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## **Prevention of Natural Disasters: Situation in Georgia and its Compliance with European Human Rights Standards**

*Article 2 of the European Convention on Human Rights (Right to Life) imposes an obligation on the state to take measures aimed at preventing threats to human life caused by natural disasters. In order to fulfill this obligation, the state must establish regulatory legislation aimed at preventing violations of the right to life due to natural disasters and take practical measures to protect life in such situations.*

*This paper aims to analyze the compliance of Georgia's regulatory framework and practices on the prevention of natural disasters with European human rights standards. To achieve this goal, the paper examines the European Court of Human Rights case law, which serves as a foundation for analyzing the scope and content of state obligations. Subsequently, the paper reviews Georgia's legislation regulating natural disaster management, followed by an analysis of the country's practical approach. In particular, it focuses on two recent events that resulted in particularly high casualties – the 2015 Tbilisi flood and the 2023 disaster in Racha. Based on this analysis, the paper offers recommendations for improving the situation in Georgia and preventing future loss of life caused by natural disasters.*

**Keywords:** natural disasters; right to life; European Convention; Flood in Tbilisi, Disaster in Shovi.

### **1. Introduction**

The positive obligation to protect the right to life under Article 2 of the European Convention on Human Rights applies to natural disasters. Beyond establishing regulatory legislation aimed at preventing or minimizing the risk of natural disasters that could lead to violations of the right to life, the state must also take preventive operational measures to protect the right to life in the event of natural disasters.

The purpose of this paper is to analyze the compliance of regulatory legislation and practice on the prevention of natural disasters with European human rights standards. Based on this analysis, conclusions will be drawn and recommendations will be made for the further improvement of Georgian legislation and practice.

### **2. European Human Rights Standards**

The European Court of Human Rights has examined the state's positive obligations concerning natural disasters in several cases. One notable case in which the Court addressed the state's

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responsibility in relation to natural disasters is *Budayeva and Others v. Russia*.<sup>1</sup> This case concerned the authorities' inadequate response to the risk of a landslide. Landslides had been occurring almost annually in one of the regions of Russiasince 1937.<sup>2</sup> While landslides were a frequent natural phenomenon in that region, the one that occurred in July 2000 in the town of Tyrnauz had devastating consequences. Specifically, the landslide caused the deaths of at least eight people, including the husband of one of the applicants. He was unable to escape from a building that collapsed due to the landslide, resulting in his death. Despite the regular occurrence of landslides, the state failed to take appropriate preventive measures to mitigate the risk of recurrence. Before the European Court, the applicants argued that in June 2000, the Russian authorities failed to warn the local population about the impending and large-scale landslide, which ultimately destroyed the town of Tyrnauz. They also claimed that the authorities failed to conduct rescue operations and did not take adequate measures in response to the emergency.<sup>3</sup>

In this case, the European Court of Human Rights found that the state had failed to fulfill its positive obligation to protect the right to life. The authorities did not take adequate measures against the risk of a large-scale landslide, failed to warn the local population about the impending danger, and had neither developed nor implemented an evacuation and emergency response plan. Accordingly, the Court found a violation of Article 2 of the Convention in its substantive limb.<sup>4</sup>

*Kolyadenco v. Russia* concerned a flood that occurred on 7 August 2001 in the city of Vladivostok.<sup>5</sup> The applicants argued that the authorities bore responsibility for the flooding, which was caused by the sudden and unannounced release of a large volume of water from a state-owned reservoir into a nearby river. This action was taken despite the foreseeable risk it posed to residents living in the surrounding areas. The applicants, who hardly escaped death, claimed that the flood severely damaged their homes and property.

The European Court of Human Rights assessed whether the respondent state had fulfilled its obligations under Article 2 of the Convention. Taking account of the specific circumstances of the case, the Court held the state responsible for several reasons: First, the state failed to establish a clear legislative and administrative framework that would have allowed for an effective assessment of the risks associated with the operation of the reservoir and to ensure that urban planning in the reservoir's vicinity adhered to appropriate technical standards. Second, there was no consistent supervisory system in place to ensure that responsible officials took steps to adequately protect the population living nearby. This included the failure to ensure that the river channel adjacent to the reservoir was cleaned and capable of handling the sudden release of large volumes of water, the absence of a functioning alarm (early warning) system, and the lack of timely public information regarding potential risks related to the reservoir's operation. Finally, the Court stressed the lack of sufficient

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<sup>1</sup> March 20, 2008.

<sup>2</sup> Para. 14.

<sup>3</sup> Kravchenko S., Bonine J. E., Interpretation of Human Rights for the Protection of the Environment in the European Court of Human Rights, Pacific McGeorge Global Business Development Law Journal, 25, No.1, 2012, 277-280.

<sup>4</sup> Paragraph 160. At the same time, the European Court found a violation of Article 2 in the procedural part. See paragraph 165.

<sup>5</sup> February 28, 2012.

coordination and cooperation between various administrative bodies, which could have prevented an expected hazard from escalating to a level that endangered human life. Moreover, the authorities failed to take any meaningful action even after the flooding occurred, leaving the lives of those living near the reservoir at continued risk.<sup>6</sup>

Eventually, the European Court of Human Rights concluded that the respondent state had failed to fulfill its positive obligation to protect the right to life. Therefore, the Court found a violation of Article 2 of the Convention in its substantive aspect.<sup>7</sup>

*Murillos Saldias v. Spain* concerned the deaths of 87 people caused by flooding of a campsite following heavy rainfall.<sup>8</sup> The applicants claimed that the state had failed to fulfill its positive obligation to take preventive measures that could have avoided the mass loss of life. The European Court of Human Rights found that the deaths resulting from the flooding fell within the scope of Article 2 of the Convention (right to life). However, taking account of the specific circumstances of the case, the Court declared the application inadmissible. This decision was not based on the inapplicability of Article 2 to the state's obligations in the context of natural disasters. Rather on procedural grounds: one of the applicants had already received just satisfaction at the national level, while the others had not exhausted domestic remedies.

The European Court of Human Rights also examined *Viviani and Others v. Italy*, which concerned the state's positive obligations with the potential eruption of Mount Vesuvius – a risk that could have catastrophic consequences.<sup>9</sup> The applicants, who lived in municipalities surrounding the volcano, argued that the state had failed to establish an adequate legislative and administrative framework to address the existing risks. As a result, they claimed that the state did not ensure protection of the right to life under Article 2 of the Convention. They also argued that the lack of proper information about the risks violated their right to respect for private and family life under Article 8. Specifically, the applicants contended that no detailed safety plan had been adopted, no clear evacuation routes in the event of an eruption or earthquake, no functioning alert system was in place, and no evacuation drills had been conducted.

In response, the government of Italy submitted detailed evidence showing that an emergency plan had been adopted and updated and that various measures had been taken at the national and local levels to manage the risks. These included the implementation of a volcano monitoring system, a study and simulation conducted in 2005, and urban management measures to control development in high-risk zones.

The European Court of Human Rights declared the case *Viviani and Others v. Italy* inadmissible on the grounds that the applicants had not exhausted all available domestic remedies. Although the case was not examined on its merits, the Court's reasoning makes it clear that the positive obligation

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<sup>6</sup> Para. 185.

<sup>7</sup> Paragraph 187. In this case, a violation of Article 2 of the Convention was also found in the procedural part. See paragraph 203.

