

HUMAN RIGHTS AMID NATURAL DISASTERS



ADVOCACY DOCUMENT

Concerning the legislation and practice of handling the risks of natural disasters in Georgia, in light of the events developed in Racha and Guria in 2023



**GEORGIAN
YOUNG
LAWYERS'
ASSOCIATION**

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**Tbilisi
2023**

Published by Georgian Young Lawyers' Association with the financial support of the Open Society Georgia Foundation. The views, opinions and statements expressed by the authors and those providing comments are theirs only and do not necessarily reflect the position of the Foundation. Therefore, the Open Society Georgia Foundation is not responsible for the content of the information material.



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The organization would like to express its gratitude to Mr. Jemal Chkadua, a GYLA criminal lawyer, for his assistance in preparing the document.

The report has been edited and printed by the Georgian Young Lawyers' Association.

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INTRODUCTION

The frequent occurrence of natural disasters in Georgia, coupled with ineffective response mechanisms, poses a daily threat to human health, life, and proper development. The right to life obliges the State to take appropriate steps within its jurisdiction¹, which, among other things, include the necessity to defend people against threats that do not originate directly from the State.² The European standard for the protection of human rights requires precautions to be taken to prevent loss of life during natural disasters, even when the natural disasters are beyond human control.³ The State should have an appropriate legal framework in place that would provide an infrastructure of sufficient warnings and protection in risk-bearing areas, oversee the operations in such places, and remedy and implement various corrective measures if deficiencies are found.⁴ Even in the event of fatalities, the statutory warranties should not cease to be applicable. In such situations, the relevant authorities are obliged to initiate a timely, unbiased, and independent investigation that allows them to establish the true circumstances surrounding a natural disaster. In addition to fact-finding, the investigation ought to pinpoint any institutional weaknesses and responsible parties who intentionally or negligently contributed⁵ to the development of the chain of natural events.

This paper looks into the circumstances surrounding the natural disasters that struck Racha in August 2023 and Guria in September 2023 in order to raise some important questions regarding the causes behind the natural disasters as well as the efficiency of the management of the rescue efforts. The questions must not go unanswered by the relevant authorities, since the State bears various responsibilities when it comes to safeguarding human life, and these obligations must be aligned with the challenges posed by natural disasters.⁶

It should be noted that there has been a considerable decline in the quality of accessibility to public information in the country.⁷ For this reason, the document seeks, along with retrieving the public information, to publish content that reviews the current legal framework and identifies the circumstances, all of which require further investigation, research, and analysis in order to determine what caused the tragedies in Racha and Guria, whether it was possible to prevent human casualties, who must be held responsible, and what measures should be taken to avert comparable threats in the future. The GYLA intends to provide the public with a thorough account of the responses that the agencies return when the legally mandated time limits for obtaining public information have expired.

As regards the methodology, the advocacy document **analyzes Georgian legislation** pertaining to the risk management of natural disasters. In particular, it reviews the regulations that

¹ *Paul and Audrey Edwards v. the United Kingdom*, no. 46477/99, 2002.03.14, § 54.

² *Öneryıldız v. Turkey [GC]*, no. 48939/99, 2004.11.30, § 71.

³ *Budayeva and Others v. Russia*, nos. 15339/02, 21166/02, 20058/02, 11673/02, and 15343/02, 2008.03.20 § 135.

⁴ *Budayeva and Others v. Russia*, nos. 15339/02, 21166/02, 20058/02, 11673/02, and 15343/02, 2008.03.20 § 158-160

⁵ *Öneryıldız v. Turkey [GC]*, no. 48939/99, 2004.11.30, § 94.

⁶ The State may violate the right to life if, in case of necessity, it fails to build proper structures, provide an early warning system, properly plan the development, or draw up an evacuation plan, etc. It should always be taken into account how foreseeable a natural event was for the State and what it did to avoid severe consequences.

⁷ See IDFI, *Access to Public Information in Georgia 2022*, available at: https://idfi.ge/public/upload/00_studies/2023/access_to_public_information_in_georgia_2022.pdf, [26.10.2023].

apply in this respect in the country, both at the central and local levels, as well as the duties assigned to state authorities for the efficient implementation of risk management during natural disasters. The paper also lists Georgia's **international commitments** under numerous international agreements and action plans as well as emphasizes the necessity of fulfilling these obligations in a timely and efficient manner. The document also examines the **existing policy documents**, strategies, and action plans in the country in the field of natural disaster risk management in order to better visualize the challenges and needs the State is facing; also, how the goals and specific actions defined by these documents are fulfilled. Based on publicly available official documents and information disseminated by the media, the paper describes problems, challenges, and alleged violations that might have occurred when state bodies in Racha and Guria carried out operations linked to handling the risks posed by the natural disaster. The document also highlights international standards for conducting **effective investigations** and identifies shortcomings in the current investigative process.

1. FACTUAL INFORMATION CONCERNING THE EVENTS DEVELOPED IN RACHA AND GURIA IN 2023

1.1. Shovi, Racha

According to the official data for September 2023, 32 people lost their lives in the landslide that occurred in Shovi, Racha, on August 3, 2023.⁸ Based on a report prepared by the National Environmental Agency of Georgia (hereinafter the “Agency”), on August 3, the convergence of five natural geological and hydro-meteorological processes (intense melting of glaciers; heavy precipitation in the form of rain; collapsing of rock avalanches in the headwaters; landslide-erosive processes; and the passage of mudslides) occurred in the Bubisskali River valley, which led to the formation of an extreme mudflow.⁹ The Agency also indicates that in the last 100 years, “there has not been any significant passage of mudflows”¹⁰ in the Bubisskali River valley. According to the report, “*the processes were triggered by the recent rise in ambient air temperature, the intense melting of glaciers caused by climate change, and the accompanying atmospheric precipitations.*”¹¹

According to the 2021 Geological Bulletin published by the LEPL National Environmental Agency, “**Shovi is located in an area that is particularly strained by natural geological processes**”¹². Although the bulletin outlines the hazards that the flood processes in the river Dzhghviora and its bed pose for the Shovi infrastructure, it is evident that the Shovi resort is located in a high-risk area. This means that any possible risks and threats had to be thoroughly examined, analyzed, and monitored¹³, especially given that the local population over the years had often informed the local authorities about the dangers arising from the Bubisskali River, urging them to have the river banks fortified and general interest displayed in the Shovi’s conditions.¹⁴

Based on the aforementioned information, it is imperative to provide pertinent and substantiated answers to all the queries concerning the events that took place in Shovi, as well as to identify the responsible entities whose tasks included preventing the disaster and preparing an adequate response to the natural disaster.

⁸ The Ministry of Internal Affairs of Georgia, “Search and rescue operation in the disaster zone continues - rescuers have found another body” (10 September 2023), available at: <https://shorturl.at/svU29>, last accessed: 18.09.2023.

⁹ National Environmental Agency, “Initial assessment of the natural events developed in the river Bubisskali Gorge (Chanchakhi River basin) on August 3, 2023, page 5, available at: <https://nea.gov.ge/ge/News/1178>, last accessed: 15.09.2023.

¹⁰ Ibid., page 2.

¹¹ Ibid., page 5.

¹² LEPL National Environmental Agency, “Geological Bulletin” (2021), available at: <https://greenalt.org/mwvane-alternativas-ganckhadeba-shovshi-ganvitarebul-movlenebze/>, last accessed: 15.09.2023.

¹³ Ibid.

¹⁴ “National Environmental Agency: Shovi tragedy has been caused by the convergence of multiple factors”, Civil.ge, available at: <https://civil.ge/ka/archives/554651>, last accessed: 15.09.2023; Information disseminated through the social network Facebook in 2020, available at: <https://shorturl.at/opwFK>, last accessed: 15.09.2023.

1.2. Lanchkhuti and Ozurgeti municipalities, Guria

On September 8, 2023, a landslide and flood caused by heavy rainfall in Guria claimed the lives of three individuals.¹⁵The bodies of two minor children were found in the village of Jumati, and the body of an adult in the village of Silauri.¹⁶Residential houses and infrastructural facilities were damaged in Ozurgeti and Lanchkhuti municipalities.¹⁷ Thirty-five families were advised to relocate to geologically stable places.¹⁸ The developments in Guria have once again demonstrated the importance of thoroughly examining Georgia’s natural disaster management system and identifying the entities whose duty it is to safeguard public safety in the country.

