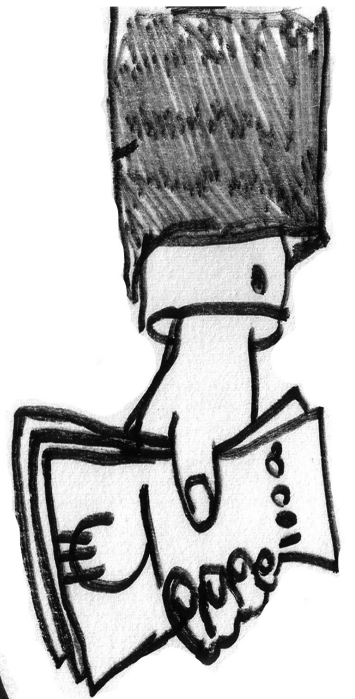


UNREGULATED STATE SECRET PROCUREMENTS



TBILISI
2015

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1. PURPOSES AND REASONS

It's been ages that public procurement has become the subject of high interest of the society in Georgia. Accordingly several perceivable reforms were carried out, that significantly increased the quality of transparency of the processes related to public procurement and rationality of spending public finances. Moreover, Electronic System of Public procurement received prestigious award in nomination "Preventing corruption in public offices and fighting corruption"¹.

However, despite significant success, there are certain problematic issues in public procurement. Presented survey concerns one of them classified public procurement and aims to inform society concerning the volume of spent funds when the procurement is classified and how high is the risk of corrupted practices when there are no proper regulations.

This survey is the first document that was prepared in regards to classified public procurement and we hope that the issues discussed in survey, the challenges and number off doubtful deals will become the subject of wide discussion.

2. METHODOLOGY

In order to prepare the survey, GYLA has submitted an application in 13 administrative organs. When choosing administrative organs emphasize was made on authority, statutory obligations and the specifics of activities of administrative organs.

However considering the fact that the public procurement is left without proper regulations, it is very difficult to identify all the administrative organs that were conducting the classified public procurement in 2010-2015.

In total the GYLA requested the same information from all thirteen administrative organs:

- ✓ The number of contracts for conducting classified procurement in 2010-2015;
- ✓ Total sum of money paid in order to conduct classified public procurement in 2010-2015
- ✓ The copies of contracts on classified public procurement declassified in 2010-2015;

When working on the survey, together with analyzing the information received, the attention was drawn to those legislative regulations that are defined by law. Also in connection with the companies implementing number of contracts the registers from Entrepreneur's Register were used.

Key findings

Considering analysis of the document obtained and the results of the presented survey, the following findings can be emphasized:

- In 2010-2015 2752 classified public procurement contracts of total 747,407,518 GEL were signed by only seven administration organs of Georgia.
- Besides, there is no document regulating list of subjects of public procurement related to state secrets and the procedure for conducting such procurement. In the absence of the document regulating list of subjects of public procurement related to state secrets and the procedure for conducting such procurement the risk of signing the corruptive deals is high, that has likely taken place in 2010-2015;
- The part of the contracts on classified public procurement signed in 2010-2015 that were declassified in the same period testify that during the years, when there were no regulations, the status of classified public procurement was extended to practically all kinds of procurement. Herewith, the important part of declassified contracts leaves serious questions as regards to specific public procurement, advisability of procuring classified and selecting the contracting companies;
- The part of the contracts on classified public procurement signed in 2010-2015 that were declassified in the same period testify that in some cases when signing the contract on classified public procurement the law of Georgia on Public procurement was used that is a violation of the requirement of the law, as the law on public procurement clearly states that the Law does not regulate the procurement that are carried out with status of classified public procurement.
- The part of the contracts on classified public procurement signed in 2010-2015 that were declassified in the same period testify that in some cases companies with unclear functions as so called "third parties of contracts" also participated; this fact may indicate corruptive deal.
- After 2012 parliamentary elections, based on the examples of the seven administrative agencies we can clearly say that the quantity and also the cost of the contracts signed with the status of classified public procurement reduced significantly. However, in the absence of regulating document, it is questionable whether it was reasonable to classify public procurement contracts and the selection procedure of contractors.

¹ <http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan049650.png>;

3. REGULATORY FRAMEWORK

On January 1, 2006 the Law on State Purchases entered into force and the first article of this law defined the category of those public procurements that the above mentioned law should be applied to.² Besides, the same article defined that the regulations defined by the Law on Public procurement is applicable on every type of public procurement except the public procurement related to the state secrets defined by the Law on State secrets of Georgia. In accordance with the original version of the law, the National Security Council was to prepare, and the President of Georgia was to approve the list of subjects of public procurement related to state secrets as defined in the Law of Georgia on State Secrets and the procedure for conducting such procurement.³

From the moment of taking the oath by the president elected on the next presidential elections, the authority to approve the abovementioned regulation was granted to the Government of Georgia.⁴

Based on the next legislative amendments adopted by the parliament of Georgia in March 2015, the authority of preparing the list of subjects of public procurement related to state secrets and the procedure for conducting such procurement was granted to The State Security and Crisis Management Council and it was still the prerogative of the Government of Georgia to approve the abovementioned regulations.⁵

Accordingly, despite the fact that since January 1, 2006 the administrative organs responsible for preparing and approving the list of subjects of public procurement related to state secrets and the procedure for conducting such procurement was changed, one thing is clear, that according to the Law of Georgia on Public procurement, in regards to the classified public procurement, the Government of Georgia should have approved regulations but there are no regulations approved by this time.

Considering the fact GYLA started collecting the information from 2014 in order to prepare the survey, the applications were submitted on the first stage in the National Security Council of Georgia and the Government of Georgia for above mentioned reasons.⁶

In accordance with the information provided by the National Security Council of Georgia, based on the decree of the President of Georgia of April 11, 2014, the temporary interagency commission was established under the National Security Council of Georgia to establish regulations for preparing the list of subjects of public procurement related to state secrets and the procedure for conducting such procurement.⁷

The abovementioned decree defined members of Commission and statute. According to the decree, the members of the commission were representatives of the Office of National Security Council, Department of Finance and Logistics, also the Ministry of Defense, Intelligence Service and the Ministry of Internal Affairs. The Ministry of Finance, Ministry of Health, Labor and Social Affairs and Ministry of Corrections of Georgia were also asked to be participants of the Commission.⁸

According to the Decree of the President, the Commission was determined to work for four months.⁹ And according to the information provided to GYLA by the National Security Council of Georgia, the commission developed draft of the list of subjects of public procurement related to state secrets and the procedure for conducting such procurement defined by the Law of Georgia on Public Procurement and submitted the developed documents to the members of the National Security Council of Georgia for discussion.¹⁰ Based on the information of the Council upon the submission of the remarks of Prime-minister the draft would have been sent to the Government of Georgia for approval.

