

# LEGAL ASPECTS OF ADVENTURE TOURISM AND SAFETY FIRST

ADVENTURE X RISK X SAFETY

ANA PAULA MORAES SATCHEKI

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# SUMMARY

- SPORT, ADVENTURE TOURISM & REGULATION
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- STEPS IN THE RISK MANAGEMENT PROCESS
- RISKS VS. VICARIOUS LIABILITY VS. CRIMINAL LIABILITY
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Adventure tourism has become increasingly present in the travels of people looking to overcome their limits or even experience new emotions.

Companies operating in this sector have a duty to offer safety activities. Safety and quality ought to be the priority. **They must take into account that the tourists are neither athletes nor qualified people.**

# SPORT, ADVENTURE TOURISM & REGULATION

- ADVENTURE TOURISM IS NOT A SPORT.
- The definition of **sport and adventure tourism** is essential for establishing correct and effective regulation.
- Defining adventure sports is not mere rhetoric. On the contrary, the operators of these activities and their employees must be clear and know which sector they belong to.
- For example, trekking: "Is it tourism or sport?"
- Who should the adventure professional who wants to carry out this activity be subject to? The Brazilian Association of Adventure Tourism Companies or the sports bodies or the Federal Council of Physical Education and, consequently, what rules should be applied?
- The answer will follow.



- **BRAZIL HAS TAKEN THE LEAD IN CREATING A TECHNICAL MANAGEMENT SYSTEM STANDARD FOR ADVENTURE TOURISM COMPANIES TO ASSESS RISKS, ADDRESS DANGERS, AND ENSURE THE SAFETY OF BOTH CUSTOMERS AND STAFF INVOLVED IN THEIR OPERATIONS.**
- This effort began internationally in 2009 and led to the publication of the International **Standard ISO 21101** - Adventure Tourism - Safety Management Systems - Requirements in April 2014. Subsequently, in November 2014, **ABNT (\*) published NBR ISO 21101.**
- The standard's focus is to enhance safety in adventure tourism services, ensuring compliance with laws, fostering international market competitiveness, promoting environmental and cultural preservation, raising social awareness, and supporting economic and financial development.
- In addition to **ABNT NBR ISO 21101**, specific technical standards have been developed for each type of adventure tourism.

(\*) Founded 75 years ago, ABNT is a private, non-profit organization and a founding member of the International Organization for Standardization (ISO), the Pan-American Commission on Technical Standards (Copant) and the Mercosur Association for Standardization (AMN).

(\*\*) SEBRAE - Implementation Guide - Adventure Tourism - Safety Management System - Rio de Janeiro -2016

# ABNT NBR ISO 21101

In Brazil, it is a legal requirement to implement a **Safety Management System** for the commercial offering of adventure tourism activities. This requirement has been in place since December 2, 2010, following the **regulation of Law No. 11.771/2008 by Decree No. 7.381, which pertains to the National Tourism Policy.**

Art. 34. Tourism agencies selling adventure tourism services must adhere to the following guidelines:

*I - **have tour drivers by official technical standards**, with the necessary knowledge to provide safety and comfort to clients;*

*I - **have a safety management system in place, by official technical standards adopted nationwide;***

*III - offer optional insurance to cover adventure activities;*

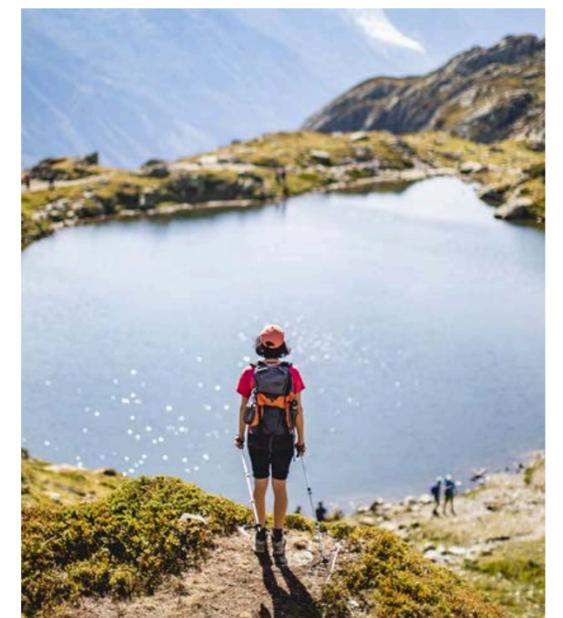
*IV - have a term of knowledge of the conditions of use of the equipment, warning the consumer about the necessary **safety measures and respect for the environment and the legal consequences of not observing them;***