¹⁵ “Three individuals die as a result of the landslide in Guria”, Civil.ge (08 September 2023), available at: <https://civil.ge/ka/archives/558359>, last accessed: 15.09.2023; “Flood and landslide in Guria — 2 minors and 1 adult are being sought”, netgazeti.ge (8 September 2023), available at: <https://netgazeti.ge/life/686823/>, last accessed: 15.09.2023.

¹⁶ Ibid.

¹⁷ National Environmental Agency, “Teams of the Agency specialists remain in the area of disaster and continue to study the developments in the region” (10 September 2023), available at: <https://nea.gov.ge/Ge/News/1190>, last accessed: 18.09.2023.

¹⁸ National Environmental Agency, “The Agency’s teams of specialists remain in the disaster zone and continue to study developments in the region” (10 September 2023), available at: <https://nea.gov.ge/Ge/News/1190>, last accessed: 18.09.2023.

I. THE RIGHT TO LIVE IN A HEALTHY AND SAFE ENVIRONMENT: WHAT OBLIGATIONS DOES THE STATE HAVE?

The modern world, and Georgia among them, is facing a planetary issue. Climate change, loss of biodiversity, and pollution (water, air, land pollution) pose threats to human life, safety, and health.¹⁹ The list of hazards linked to climate change is not exhaustive; among the negative effects of climate change are frequent and increasingly intense natural disasters such as floods, landslides, mudflows, droughts, and heat waves.²⁰

The detrimental effects of climate change are already evident in Georgia today. In particular, the frequency of natural disasters such as landslides, mudflows, avalanches, droughts, floods, etc., has already noticeably increased in the country, endangering people and their ability to develop.²¹ Therefore, in order to safeguard human rights and ensure their dignified existence, Georgia must promptly and effectively fulfill its responsibilities under the Georgian Constitution and international agreements, implement all necessary measures to adapt to the effects of climate change, and prevent or minimize the threats posed by natural disasters.

According to the Constitution of Georgia, the right to live in a healthy environment is enshrined under Article 29. As stated in the article, everyone has the right to live in an environment harmless to health and enjoy the natural environment and public spaces. The appropriate protection of this right, in turn, is crucial for the proper enjoyment of basic human rights such as the right to life, health, development, etc. For the effective protection of the right, the State is obliged to carry out a number of preventive and mitigating measures and protect people from environmental pollution, its degradation, and dangers arising from natural disasters.

Georgia has a range of commitments assumed under various **international agreements** in the fields of climate change and environmental protection. Among them are a number of environmental obligations in terms of climate change under the **Paris Agreement** of 2015 and the **Association Agreement of Georgia with the European Union**. These responsibilities also include the requirement to take relevant measures to adapt to climate change. The Association Agreement of Georgia with the European Union stipulates the necessity for the development of cooperation between Georgia and the European Union in order to prevent, prepare, and respond to disasters caused by natural and human factors.²² It is noteworthy that in order to prevent and mitigate the hazards that natural disasters may pose, it is also important to approximate the legislation of Georgia with several environmental directives, the implementation of which is Georgia's obligation under the Association Agreement. These

¹⁹ Office of the United Nations High Commissioner for Human Rights ('OHCHR'), 'Safe Climate: A Report of the Special Rapporteur on Human Rights and the Environment' (2019) UN Doc A/74/161.

²⁰ United Nations Environment Programme, 'Climate Change and Human Rights' (2015) 1-3, Available at: <https://www.unep.org/resources/report/climate-change-and-human-rights>, last accessed: 14.09.2023.

²¹ Climate Forum East (CFE) and Georgia National Network on Climate Change, 'National Climate Vulnerability Assessment: Georgia' (2014), available at: http://drr-southcaucasus.org/uploads/files/CVA_Georgia_Eng_-_II.pdf, last accessed: 14.09.2023.

²² Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, [2014] OJ L 261/4, Article 279, available at: <https://bit.ly/3xEqrTo>, last accessed: 14.09.2023.

directives include the requirements for the proper protection and sustainable management of various components of the environment, including forests, water, and air; an impact assessment on the environment, and other environment-oriented directions.²³

The requirement of adaptation to climate change is also included in **Georgia's Updated Nationally Determined Contribution (NDC)** document.²⁴ Chapter 5 of the document lists a number of areas that need to be studied and assessed in order to properly plan adaptation measures. According to paragraph 68 of the document, *Georgia intends to facilitate the implementation of measures aimed at reducing losses and damages caused by extreme weather conditions*. Despite the fact that Georgia does not explicitly commit to implementing the adaptation measures and instead mainly focuses on recognizing the necessity of assessing the adaptation needs and facilitating the implementation of various adaptation measures, the Constitution of Georgia requires that the State must effectively protect basic human rights, including those against natural disasters.

It should be noted that Georgia does not have any national climate change adaptation plan, which is a crucial document given the growing vulnerability of different regions of Georgia and sectors to climate change and frequent natural disasters.²⁵ Therefore, it is imperative that the government of Georgia act in accordance with its commitment and develop the national plan in a timely manner, for which it has already secured funding.²⁶

Sendai Action Plan - Georgia is also a signatory state to the Sendai Framework Document. The Sendai Framework Program for Disaster Risk Reduction (2015-2030) is the key international document adopted by the United Nations in 2015, the purpose of which is to significantly reduce impacts of natural disasters on human life and health, prevent and drastically minimize potential material and financial losses.²⁷

In order to handle the risks associated with natural disasters, the document provides four key requirements:

1. **Understanding disaster risks:** The member States should collect relevant information, analyze, and continuously monitor risks, as well as **develop early warning systems**.
2. **Strengthening disaster risk management systems:** The member States should prepare relevant legislation, adopt corresponding regulations, and declare disaster risk reduction their priority;
3. **Making investments to ensure the sustainability of disaster risk reduction:** The member States should direct public and private investments toward preventing and

²³ Ibid., Chapter 3.

²⁴ Georgia's Updated Nationally Determined Contribution (NDC) (2021), Chapter 5, available at: <https://mepa.gov.ge/Files/ViewFile/50125>, last viewed: 15.09.2023.

²⁵ Environmental Protection and Natural Resources Committee of the Parliament of Georgia, "Green Book of the Climate Law of Georgia" (2023), p.32.

²⁶ Ibid.

²⁷ UN, Sendai Framework for Disaster Risk Reduction (2015-2030), available at: <https://www.undrr.org/publication/sendai-framework-disaster-risk-reduction-2015-2030>, last accessed: 15.09.2023.

minimizing disaster risks. They must create appropriate, risk-resilient infrastructure and provide necessary defense mechanisms.

4. **Readiness for effective response and recovery:** The member States should develop action plans and strategies, involve stakeholders in the process and increase the capacities needed for disaster response and recovery.

It should be noted that, in addition to the right to life, environmental issues are also related to legal guarantees such as the right to a fair trial, the right to private and family life, the right to an effective remedy, and the right to own property. When investigating the circumstances relating to natural disasters, the right to **have access to information** is particularly important as well. The Constitution of Georgia explicitly stipulates that “[...] *everyone has the right to timely receive exhaustive information about the state of the environment. [...]*”²⁸ This right is guaranteed by Article 42, paragraph “a” of the General Administrative Code of Georgia, according to which information on the environment is included in the list of information that cannot be classified as secret. The provision states that “*everyone has the right to obtain information about the environment, as well as data about any hazards that may threaten their life or health*”. Therefore, the State has to demonstrate particular care in releasing such information. Access to information is one of the procedural rights enshrined under the Aarhus Convention.²⁹ According to the case-law of the European Court of Human Rights, any information related to the environment must be fully provided to those who wish to receive such information, whereas providing inaccurate and irrelevant information is tantamount to interfering with the said right.³⁰ Hereby, the Court attaches special importance to informing³¹ the civil society³² and journalists³³ on issues of public importance.

²⁸ Constitution of Georgia, Article 29, Paragraph 1.

²⁹ GYLA, Environmental Procedural Rights, 2021, available at: <https://gyla.ge/files/2020/GetFileAttachment-13.pdf>, [19.10.2023]. See Article 4 of the “Convention on access to information, public participation in decision-making process and access to justice in environmental matters”.

³⁰ *Association Burestop 55 and Others v. France*, no. 56176/18, 2021.07.01, § 85.

³¹ *Cangi v. Turkey*, no. 24973/15, 2019.01.29.

³² *Rovshan Hajiyev v. Azerbaijan*, nos. 19925/12 and 47532/13, 2021.12.09, §§ 65-67.