<sup>8</sup> Decision, November 28, 2006.

<sup>9</sup> April 16, 2015. Vesuvius is the only volcano in Europe that has been active for the past hundred years. It is now dormant (the last eruption was in 1944), although the threat of an eruption exists at any moment.

to protect the right to life under Article 2 of the Convention does extend to the state's duty to prevent and mitigate risks arising from natural phenomena such as volcanic eruptions.

Similarly, *M. Özel and Others v. Turkey* about the catastrophic consequences of the 1999 earthquake in Turkey.<sup>10</sup> The applicants' relatives died under the rubble of the buildings in which they had been living.

Before the European Court of Human Rights, the applicants argued that the right to life of their relatives – protected under Article 2 of the Convention – had been violated. Specifically, they contended that local authorities had issued construction permits for five- and six-story buildings in a seismically high-risk area, failed to carry out the necessary inspections, and did not prevent the construction of unsafe buildings.<sup>11</sup>

The European Court held that, under the substantive obligations of Article 2 of the Convention, the state's duty to prevent damage caused by earthquakes primarily involves taking measures aimed at reducing the scale of the disaster, particularly through urban planning and ensuring the control of development.

The Court found that the authorities were aware of the seismic risks in the affected region. Despite this, the earthquake had a catastrophic impact on human life due to the vulnerability of safety standards and building construction, which led to the collapse of buildings in the affected areas. The local authorities, whose responsibility was to monitor and inspect these buildings, failed to fulfill their obligations in this regard.

Nevertheless, the European Court held that this part of the application had been submitted to the Court after the prescribed time limit, as more than six months had passed since the final decision at the national level. Therefore, it deemed this part of the case inadmissible.<sup>12</sup>

In this case, the European Court clarified that the obligation under Article 2 of the Convention includes the implementation of measures aimed at protecting the right to life in the event of an earthquake. Although Article 2 of the European Convention on Human Rights, and the Convention in general, does not contain provisions regulating environmental issues, the Court explained that Article 2 applies to such matters. It established that the state must fulfill its positive obligation to protect human rights in the context of the environment, including natural disasters.<sup>13</sup> This interpretation of Article 2 of the Convention should be considered correct, since regardless of the source of the threat to life, the state must take appropriate measures aimed at protecting the right to life.

The interpretation of Article 2 of the Convention with regard to the environment is driven by the significant impact of the environment on human life. The fact that environmental pollution has a

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<sup>10</sup> November 17, 2015. According to official data, 17,480 people died and 43,953 were injured as a result of the earthquake.

<sup>11</sup> The applicants also alleged violations of Articles 6 and 13 of the Convention, as well as Article 1 of Protocol No. 1.

<sup>12</sup> Para. 178.

<sup>13</sup> *Fredin v. Sweden (No. 1)*, 18 February 1991, para. 48. See also O. W. Pedersen, The European Court of Human Rights and International Environmental Law, in: The Human Right to a Healthy Environment, J. H. Knox and R. Pejan (eds), 2018, 86. According to the case law of the European Court, not only Article 2, but also Article 8 of the Convention applies to environmental issues.

profound effect on people, which is confirmed by the report of the *Lancet Commission on Pollution and Health*, that states: “[d]iseases caused by pollution led to approximately 9 million premature deaths worldwide in 2015-2016 – three times more than those caused by AIDS, tuberculosis, and malaria combined, and 15 times more than all wars and other forms of violence.”<sup>14</sup> According to the same report, “Without aggressive intervention, deaths due to air pollution levels exceeding safe limits are projected to increase by 50% by 2050.”<sup>15</sup>

### 3. Natural Disaster Prevention in Georgia

#### a) Legislation

To fulfill the state’s positive obligation under Article 2 of the European Convention on Human Rights, the state must, primarily, establish a legal framework aimed at protecting life from threats caused by natural disasters.

In Georgia, the legal regulation of natural disasters (catastrophes) is governed by both legislative and subordinate acts. First and foremost, Article 29(1) of the Georgian Constitution, which, among other matters, stipulates: “Everyone has the right to timely receive full information about the state of the environment.” The Constitution also establishes the authority and procedure for declaring a state of emergency in the event of a natural disaster<sup>16</sup> and defines that the decision to use the defence forces during a natural disaster is made by the Prime Minister.<sup>17</sup>

In Georgia, the field of natural disasters is regulated by several laws. One of the most important legislative acts is the Law on Civil Safety.<sup>18</sup> It sets rules for the organization of the national civil safety system in Georgia, the measures for civil safety, the powers of the executive branch and other bodies in the field of civil safety, as well as the rights and obligations of individuals and legal entities.<sup>19</sup>

The Law establishes a series of legal provisions aimed at protecting human life and health from incidents or emergencies caused by natural and/or human factors. Specifically, Article 14.1 of the law provides that, due to the nature of the incident, one type of incident/emergency is a natural incident/emergency. As per the Law, the civil safety system is a unified network of institutions and other bodies of the executive branch of Georgia, which, at the strategic (political), operational, and tactical levels, implements relevant comprehensive measures to protect human life and health, the environment, and/or property from incidents/emergencies caused by natural and/or human factors.<sup>20</sup>

The Law designates the Emergency Management Agency as the main body of the national system during peacetime, with its Fire and Rescue Forces Department acting as the central operational

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<sup>14</sup> Executive Summary, Lancet Report, 1. See: [[https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(17\)32345-0/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(17)32345-0/fulltext)].

<sup>15</sup> Ibid, Lancet Report, p. 4. See Also E. Imparato, The Right to Life Passes Through the Right to a Healthy Environment: Jurisprudence in Comparison, Widener Law Review 22, No.1, 2016 133.

<sup>16</sup> Article 71.2 of the Constitution of Georgia.

<sup>17</sup> Ibid.

<sup>18</sup> June 27, 2018.

<sup>19</sup> Article 1.1.

<sup>20</sup> Article 4.1.

force of the system.<sup>21</sup> Additionally, the involvement of other agencies is foreseen when responding to specific threats. The legislation provides a detailed list of the agencies that, according to their sectoral competence and subordination, must be involved in the implementation of various measures.

The Law also stipulates that the state is responsible for the prevention of emergencies.<sup>22</sup> Specifically, the state takes steps to protect people (as well as the environment and property) through a combination of legal, organizational, economic, educational, engineering, technical, sanitary-hygienic, sanitary-epidemiological, scientific, research, and other measures aimed at identifying and assessing emergency risks, reducing or preventing the negative impacts associated with these risks. This includes, *inter alia*, actions aimed at systematically reducing the destructive potential of hazardous natural events and processes, as well as corresponding engineering-technical measures.

