

2nd and EUROPEAN SNOW LAW FORUM

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SIGNAGE IN SKI AREAS, ALSO IN REFERENCE TO THE

MOVEMENT OF MECHANICAL VEHICLES

Signs are a “means of communication” used by the companies that manage ski areas. Their importance and relevance is used for legal purposes in the event of accidents to ascertain and attribute any subsequent responsibility.

The management must abide by numerous precautionary rules which basically give the skier a precise series of information about the characteristics of the slopes, so that the skier can make the right choices in relation to his level of skill and his experience.

The precautionary rules that the management needs to apply can even prohibit the activity of skiing in the event that very serious dangers are present which may prejudice people’s safety.

In 1967, the International Ski Federation approved the famous “Skier’s Handbook”. These rules came into being from observing what was happening in the real world, and this reality was then assessed in light of technical experience and common sense. They are partly directed to the general public so that it can abide by the rules for the common good, and partly to those who uphold the law, so that they may use these rules to resolve situations which up until now had never been governed by pertinent rules.

The law soon referred to the rules of this handbook, attributing them with, “regulations of common prudence that must not be ignored or disregarded by skiers”. This can be read in many rulings of Italian courts which have settled disputes relating to skiing accidents.

Amongst the ten rules that govern the conduct of the skier, we find number 8 which calls for “respect for signs and markings”. This expressly refers to the signs which

indicate whether a slope is open or closed, to hazard warning signs, and to the signs on the slopes which use conventional colours (black, red, blue and green) to notify the skier of the difficulties which he may come across and have to tackle as he makes his way down the slope.

The signs and markings provide the management with a tool with which to “communicate” to the skier all the information relating to the situation in the ski area and “suggest” to the skier the most appropriate choice to make.

Over the years, and through the input from companies that deal with safety in ski resorts, the “means of communication” have evolved not only in Italy, thanks the fundamental contribution of the *Ente Nazionale italiano di Unificazione* (the Italian Organisation for Standardisation), but also in Europe. Now the variety of signs available on the market has reached almost uniform quality standards with unmistakable communicative effectiveness for the users of ski areas.

As far as Italy is concerned, there are two important regulatory passages which should be underlined:

The enactment of Law No. 363 of 24.12.2003 which covers “the safety regulations regarding the practice of downhill and cross-country winter sports”. This is the first national law to govern safety in ski resorts and the subsequent Ministerial Decree of 20th December 2005 governs the signs which should be situated in equipped skiable areas.

Article 6 of Law No. 363/03 actually states that “the Minister for Infrastructures and Transport, having heard the standing conference for relations between the state, the regions and the autonomous provinces of Trento and of Bolzano and the Italian Sports Federation for Winter sports recognised by CONI, and with the support of the Italian Organisation for Standardisation, determines the appropriate signage which must be prepared in equipped skiable areas by the managers of these areas”.

This occurred not in the term of 6 months provided for by law but in the period of two years from when the national regulations for slope safety came into force by means of the publication of the Ministerial Decree of 20th December 2005 regarding “The signage which must be situated in equipped skiable areas” in the *Gazzetta Ufficiale* No. 299 of 24.12.05.

Once the Ministry for Infrastructures and Transport had received the fundamental contribution of the Italian Organisation for Standardisation, it decreed that the signage must comply with the provisions of the technical regulations identified in the annex to the decree or rather, for the principle of mutual recognition, must comply with the national regulations of a Member State of the European Union so that an equivalent level of safety is guaranteed in terms of the safeguarding of the health and safety of the users.

The simple, correct, clear and visible warning of dangers, prohibitions and of conduct to which the skiers must adhere is an essential part of improving the level of safety on ski slopes.

The uniformity of signs in all ski resorts will definitely make it easier to understand the meaning of the signs and it will also make it easier for the skier to immediately understand the type of conduct to which he must adhere in order to avoid causing or encountering hazardous situations.

The signs are designed to have a primarily informative role and must have uniform shapes, dimensions and characters so that they are in line with the provisions set out in the regulations currently in force and also so that they can facilitate the learning and memorisation of the rule that they convey.

The signs can be classified according to their different categories, more specifically:

- Warning signs (triangular with a yellow background) e.g. narrowing slope, crossing point, crevasse, snow canons, hump, ditch, snow-grooming vehicle etc.

- Prohibitory signs (round) e.g. no walking on the ski slope, sledges prohibited etc.

- Mandatory signs (round) e.g. children under the age of 14 must wear safety helmets etc.

- Informational signs (rectangular/square) e.g. accident and emergency department, snowboarding slope, winter trail etc.