³³ **In the later stage of the Shovi tragedy, the media was limited in its activities for a certain period of time;** for example, see: the Facebook page of Mountain News, 03.09.2023, available at: <https://m.facebook.com/mtisambebi/posts/pfbid-02Sc9hU7JrvE759suxcFZFMzYmzpfzoYC67zcZUcUzCzAioQxcPiGGQzXV9nzqJYMjFI>, [19.10.2023]; **The right of volunteers to take photos and videos on the spot was also limited;** for example, see: the Facebook page of Mountain News, 03.09.2023, available at: <https://m.facebook.com/mtisambebi/posts/pfbid02Sc9hU7JrvE759suxcFZFMzYmzpfzoYC67zcZUcUzCzAioQxcPiGGQzXV9nzqJYMjFI>, [19.10.2023]; **The media disseminated insults and negative attitude by government officials towards the journalist who was covering the incident;** for example, see: the Facebook page of Mountain News, 03.09.2023, available at: <https://m.facebook.com/mtisambebi/posts/pfbid02Sc9hU7JrvE759suxcFZFMzYmzpfzoYC67zcZUcUzCzAioQxcPiGGQzXV9nzqJYMjFI>, [19.10.2023]; **In addition, the social network and media spread information, according to which the administrative bodies refuse to provide the media with the requested public information;** for example, see: **Mountain News, The National Environmental Agency hides public information on Shovi natural disaster;** 16.08.2023, available at: <https://mtisambebi.ge/news/item/1656-garemos-erovnuli-saagento-shovis-stiqiur-ubedurebaze-sajaro-inpormazias-asaidumloeb>, [19.10.2023].

II. ISSUES RELATED TO NATURAL DISASTER RISK MANAGEMENT

This chapter discusses the issues that need to be clarified in order to determine how adequately Georgia's applicable legislation and enforcement practices respond to the risks and hazards posed by natural disasters, as well as who is responsible for the prevention and response to such risks and what changes need to be implemented to properly ensure people's safety in the future.

Issue №1: Which state agency's responsibility is to ensure the proper management of natural disaster risks?

The body in charge of overseeing the implementation of natural disaster risk management at all levels is the Emergency Situations Management Service, a sub-unit under the Ministry of Internal Affairs of Georgia (MIA).³⁴ Other entities of the national security system that are involved in ensuring public safety are also Georgia's executive institutions, legal entities under public law, state sub-departmental bodies, authorized bodies of autonomous republics, municipal bodies, and state proxies, the competences of which are defined in detail in the Ordinance issued by the Government of Georgia "On Approval of the National Public Safety Plan".³⁵ The Emergency Situations Management Service, according to the Ordinance, shall be the key body in charge of handling the management of emergencies at all stages, including prevention, preparedness, response, and recovery, while other ministries, among others the Ministry of Environment and Agriculture, shall perform supplementary functions.³⁶

Issue №2: How comprehensive is the law "On Public Safety"?

The **Law of Georgia "On Public Safety" has been in effect in Georgia** since 2018. The purpose of the law is to create a national system of public safety in Georgia and define the scope of the powers of relevant authorized bodies.³⁷ The legislation governs the management of hazards and risks brought by natural disasters, and essentially, it reiterates the top priorities and objectives of the Sendai Framework Document. The law establishes four key areas and a tiered approach to address threats and risks to prevent an emergency; ensure the preparedness for an emergency situation; respond to an emergency situation; and carry out recovery works.³⁸

However, it should be noted that according to the Fourth National Environmental Action Programme of Georgia, not all by-laws and regulations required for the proper operation of the Law of Georgia "On Public Safety" have been adopted so far. Specifically, "matters such as ensuring the stable operations and supervision of vital facilities, providing an early warn-

³⁴ Ibid.

³⁵ Ordinance №508 of the Government of Georgia, "On Approval of the National Public Safety Plan" (September 24, 2015), Chapter 3, available at: <https://matsne.gov.ge/ka/document/view/2993918?publication=0>, last accessed: 15.09.2023.

³⁶ For details about the functions, see: Ordinance №508 issued by the Government of Georgia, "On Approval of the National Public Safety Plan" (September 24, 2015), Chapter 3 available at: <https://matsne.gov.ge/ka/document/view/2993918?publication=0>, last accessed: 15.09.2023.

³⁷ Law of Georgia "On Public Safety", available at: <https://matsne.gov.ge/ka/document/view/4243170?publication=6>, last accessed: 14.09.2023.

³⁸ Ibid., Article 4.

ing system for responding to emergencies, developing security passports of municipalities and potentially hazardous facilities, and implementing measures referred to as mandatory operations in any emergency zone in a timely and efficient manner in accordance with modern standards, etc., are not yet governed by law.³⁹

It is quite noteworthy that Article 72 of the initial version of the Law of Georgia “On Public Safety” provided a rather extensive list of normative acts to be adopted/issued under the law,⁴⁰ and the deadline for the adoption of the instruments was initially determined to be the year 2019. In particular, by January 1, 2019, the Government of Georgia was supposed to publish 21 different resolutions. Among them, 17 on the list have not been drawn up so far.⁴¹ According to the second paragraph of the same Article, the head of the Emergency Situations Management Service was obligated to publish 13 normative acts by January 1, 2019. Seven of them have not yet been adopted.⁴² The deadline for meeting the requirements was extended several times at different stages, ultimately resulting in the complete removal of Article 72 from the current edition of the law.

Question №2.1: It should be explained why Article 72 has been withdrawn from the Georgian Law “On Public Safety” and the reasons behind the non-adoption of the majority of the resolutions and normative acts required by Article 72 of the original version of the law be clarified.

Respondents: The Government of Georgia, the Emergency Situations Management Service, and the Parliament of Georgia.

Issue №3: Are municipality safety passports provided in place?

According to the Law of Georgia “On Public Safety”, a municipality safety passport shall exist in place.⁴³ The municipality safety passport is a document prepared in advance to assess the risk levels of any emergency that may occur in the municipality and its possible effects, to analyze activities carried out by municipal authorities for the prevention of the emergency, and to plan and implement measures with the view to minimizing the risks of the emergency situation.⁴⁴ The procedure for developing the safety passport is detailed in Ordinance №48 issued by the Government of Georgia on February 4, 2021, “On approval of the procedure for developing the municipality safety passport”.⁴⁵ According to the procedure, the safety

³⁹ The “Fourth National Environmental Action Program of Georgia for 2022-2026” (2022), Chapter 2.11, available at: <https://mepa.gov.ge/Ge/Files/ViewFile/53629>, last accessed: 15.09.2023.

⁴⁰ Law of Georgia “On Public Safety”, the initial version ((06/07/2018 - 22/12/2018)), Article 72, available at: <https://shorturl.at/iou45>, last accessed: 15.10.2023.

⁴¹ The ordinances stipulated in Article 72, Paragraph 1 (“a”, “b”, “c”, “e”, “g”, “h”, “i”, “j”, “k”, “l”, “m”, “n”, “o”, “r”, “s”, “t”, “u”) of the Law of Georgia “On Public Safety” has not been adopted so far.

⁴² Normative acts required by Article 72, Paragraph 2 (“a”, “d”, “f”, “h”, “i”, “j”, “k”) of the Law of Georgia “On Public Safety” have not been adopted so far.

⁴³ Law of Georgia “On Public Safety”, Article 10, Paragraph 1(e).

⁴⁴ Ibid., Article 3, subparagraph “x”.

⁴⁵ Ordinance №48 issued by the Government of Georgia, “On approval of the procedure for the development of municipality security passport” (February 4, 2021), available at: <https://matsne.gov.ge/ka/document/view/5095237?publication=0>, last accessed: 15.09.2023.

passport shall be developed by a municipality in coordination with the Emergency Situations Management Service.⁴⁶The passport should also be accompanied by a map of the municipality, indicating any potential hazardous zones and information about the likely consequences of any potential emergency.⁴⁷ According to the above Ordinance, the safety passport shall be developed annually.⁴⁸ Based on its content, it is evident that the security passport of the municipality should be one of the fundamental supporting documents for both the municipality and Emergency Situations Management Service. This document includes critical information essential for managing specific risks, and it serves as a basis for mitigating and preventing the dangers posed by natural disasters.

Question №3.1: It is necessary to determine whether there are any safety passports as defined by the Law of Georgia “On Public Safety” for Racha and Guria, the municipalities affected by the natural disasters and whether they are accompanied by maps providing the markings of corresponding risks.

Respondents: The City Halls and City Councils of Oni, Ozurgeti, and Lanchkhuti municipalities, Emergency Situations Management Service, National Environmental Agency, and Ministry of Environment Protection and Agriculture

Question №3.2: If the answer is negative, it should be determined why the municipalities, along with the Emergency Situations Management Service, failed to fulfill their obligations defined by the law and why the issue of their accountability has not been brought to the agenda.