Article 5.1 of the Law outlines the responsibilities of the entities within the national civil safety system:

- a) Emergency risk management – identifying threats, analyzing the risks and impacts of emergencies, and, based on this, developing an emergency risk management plan;
- b) Planning and implementing emergency prevention measures, including planning and implementing measures to reduce emergency risks;
- c) Developing an emergency management plan.<sup>23</sup>

Article 5.1 of the Law provides that the responsibilities of the entities within the national civil safety system include:

- a) The development of a notification system for incidents/emergencies, including an early warning system, and the timely transmission of notifications on the incident/emergency, as well as informing on the rules of conduct during such incidents/emergencies.<sup>24</sup>

The Law imposes the obligation to inform Georgian citizens and other individuals present on the territory of Georgia on civil safety.<sup>25</sup> Specifically, during an emergency that poses or may pose a threat to human life and/or health, the electronic communications company providing mobile communication networks and services and/or the public broadcaster, at the request of the Emergency Management Agency, shall ensure the transmission of notifications and other information about the emergency to Georgian citizens and other individuals present on the territory of Georgia.<sup>26</sup> As per the law, the notifications and other information to be transmitted regarding an emergency include:

- a) Information on the anticipated or ongoing emergency and its boundaries of impact;
- b) Information on the potential consequences of the anticipated or ongoing emergency;
- c) Rules of conduct during the emergency; and
- d) Information about the measures taken to protect individuals.<sup>27</sup>

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<sup>21</sup> Article 4.3.

<sup>22</sup> Article 10.1.

<sup>23</sup> See sub-paragraphs a), b), and m).

<sup>24</sup> See sub-paragraphs f) and g).

<sup>25</sup> გვ-12 გველი. Article 12.

<sup>26</sup> Article 12.3.

<sup>27</sup> Article 12.4.

The Law on Civil Safety also stipulates that the primary measures for protecting Georgian citizens and other individuals present on the territory of Georgia in an emergency include: their evacuation and/or accommodation in shelters, fire, engineering, chemical, radiation, medical, and biological protection measures, as well as other civil safety measures aimed at providing psychological support to them.<sup>28</sup>

The field of natural disasters is also regulated by the Law on the Procedure for Planning and Coordinating National Safety Policy, which defines the areas of national safety policy, the process of planning and coordinating this policy, and the powers of the coordinating body for its planning, the Advisory Body of the Prime Minister of Georgia – the National Security Council.<sup>29</sup> Civil Safety is part of the national safety sector, one of the directions of which is ecological safety. According to Article 10.2 of the Law, the field of civil safety includes, among others, the following areas:

- a) Identification, assessment, and forecasting of ecological threats, risks, and challenges;
- b) Development of appropriate mechanisms to protect the country's population and territory from emergencies caused by natural and human factors;
- c) Reduction of damage caused by wartime, natural, and human-induced disasters, and other crisis situations that threaten national interests, ensuring the country's resilience;
- d) Development and coordination of the capabilities of emergency response forces.

Moreover, the field of natural disasters is regulated by the Law of Georgia on Environmental Protection, which stipulates that a citizen is obliged to promptly notify the relevant competent state authorities or publicly announce information about an anticipated or occurred natural (and man-made) disaster and other ecological catastrophes.<sup>30</sup>

The law imposes an obligation on the subject of activity to have operational and systematic measures, agreed upon with the relevant state authorities, to prevent and mitigate the consequences of natural disasters, as well as action plans for emergencies and disasters. The subject must also establish and maintain an emergency response service equipped with technical means for disaster liquidation. The entity is required to promptly inform the relevant state authorities and the population about any anticipated or occurred natural disaster.<sup>31</sup>

The field of natural disasters is also regulated by the Law of Georgia on Water Resources Management, which aims to create the legal framework for water resources management, ensuring, among other things, the creation of a safe environment for human health and life.<sup>32</sup>

The Law establishes that its objective is to create a sustainable, integrated water resource management system that, among others, contributes to the creation of a system for assessing and managing flood risks.<sup>33</sup> The law defines both floods and flood risks. According to its definition, the

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<sup>28</sup> Article 21.1.

<sup>29</sup> March 4, 2015.

<sup>30</sup> December 10, 1996. Article 7.

<sup>31</sup> Article 39(2). Articles 42-44 of the Law regulate issues related to emergency ecological situations.

<sup>32</sup> June 30, 2023. Article 1.1.

<sup>33</sup> Subsection c) of Article 1.2 of the Law.

latter refers to the potential consequences of a flood within a specific period, which may be associated with threats to human life and health, economic and/or social harm, or damage.<sup>34</sup>

The Law establishes a state water resources monitoring system. Specifically, according to Article 32 of the Law, the state water resources monitoring system is a unified system for regular observation and data analysis regarding the hydrological, hydromorphological, hydrogeological, chemical, and ecological conditions of surface water and groundwater bodies, as well as their quantitative and qualitative characteristics. Its purpose is to gather information about the condition of water bodies, their interaction with the environment (both natural and anthropogenic), ongoing natural and anthropogenic processes in river basins, and hazardous and catastrophic events, as well as to analyze, assess, and forecast risk factors.

Article 34 of the Law outlines the mechanisms for managing flood hazards, the procedures for developing flood hazard- and flood risk maps, and defines their content, duration of validity, and the competencies of various authorities involved in the process. This article also sets out the rules for flood hazard management. Specifically, according to this article, the National Environmental Agency conducts a preliminary assessment of flood risk every six years for all river basin districts and identifies areas with significant potential flood risk.<sup>35</sup> The article stipulates that the National Environmental Agency prepares flood hazard maps, while the Emergency Management Agency prepares flood risk maps for all areas identified as having significant potential flood risks. These maps define zones with medium flood probability (at least one event every 100 years), as well as areas with low and high probabilities. In the river basin zones marked as flood risk areas, the maps should also indicate the population at risk and the potential risk to economic activities and the environment.<sup>36</sup>

The Law requires that a flood risk management plan be prepared, which should address flood prevention, protection and readiness, including flood forecasting and early warning systems. Flood risk management plans should be reflected in the river basin/basin district management plan.<sup>37</sup>

Therefore, Georgian legislation establishes flood risk management mechanisms, rules for the development of flood hazard maps and flood risk maps, determines their contents, validity period, and the competence of various agencies in this process. The field of natural disasters is also regulated by other legislative acts, including the Law on the State of Emergency,<sup>38</sup> the Forest Code<sup>39</sup> and the Law on Personal Data Protection.<sup>40</sup>

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<sup>34</sup> Subparagraphs Z<sup>10</sup> and Z<sup>11</sup> of Article 4 of the Law.

<sup>35</sup> Paragraph 1.

<sup>36</sup> Paragraph 2.

<sup>37</sup> Article 34.3.

<sup>38</sup> The first paragraph of the strategy involves the declaration of a state of emergency in the event of a natural disaster, as per the regulations set forth on October 17, 1997.

<sup>39</sup> The Code establishes the competence of the autonomous republic and municipalities to participate in the restoration and cultivation of forests damaged by ecological disasters, as well as the participation of the management body in organizing the restoration and cultivation of forests damaged by ecological disasters, see Article 19, paragraph d), Article 20, paragraph d), and Article 21, paragraph k) of the Law.

<sup>40</sup> Article 5 of the Law provides the basis for data processing. In particular, according to subparagraph "f" of Article 5.1 of the Law, data processing is permitted when it is necessary for the management of natural and man-made disasters.

The most important document regulating the field of natural disasters is the National Strategy for Disaster Risk Reduction of Georgia for 2017-2020 and its Action Plan.<sup>41</sup> The document identifies existing threats, and provides for specific preventive measures and the agencies responsible for these measures. The National Strategy for Disaster Risk Reduction aims to establish a unified system for disaster risk reduction, improve disaster preparedness and response capabilities at the national and local levels, and also increase the effectiveness of response to potential threats, and define measures to reduce the threats, risks, and challenges facing the country caused by natural (and human factors) factors and establishes the main directions of the disaster risk reduction policy. An action plan has been prepared based on the National Strategy for Disaster Risk Reduction, which provides for the measures to be taken to achieve the goals of the strategy and the agencies responsible for their implementation.