As regards the Government of Georgia, based on the information provided by the Chancellery of Georgia, as of November 10, 2014, the list of subjects of public procurement related to state secrets and the procedure for conducting such procurement was not yet approved by the Government of Georgia.¹¹ The State Chancellery also admitted that the State Security and Crisis Management Council has its own remarks regarding specific issues from the draft of the document submitted to the Prime Minister by the National Security Council and related acts would have been adopted after discussion on these remarks.¹²

Accordingly, as of November 10, 2014, the list of subjects of public procurement related to state secrets and the procedure

² Law of Georgia on Public Procurement. Article 1;

³ Law of Georgia on Public Procurement. Article 1 (Amended law as of 20th of April 2005). Available at <https://matsne.gov.ge/ka/document/view/31252?publication=0>

⁴ Law of Georgia on amendments in "Law of Georgia on Public Procurement"; 24.09.2013. (Available at <https://matsne.gov.ge/ka/document/view/2032352>);

⁵ Law of Georgia on amendments in "Law of Georgia on Public Procurement"; 4.03.2015. Available at <https://matsne.gov.ge/ka/document/view/2764353>);

⁶ Statements of GYLA of 29th of October 2014 #8-04/532(1)-14 and 12th January 2014 #8-04/536-14;

⁷ Correspondence of National Security Council of Georgia of 19th of November, 2014 #2/547; the Decree of the President of Georgia of 11th of April 2014 #144;

⁸ Decree of the President of Georgia of 11th of April 2014 #144;

⁹ Decree of the President of Georgia of 11th of April 2014 #144;

¹⁰ Correspondence of National Security Council of Georgia of 19 of November, 2014 #2/547;

¹¹ Correspondence of the State Chancellery of Georgia of 10 of October 2014, #38027;

¹² Correspondence of the State Chancellery of Georgia of 10 of October 2014, #38027;

for conducting such procurement was not yet approved by the Government of Georgia. However, fair to say, that the regulations for the public procurement related to the state secret had to be approved by the president and then, if necessary by the Government of Georgia much earlier.

As regards the issues mentioned above, GYLA communication with the Administration of the Government of Georgia was not limited to the correspondence sent in 2014. In Order to find out how the regulations concerning the public procurement related to the state secret were prepared GYLA submitted next application to the Administration of the Government of Georgia on 23rd of March, 2015 and asked for the following information:

- ✓ Whether the list of subjects of public procurement related to state secrets and the procedure for conducting such procurement defined by the Law of Georgia on Public Procurement was approved by the Government of Georgia as of March 23, 2015;
- ✓ If proper regulations were no approved, was the approval planned and the date of approval.¹³

Based on the information submitted by the Administration of Georgia it came to notice that the Government of Georgia have not approved the list of subjects of public procurement related to state secrets and the procedure for conducting such procurement by the 5th of May 2015. Moreover, The State Security and Crisis Management Council have not even submitted the draft of this document.¹⁴ It is also important to note that the State Security and Crisis Management Council was defined the obligation to submit the draft from March 23rd 2015. However, in 2014 already, the Commission under the National Security Council have prepared and submitted the draft of documents defining the list of subjects of public procurement related to state secrets and the procedure for conducting such procurement.¹⁵

In accordance with the GYLA information received as of 11 November, 2015 the working group is established with coordination of the State Security and Crisis Management Council and the list of subjects of public procurement related to state secrets and the procedure for conducting such procurement is being processed. The document will be submitted to the Government of Georgia in the “nearest future”.¹⁶

It is unknown what is the term meant under “nearest future”, but the fact is that until the Government of Georgia Approves the list of subjects of public procurement related to state secrets and the procedure for conducting such procurement, each contract signed on behalf of classified public procurement contains increased corruption risk.

4. YEARS 2010-2015 AND THE AGENCIES CARRYING OUT CLASSIFIED PUBLIC PROCUREMENT

As mentioned in the Methodology section of this survey, the query was submitted to 13 administrative organs regarding classified public procurement. Specifically:

1. Administration of the Government of Georgia;
2. Administration of the President of Georgia;
3. Ministry of Economy and Sustainable Development of Georgia;
4. Ministry of Energy of Georgia;
5. Ministry of Defense of Georgia;
6. Ministry of Justice of Georgia;
7. Ministry of Foreign Affairs of Georgia;
8. Ministry of Internal Affairs of Georgia;
9. Special State Protection Service of Georgia;
10. State Maintenance Agency of Georgia;
11. National Security Council of Georgia;
12. State Military Scientific-Technical Center “DELTA”;
13. State Security and Crisis Management Council of Georgia

Two out of 13 abovementioned agencies, Ministry of Economy and Sustainable Development of Georgia and Ministry of Energy of Georgia noted that they have not carried out public procurement in 2010-2015.¹⁷ Five out of the rest 11, namely: Ministry of Justice of Georgia,¹⁸ Ministry of Foreign Affairs of Georgia,¹⁹ the Council for State Security and Crisis

¹³ Statement of GYLA of 23rd of March 2015 #8-04/264-15;

¹⁴ Correspondence of the Administration of Government of Georgia of 5 of May 2015, #28847;

¹⁵ Correspondence of National Security Council of Georgia of 19 of November, 2014 #2/547;

¹⁶ Correspondence of the State Security and Crisis Management Council of 11 of November 2015 #1246;