Respondents: The City Halls and City Councils of Oni, Ozurgeti, and Lanchkhuti municipalities, Emergency Situations Management Service, National Environmental Agency, Ministry of Environment Protection and Agriculture

Question №3.3: If the answer is affirmative, then it should be analyzed to what extent the passports are in compliance with the requirements provided for in the Georgian Government’s Ordinance “On approval of the rules for developing the municipality safety passport”, and whether they were prepared in close coordination with the Emergency Situations Management Service while assessing the risks for the minimization of emergencies and determining the response measures. In addition, it must be examined what information about the environment was utilized in the process of determining as well as drawing up relevant maps, whether the municipalities had applied to the National Environmental Agency or the Ministry of Environment Protection and Agriculture to request any relevant accurate information or data, what measures the safety passport envisaged for reducing and responding to risks, and to what extent the risk zoning maps were accurately drawn.

⁴⁶ Ibid., Article 3, Para 1.

⁴⁷ Ibid., Article 4, Para 2.

⁴⁸ Ibid., Article 2, Para 3.

Respondents: The City Halls and City Councils of Oni, Ozurgeti, and Lanchkhuti municipalities, Emergency Situations Management Service, National Environmental Agency, Ministry of Environment Protection and Agriculture

Question №3.4: Provided that the safety passports intended for the protection of human life, health, and safety are available in place, it should be ascertained why they are not accessible to the public.

Respondents: The City Halls and City Councils of Oni, Ozurgeti, and Lanchkhuti municipalities, Emergency Situations Management Service, National Environmental Agency, Ministry of Environment Protection and Agriculture.

Issue №4: Does Georgia have any disaster risk minimization and management policy documents?

Georgia had the Disaster Risk Reduction Strategy and Plan of Action for 2017-2020.⁴⁹ An updated version of the strategy and action plan **has not yet been** provided. The past strategy specified the objectives to be accomplished in the years 2017-2020, which means that the timeframe for the implementation of specific measures provided for in the Strategy and its corresponding action plan was four years. The action plan attached to the Strategy also envisaged a respective budget for specific measures.⁵⁰ Based on the foregoing, it is important to assess the extent to which the measures specified in the Strategy have been implemented and whether they have proved to be effective or not. In the event of their non-fulfillment, the reasons should be explained.

Question №4.1: It is necessary to determine why an updated version of the disaster risk minimization strategy and action plan has not been developed so far. The publicly available document covers only the period 2017-2020.

Respondent: The Government of Georgia.

Question №4.2: In addition, it should be determined to what extent the measures required by the 2017-2020 strategy and its action plan have been carried out and how effective they turned out to be. If the answer is negative, the corresponding reasons should be presented. Also, it must be investigated how adequately and purposefully the funds indicated in the action plan for carrying out specific measures have been spent. It is necessary that this information is confirmed by relevant documents.

Respondent: The Government of Georgia.

⁴⁹ Ordinance №4 of the Government of Georgia, "On the Approval of the National Disaster Risk Reduction Strategy of Georgia 2017-2020 and its Action Plan" (January 11, 2017).

⁵⁰ Annex №2 to Ordinance №4 of the Government of Georgia, "On the Approval of the National Disaster Risk Reduction Strategy of Georgia 2017-2020 and its Action Plan".

The 2017-2020 Strategy (hereinafter the “Strategy”) and the Plan of Action reiterated the goals specified in the Sendai Framework Programme for “Sustainable Development” and the UN Framework Convention on Climate Change. The Strategy was based on the “2015-2018 Hazard Assessment Document of Georgia”, identifying the risks posed by natural disasters and human factors (floods, water torrents, landslides, gravitational and mudslide events, earthquakes, hailstorms, avalanches, strong winds, forest and field fires, droughts, water-provoked erosion processes, etc.) that the country is facing nowadays. The goal was to minimize the risks and mitigate any possible damage. According to the Strategy, local authorities are obliged to provide threat assessment, risk identification, analysis, evaluation, and implementation of measures for their minimization.⁵¹

Question №4.3: As indicated on the website of the National Security Council, the threat assessment instrument for Georgia is currently being updated.⁵² The latest publicly available version covers the period of 2015-2018. Therefore, it is important to ascertain whether the document has been renewed, as it is not available to the public, or to find out why the process has taken so long.

Respondents: The National Security Council, Government of Georgia.

According to the Law of Georgia “On approval of planning and coordination of public safety policy”, local authorities shall have in place appropriate department-level action plans to ensure the implementation of the goals and objectives stipulated in the National Strategy, among them developing an effective disaster risk reduction system.

Question №4.4: It is necessary to determine whether the impacted municipalities of Racha and Guria operate under the department-level action plans. Departmental action plans should be aimed at achieving the goals and objectives outlined in the National Security Strategy. Therefore, it should be determined whether there are clearly defined action plans that could have prevented and reduced the number of casualties caused by the natural disasters.

Respondents: The Government of Georgia; City Halls and Councils of Oni, Lanchkhuti, and Ozrugeti municipalities.

Issue №5: Why was not an early warning system provided in place?

For the purposes of the assessment, it is crucial to first define what an early warning system is, what components it consists of, and what questions may arise with respect to specific state entities concerning their efforts to provide the appropriate functioning of different components of the system. The early warning system is a very complex mechanism. It con-

⁵¹ Annex №1 to Ordinance №4 of the Government of Georgia, “On the Approval of the National Disaster Risk Reduction Strategy of Georgia 2017-2020” (2017), 3.3.1.

⁵² National Security Council “Threat Assessment Document”, available at: <https://shorturl.at/BSU49> , last accessed: 15.09.2023.

sists of several components, all of which must function soundly to ensure the success of their operations.⁵³An overview of each component is provided below.

i. Identifying and assessing risks

First and foremost, it is critical to determine the extent to which natural disaster risks and hazards are detected and assessed in advance in the country. This requires the existence of a regularly updated database in place, which would offer information about any potential natural disasters as well as outline the level of susceptibility of populations or different sectors to such hazards. Thus, the most crucial stage in developing a suitable and accurate early warning system is risk identification.

Question №5.1: Concerning the natural disasters in Racha and Guria, it is vital to ascertain whether the LEPL National Environmental Agency collected and processed the information in order to determine the risks of potential natural disasters. Additionally, it is necessary to identify any systemic shortcomings in the information collection and processing, and to understand the challenges faced by employees of the National Environment Agency during this process. For these purposes, it is necessary for the National Environment Agency to disclose what actions have been taken to remedy the deficiencies and explain why any remaining issues have not been resolved.**Respondent:** The National Environmental Agency.

Question №5.2: Furthermore, in the case of Racha, it is crucial to establish why attention was not paid to specific hazards, given that the local community had multiple times informed the municipality authorities of the incidents that had occurred in Shovi at various periods. Additionally, it is important to determine what steps have been taken to mitigate the risks identified by the community.⁵⁴ It is necessary to establish the responsibility of specific persons, if it is proved that the informed persons of the local government did not fulfill their obligations to take all measures to manage the risk and avoid the danger.

In addition, it is imperative to determine whether the dangers in Shovi were thoroughly studied after the National Environmental Agency classified the Shovi infrastructure as susceptible to flood torrents in its 2021 Geological Bulletin.

Respondents: The City Halls and City Councils of Oni Municipality, National Environmental Agency, and Emergency Situations Management Service.

⁵³ WMO, "Overview of the Early Warnings for All: Executive Action Plan 2023–2027", available at: <https://public.wmo.int/en/resources/bulletin/overview-of-early-warnings-all-executive-action-plan-2023%E2%80%932027>, last accessed: 14.09.2023.

⁵⁴ Information spread through Facebook, available: <https://shorturl.at/opwFK>, last accessed: 15.09.2023.

Question №5.3: With respect to Guria, it is critical to evaluate why the risks were not adequately assessed; if they were assessed, it is crucial to determine whether the vulnerability of various regions and populations to floods and landslides were studied, and whether the authorities supervised and controlled the extraction activities taking place in the Sufsa River or demonstrated any interest in or identified any hazards stemming from these activities.⁵⁵

Respondents: The National Minerals Agency, Department of Environmental Supervision, National Environmental Agency, City Halls and City Councils of Lanchkhuti and Ozurgeti Municipalities, and the Emergency Situations Management Service.

ii. Monitoring

Once risks and vulnerabilities are identified, it is necessary to constantly monitor the risks and update information on the extent to which they change over time. To this end, it is necessary to make use of relevant technologies in addition to considering the results of community observations at the local level. The body responsible for monitoring any meteorological, climatic, hydrological, and geological occurrences is the LEPL National Environmental Agency.⁵⁶

Question №5.4: Determining if the disaster-affected municipalities were under the observation of the LEPL National Environmental Agency and the reasons behind the untimely identification of the hazards are crucial for analyzing the events developed in Racha and Guria. It is important to determine if the relevant checkpoints for geological and hydro-meteorological monitoring in the disaster-struck areas were arranged.