*V - have a **disclaimer stating the risks of the trip or activity and the precautions needed** to reduce them, as well as how to use utensils and instruments to provide first aid; and*

*VI - have a **statement of knowledge from the contractor, by the provisions of official technical standards**, which deals with the necessary preparations for the trip or tour offered.*

*§ 1º - **For this Decree, adventure tourism is understood to be tourism resulting from the practice of recreational and non-competitive activities**, such as tree climbing, buoy-crossing, ballooning, bungee jumping, waterfalls, cycle tourism, long-distance hiking, canoeing, canyoning, horseback riding, climbing, speleotourism, floating, diving, off-road tourism, rafting, abseiling, zip-lining, free flight, windsurfing and kitesurfing.*

*§ 2º - The terms set out in items IV, V, and VI must be signed by the contractor and filed by the contracted party.*



# ABNT NBR ISO 21101

- Since then, tour operators in the adventure tourism sector have had a strong and consistent regulatory framework to ensure the safety and quality of their operations.
- The primary goal is to allow companies to **proactively assess the risks and hazards of the activities they offer** so that they can address them in advance.
- By adopting an international standard, Brazil makes it easier for its recognition by partners and tourists from around the world.

NORMA  
BRASILEIRA

ABNT NBR  
ISO  
10005

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02.08.2007

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**Sistemas de gestão da qualidade —  
Diretrizes para planos da qualidade**

*Quality management systems – Guidelines for quality plans*



# BELLOW ARE FIVE EXAMPLES, INCLUDING TRACKING, OF WHICH OVER TWENTY DIFFERENT MODALITIES ARE SPECIFICALLY STANDARDIZED.



ASSOCIAÇÃO BRASILEIRA DE NORMAS TÉCNICAS  
FORO NACIONAL DE NORMALIZAÇÃO  
CERTIFICADORA DE PRODUTOS E SISTEMAS



## COLETÂNEAS DE NORMAS TÉCNICAS ABNT DE TURISMO DE AVENTURA – COMITÊ BRASILEIRO DE TURISMO – ABNT/CB-054 – Junho/2024

### TURISMO DE AVENTURA - CAMINHADA

Normas	Transversais	Específicas	
Coletânea Turismo de Aventura - Caminhada	ABNT NBR ISO 21102 – Turismo de aventura – Líderes – Competência de pessoal	ABNT NBR 15398 – Turismo de aventura - Condutores de caminhada de longo curso - Competências de pessoal	ABNT NBR ISO 3021 – Caminhadas e trekking – Requisitos e recomendações
	ABNT NBR ISO 21101 – Turismo de aventura – Sistemas de gestão da segurança – Requisitos		
	ABNT NBR ISO 21103 – Turismo de aventura – Informações para participantes		
	ABNT NBR ISO 3163 – Turismo de aventura – Vocabulário		

### TURISMO DE AVENTURA - TURISMO EQUESTRE (CAVALGADA)

Normas	Transversais	Específicas	
Coletânea Turismo de Aventura - Turismo Equestre	ABNT NBR ISO 21102 – Turismo de aventura – Líderes - Competência de pessoal	ABNT NBR 15507-1 – Turismo equestre - Parte 1: Requisitos para produto	ABNT NBR 15507-2 – Turismo equestre - Parte 2: Classificação de percursos
	ABNT NBR ISO 21101 – Turismo de aventura – Sistemas de gestão da segurança – Requisitos		
	ABNT NBR ISO 21103 – Turismo de aventura – Informações para participantes		
	ABNT NBR ISO 3163 – Turismo de aventura – Vocabulário		

### TURISMO DE AVENTURA - CICLOTURISMO

Normas	Transversais	Específicas	
Coletânea Turismo de Aventura - Cicloturismo	ABNT NBR ISO 21102 – Turismo de aventura – Líderes – Competência de pessoal	ABNT NBR 15509-1 – Cicloturismo - Parte 1: Requisitos para produto	ABNT NBR 15509-2 – Turismo de aventura - Cicloturismo - Parte 2: Classificação de percursos
	ABNT NBR ISO 21101 – Turismo de aventura – Sistemas de gestão da segurança – Requisitos		
	ABNT NBR ISO 21103 – Turismo de aventura – Informações para participantes		
	ABNT NBR ISO 3163 – Turismo de aventura – Vocabulário		