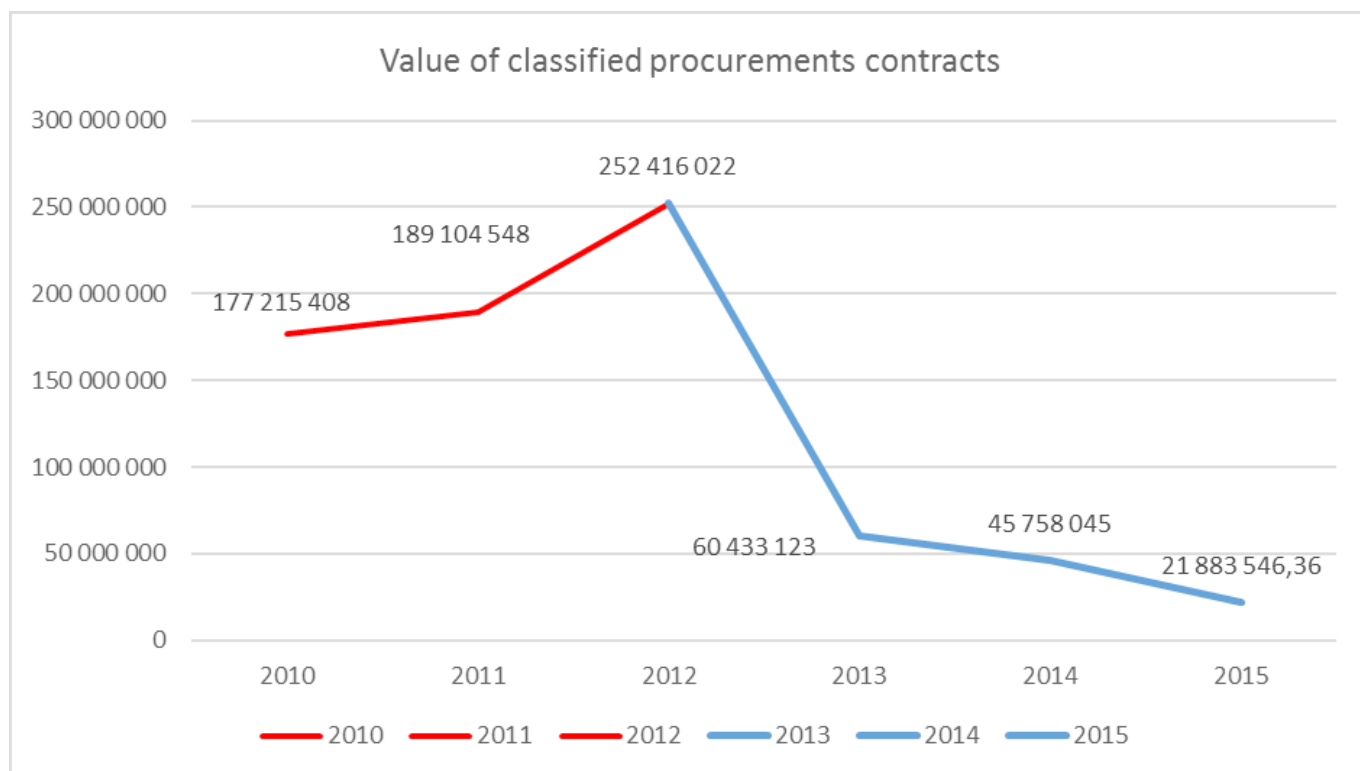
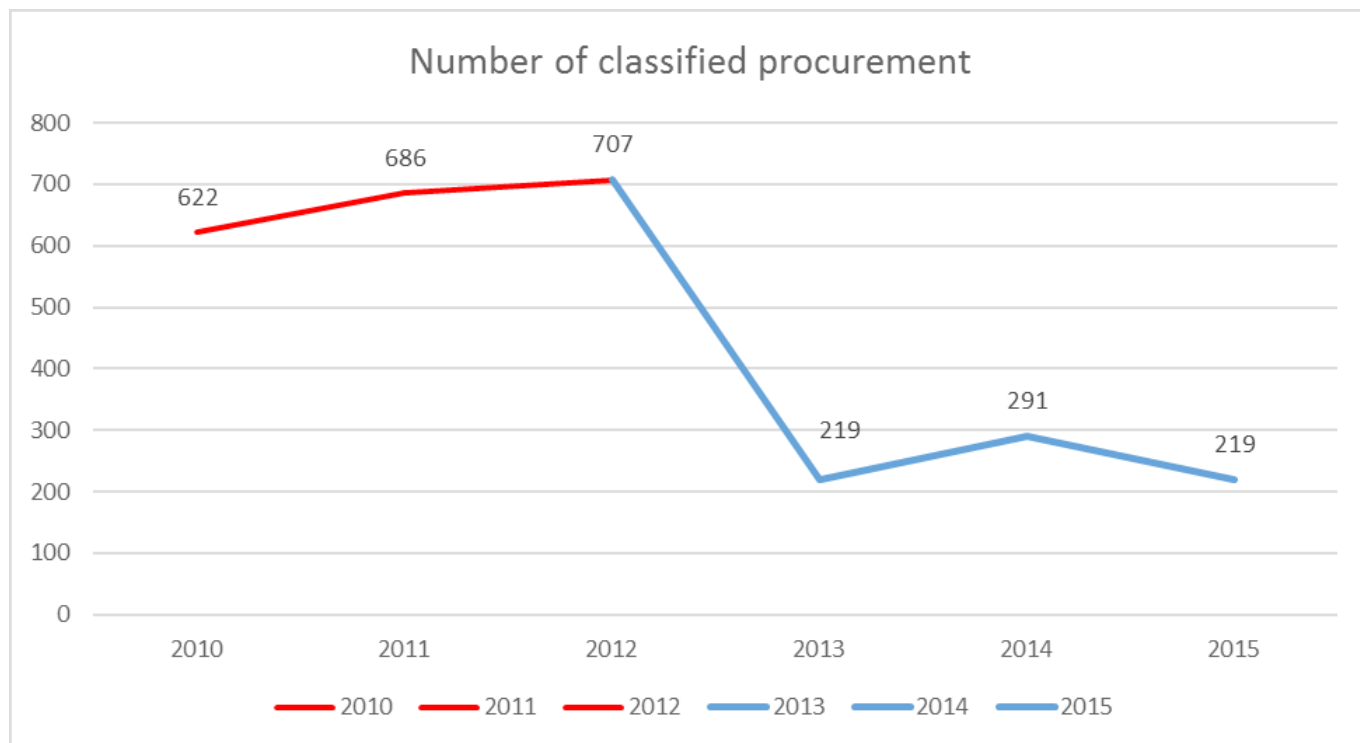
¹⁷ Ministry of Economy and Sustainable Development of Georgia:10.12.14 - #08/8803; 18.09.15 - #08/6596, Ministry of Energy of Georgia: 01.12.14 - 06/4377; 11.09.15 - 06/3405;

¹⁸ Correspondence of 16th of February 2015 #103;

¹⁹ Correspondence of 27th of February 2015 #01/7138;

Management (only in the part of payment based on the contract)²⁰; Ministry of Internal Affairs of Georgia²¹ and State Military Scientific-Technical Center “DELTA”²² refused to provide the information on the grounds that the information requested was related to the state secret.