Respondents: The National Environmental Agency, Emergency Situations Management Service, Government of Georgia

According to the Fourth National Environmental Protection Action Programme of Georgia (NEAP 4) for 2022-2026, only 20-30% of Georgia's hydro-meteorological monitoring sites currently meet the ideal number, and the percentage is significantly lower when considering geology.⁵⁷ The document adds that a regularly updated GIS database of geological hazards is still nonexistent. Furthermore, as per the Programme, zoning maps of geological risks must be drawn up, and other matters like geology, hydrology, tectonics, and other related topics must be studied and developed.

⁵⁵ "Formula" reportage, available: <https://www.facebook.com/TVFormula/videos/850552129758886>, last accessed: 15.09.2023.

⁵⁶ The Statute of the National Environmental Agency, Article 2, Para 1, available at: <https://nea.gov.ge/ge/Legislations>, last accessed: 15.09.2023.

⁵⁷ "Fourth National Environmental Action Programme of Georgia for 2022-2026" (2022), Chapter 2.11, available at: <https://mepa.gov.ge/Ge/Files/ViewFile/53629>, last accessed: 15.09.2023.

Question №5.5: Therefore, it is imperative to ascertain whether any geological zoning maps, which are required to describe the geological hazards characteristic of a particular place, were available and utilized in the zones of the disaster. If the response is negative, the reason the maps do not exist needs to be explained. If the response is positive, it should be determined to what extent they reflect the state of affairs at the time.

Respondents: The Government of Georgia, National Environmental Agency, Emergency Situations Management Service, City Halls and City Councils of Oni, Lanchkhuti, and Ozurgeti municipalities.

iii. Disseminating information

Any information obtained must be swiftly and efficiently communicated to those at risk. To this effect, there must be appropriate communication channels available, such as alarm signaling devices, text messages, television and radio, mobile applications specifically designed for this purpose, etc. All information about any potential hazards needs to be communicated in an effective and transparent manner.

Question №5.6: In relation to the disasters in Racha and Guria, it must be ascertained whether it could have been feasible to promptly and efficiently communicate relevant information to individuals residing in the disaster area if the risks had been properly analyzed and hazards identified, and whether the State has all necessary technology resources to facilitate such communication.

Respondents: The Emergency Situations Management Service, National Environmental Agency, Government of Georgia, City Halls and City Councils of Oni, Lanchkhuti, and Ozurgeti Municipalities

iv. Ability to respond appropriately to an alert

People who are in danger must be able to respond appropriately when they receive any relevant warnings. This could entail, for example, having a suitable strategy for evacuation, being aware of defense measures, being able to meticulously follow the instructions provided by authorized state bodies, etc.

Question №5.7: In the case of the Racha and Guria disasters, it is necessary to establish whether people could have been evacuated from the disaster zone in time if adequate information had been provided and whether the required evacuation plans and necessary technological, material and human resources are available in place for the implementation of such tasks.

Respondent: The Emergency Situations Management Service.

v. What are the State’s obligations regarding the early warning system?

According to the Sendai Action Plan, the signatory party of which Georgia is as well, the State is obliged to integrate this system into its policy documents and action plans, make investments to create early warning systems, and ensure the strengthening of relevant capacities. The requirement to develop the systems is also stipulated in the Law of Georgia “On Public Safety”.⁵⁸

As per the Disaster Risk Reduction Strategy of Georgia, which is discussed in Chapter 3 of this paper, it is mandatory to develop early warning and alarm systems to guarantee public safety. In this regard, the Strategy called for researching the ways and possibilities of creating suitable systems in high-risk areas and developing uniform standards and alarm system guidelines that would enable people to be informed about any impending dangers in a timely and effective way.

The action plan of the Strategy provided specific measures for the development of early warning systems in order to minimize various types of risks and avoid threats. It is true that the measures did not specifically cover the disaster-struck areas of Racha and Guria, yet it is important to determine the extent to which the actions defined by the Action Plan, which were set to be completed by 2020, were carried out.⁵⁹

Question №5.8: With respect to the disaster-impacted municipalities of Racha and Guria, it must be determined whether the zones of natural disaster hazards were defined and what was the reason for the lack of early warning systems.

Respondents: The Government of Georgia, the Emergency Situations Management Service, National Environmental Agency, City Halls and City Councils of Oni, Lanchkhuti, and Ozurgeti Municipalities.

Question №5.9: Concerning the Racha and Guria natural disasters, in order to determine the responsibility of relevant state bodies, it is necessary to assess the reasons behind the absence of early warning systems.

Respondents: The Government of Georgia, Emergency Situations Management Service, National Environmental Agency, City Halls and City Councils of Oni, Lanchkhuti, and Ozurgeti Municipalities.

Question №5.10: It must be established whether the actions outlined in the Action Plan of the “National Strategy for Disaster Risk Reduction of Georgia,” which called for the creation of early warning systems in different areas, were actually implemented.

Respondents: The Ministry of Environmental Protection and Agriculture, National Environmental Agency.

⁵⁸ The Law of Georgia “On Public Safety”, Article 5, Paragraph 1(“f”).

⁵⁹ Annex №2 to Ordinance №4 of the Government of Georgia, “National Disaster Risk Reduction Strategy of Georgia for 2017-2020”.

Issue №6: Were there any emergency risk management plans in place?

The Law of Georgia “On Public Safety” served as the foundation for the development of the “Guidelines for Formulating Emergency Risk Management Plans”. In actuality, these are the rules according to which emergency prevention, preparedness, response, and recovery measures should be planned. The objective of the risk management plan is to minimize adverse effects caused by any foreseeable event, including a natural disaster.⁶⁰ The Ordinance states that in order to inform the public, a map illustrating hazards and dangers, along with any scenarios of potential risk development, shall be published.⁶¹ Therefore, the dangers that every emergency poses, the factors behind it, and the steps that can be taken to guarantee public safety should be known to the public in advance.

The risk management plan shall be developed and approved by relevant agencies of the unified emergency management system within their scope of competence, in agreement with the Emergency Situations Management Service.⁶² The executive authorities at the national level and the local authorities within the respective administrative boundaries of their municipalities are obliged to develop their risk management plans. Throughout the process of developing the plan, all social and economic sectors that are at risk, as well as any prospective emergency zones that could be seriously threatened, must be identified. The Ordinance provides detailed instructions and criteria on how to assess risks⁶³ and their potential impact⁶⁴, how to divide the zone of probable emergency into sections with fixed boundaries,⁶⁵ how to identify the vulnerability,⁶⁶ and how to create risk development scenarios,⁶⁷ etc.

According to the Ordinance, the risk management plans were to be developed no later than December 31, 2018. Due to the constantly changing circumstances, however, risk management plans may be revised as often as once every two years or immediately if new threats arise.⁶⁸ Accordingly, the risk management plans ought to have been updated at least two times before 2023. As can be read in the Fourth National Environmental Action Programme of Georgia for 2022-2026, as of today, **plans to handle the hazards associated with natural disasters, which must identify and then put into practice specific structural or non-structural risk mitigation measures, have not been approved so far.**⁶⁹

⁶⁰ Ordinance №453 of the Government of Georgia, “On Approval of the Guidelines for Formulating Disaster Risk Management Plans” (October 6, 2017), Article 1, available at: <https://matsne.gov.ge/ka/document/view/3824640?publication=0>, last accessed: 15.09.2023.

⁶¹ Ibid., Article 2.

⁶² Ibid., Article 3.

⁶³ Ibid., Article 8.

⁶⁴ Ibid., Article 9

⁶⁵ Ibid., Article 8.

⁶⁶ Ibid., Article 10.

⁶⁷ Ibid., Article 12.

⁶⁸ Ibid., Article 15.

⁶⁹ The “Fourth National Environmental Action Programme of Georgia for 2022-2026” (2022), Chapter 2.11, available at: <https://mepa.gov.ge/Ge/Files/ViewFile/53629>, last accessed: 15.09.2023.