### TURISMO DE AVENTURA - RAFTING

Normas	Transversais	Específicas	
Coletânea Turismo de Aventura - Rafting	ABNT NBR ISO 21102 – Turismo de aventura – Líderes – Competência de pessoal	ABNT NBR 15570 – Turismo de aventura - Condutores de rafting - Competências de pessoal	ABNT NBR 16708 – Turismo de aventura - Rafting – Requisitos para produto
	ABNT NBR ISO 21101 – Turismo de aventura – Sistemas de gestão da segurança – Requisitos		
	ABNT NBR ISO 21103 – Turismo de aventura – Informações para participantes		
	ABNT NBR ISO 3163 – Turismo de aventura – Vocabulário		

### TURISMO DE AVENTURA - TURISMO COM VEÍCULOS 4X4 OU BUGUES

Normas	Transversais	Específicas	
Coletânea Turismo de Aventura - Turismo com veículos motorizados	ABNT NBR ISO 21102 – Turismo de aventura – Líderes – Competência de pessoal	ABNT NBR 15585 – Turismo de aventura - Condutores de turismo fora-de-estrada em veículos 4x4 ou bugues - Competências de pessoal	ABNT NBR 15453 – Turismo de aventura - Turismo fora-de-estrada em veículos 4x4 ou bugues - Requisitos para produto
	ABNT NBR ISO 21101 – Turismo de aventura – Sistemas de gestão da segurança – Requisitos		
	ABNT NBR ISO 21103 – Turismo de aventura – Informações para participantes		
	ABNT NBR ISO 3163 – Turismo de aventura – Vocabulário		



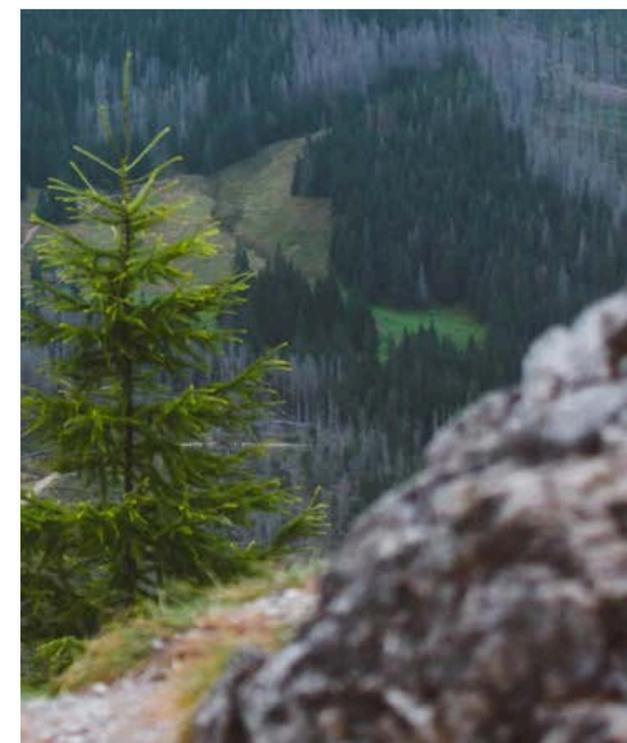


# THE MOST IMPORTANT STAGE IN IMPLEMENTING THE MANAGEMENT & SAFETY SYSTEM IS DEFINING THE SCOPE OF THE MODALITY

- Tourism operators offering adventure activities are choosing to implement a **safety management system** as a conscious decision. This is because they are obligated to comply with relevant **legal requirements**.
- After defining the scope, the organization will start implementing the **safety management system** and commit to its continuous improvement. All processes and interactions will be carried out in accordance with the provisions of **ABNT NBR ISO 21101**.



# RISK MANAGEMENT PROCESS STEPS



# MANDATORY POINTS ESTABLISHED BY ABNT NBR ISO 21101

- Driver training
- Tourist instruction
- Surveys, inspections, and audits
- Preventive maintenance of equipment
- Continuous improvement of the infrastructure in the region where the activity is conducted
- Use of personal protective equipment
- Development of contingency plans based on the study of emergencies
- Critical analysis of projects, engineering, and operations
- Other tasks