The strategy emphasizes that to minimize the negative consequences of various types of disasters, it is crucial to identify, assess, and plan mitigating measures.<sup>42</sup> To reduce disaster risks, it is necessary to establish a response system at the national level. According to the strategy, Georgia's priority in disaster risk reduction policy is the existence of a unified, flexible, continuously functioning, and efficient crisis management system. This system will ensure the coordinated work of the agencies defined by Georgian legislation, enabling the identification, assessment, prevention, management, and rapid mitigation of the negative impacts of disasters caused by natural and human factors.<sup>43</sup>

The strategy emphasizes that “Georgia is a transcontinental country, and due to its complex geographical location, it is highly vulnerable to various types of natural disasters. Georgia's terrain, meteorological conditions, and significant anthropogenic pressure on the environment create favorable conditions for the development of natural disasters such as landslides, mudslides, riverbank erosion, flooding, droughts, hailstorms, erosion, strong winds, wildfires, earthquakes, and other.”<sup>44</sup> According to the strategy, data from recent years indicates that the number of hydrometeorological disasters has increased by an average of 15%, while the number of geological disasters has increased by an average of 58%.

The strategy provides for the integration of early warning and alert systems into the national disaster risk reduction system. Specifically, the strategy states that “to implement effective prevention and response measures within the disaster risk reduction system – and, above all, to ensure the safety of the population – it is essential to establish early warning and alert systems.” The strategy further stipulates the need to develop standards and a unified approach for the alert system, enabling the delivery of appropriate information/signals to the population during crises.<sup>45</sup>

With regard to subordinate legislation regulating the area of natural disasters, the Government of Georgia has adopted several key decrees, including:

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<sup>41</sup> Resolution of the Government of Georgia No. 4, January 11, 2017. See: [<https://matsne.gov.ge/ka/document/view/3547798?publication=1>].

<sup>42</sup> Para. 3 of the Strategy.

<sup>43</sup> Para. 3(2) of the Strategy.

<sup>44</sup> Ibid.

<sup>45</sup> Paragraph 3.5.

a) Technical Regulation No. 51 of 14 January 2014 on the Approval of Civil Safety Engineering and Technical Measures, which is aimed at protecting the population by reducing potential losses and destruction under the impact of hazardous factors during emergencies. It also seeks to create favorable conditions in disaster zones and areas of damage for conducting rescue operations and urgent emergency recovery work. Among other provisions, the regulation establishes that the placement of buildings and structures in areas prone to mudflows, avalanches, and landslides is strictly prohibited.<sup>46</sup>

b) Government Decree No. 508 of 24 September 2015 on the Approval of the National Civil Safety Plan, the article 5 of which provides for the implementation of preventive measures during emergency management, including a) prevention of incidents, hazardous natural events, and processes for the protection of the population and property, through the systematic reduction of accumulated damaging potential and the implementation of engineering and technical measures; b) monitoring and forecasting of emergency threats; c) preparation of emergency risk maps; d) environmental supervision and licensing; e) enhanced readiness of the unified emergency management system and evacuation of the population from potential emergency zones during emergency regimes; f) timely identification of emergency risks, development and implementation of corresponding preventive measures and risk management plans.

The Decree also establishes the procedure for the evacuation of the population from emergency zones and defines the responsibilities of the relevant agencies. In addition, it provides for the existence of an alert system in zones exposed to hazards. Specifically, the Decree stipulates that, in the event of a large-scale emergency threat or its development, the Interagency Operational Center for Emergency Management under the Emergency Management Agency of the Ministry of Internal Affairs shall convene the center based on a pre-developed notification scheme and initiate emergency response measures. These include issuing alerts and informing the relevant agencies and individuals about the situation.<sup>47</sup> Under the same article, based on the information available at the Interagency Operational Center and the Field Operations Center, emergency response and recovery measures are to be planned, including the identification of necessary emergency and rescue resources.<sup>48</sup> One of the key measures for ensuring emergency response management is the declaration of an alert and the dissemination of notifications.

c) Government Decree No. 452 of 6 October 2017 on the Development of Rules for Preparing an Emergency Management Plan stipulates that, when drafting the plan, consideration must be given to the forecast of the real threat of an emergency arising as a result of accidents, disasters, and natural calamities.<sup>49</sup>

d) Government Decree No. 590 of 23 September 2020 on the Approval of the Rules for the Classification of Incidents and Emergencies addresses hydrotechnical accidents, specifically the failure of dams (including embankments, barriers, and similar structures), which can result in destructive waves and catastrophic flooding.

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<sup>46</sup> Article 4.11(b).

<sup>47</sup> Article 9.6 (a).

<sup>48</sup> Sub-paragraph (c).

<sup>49</sup> Article 3.1(a).

As for the reflection of the obligation to protect life from natural disaster-related hazards – stipulated in Article 2 of the European Convention – it is worth noting the following:

In line with the standard established in *Budayeva and Others v. Russia*, Georgian legislation – specifically, the Law on Civil Safety – provides for a wide range of measures aimed at protecting human life and health in the event of a natural disaster.<sup>50</sup> The Law establishes a civil safety system that operates at strategic (political), operational, and tactical levels to implement comprehensive measures for the protection of life and health against incidents or emergencies caused by natural (as well as man-made) factors.<sup>51</sup> To this end, the Law ensures emergency prevention, taking proactive steps to protect the population by identifying and assessing emergency risks. This includes measures aimed at the systematic reduction of the damaging potential of hazardous natural events and processes, as well as the implementation of corresponding engineering and technical interventions. Based on the Law, the state is responsible for managing emergency risks and for the planning and implementation of prevention measures, including those specifically aimed at risk reduction. The Law also mandates the development of emergency management plans.

The Law on Environmental Protection establishes the obligation of the entity carrying out an activity to have, in coordination with the relevant state authorities, operational and systematic measures for the prevention and mitigation of natural disaster consequences, as well as action plans for responding to accidents and disasters. Furthermore, the Law requires the creation and maintenance of a response service equipped with the necessary technical means for emergency elimination, which must be kept in a constant state of readiness.

The Law of Georgia on Water Resource Management provides for the establishment of a flood risk assessment and management system.<sup>52</sup> The Law defines the mechanisms for flood risk management, the procedures for developing flood hazard and risk maps, as well as their content, period of validity, and the competencies of various agencies involved. The Law stipulates the development of a flood risk management plan, which must address flood prevention, protection, and preparedness measures, including flood forecasting and early warning systems. Additionally, these flood risk management plans must be integrated into the river basin and sub-basin management plans.<sup>53</sup>

In line with the spirit of the European Court of Human Rights judgment, Article 5 of Government Decree No. 508 of 24 September 2015 on the Approval of the National Civil Safety Plan provides comprehensive preventive measures during emergency management.

As also derived from the aforementioned ECtHR case, the Law on Civil Safety establishes the obligation of entities within the national civil safety system to develop incident/emergency notification systems, including early warning systems, to ensure the timely transmission of alerts regarding incidents/emergencies, and inform the population about the appropriate behavior and response measures during such events.<sup>54</sup>

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<sup>50</sup> June 27, 2018

<sup>51</sup> Article 4.1.

<sup>52</sup> Article 1.2(c).