Question №6.1: Considering the Ordinance “On Approval of the Guidelines for Formulating Emergency Risk Management Plans”, it must be ascertained whether emergency risk management plans have been developed or not by the bodies of the executive government at the national level and by the municipal authorities at the local level, including in the municipalities affected by the natural disaster in Racha and Guria.

Respondents: The Government of Georgia, City Halls and City Councils of Oni, Lanchkhuti, and Ozurgeti municipalities, Emergency Situations Management Service.

Question №6.2: In the event that emergency risk management plans are in place in the disaster-impacted municipalities of Racha and Guria, it should be examined to what extent they comply with the requirements provided in the Ordinance “On Approval of the Guidelines for Formulating Emergency Risk Management Plans”, how adequately and comprehensively the risks are assessed, and whether the prevention, preparedness, response, and recovery measures are developed.

Respondents: The Government of Georgia, Emergency Situations Management Service, National Environmental Agency, City Halls and City Councils of Oni, Lanchkhuti, and Ozurgeti Municipalities.

Question №6.3: In the absence of emergency risk management plans, the reasons behind the lack should be investigated, and the responsibility of relevant state bodies should be determined.

Respondents: The Government of Georgia, Emergency Situations Management Service, City Halls and City Councils of Oni, Lanchkhuti, and Ozurgeti Municipalities.

Issue №7: What possible links might there be between the construction activities in Racha and Guria and the natural disasters?

Natural disasters may be triggered by human intervention in the environment. There have been multiple reports of tree felling in Racha, with the greatest numbers occurring particularly in Oni municipality, which, on its part, may have potentially exacerbated the risks of landslides developing.⁷⁰

Question №7.1: The link between deforestation in Oni municipality, Racha, and the natural disaster must be investigated. It should be assessed to what extent cutting down the trees in the municipalities was legal, whether the relevant licenses had been issued in compliance with the law, and whether the consequences of the deforestation were properly assessed.

Respondents: The Government of Georgia, Ministry of Environment Protection and Agriculture, National Forestry Agency.

⁷⁰ Global Forest Watch, “Racha-Lechkhumi-Kvemo Svaneti, Georgia” (2022), available at: <https://shorturl.at/aepR3>, last accessed: 15.09.2023.

People can escape the risk of impending natural disasters if they are not present or do not live in the area of natural disasters. Accordingly, building operations should not be conducted in hazardous locations, and all necessary infrastructures should be in place to avert the risks, provided that the hazards have been properly identified and evaluated.

Question №7.2: It should be ascertained what type of construction permits had been issued in Racha and to what extent the proper research and assessment necessary for the issuance of these permits had been conducted in the disaster zone or its vicinity.

Respondents: The City Hall and City Council of Oni Municipality.

Question №7.3: In addition, it is imperative to examine the rationale behind the approval of the Shovi Resort development plan on December 18, 2022, which authorized the construction of hotel-type residences in the area of the disaster.⁷¹

Respondents: The Government of Georgia, Ministry of Economy and Sustainable Development of Georgia, City Hall and City Council of Oni Municipality.

Question №7.4: Similarly, in the case of Guria, it should be determined whether natural disaster risks and hazards to the settlements were identified and what mitigating measures were put in place based on the obtained information.

Respondents: The Government of Georgia, National Environmental Agency, Emergency Situations Management Service, City Halls and City Councils of Lanchkhuti and Ozurgeti Municipalities.

Question №7.5: According to information shared by local residents, the impacts of the natural disaster in Guria are thought to have been caused by the uncontrolled extraction of a significant quantity of gravel from the Supsa River bed.⁷² Therefore, the truthfulness of these assumptions must be verified to determine whether the activities taking place in the area are lawful and whether the environmental impact of the activities has been properly assessed.

Respondents: The Government of Georgia, National Minerals Agency, National Environmental Agency, Department of Environmental Supervision.

⁷¹ "Resort Shovi Development Regulation Plan" (2022), available at: <https://shorturl.at/vDVZ6> , last accessed: 15.09.2023.

⁷² "Severe Consequences of the Natural Disaster in Guria", an interview with Irma Gordeladze, "Formula" (9 September 2023), available at: <https://www.facebook.com/TVFormula/videos/850552129758886>, last accessed: 15.09.2023.

III. THE STAGE OF RESPONDING TO EMERGENCIES

Issue №8: Does the emergency response stage comply with the requirements of the Georgian Law “On Public Safety”?

It is critical to ascertain whether the rescue operations carried out in Racha and Guria met the requirements for the response phase efforts outlined in the Law of Georgia “On Public Safety”. According to the law, response to emergency situations shall be carried out in accordance with the National Public Safety Plan.⁷³ The national plan is based on the emergency management plans designed for the entities of the unified system, as well as emergency risk management plans.⁷⁴ The procedure for developing an emergency management plan is defined by Ordinance №452 of the Government of Georgia on the “Approval of the Guidelines for Developing Emergency Risk Management Plans”.⁷⁵ The emergency management plan shall be developed and approved, within their scope of competence, by the entities of the unified emergency management system operating under the Ministry of Internal Affairs of Georgia in agreement with the LEPL Emergency Situations Management Service.⁷⁶ The plans are updated annually or immediately in case of the occurrence of any new threats and/or substantial changes in the information indicated in such plans.⁷⁷ The emergency plan defines preventive, mitigation, preparedness, response and recovery measures corresponding to any likely emergency scenarios.⁷⁸ The emergency management plan and any annexes attached to it should be available to the public, except for confidential information.⁷⁹ Given these factors, it should be determined whether or not the agencies of the unified emergency management system operate in compliance with emergency management plans, how closely the plans adhere to the requirements defined by the law, whether or not they are updated yearly, and how efficient they are in actual practice.

According to the National Public Safety Plan, the main agency that is in charge of ensuring the management of any emergency at the national level is the Emergency Situations Management Service. Dealing with emergencies, in turn, involves coordinating the emergency response strategies that are determined by analyzing and evaluating the circumstances surrounding any given emergency.⁸⁰ The Emergency Situations Management Service is the primary entity that must guarantee the coordination of the implementation of the emergency response activities, the readiness of all necessary forces and means, and, if necessary, the mobilization of international rescue forces.⁸¹ The auxiliary functions are performed by various ministries and agencies. More specifically, the implementation of specific measures is delegated among other bodies as follows: (1) The response to emergency situations at the

⁷³ The Law of Georgia “On Public Safety”, Article 16, Paragraph 12.

⁷⁴ For information related to the emergency risk management plan, see issue N6 above.

⁷⁵ Ordinance №452 of the Government of Georgia, “On the Development of the Rules for Formulating Emergency Management Plans” (October 6, 2017), available at: <https://matsne.gov.ge/document/view/3824628?publication=0>, last accessed: 25.10.2023.

⁷⁶ *Ibid.*, Article 1, Para. 2.

⁷⁷ *Ibid.*, Article 3, Para. 2.

⁷⁸ *Ibid.*, Article 5, Para. 2.

⁷⁹ *Ibid.*, Article 8.

⁸⁰ “National Public Safety Plan”, Article 8, Paragraph 3, Function 1.

⁸¹ *Ibid.*, function 4.

national level is provided by the MIA LEPL Emergency Situations Management Service; (2) At the autonomous, regional, and local levels, the response to emergency situations is provided by the relevant territorial units of the MIA LEPL Emergency Situations Management Service, together with municipal bodies.⁸²

In order to respond to an emergency, a corresponding management scheme must be provided, consisting of the following three levels:⁸³

- (1) **The first level:** any emergency is first responded to by the territorial fire-rescue squad of the Emergency Management Service of a corresponding municipality, as well as the patrol police department of the Ministry of Internal Affairs of Georgia;
- (2) **The second level:** any governmental and non-governmental organizations as well as civil security reservists operating in a respective area, and fire-rescue squads from neighboring municipalities of the affected municipality are involved in the process, as per the decision of the Autonomous Republic/Regional Emergency Management Operational Center. The process of managing an emergency situation is led by the state representative in the area, the governor, who coordinates the use of all response forces and resources in the area in order to respond to the disaster.
- (3) **The third level** matches the national emergency response level. In this case, the operational coordination of emergency response management is carried out by the Interdepartmental Operational Center of MIA LEPL Emergency Situations Management Service, which incorporates authorized persons of various ministries, agencies, and organizations according to the type of emergency. In the event that resources and forces at the national level are not sufficient to eliminate the consequences of an emergency, the Center may prepare requests seeking international support and submit them to the State Security and Crisis Management Council for a strategic decision. If approved by the Council, the request for attracting the necessary assistance shall be communicated in a special form with relevant international and non-governmental organizations, as well as those states with which Georgia has signed bilateral and multilateral memoranda on cooperation during disasters.