Overall, 7 out of 13 agencies provided the information to GYLA regarding the public procurement carried out in 2010-2015, that are divided per year as illustrated below:



As the diagrams above shows, in 2010-2012 there was a tendency, based on the patterns of mentioned 7 agencies, that indicates the ever-growing dynamics of the classified public procurement and also the amount of money paid for these contracts. And since 2012 parliament elections the opposite trend was observed, that shows the reduction of these types

²⁰ Correspondence of 2th of December 2015 #1406;

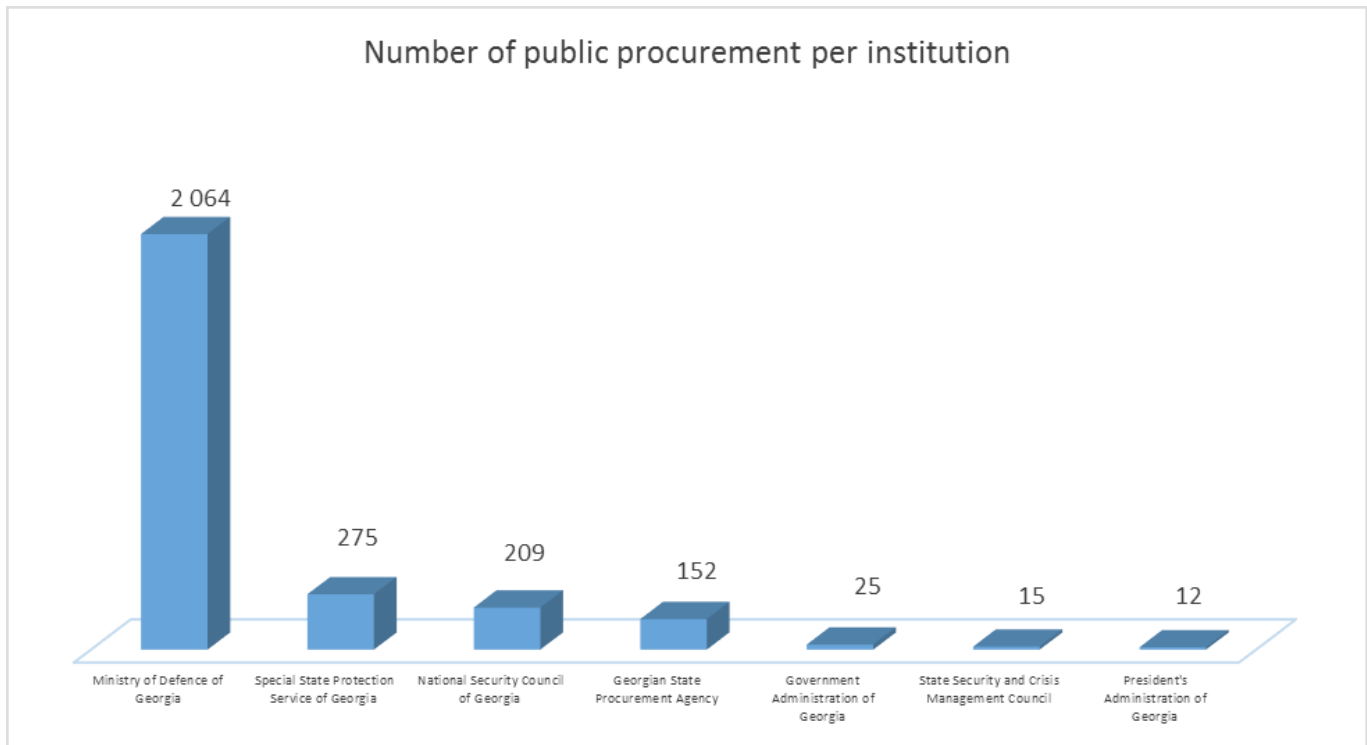
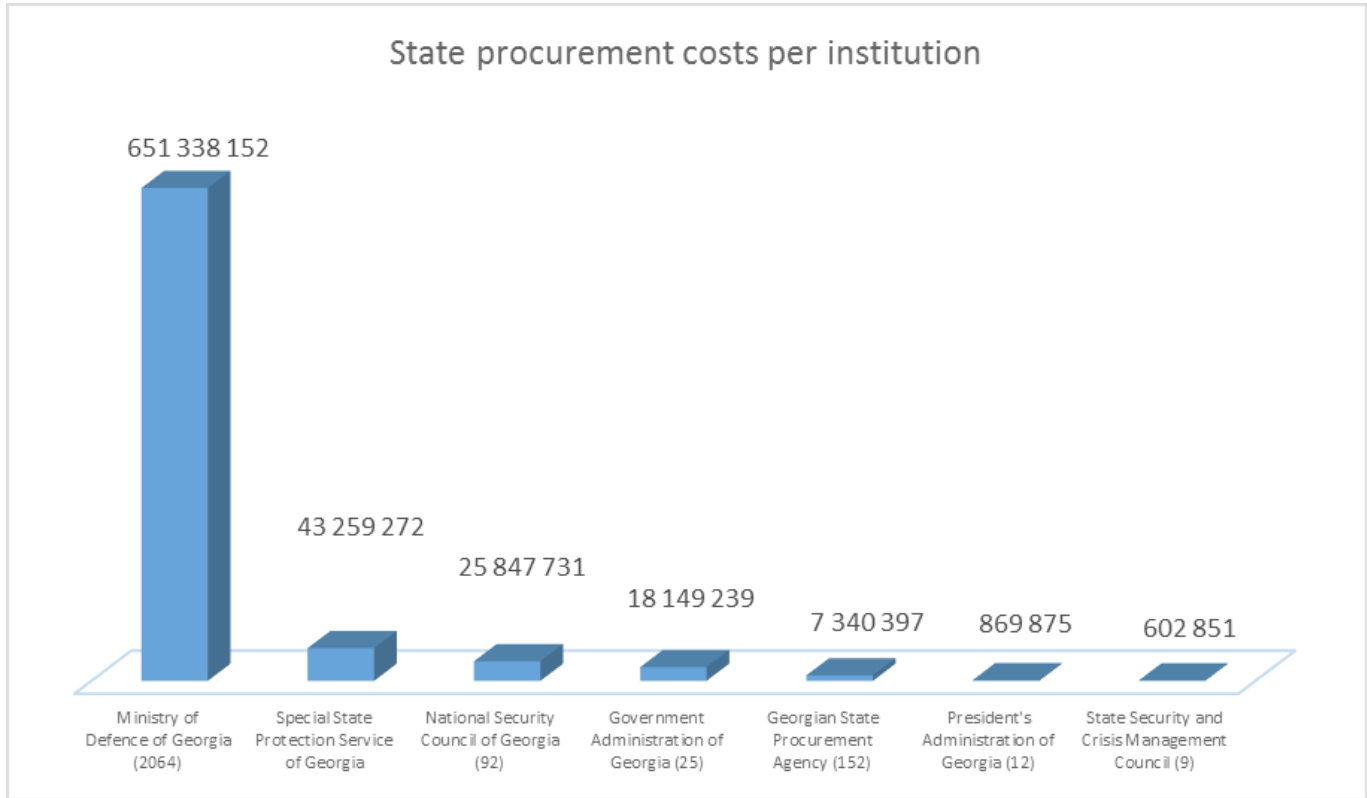
²¹ Correspondence of 8th of December 2014 #2487685;