In this context, it is interesting to mention a recent ruling handed down by the Criminal Court of Bolzano – the Division of Silandro – on 23rd March - 21st May 2002 which acquitted a snowboarder who had triggered an avalanche because he had voluntarily

exited a ski area to go off-piste despite the presence of several signs depicting a hand with the wording “STOP Avalanche Hazard”.

The judge in this case upheld that this sign with the wording “STOP Avalanche Hazard” written in several languages did not have to be understood as a prohibitory sign but rather a “warning” or “informative” sign in that it was limited to warning the skier that leaving a skiing area which had been secured by the management means exposing oneself to the common hazards of the mountains and to danger of avalanches in particular. Therefore it was a warning sign and not a prohibitory sign.

Going back to the content of the Ministerial Decree of 20/12/2005, it's interesting to note that the ski slopes are classified according to their degree of difficulty (UNI 8137), and this degree must be indicated with round signs featuring the following well-known colours:

- **Blue** for the easy slopes (their gradient should not exceed 25%, unless on very short stretches on open terrain);
- **Red** for slopes with a medium level of difficulty (a gradient not in excess of 40%);
- **Black** for the difficult slopes (with gradients in excess of 40%).

But it is also interesting to note that article 2 of this Ministerial Decree states that managers of skiable areas must provide information about the content of the “Skier's Handbook” – annex 2 – which has been published to favour “the best use of the slopes” in order to “avoid danger to people or to prevent damages”.

It is important to note at which point the content of the rules in annex 2 differ in part from the International Ski Federation's approved version of the “Skier's Handbook”. In fact, the provisions in the famous handbook, which is considered at a European level to be the synthesis of the rules of common sense to which skiers should adhere, do not perfectly match the text of the Ministerial Decree. The decree introduces different rules of conduct and obligations which echo, though not literally, the provisions set out in section III of Law No. 363/2003 entitled “Rules of conduct for the skier”.

If on the one hand the attention paid to disciplining the conduct to which skiers must adhere on the slopes in order to improve safety is commendable, on the other the fact

that the terms and content of these regulations basically represent a third version of rules currently in force raises a few perplexities.

This definitely does not help people to clearly know which rules must be adhered to in order to ski safely, and this was the intention of the legislature and the purpose of the law.

I would also like to point out that the legislative step that Italy took by passing the Ministerial Decree of 20/12/2005 contrasts with the conclusions reached during the last edition of this Forum in Bormio during which the most qualified jurists in Europe agreed about the importance of arriving at a common set of regulations to cover all skiing activities based on the "Skier's Handbook" as it was approved by the International Ski Federation in 1967.

Just to provide a further reason for trying to achieve internationally recognised legal regulations in order to avoid contrasts and overlaps in the law, let us briefly examine the regulations governing the movement of mechanical vehicles in equipped skiable areas, bearing in mind that the children and beginners that we see on the slopes and their ability to avoid obstacles and stop quickly.

Article 16 of Law No. 363/2003 explicitly sanctions a ban on the use of maintenance vehicles on ski slopes unless the slopes are closed to the public. They are only allowed on the slopes during opening hours in case of necessity or emergency, and then only with the use of the appropriate warning lights and audio signals.

Only in the latter hypothesis, which according to the letter of the law appears to be intended as an exceptional situation, do skiers have to give way to these vehicles to let them pass as quickly and easily as possible. It seems reasonable that these vehicles are not allowed on the slopes considering the danger that their presence represents.

However, UNI 8136 in annex 1 of the Ministerial Decree of 20.12.2005 expressly provides for the warning signs "Warning snowcat with winch" and "Warning snowmobile". These signs appear to be contradictory or at least difficult to interpret according to the regulation set out in the aforementioned article 16 of Law No. 363/03 which prohibits the access of mechanical vehicles onto the slopes unless, as I stated, in case of a necessity or emergency.

But the systematic interpretation of article 16 becomes even more problematic after reading “Neve sicura” (Safe Snow) which was recently issued by the Ministry of Education, Universities and Research as part of an informational campaign for the 2006/2007 winter season. This “summarises the golden rules of skiing” – sic – and rule 12, entitled “equipment and facilities”, states that skiers must give way to mechanical vehicles used to serve and maintain the slopes and the facilities, as if driving snowcats and snowmobiles in the middle of the skiers is the norm, or at least that it is not limited solely to cases of necessity and emergency. In the event of an accident, will a judge uphold the belief that it is “normal” to have a snowmobile or another mechanical vehicle on the slopes?

It just remains for me to conclude by nostalgically remembering the “Skier’s Handbook” and to say once again that I hope we reach a common supranational line as soon as possible; one that lets skiing have a few simple and uniform rules which are easy to understand and to apply.

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