<sup>53</sup> Paragraph 3.

<sup>54</sup> See sub-paragraphs (f) and (g);

The Law on Environmental Protection also establishes that the entity carrying out an activity must promptly notify the relevant state authorities and the population of any anticipated or actual natural disaster.<sup>55</sup>

Government Decree No. 508 of 24 September 2015 on the Approval of the National Civil Safety Plan also identifies the declaration of an alert and the issuance of notifications as essential components of emergency response management.

In line with the standard set by the European Court of Human Rights in the *Budayeva* case, Government Decree No. 508 also establishes the procedures for the evacuation of the population from emergency zones. It defines the responsibilities of the competent authorities.

Concerning the obligations arising from the case of *Kolyadenko v. Russia*, these issues are regulated by the Law of Georgia on Water Resource Management, which sets out that one of its objectives is to establish a sustainable and integrated water resource management system that, among other goals, promotes the development of a flood risk assessment and management system.<sup>56</sup> The Law provides for the establishment of a state water resource monitoring system, including mechanisms for flood risk management, procedures for developing flood hazard maps and flood risk maps, and defines their content, validity period, and the responsibilities of the institutions involved in the process. To this end, under the Law, the National Environmental Agency is required to conduct a preliminary flood risk assessment for all river basin districts every six years, identifying areas where there is a potentially significant risk of flooding.<sup>57</sup> Based on this assessment, the National Environmental Agency is responsible for preparing flood hazard maps, while the Emergency Management Service prepares flood risk maps for all areas identified as having potentially significant flood risk.<sup>58</sup>

The Law also stipulates the development of a flood risk management plan, which must address issues of flood prevention, protection, and preparedness, including flood forecasting and early warning systems.

The obligation established in *M. Özel and Others v. Turkey* is reflected in the Code on Spatial Planning, Architectural and Construction Activities of Georgia, which aims, among other objectives, to define fundamental requirements related to the seismic resistance of buildings and structures.<sup>59</sup> According to the Code, spatial and urban planning is based on the principles of sustainable development, which ensure the harmonization of the economic and social preconditions for the use and development of a given territory with disaster risk reduction and environmental protection requirements. To this end, spatial and urban planning in Georgia is carried out with consideration of the country's seismic conditions as part of the spatial and urban planning process.<sup>60</sup>

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<sup>55</sup> Article 39.2.

<sup>56</sup> Article 1.2, subparagraph g.

<sup>57</sup> Paragraph 1.

<sup>58</sup> Para.2. These maps define zones of average probability of flooding (at least one event every 100 years), as well as zones of low and high probability. In the areas of river basins identified as flood risk zones, the number of people potentially at risk, along with the potential risk of damage to economic activities and the environment, must also be indicated.

<sup>59</sup> Article 2.2, subparagraph f.

<sup>60</sup> Article 8.1(p) of the Code.

According to the Code, a building or structure must be designed and constructed in such a way that, during its operation and under the maximum load, its load-bearing structures and engineering systems remain reliable and, throughout its operational lifespan – particularly under seismic impact – comply with the requirements established by the relevant technical regulations.<sup>61</sup>

Under Articles 141<sup>3</sup> and 141<sup>7</sup> of the Code – concerning the temporary procedures for the acceptance into operation of constructions carried out in violation of permitting conditions within the administrative boundaries of Tbilisi and Batumi municipalities, respectively – Paragraph 5 stipulates that an interested party must apply to the public construction supervision authority to have the building accepted for use. This application must be accompanied by an expert opinion issued by an accredited inspection body, confirming the stability and seismic resistance of the building's load-bearing structures.

Georgia also applies the Order of the Minister of Economic Development of Georgia on Construction Norms and Rules – “Seismic-Resistant Construction”. Since the entire territory of Georgia is located in a seismically active zone, the Order establishes construction norms and rules applicable throughout the country, covering the design of newly constructed, reconstructed, reinforced and restored residential, public, and industrial buildings.<sup>62</sup> According to the document, the primary objective of the seismic-resistant construction norms and rules is to ensure the safety of human life.<sup>63</sup>

With regard to the obligations established by the European Court in *Viviani and Others v. Italy*, Georgian legislation – particularly the Law on Civil Safety – provides that emergency risk management must include: the identification of hazards, analysis of emergency risks and their impacts, development of emergency risk management plans based on this analysis, and the planning and implementation of emergency prevention measures, including risk reduction strategies and the preparation of emergency management plans.<sup>64</sup>

In conclusion, it can be noted that Georgian legislation reflects European human rights standards for the protection of human life from risks posed by natural disasters. At the same time, it is important to highlight the adoption of Georgia's National Disaster Risk Reduction Strategy and Action Plan for 2017-2020 as a significant development. However, no such document has been adopted since 2020. Considering the high level of natural disaster risk in the country, the adoption and thorough implementation of an updated strategy and action plan is of critical importance.

## b) Practice

The State bears a positive obligation not only to adopt regulatory legislation aimed at preventing threats caused by natural disasters and safeguarding the right to life, but also to ensure the implementation of practical measures to effectively enforce such legislation.

Due to Georgia's topography, geological structure, and climatic conditions, the country has experienced numerous natural disasters in recent years, some of which have resulted in the loss of

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<sup>61</sup> Article 81.

<sup>62</sup> October 7, 2009. Order N1-1/2284.

<sup>63</sup> 3.4(a).

<sup>64</sup> See sub-paragraphs (a), (b), and (m).

human life. Among them, the 2015 Tbilisi flood and the 2023 disaster in the Racha region stand out due to the particularly high number of casualties.<sup>65</sup> Accordingly, these two cases are analyzed in detail in this paper.

## **1. The Flood in Tbilisi in 2015**

One of the most devastating natural disasters in Georgia in recent years was the flood that occurred in Tbilisi on 13 June 2015. The primary cause of the disaster was the landslide of slopes connecting Tskneti and Betania, combined with intense rainfall, which triggered a flood wave that traveled down to Heroes' Square, destroying everything along its path. The flood resulted in the deaths of 19 individuals, while two remain missing to this day. The disaster destroyed the Tbilisi Zoo and caused substantial material damage to the local population.

According to official reports, the flood was exacerbated by the insufficient water-carrying capacity of the riverbed, which failed to accommodate the rapid flow of stormwater. This, in turn, led to the flooding of adjacent areas. The diminished capacity of the riverbed was attributed to long-term, improperly regulated economic activities along the banks of the Vere River, which partially paralyzed its natural drainage function.<sup>66</sup>

If assessed in light of the standards established by the European Court of Human Rights, the following questions must be posed: Did the State know or ought to have known about the risk of such a natural disaster in this area? And if so, what measures were taken to prevent the loss of human life?