²² Correspondence of 8th of December 2014 #2487685;

of contracts and the amount paid for these contracts. But the fact that in 2010-2012 and 2013-2015 the classified public procurement was carried out without proper regulations significantly increases likelihood of corrupt practices in the process of classified public procurement. Moreover, in the absence of regulations it becomes difficult to even confirm the possibility of possible corruption deals.

5. WHO CARRIED OUT THE LARGEST NUMBER OF STATE PROCUREMENTS

As already noted, overall 2752 classified public procurement contracts of total 747,407,518 GEL were signed by seven administration organs of Georgia. The cost of classified procurement contracts of these 7 agencies were distributed as follows:



Above mentioned diagram shows that in 2010-2015 most of the classified public procurement contracts were signed by the Ministry of Defense. The fact itself, that most of these types of contracts were signed by the Ministry of Defense maybe natural, however considering the fact that there are no regulations in the country of classified public procurement, the number of contracts, 2752, signed in 2010-2015 by seven administrative body, is extremely high. Below is the information regarding the classified public procurement carried out by each administrative agency from 1st of January 2010 till 1st of January 2015.

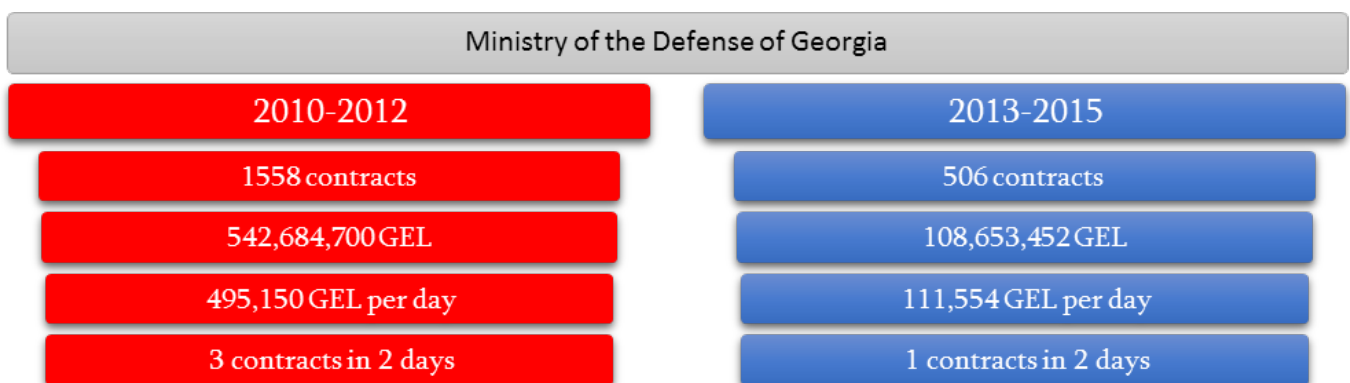
5.1. *Ministry of Defense*

The Ministry of Defense of Georgia signed 2064 classified public procurement contracts with total cost of 651,338,152 since the January 1st 2010 till September 30th of 2015. It turns out that in 2010-2015 the Ministry of Defense of Georgia was signing one classified public procurement contract per day. This figure becomes even more impressive if we calculate these data in accordance with years 2010-2012. Namely, based on the official information provided by the Ministry of Defense of Georgia, in 2010-2012 the Ministry signed overall 1558 contracts regarding classified public procurement²³ that makes 75.5% of total classified public procurement contracts. The above-mentioned number of contracts with respect to 2010-2012 shows that the Ministry of Defense of Georgia was signing average 1.42 classified public procurement contracts per day. The above mentioned number of classified public procurement contracts, not to mention high corruption risks in the absence of regulations, raises serious questions in terms of reasonability of classifying the specific public procurement.

According to one more statistics, from January 1, 2010 to September 1, 2015, the Ministry of Defense of Georgia has signed classified public procurement contracts with total cost 651,338,152 GEL. Accordingly it follows that from January 1, 2010 to September 1 2015 the Ministry of Defense of Georgia was signing the contracts with cost of 314,656 per day concerning the classified public procurement.

Herewith, this figure becomes even more impressive if we calculate these data on 2010-2012. It comes of that the Ministry of Defense of Georgia was signing the contracts with total cost of 495,150 GEL per day concerning the classified public procurement. This figure becomes even more impressive if we calculate these data in accordance with years 2010-2012. Thus it may be concluded that Ministry of Defense was concluding a secret public procurement deal with an amount 495.150 daily.