With the view to analyzing the developments in Racha and Guria, it should be determined how quickly and effectively the category of emergency - whether of national or local importance - taking place in the area was determined and how swiftly and effectively the measures envisaged for the relevant emergency category were carried out.⁸⁴

For an effective response to an emergency situation, it is required to have an appropriate material and technical base. The key agency in charge of developing and overseeing the essential measures to ensure the material and technical base is the State Material Reserves Department, a legal entity under the Ministry of Internal Affairs of Georgia. Other supplementary functions are performed by various ministries and the Emergency Situations Management Service. In the cases of Racha and Guria, it is imperative to establish to what extent

⁸² "National Public Safety Plan", Article 12, Paragraph 2.

⁸³ Ibid., Paragraph 3.

⁸⁴ The Law of Georgia on "Public Safety", Article 15.

it was possible to respond to natural disasters effectively with the existing resources and to ensure the safety of people. It is worth noting that on the first day of the disaster, only one rescue helicopter was operating in Shovi, which arrived at the spot three hours later after the disaster struck but was not able to operate at night due to the lack of the necessary lighting equipment.⁸⁵ At 6 a.m. on August 4, already two helicopters were participating in the rescue operations.⁸⁶ It should be noted that, according to a statement made by the head of the Emergency Situations Management Service, on the first day of the disaster, the helicopter was prepared in Kutaisi but could not take off due to tough meteorological conditions.⁸⁷ According to the information of the Ministry of Internal Affairs, Georgia is going to receive three rescue helicopters in 2024, as per a contract concluded with the French company “Airbus Helicopters”.⁸⁸

It should be noted that an annex attached to the Action Plan of the National Disaster Risk Reduction Strategy of Georgia for 2017-2020 provided important measures, for the fulfillment of which the Government of Georgia had to take appropriate steps in order to find all necessary additional resources.⁸⁹ Paragraph 22 of the annex directly stipulated the need to gather additional resources to provide the personnel of the Ministry of Internal Affairs and Emergency Situations Management Service with special equipment and means. Specifically, according to the above paragraph, the Government of Georgia was obliged to allocate an additional 27,400,000 GEL. Accordingly, it is necessary to find out what steps were taken to seek supplementary funding, the total amount of cash raised, and whether or not the expenses were targeted.

It is quite noteworthy that despite the lack of appropriate equipment, the State did not seek help from neighboring countries. Therefore, it should be determined why the State refrained from asking neighboring countries for aid and to what extent this decision was reasonable.⁹⁰

Furthermore, it is imperative to assess how effectively the host country’s support measures are organized in terms of public safety,⁹¹ for example, whether there is a group set up for receiving international assistance,⁹² or a permanent emergency task force for ensuring readiness for international assistance⁹³, etc.

⁸⁵ “Has the state abandoned the citizens in distress?” - What articles should be the focus of the investigation”, Radio Liberty (16.08.2023), available at: <https://shorturl.at/avwX9>, last accessed: 18.09.2023.

⁸⁶ A statement by the Ministry of Internal Affairs (4 August 2023), available at: <https://shorturl.at/auHL4>, last accessed: 15.10.2023.

⁸⁷ “There was no necessity for that” - why did not the helicopter operate in Shovi on the night of the disaster”, Radio Liberty (10 August 2023), available at: <https://shorturl.at/ICHJ6>, last accessed: 15.10.2023.

⁸⁸ “What we know about the disaster in Shovi [chronology of the events of August 3-10]”, netgazeti.ge, available at: <https://netgazeti.ge/life/682965/>, last accessed: 18.09.2023.

⁸⁹ Ordinance №4 of the Government of Georgia, “On the Approval of the National Disaster Risk Reduction Strategy of Georgia and its Action Plan 2017-2020” (January 11, 2017), available at: <https://shorturl.at/ejQ16>, last accessed: 15.10.2023.

⁹⁰ “We did everything” - why didn’t the State ask neighboring countries for help?”, Bm.ge (10.08.2023), available at: <https://shorturl.at/EKRY3>, last accessed: 18.09.2023.

⁹¹ Ordinance №501 of the Government of Georgia, “On approval of the rules for organizing host country support measures in the field of civil security” (August 14, 2020), available at: <https://matsne.gov.ge/ka/document/view/4964133?publication=0>, last accessed: 15.10.2023.

⁹² Ibid., Article 8, paragraph 5(c).

⁹³ Ibid., Article 7.

Question №8.1: It should be determined how adequately the National Public Safety Plan is developed and whether it allows for an effective response to any emergencies.

Respondent: The Government of Georgia.

Question №8.2: It should be determined whether there are emergency management plans in place and how adequately they are drawn up. In the event of their absence, the corresponding reasons should be identified, and the issue of the accountability of relevant officials should be determined.

Respondents: The Government of Georgia, Emergency Situations Management Service, and other entities of the unified system of public security.

Question №8.3: It should be determined how prompt and effective the actions undertaken by the local emergency management center were in the disaster-impacted municipalities; in addition, it should be ascertained whether they have specific action plans according to which their departments operate.

Respondents: The local operational centers of emergency management, Emergency Situations Management Service.

Question №8.4: It should be determined how properly the management scheme determined by the National Public Safety Plan for responding to emergency situations was implemented, which, depending on the nature of an emergency, provides the rules of emergency management strategy at the local, regional, and national levels, as well as persons in charge of the management process. Furthermore, it should be determined whether there are any appropriate management plans at all three levels and whether they are consistent with the objectives of ensuring public safety.

Respondents: Emergency Situations Management Service, Government of Georgia.

Question №8.5: It should be established why the country does not have an adequate number of rescue helicopters in the west and east of Georgia, respectively, which would be constantly deployed near the locations of increased risks in order to ensure prompt and efficient assistance. It should also be investigated why the helicopters currently available in Georgia are not in adequate shape and well-equipped. In addition, it should be assessed whether the period of time within which the rescue helicopter (three hours after the receipt of a relevant report until it arrived in the disaster zone) traveled from Tbilisi to the disaster zone was reasonable.

Respondents: Emergency Situations Management Service, Ministry of Internal Affairs, Government of Georgia.

Question №8.6: It should be found out and substantiated why Georgia did not ask neighboring countries for help given that the country lacked proper equipment and why making such a request was not deemed important. In addition, it is necessary to determine how properly the requirements defined by the rules for organizing the host country's support measures in the field of public safety are fulfilled and whether the current disaster risk management approach in Georgia is ready to receive international assistance promptly and effectively.

Respondents: The Emergency Situations Management Service, Government of Georgia.

Question №8.7: What steps has the Georgian government taken in order to seek additional funding to ensure that the Ministry of Internal Affairs and Emergency Situations Management Service are equipped with special equipment and personnel? What amount of cash was additionally collected, and how purposefully was it spent?

Respondents: The Government of Georgia, Ministry of Internal Affairs, Emergency Situations Management Service

IV. THE INVESTIGATION INTO THE NATURAL DISASTER RISK MANAGEMENT

The publicly available information does not make it clear that the primary focus of the ongoing investigation into the events developed in Shovi is the analysis of the actions carried out by the agencies that are required, under the applicable legislation, to predict, prevent, and notify the public of the impending onset of natural disasters. Furthermore, it is unclear from the information released to the public whether the investigation is being conducted to determine if the rescue measures were effective or not.⁹⁴

The goal of the investigation should be to determine the extent to which the disaster could have been foreseen and its dire consequences avoided; how the MIA Emergency Situations Management Service arranged and carried out the rescue operations, and how quickly and effectively the state bodies intervened to save the lives of those entrapped in the disaster. The investigation has not yet paid attention to the information spread on social networks and media concerning the tragedy in Shovi, which may contain indications of criminal activity described in Article 128 (abandoning in distress) and 342 (neglect of official duties) of the Criminal Code.⁹⁵ Below are summarized the primary topics of the investigation, in which both the General Prosecutor's Office of Georgia and the Ministry of Internal Affairs are the respondents, to the extent of their competence.

Issue №9: Investigating the implementation of preventive measures

The purpose of the investigation is to evaluate the effectiveness of the work done by those officials who might have been in charge of preventing the effects of natural disasters.

Question №9: It is critical to identify the person and/or agency responsible for enforcing the National Environmental Agency's yearly bulletins and averting the consequences of any disaster. After the examination of the aforementioned individuals, it is necessary to ascertain the leverage available to these persons in order to perform their duties and the actual steps undertaken by them. Throughout the investigation, a systemic problem might be discovered, the solution of which requires a comprehensive approach.