According to publicly available information, a catastrophic flood of similar intensity occurred in the same area in 1961, which also destroyed the zoo.<sup>67</sup> If this is the case, as confirmed by concrete facts, then it is necessary to answer the question: what steps did the state take to prevent the recurrence of such a devastating flood? For example, did the state take into account the danger of a natural disaster when planning the area, including the decision to channel the Vere River through tunnels beneath the Vake-Saburtalo highway and in issuing permits for mass residential construction in this area? Did it ensure the operation of early warning and monitoring systems in this territory? And, in

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<sup>65</sup> "Imereti Governor Confirms That a Father and His 3 Children Were Buried in a Landslide", February 7, 2024, see: [\[https://www.interpressnews.ge/ka/article/786654-imeretis-gubernatori-adasturebs-rom-mecqershi-mama-da-misi-3-shvilia-moqolili\]](https://www.interpressnews.ge/ka/article/786654-imeretis-gubernatori-adasturebs-rom-mecqershi-mama-da-misi-3-shvilia-moqolili); "A Man's Body Found Buried in a Landslide in Kharagauli", July 3, 2023, see: [\[https://www.interpressnews.ge/ka/article/762366-xaragaulshi-micis-masashi-moqolili-kacis-chedari-ipoves\]](https://www.interpressnews.ge/ka/article/762366-xaragaulshi-micis-masashi-moqolili-kacis-chedari-ipoves); "Flood and landslide in Guria – searching for 2 minors and 1 adult," September 8, 2023, see: [\[https://netgazeti.ge/life/686823/\]](https://netgazeti.ge/life/686823/); "Rescuers found the body of a tourist in the disaster zone in Pshavi – Emergency Management Service," June 27, 2022, see: [\[https://www.radiotavisupleba.ge/a/31918143.html?fbclid=IwZXh0bgNhZW0CMTEAAR3fD4Dqydkr0j\\_QDSV9Z-03VJaSsAWrD\\_d9074IC9pmi5PcHfx5fB5hMzE\\_aem\\_GXbrlzAl464MCPSaSmoeGw\]](https://www.radiotavisupleba.ge/a/31918143.html?fbclid=IwZXh0bgNhZW0CMTEAAR3fD4Dqydkr0j_QDSV9Z-03VJaSsAWrD_d9074IC9pmi5PcHfx5fB5hMzE_aem_GXbrlzAl464MCPSaSmoeGw); "What caused the disaster in the Dariali Gorge", May 17, 2014, see: [\[https://netgazeti.ge/news/31818/\]](https://netgazeti.ge/news/31818/).

<sup>66</sup> "CENN Publishes Report on Causes of Catastrophic Flooding of the Vere River", June 19, 2015. See: [\[https://www.interpressnews.ge/ka/article/335474-cenn-i-mdinare-veres-katastropuli-cqaldidobis-mizezebis-shesaxeb-angarishs-akveqnebs\]](https://www.interpressnews.ge/ka/article/335474-cenn-i-mdinare-veres-katastropuli-cqaldidobis-mizezebis-shesaxeb-angarishs-akveqnebs).

<sup>67</sup> "CENN Publishes Report on Causes of Catastrophic Flooding of the Vere River", June 19, 2015. See: [\[https://www.interpressnews.ge/ka/article/335474-cenn-i-mdinare-veres-katastropuli-cqaldidobis-mizezebis-shesaxeb-angarishs-akveqnebs\]](https://www.interpressnews.ge/ka/article/335474-cenn-i-mdinare-veres-katastropuli-cqaldidobis-mizezebis-shesaxeb-angarishs-akveqnebs).

general, what measures did the state take to prevent or at least minimize the threat to human life in this area?

In the process of drafting this paper, no information was found that would confirm that: the state took any steps to prevent the devastating consequences of the flood; the state considered the threat of a natural disaster during the planning of the area, including the channeling of the Vere River into tunnels beneath the Vake-Saburtalo highway and the issuance of permits for mass residential construction; the state ensured the operation of early warning and monitoring systems in this area; or that the state implemented measures to prevent or minimize the threat to human life in this territory.

Based on the answers to the above questions, the European Court will assess whether the state fulfilled its positive obligation, especially considering that a complaint has already been submitted to the European Court concerning the June 13, 2015 flood on behalf of an affected individual.<sup>68</sup>

## **2. Racha (Shovi) Disaster in 2023**

A large-scale natural disaster occurred in Racha on August 3, 2023. Specifically, a landslide struck the area of the Shovi resort, taking the lives of 33 people, while one minor is considered missing without a trace.<sup>69</sup>

Regarding this natural event, Georgia's National Environmental Agency prepared a report stating: [w]ithin the territory of Georgia, the Bubistskali River valley on the southern slope of the Caucasus had been considered one of the rare exceptions before the August 3, 2023 disaster, where no significant mudflow activity had been recorded over the previous 100 years, except for isolated flash floods within the riverbed.”<sup>70</sup> According to the report, “[t]he sudden and simultaneous formation of the complex natural disaster on August 3, 2023, was influenced by multiple factors. It is practically impossible to accurately predict the timing of the initiation and activation of such events worldwide.”<sup>71</sup> The report by the National Environmental Agency also states that “[t]he average velocity of the mudflow mass movement was 18-24 m/s. It would have taken the mudflow 7.5–10 minutes to reach the so-called cottage area of Shovi from the disaster initiation zone.”<sup>72</sup> Furthermore, “[c]onsidering the rapid development of the disaster and the short distance between the initiation zone and the settlement, the installation of an early warning system for such a large-scale, complex-genesis disaster could not have been effective in preventing the resulting consequences.”<sup>73</sup> The report also notes that, given the natural hazards, “within the Bubistskali River valley, in the area affected by the disaster (26 ha), the development of any new infrastructure and the functioning of existing buildings is inadmissible.”<sup>74</sup>

<sup>68</sup> On June 13, 2015, GYLA appealed to the European Court of Human Rights regarding the case of Davit Gabitashvili, who died in the Vere Gorge, June 13, 2024, see: [<https://www.interpressnews.ge/ka/article/803120-saia-m-2015-clis-13-ivniss-veres-xeobashi-dagupuli-davit-gabitashvilis-sakmeze-adamianis-uplebata-evropul-sasamartlos-mimarta>].

<sup>69</sup> “Lasha Sukhishvili summoned to the investigative service after publication of new materials on the Shovi disaster”, August 9, 2024, see: [<https://netgazeti.ge/news/735769/>].

<sup>70</sup> “The warning system in Shovi would not have been effective – the agency's final conclusion”, February 16, 2024, see: [<https://netgazeti.ge/news/709748/>].

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

What conclusions can be drawn from the document prepared by Georgia's National Environmental Agency?

The first conclusion is that, although such a mudflow had not occurred in the past 100 years, the agency did not rule out the possibility of such an event. According to its position, this was not a hypothetical probability – something that happened a century ago and could never happen again – since the agency mentioned “isolated flash floods within the riverbed.”

The second conclusion is that the natural disaster of August 3, 2023, developed instantaneously and resulted from the convergence of multiple factors – in other words, the event did not evolve gradually or in stages, but rather was triggered by several simultaneous conditions. Since the agency noted that predicting the development of such events is impossible not only in Georgia but also in other countries around the world, one can conclude that, in its view, neither in Georgia nor elsewhere could the exact timing of such a disaster have been foreseen – and the people who found themselves in the path of the mudflow were, from the outset, doomed to die due to the convergence of these factors.

The third conclusion is that, since the movement of the mudflow mass was extremely fast and the mudflow would have reached the so-called cottage area in Shovi from the activation zone within 7.5–10 minutes, the installation of an alert system would not have prevented the resulting consequences. In other words, even if such an alert system had been in place, it would not have saved the people present there. Notably, the National Environmental Agency's conclusion refers only to the alert system and does not mention the usefulness of early warning and pre-alert systems in such situations for preventing danger to life. The importance of pre-alert and early warning systems is emphasized in a report by the Institute of Earth Sciences and the National Center for Seismic Monitoring of Ilia State University, which stated: “[i]f pre-alert and early warning systems had existed, information would have been available two hours in advance, and it would have been possible to issue an alert.”<sup>75</sup> This means that, according to the Institute, if early warning systems had been in place and an alert issued two hours in advance, it would have been possible to save the people who were there.