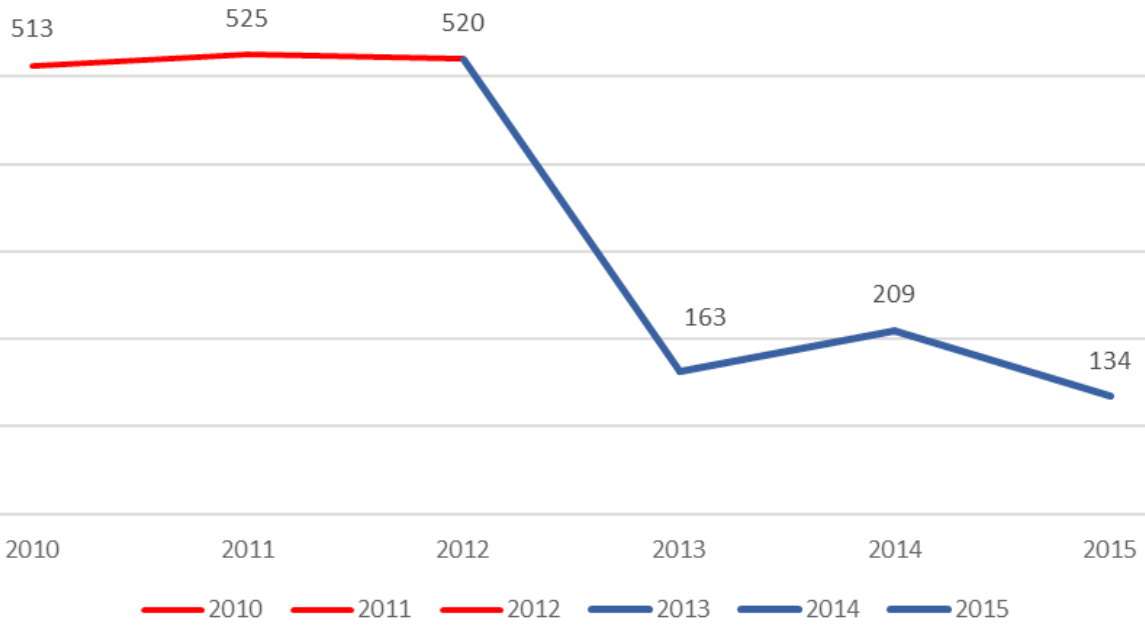
The figures related to the Ministry of the Defense of Georgia clearly reduce after 2012 parliamentary elections and if we calculate from January 1, 2013 to September 1, 2015 with the same principle, it comes off that from January 1, 2013 to September 1, 2015, the Ministry of Defense of Georgia was average signing 0,5 contracts regarding the classified public procurement.²⁴ Regarding the cost of contracts signed from January 1, 2013 to September 1, 2015, the Ministry of Georgia was signing the contracts concerning classified public procurement with total cost of 111,554 GEL.



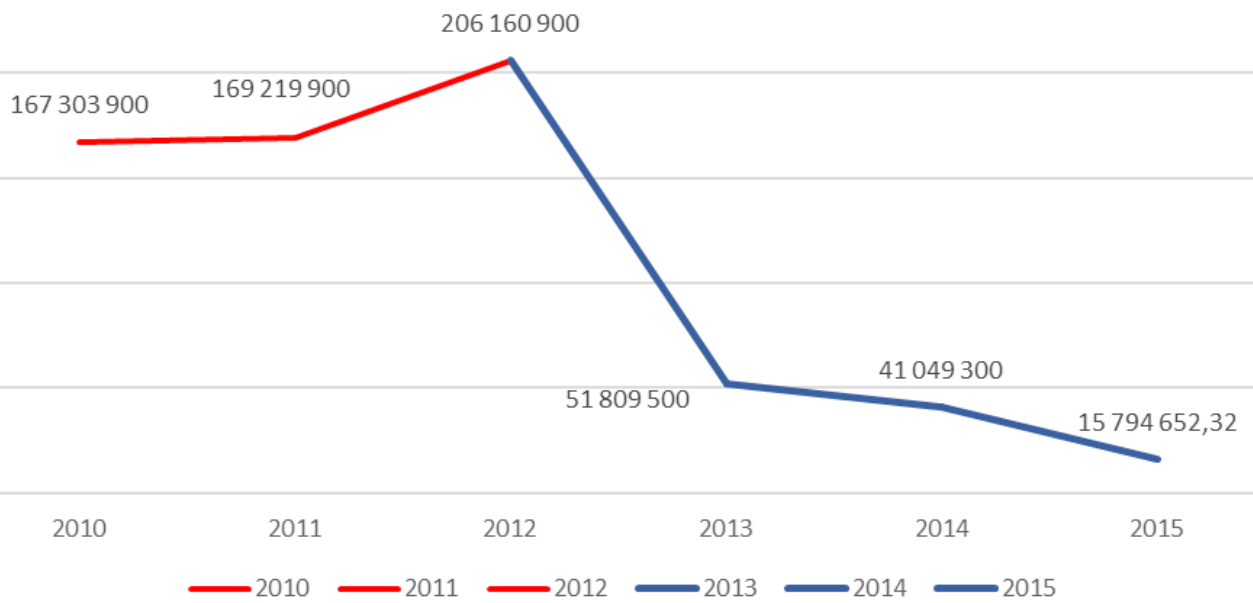
²³ Correspondence of Ministry of Georgia of February 2, 2015 #0 15 00880093;

²⁴ Correspondence of Ministry of Georgia of February 2, 2015 #0 15 00880093 and September 29, 2015 #7 15 00 779905;