Issue №10: The response to the natural event

The investigation ought to determine how effectively the natural disaster was responded to (for details, see Chapter III), since it is an established fact that during the night of August 4 (the period of time that was vitally important for those engulfed in the mudslide), helicopters were not used in the rescue operations. The aforementioned helicopters, according to the

⁹⁴ "Has the State abandoned the citizens in distress?" - What articles should be the focus of the investigation?," radiotavisufleba.ge, available at: <https://shorturl.at/gzFR4>, last accessed: 18.09.2023.

⁹⁵ See the statement: "Civil society organizations demand an effective investigation into the natural events in Shovi and Guria," 02.10.2023, available at: <https://gyla.ge/ge/post/samoqalaqo-sazogadoebis-organizaciebi-shovsa-da-guriashi-ganvitarebul-stiqiur-movlenebtan-dakavshirebit-efeqtiani-gamodziebis-chatarebas-itkhove#sthash.xQSmm5V.dpbs>. [26.10.2023].

information released by the Ministry of Internal Affairs, are in the ownership of the Border Police.⁹⁶ Witnesses and residents at the epicenter of the incident claim that, although every minute was particularly crucial to saving human lives, the helicopter arrived several hours later at the scene than expected.⁹⁷ The investigative body has not yet provided information to the public concerning this matter.

Question №10: The investigation’s main focus should be the reasons for the Emergency Situations Management Service’s failure to have its own helicopter, as well as how adequately the number, type, technical capacity/equipment of the helicopters utilized at the accident location met the demands of the rescue operations that were to be conducted in Shovi. Similar questions can be brought up with respect to rescue equipment.

Issue №11: Which investigative body should carry out the investigation?

The demand for independent conduct of the investigation, among other things, implies institutional and hierarchical as well as practical independence.⁹⁸ In accordance with Article 35 of the Criminal Procedure Code of Georgia, investigative jurisdiction shall be determined by the Prosecutor General of Georgia, whose Ordinance №3 of August 23, 2019, regulates the above-mentioned issue. The first question that arises with respect to the investigation is who should conduct the investigation. To answer the question, it is essential to analyze the standards of an effective investigation. According to the Constitutional Court, *“the most crucial factor determining the efficacy of the investigation is its independence, or more specifically, the institutional, hierarchical, and practical independence of the entity conducting the case investigation. Therefore, maintaining independence to the greatest extent possible is of particular importance in cases involving any alleged commission of a crime by a State’s representative [...] or in circumstances that call into question the independence and impartiality of the process and jeopardize the credibility of the entire justice system, regardless of how just and fair the case outcome turns out to be.”*⁹⁹

Accordingly, even if the investigation falls within the jurisdiction of the Ministry of Internal Affairs as defined by Ordinance №3 of August 23, 2019, the Prosecutor General ought to have exercised its authority and assigned the investigation to a different investigative body¹⁰⁰ because when employees of the Ministry of Internal Affairs are suspected of engaging in criminal activities, conducting the investigation through the same agency may **contradict** the requirement of independence of the investigation.

⁹⁶ The MIA’s statement, 03.08.2023, available at: <https://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/15894>, [19.10.2023].

⁹⁷ “Why did the helicopter arrive in Shovi only three hours later?”, gazetiachara.ge, available at: <http://gazetiajara.ge/2023/08/08/%E1%83%A0%E1%83%90%E1%83%A2%E1%83%9D%E1%83%9B-%E1%83%A9%E1%83%90%E1%83%A4%E1%83%A0%E1%83%98%E1%83%9C%E1%83%93%E1%83%90-%E1%83%95%E1%83%94%E1%83%A0%E1%83%A2%E1%83%9B%E1%83%A4%E1%83%A0%E1%83%94%E1%83%9C/>, last accessed: 24.10.2023.

⁹⁸ *Armani and Silva v. The United Kingdom*, no. 5878/08, 30.03.2016, § 232; *Bouyid v. Belgium*, no. 23380/09, 2015.09.28, §38.

⁹⁹ The Judgment of the Constitutional Court of September 23, 2021, case №1/4/1330, &13

¹⁰⁰ The Criminal Procedure Code of Georgia, Article 33, Paragraph 6 (a);

Question №11: The General Prosecutor’s Office should answer the question of why the agency did not launch an investigation within its authority and how it carries out prosecutorial supervision over the investigation conducted by the Ministry of Internal Affairs.

Issue №12: Which qualification should apply to the investigation in question?

As of October 2023, the investigation into the above events was conducted by the Ministry of Internal Affairs under two articles of the Criminal Code, namely, Article 116 (negligent manslaughter) and Article 240 (breach of safety regulations during mining, construction, or other works). However, the facts identified during the rescue operations and a document prepared by the Environmental Agency¹⁰¹ raise questions about the alleged commission of other crimes under the Code, in particular, Article 128 (abandoning in distress) and Article 342 (neglect of official duties) of the Criminal Law.

Question №12: Due to high public interest in the case, the Ministry of Internal Affairs must provide the public with comprehensive information about the investigation in progress, investigative operations conducted, and the respective results. In addition, the agency must supply the reasons and explanations why the investigation is not being carried out under the qualifications provided for in Articles 128 and 342 of the Criminal Code.

Issue №13: Participation of victims in the investigation

According to information disseminated to the public, the victim’s successors are not allowed to obtain copies of the case materials. This means that they have to familiarize themselves with the case files in the investigative agency only.¹⁰² According to Article 57, paragraph 1, subparagraph “h” of the Code of Criminal Procedure, a victim has the right to be informed on the progress of the investigation and review the materials of the criminal case. According to the Constitutional Court, *“it should be taken into account that criminal case materials are the type of information that, in many cases, on the one hand, is of a large volume and, on the other hand, requires a comprehensive examination, thorough research, and analysis, as well as special expertise and experience, also seeking the necessary clarification and assessment from lawyers and experts of relevant fields. Therefore, it is entirely likely that the victim, while reading the case materials on the spot, will be unable to independently perceive, understand, and interpret any relevant information correctly and adequately, which may result in produc-*

¹⁰¹ See the statement: “Civil society organizations demand an effective investigation into the natural events in Shovi and Guria,” 02.10.2023, available at: <https://gyla.ge/ge/post/samoqalaqo-sazogadoebis-organizaciebi-shovsa-da-guriashi-ganvitarebul-stiqiur-movlenebtan-dakavshirebit-efeqtiani-gamodziebis-chatarebash-itkhove#sthash.xQSmm5V.dpbs> [26.10.2023].

¹⁰² The family of one of the persons who died in Shovi demands an investigation under the article of negligence of official duties, available at: <https://www.amerikiskhma.com/a/7239271.html>, last accessed: 24.10.2023.

ing incorrect conclusions about the course of the investigation or in a complete inability to use the information for an intended purpose. On the other hand, if the victim had been furnished with copies of the documents, he or she would have been able to study and review them at a later time in a quieter environment and receive expert explanations or consultations regarding the files. Furthermore, it should also be noted that, given the volume and complexity of the case materials, becoming acquainted with them may sometimes take quite some time, requiring several hours of effort and concentration of attention. It is also quite likely that, due to the magnitude of the case, the victim will be unable to make notes on all the information that he or she thinks is significant. Consequently, providing the interested person (a victim or his/her successor) with the possibility of familiarizing themselves with criminal law materials on the spot or even making notes in writing does not always ensure effective, full-fledged familiarization with the information or official documents available in the public institution, diminishes the true essence of the right to access information, and in some individual cases, may render the process completely meaningless.”¹⁰³

Despite the Constitutional Court’s explanation, the Prosecutor’s Office still maintains unconstitutional practices and creates procedural barriers for victims. It should be noted that the involvement of the victim in a criminal case proceeding is one of the important components of an effective investigation, which has also been pinpointed by the European Court of Human Rights. This, among others, implies public supervision and transparency of the investigation and its outcomes, which, in turn, may result in the practical accountability of the State.¹⁰⁴

Question №13: Why does the investigative unit refrain from providing the case materials to the successors of victims?

¹⁰³ Judgment No. 1/3/1312 of the Constitutional Court of Georgia dated December 18, 2020, into the case of *Konstantine Gamsakhurdia v. the Parliament of Georgia*, II §21.

¹⁰⁴ See, among many others: *Mckerr v. The United Kingdom*, no. 28883/95, 2001.05.04, § 115; *Tahsin Acar v. Turkey*, no. 26307/95, 2004.04.08, § 225.