# RISKS VS. VICARIOUS LIABILITY VS. CRIMINAL LIABILITY

- The fear of facing legal consequences in accidents is a concern in almost all forms of adventure tourism.
- However, tourists should take full responsibility for their decision to participate in these activities, considering the inherent risks involved.
- Liability, whether partially mitigated or not, arises from failure to follow the rules or from the operator's negligence in assessing the probability and consequence of potential hazards.
- A single hazard can lead to multiple damages, so it is important to identify and prevent the causes of such hazards.
- Control measures should be in place to minimize the likelihood of accidents. **For example, forgetting to lock a carabiner can lead to the danger of a fall due to its unintended opening, resulting in injuries or even death.**
- Liability should be evaluated based on specific occurrences rather than solely on the risks associated with the activity or the tourist's decision to participate. Additionally, there are **unregulated and clandestine adventure tourism activities that pose further challenges.**
- **PUTTING AN END TO CLANDESTINE ACTIVITIES SHOULD BE THE GOAL OF ANY COUNTRY THAT OFFERS ADVENTURE TOURISM - THIS IS THE PRIMARY AND GREATEST CHALLENGE!**

# ARTICLE FROM A LOCAL NEWSPAPER IN WHICH THE CLANDESTINE PRACTICE WAS OFFERED BY SOCIAL NETWORKS.

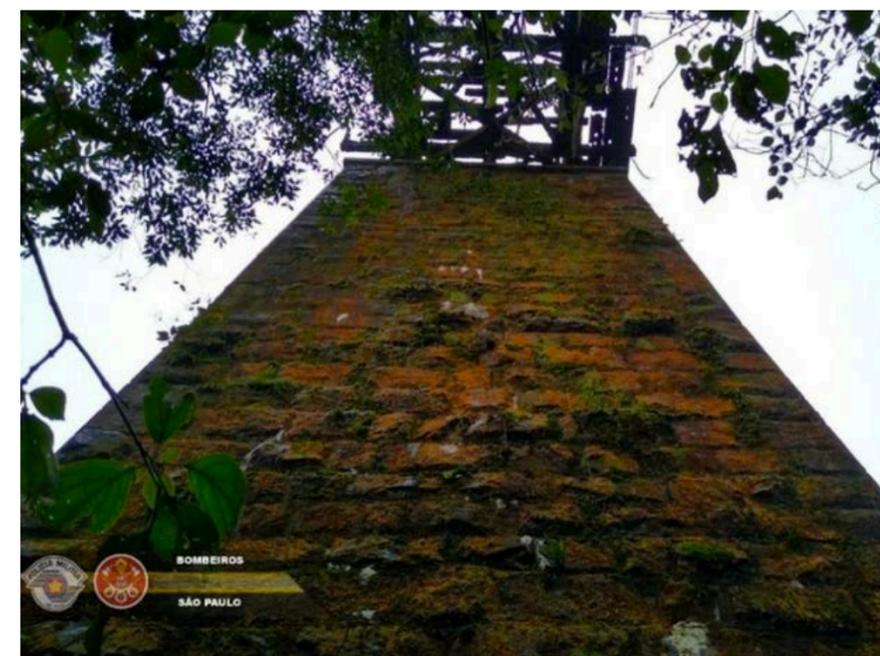
The Paranapiacaba Funicular Crossing in the Serra do Mar region of São Paulo is both beautiful and treacherous. On Sunday, a 29-year-old man tragically lost his life after falling from a 50-meter-high railway bridge.

## **The rescue effort required 16 people in a hard-to-reach area.**

Firefighters were summoned by a friend of the victim, who was also hiking. When they arrived at the challenging site, they found Antonio Raphael Gomes Freitas with multiple fractures, and he had unfortunately already passed away. Despite him being part of a group of 15 people, it took 16 firefighters and three vehicles to remove his body from the location.