If this natural disaster is assessed based on the standards established in the case law of the European Court of Human Rights, as was done above in the case of the 2015 Tbilisi flood, the following questions must be asked: Did the state know or should it have known about the risk of a disaster in the Shovi resort area, and if it did, what did it do to prevent its devastating consequences? Based on the answers to these questions, the European Court will assess whether the state fulfilled its positive obligation to protect the right to life.

As for the question of whether the state knew or should have known about the risk of a natural disaster in the Shovi resort area – according to the conclusion prepared by Georgia's National

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<sup>75</sup> New materials on the study of the Shovi 2023 natural disaster, see: [<https://ies.iliauni.edu.ge/>], [Accessed: August 22, 2024]. A similar position is held by Swiss specialists who were invited to study the Shovi natural disasters: “By installing a monitoring system, a negative development (destabilization of the rock formation) can be detected at an early stage. In this way, early warning of an impending event can be given and people can be evacuated.” “What the Government is Concealing in Final Report on Shovi Tragedy”, 15 March, 2024, [<https://sakartvelosambebi.ge/en/news/what-the-government-is-concealing-in-final-report-on-shovi-tragedy>]. [Accessed: August 22, 2024].

Environment Agency, it did – in other words, the state was aware of the probability of a natural disaster in this area. In addition to the mudflow that occurred a hundred years ago, there had been flash floods within the riverbed, which are also indicative of danger.

There is no doubt that the state was aware of the landslide risk in the Shovi resort zone, as confirmed by the document prepared by the National Environmental Agency in 2021 – “Geological Bulletin: Results of the Development of Hazardous Geological Processes in Georgia in 2021 and Forecast for 2022.”<sup>76</sup> This document explicitly states that there is a high risk of landslides and that landslide activity poses a threat to the central highway and the infrastructure of the Shovi resort. According to the same report, landslide flows occur on average 2–3 times per year. Regarding necessary actions, the report states that the Dgviora River requires periodic cleaning, deepening, and reinforcement of its banks.<sup>77</sup>

If the state was aware of the natural disaster risk in Shovi (as confirmed above), then the question must be asked: what steps did the state take to protect human lives from this risk? For instance, did the state take the threat into account in the planning of the area? Did it ensure the operation of early warning and monitoring systems in this location? Was the public – and specifically the visitors to the Shovi resort zone – informed of the landslide risk? And more generally, what measures did the state take to prevent or at least minimize the danger to human life in this area?

As for the question of whether the state took the natural disaster risk into account when planning the area, it is noteworthy that the Oni Municipal Council adopted a resolution on 22 December 2022 “On the Approval of the Land Use Regulation Plan for the Shovi Resort of Oni Municipality.”<sup>78</sup> The Council did not refrain from deciding on development in the Shovi resort zone despite the potential threat of a natural disaster to human life. By adopting such a decision, it created a potential risk to human life.

The fact that the operation of buildings and structures in the Shovi resort area was inadmissible was confirmed by the National Environmental Agency of Georgia in its report, which states that “it is inadmissible to establish any new infrastructure or to allow the operation of existing buildings and structures.”<sup>79</sup>

As for the question of whether the state ensured the functioning of an early warning and monitoring system in the Shovi resort area, such a system was not in operation, despite the fact that establishing it was not merely a matter of goodwill but a legal obligation of the state. Specifically, the creation of an early warning and alarm system is envisaged by Georgia’s National Strategy for

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<sup>76</sup> See.: [[https://greenalt.org/app/uploads/2024/02/geologiuri-biuleteni-2021\\_2022.pdf](https://greenalt.org/app/uploads/2024/02/geologiuri-biuleteni-2021_2022.pdf)].

<sup>77</sup> Ibid. That the state knew about the danger of mudslides in the Shovi resort zone, confirms the scientist, geologist and former Minister of Environmental Protection (1992-1995) Shota Adamia. Negligence is an understatement, this is a crime. Already 19 dead – Geologist Shota Adamia, August 9, 2023, see: [<https://mtisambebi.ge/news/item/1648?fbclid=IwAR2av3RAJWA1Z-BQopDasDaz33ksE7tw1n2MdxxU5X0csN4RzWVBpcujgL8>].

<sup>78</sup> Decree N33, see.: [<https://matsne.gov.ge/ka/document/view/5648376?publication=0>].

<sup>79</sup> “The Shovi Alarm System Could Not Have Been Effective – The Agency’s Final Conclusion”, February 16, 2024, see: [<https://netgazeti.ge/news/709748/>]. Cf., “Kobakhidze Announces Construction of Church at Shovi Tragedy Site and Meeting with Families of Victims”, August 3, 2024, see: [<https://netgazeti.ge/news/734127/>].

Disaster Risk Reduction 2017-2020.<sup>80</sup> According to the Strategy, it is essential to develop alarm system standards and a unified approach that would enable the delivery of relevant information or signals to the population in times of crisis.<sup>81</sup>

Furthermore, under the Statute of the Emergency Management Service, one of the functions of the Emergency Management Service is to “organize the creation and development of an early warning system about potential or actual emergencies within its scope of competence.”<sup>82</sup>

A question arises: Would the early warning system have ensured the survival of the people present there?

As indicated in the conclusion of the Georgia’s Environmental National Agency, “[t]he debris flow should have reached the so-called cottage area of Shovi within 7.5-10 minutes from the zone of formation and activation of the disaster.” Based on this, the question must be addressed: If the state had taken measures to prevent or minimize the threat to human life in the area, would it have been possible to save people within the 7.5-10 minute window, if an early warning system had been in place? The Minister of Environment responded to this question, stating that “The disaster in Shovi developed so quickly that even if an early warning system had been installed, the outcome may not have been different.”<sup>83</sup> A differing opinion was expressed by the Deputy Director of the Institute of Earth Sciences at Ilia State University, who argued that “[i]f the public had been informed in advance, people could have saved themselves within that time frame. A short text message or signal could have been used to warn people in the high-risk zone.”<sup>84</sup> However, regardless of these differing viewpoints, the fact remains that the system was not operational. As a result, the people present in the disaster zone did not receive the warning.

As for whether the public, including vacationers in the Shovi resort area, was aware of the risk of debris flow, there is enough grounds to argue that the public was not informed about the potential danger.<sup>85</sup> It is reasonable to assume that the vacationers in the Shovi resort area were unaware of the theoretical possibility of such a disaster. Therefore, it can be concluded that the state failed to provide public information about the threat.

Regarding the general question of what measures the state took to prevent or minimize the risk to human life in this area, based on information disseminated by the media, the Deputy Head of the Hydrometeorology Department of the Environmental National Agency stated, “[a] very large-scale disaster occurred, a typical glacial debris flow; we are dealing with a fairly large volume. The

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<sup>80</sup> Resolution of the Government of Georgia No. 4, January 11, 2017. See: [<https://matsne.gov.ge/ka/document/view/3547798?publication=1>].

<sup>81</sup> Paragraph 3(5).