Number of Classified procurement

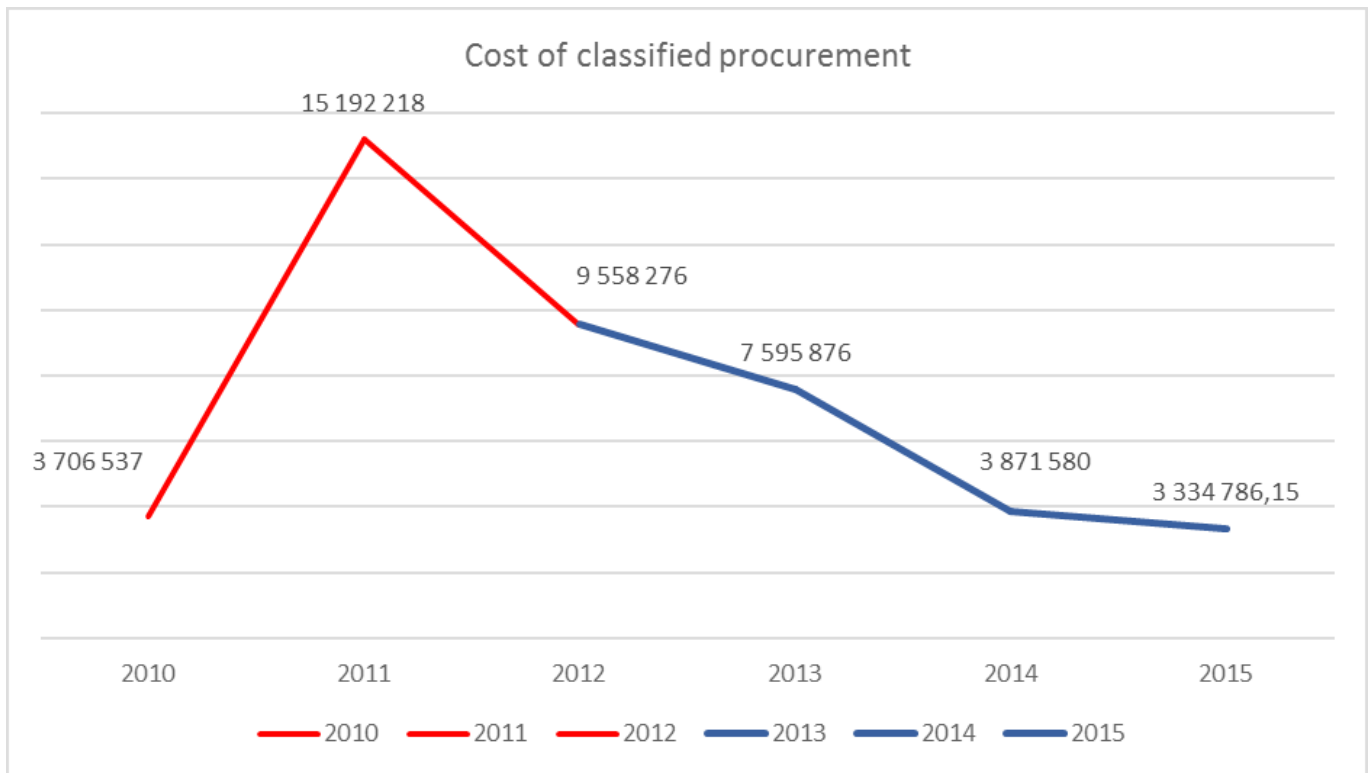
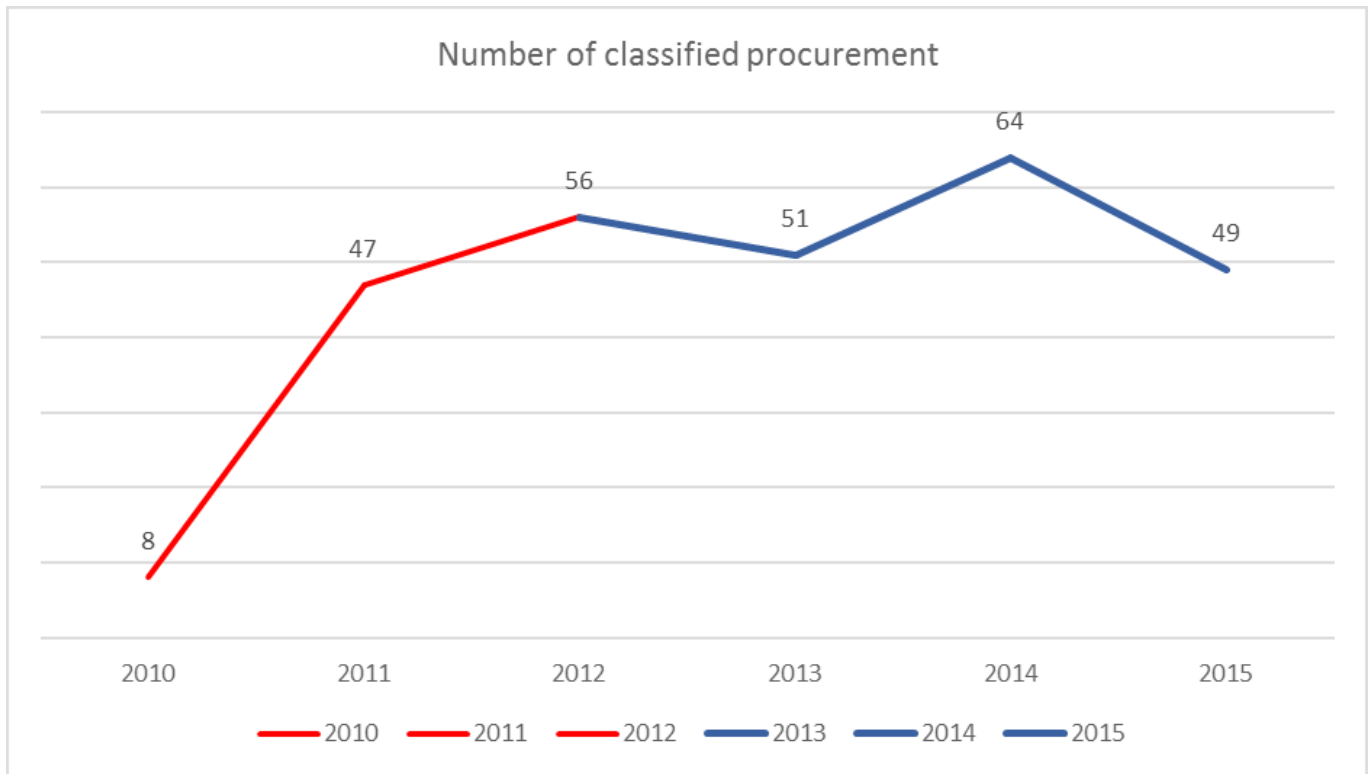


Cost of classified procurement



5.2. Special State Protection Service of Georgia

According to official information from January 1, 2010 to September 1 2015, the Special State Protection Service of Georgia signed 275 contracts regarding classified public procurement with cost of 43,259,272 GEL.²⁵ The diagram below shows the distribution of contracts by years and their value.



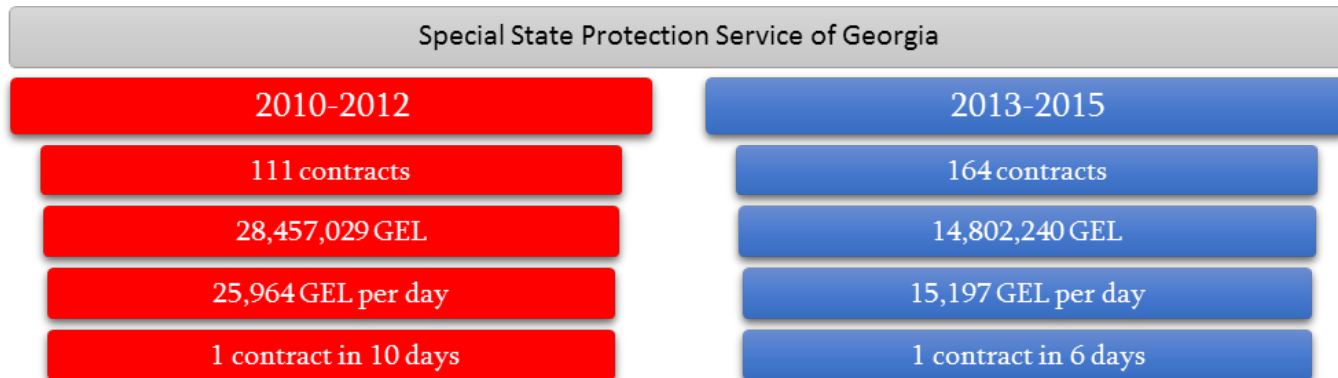
Based on the analysis of the information provided by the Special State Protection Service of Georgia it becomes clear that 40% of 275 contracts were signed in the period from January 1, 2010 to September 1 2015 i.e. 111 contracts were signed in 2010-2012. And 60% i.e. 164 contracts were signed in the period between January 1, 2013 to September 1, 2015. Although, despite the fact that the number of contracts signed in the period between January 1, 2013 to September 1, 2015 in total is significantly higher than the number of contracts on classified public procurement signed during 2010-2012,

