as well as projects for works, constructions or installations subject to an application for authorisation take into account the natural risks specific to these areas, whether they are known pre-existing risks or those which could result from the planned changes to the environment (Article L. 563-2)



Risk prevention in the mountains : new tourist units (UTN)

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Risk prevention in the mountains : sports and leisure activities

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The prevention of risks linked to tourist, sporting and leisure activities in the mountains is ensured, to a large extent, through the implementation of the powers granted to the administrative police authorities

At the local level, these general and/or special administrative police powers are held by the Mayor and the Prefect.

General Code of Local Authorities, Article L. 2212-2-5° :

"The purpose of administrative police is to ensure good order, safety, security and public health. It includes in particular:[...]5° The care of preventing, by appropriate precautions, and of stopping, by the distribution of necessary aid, accidents and calamitous scourges as well as pollution of all kinds, such as fires, floods, dyke breaches, landslides or rock falls, avalanches or other natural accidents, [...] of providing urgently for all assistance and relief measures and, if necessary, of provoking the intervention of the higher administration";

Risk prevention in the mountains: sports and leisure activities

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The administrative police has the objective of preserving public order through the following purposes :

- Security
- Health (salubrity or hygienic conditions)
- Tranquility
- Protection of the environment

The competent authority takes all measures to prevent risks of harm to public order, from simply signaling the dangers to prohibiting the practice.

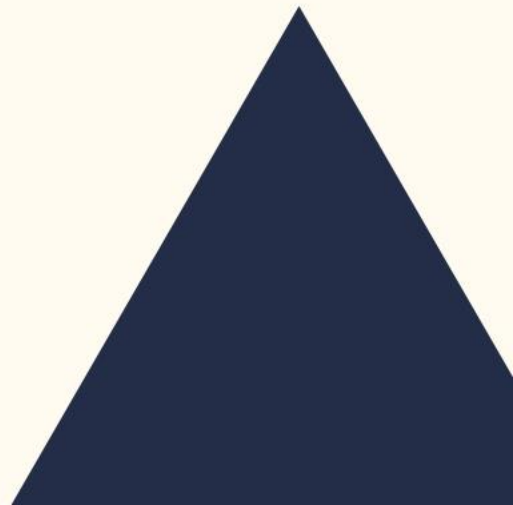


Mountain risk management : mountain accidents

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The National Mountain Safety Observation System (SNOSM) records each year the accidents that have given rise to intervention by mountain aid services. However, the data does not take into account the rescues carried out by all services (in particular the SDIS, and in particular those following accidents outside the mountain ranges)

2009-2020 Review
2023 Review



Mountain risk management : distribution of aid

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Mountain aid is provided within an inter-service framework involving, depending on the department, the departmental fire and rescue services (SDIS), the gendarmerie services (PGHM), the emergency medical aid services (SAMU), the national police services (CRS) and the civil security air resources.

The conditions for coordinating these different public services are determined, in particular, by the circular of 6 June 2011 relating to general guidelines for the implementation of public resources contributing to mountain rescue and its formalisation within the framework of a specific ORSEC provision.

For each department, the prefect establishes the specific ORSEC provisions "mountain aid", which take into account the departmental risk analysis and coverage plan (SDACR) also approved by prefectural decree.