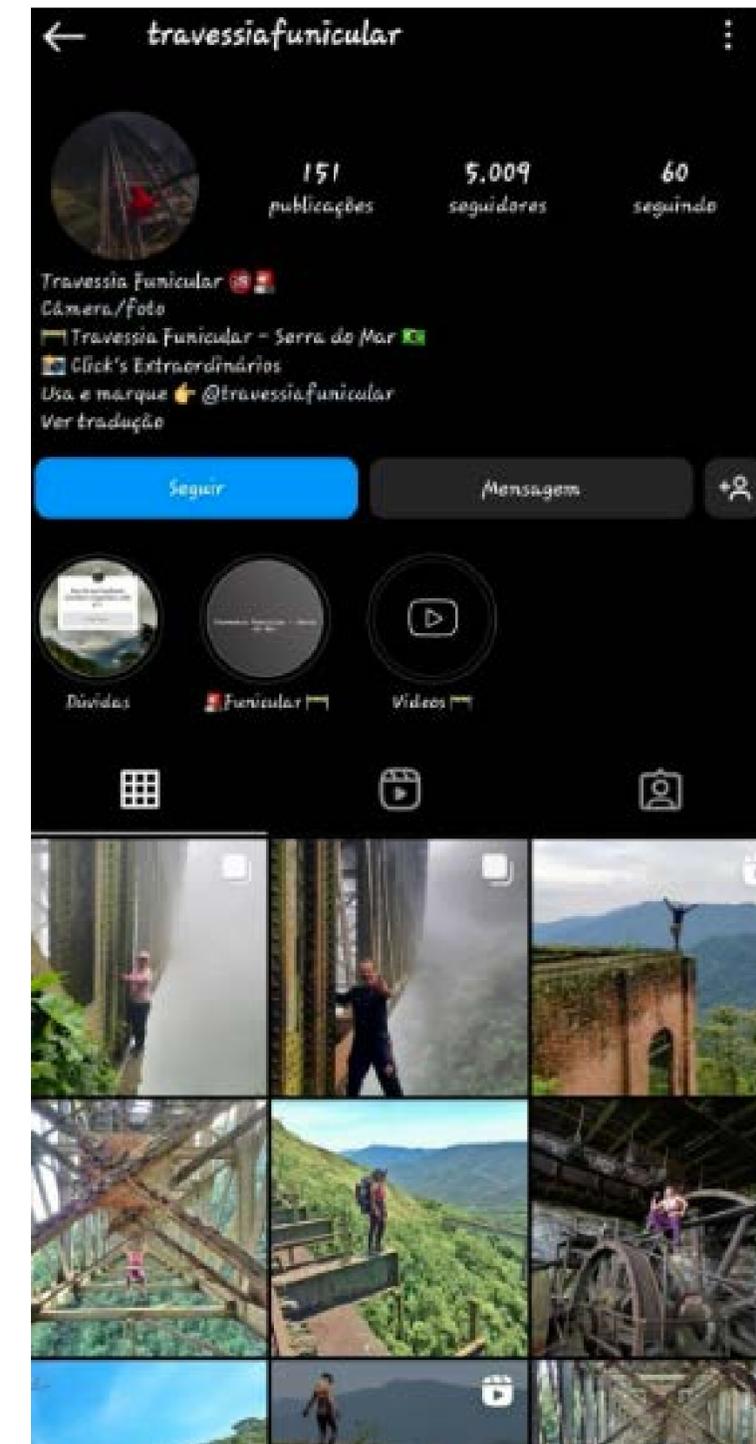
## **Aside from being illegal, the crossing is hazardous.**

Many tourists visit the area in search of adventure and to capture photos of the old roads and abandoned iron bridges that connect Paranapiacaba to Cubatão. This road, which was inaugurated in 1867, served as the first link between Jundiaí, in the interior of the state, and Santos. It was originally used for transporting agricultural produce. At the time, the railroad was considered a modern and daring architectural system. However, the railroad has been non-operational since 1981 and consequently receives no maintenance.



(\* Reference: <https://altamontanha.com/homem-morre-na-trilha-funicular-de-paranapiacaba/>)

# ADS TAKEN FROM SOCIAL NETWORKS





## CONCLUSION & FINAL CONSIDERATIONS

- The **regulatory system in Brazil** is **comprehensive, detailed, and strict**.
- When traveling, **everyone, including amateur sports enthusiasts, should be treated as tourists, regardless of their experience level**.
- Questions such as "defying limits," "facing the unexpected," "savoring the feeling of freedom," and "embracing the joy of personal achievement" reflect the **essence of adventure tourism**, and operators have an obligation to ensure the necessary safety by adhering to specific legislation and technical standards.
- **Clear and current regulations help mitigate risks, providing a secure environment for tourists** who wish to engage in these activities and who are willing to accept the consequences of their decisions.
- It's important to note **that in Brazil, technical standards apply to all operators, regardless of their size**.
- **By employing controlled risks, standardized procedures, and keeping up with specific technical standards, operators can offer greater comfort, confidence, and safety to tourists engaging in adventure tourism.**



**THANK YOU!** 🇧🇷

**ANA PAULA MORAES SATCHEKI**

✉️ [satcheki@uol.com.br](mailto:satcheki@uol.com.br)

[ana.satcheki@satchekioliveira.com.br](mailto:ana.satcheki@satchekioliveira.com.br)

☎️ + 55 (11) 99912-2407