<sup>82</sup> Order of the Minister of Internal Affairs of Georgia No. 24 “On Approval of the Regulations of the State Sub-Departmental Institution within the Sphere of Governance of the Ministry of Internal Affairs of Georgia – Emergency Management Service”, March 29, 2019, see: [<https://matsne.gov.ge/ka/document/view/4522158?publication=4>]. Article 5, paragraph 1, subparagraph “n”.

<sup>83</sup> “What will happen in 8-10 minutes when a flood comes?”, August 7, 2023, see: [<https://www.radiotavisupleba.ge>].

<sup>84</sup> Ibid.

<sup>85</sup> According to media reports, some local residents were aware of such a threat and tried to draw the attention of local authorities to the problem.

processes can be assessed in advance, but predicting when and at what time it will happen is practically impossible, and no one can say this.”<sup>86</sup> If, as the responsible official from the Environmental National Agency asserts, “the processes can be assessed in advance,” the question arises: why were appropriate measures not taken based on this assessment, measures that would have prevented the loss of life or minimized its impact? Among such measures could have been a ban on entry to the Shovi resort area or, at the very least, public warnings about the potential danger to life in the area.

Regarding the measures that the state should have taken to prevent or minimize the threat to human life, it is important to note that the National Disaster Risk Reduction Strategy for 2017-2020 stipulates that to minimize the negative consequences of various types of disasters, disaster risk identification, assessment, and planning of mitigation measures must be carried out in advance.<sup>87</sup> Additionally, the law outlines that one of the functions of the Emergency Management Service is to continuously identify, analyze, and assess risks, and to plan preventive measures and projects to reduce those risks.<sup>88</sup> As a result, the legislation requires the implementation of preventive measures; however, information about the measures taken by the state to prevent such threats to human life is not accessible.

It is true that the Racha disaster could not be prevented, but according to media reports, by the end of 2024, the state will ensure the operation of 245 hydrometeorological observation stations across the country. Additionally, early warning systems will be set up in areas particularly vulnerable to flooding,<sup>89</sup> and there are plans to assess glacial and landslide zones throughout the country.<sup>90</sup>

#### **4. Conclusion**

Based on the analysis of the regulatory legislation aimed at preventing natural disasters in Georgia, it can be concluded that Georgian legislation adequately reflects European human rights

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<sup>86</sup> “Deputy Head of the Hydrometeorology Department – A large-scale disaster occurred in Shovi. Such events are caused not only in Georgia, but also worldwide by global warming”, August 4, 2023, see: [<https://1tv.ge/news/hidrometeorologii-departamentis-ufrosis-moadgile-shovshi-masshtaburi-stiqia-mokhda-msgavsi-tipis-movlenebi-ara-marto-saqartveloshi-aramed-msoflios-masshtabit-globaluri-datbobis-shedegad-gamowveu/>].

<sup>87</sup> Resolution of the Government of Georgia No. 4, January 11, 2017. See: [<https://matsne.gov.ge/ka/document/view/3547798?publication=1>], para. 3 of the strategy

<sup>88</sup> Order of the Minister of Internal Affairs of Georgia No. 24 “On Approval of the Regulations of the State Sub-Departmental Institution within the Sphere of Governance of the Ministry of Internal Affairs of Georgia – Emergency Management Service”, March 29, 2019, see: [<https://matsne.gov.ge/ka/document/view/4522158?publication=4>]. Article 39(j).

<sup>89</sup> “Otar Shamugia – By the end of the year, 245 hydrometeorological observation stations will be operational across the country – early warning systems will be established in communities particularly vulnerable to floods”, February 6, 2024, see: [<https://www.interpressnews.ge/ka/article/786555-otar-shamugia-clis-bolos-kveqnis-masshtabit-imushavebs-245-dakvirvebis-hidrometeo-sadguri-cqaldidobebis-mimart-gansakutrebit-mocqvlad-temebshi-moecqoba-adreuli-gaprtxilebis-sistemebi>].

<sup>90</sup> “Otar Shamugia – We are planning to assess glacial valleys and landslide areas throughout the country”, February 16, 2024, see: [<https://www.interpressnews.ge/ka/article/787986-otar-shamugia-vgegmavt-mqinvaruli-xeobebisa-da-mecqruli-ubnebis-shepasebas-mteli-kveqnis-masshtabit>].

standards concerning the protection of human life from dangers posed by natural disasters. In addition to legislation, an important development in the country was the adoption of the National Disaster Risk Reduction Strategy and Action Plan for 2017-2020, which aimed to support the implementation of the legal framework. Considering the high risks of natural disasters in Georgia, it was necessary to adopt a similar document for the following period; however, no such document was adopted. Therefore, it is important to adopt and rigorously implement a new strategy and action plan.

As for the practice of natural disaster prevention in Georgia, the paper assesses the practical measures taken by the state in response to the most significant natural disasters of recent years: the 2015 Tbilisi flood and the 2023 Racha (Shovi) disaster. In line with the case law of the European Court of Human Rights, these two events raise several important questions. The answers to these questions will determine whether the state fulfilled its positive obligation to protect the right to life in relation to these events.

Regarding the 2015 flood, the paper raises the question: did the state know, or should it have known, about the danger in the area where the disaster occurred? Based on the available information, the paper answers this question in the affirmative. Consequently, additional questions arise: what steps did the state take to prevent the devastating outcome of the flood? Did the state consider the risk of natural disasters in the urban planning of this area, particularly the placement of the Vere River in underground tunnels beneath the Vake-Saburtalo highway and the issuance of permits for mass residential construction in this location? Did the state ensure the operation of early warning and monitoring systems in the area? More generally, what measures did the state take to prevent or minimize threats to human life in this area?

During the preparation of this paper, no evidence was found to indicate that: the state took any steps to prevent the devastating outcome of the flood; the state took into account the risk of natural disaster in the urban planning of this area, including the location of the Vere River in tunnels under the Vake-Saburtalo highway or in issuing permits for mass residential construction; the state ensured the functioning of early warning and monitoring systems in this area; or, more broadly, that the state implemented measures to prevent or minimize threats to human life in this area.

As for the 2023 disaster in Racha (Shovi), similar questions are raised: did the state know, or should it have known, about the risk of disaster in the Shovi resort area? Based on specific evidence, the paper asserts that the state did know about the risk of landslides in the Shovi resort zone. If this is the case, further questions arise: what steps did the state take to protect human life from this threat? Did the state consider the risk of disaster in the planning of the area? Did it ensure the operation of early warning and monitoring systems? Was the public – and, more specifically, the vacationers in Shovi – aware of the risk of landslides? And more generally, what measures did the state take to prevent or minimize the danger to human life in this area?

Based on the analysis of available information, the paper draws several conclusions: the state did not take appropriate steps to protect human life from the risk of disaster; the state did not take the disaster risk into account in the planning of the area; the state did not ensure the functioning of early warning and monitoring systems in the affected area; the public – and, in particular, vacationers in the Shovi resort – were not aware of the risk of landslides; and, in general, the state did not implement effective measures to prevent or minimize threats to human life in the area.

Although the study concludes that the state failed to fulfill its positive obligation to protect the right to life in substantive terms, the questions raised regarding both natural disasters should ultimately be answered by the investigation. However, regardless of the investigation's findings, it is highly likely that, in the end, the European Court of Human Rights will assess whether the state fulfilled its positive obligation to protect the right to life in relation to these natural disasters.

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