²⁵ Correspondence of Special State Protection Service of Georgia of January 10, 2015 #796 and September 16, 2015 #32911;

the picture is opposite in regards to the cost of contracts. E.g. total cost of 111 contracts signed between years 2010-2012 is 28,457,029 and the cost of contracts signed in the period from January 1, 2013 to September 1, 2015 is 14,802,240 GEL. More simply, the Special State Protection Service of Georgia was signing average 1 classified public procurement contract in 10 days. Herewith total cost of contracts signed per day during 2010-2012 is 25,964 GEL.

As regards to the same data in respect the period from January 1 2013 to September 1 2015, the Special State Protection Service of Georgia was signing 1 classified public procurement contract per 6 days. But the cost of the signed contracts as average 15,197 GEL per day.

The abovementioned data is presented on the diagram below.



5.3. National Security Council of Georgia

According to the official information provided by the Office of the National Security Council of Georgia, the National Security Council of Georgia signed total 209 classified public procurement contracts from January 1, 2010 to September 1, 2015. But the National Security Council of Georgia provided the information regarding only those 92 contracts on classified public procurement that were declassified. Total cost of abovementioned 92 contracts on classified public procurement was 25,847,731 GEL.²⁶ Accordingly, it is clear that the total value of secret contracts concluded by the National Security Council of Georgia is much more than 25,847,731 GEL.

In accordance with the information of the National Security Council of Georgia, 208 classified contracts out of the abovementioned 209 were signed in 2010-2012. And the rest one contract was signed in 2014 and the cost was 2648 GEL only.²⁷

In 2010-2012 the National Security Council of Georgia was signing average 1 contract per 6 days. Herewith, taking into consideration that the information provided by the Office of the National Security Council of Georgia concerns only the cost of only 92 contracts, total 25,847,731 GEL, it is difficult to find out what is the cost of 209 contracts. And still, based on the cost of 92 contracts (25,847,731 GEL) the National Security Council of Georgia was signing contracts of cost 23,602 GEL average per day in 2010-2012.

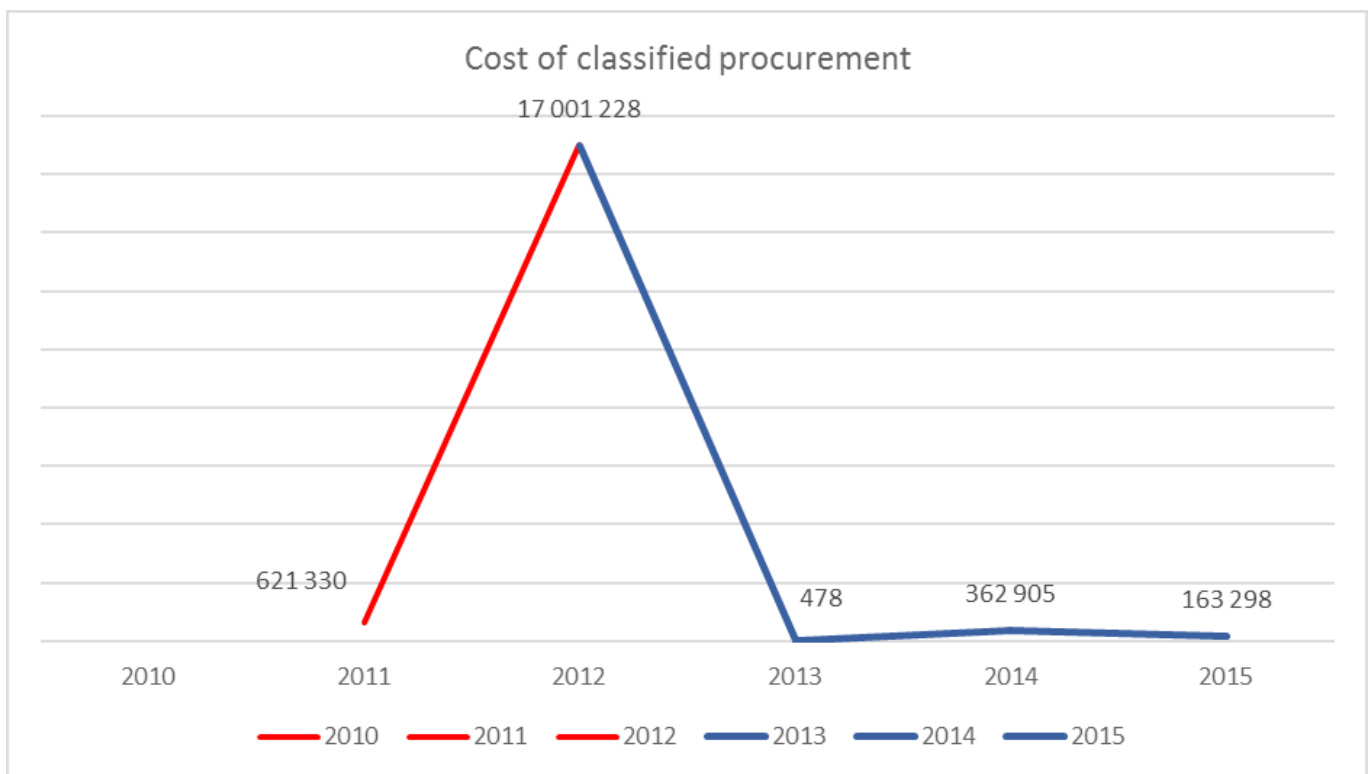
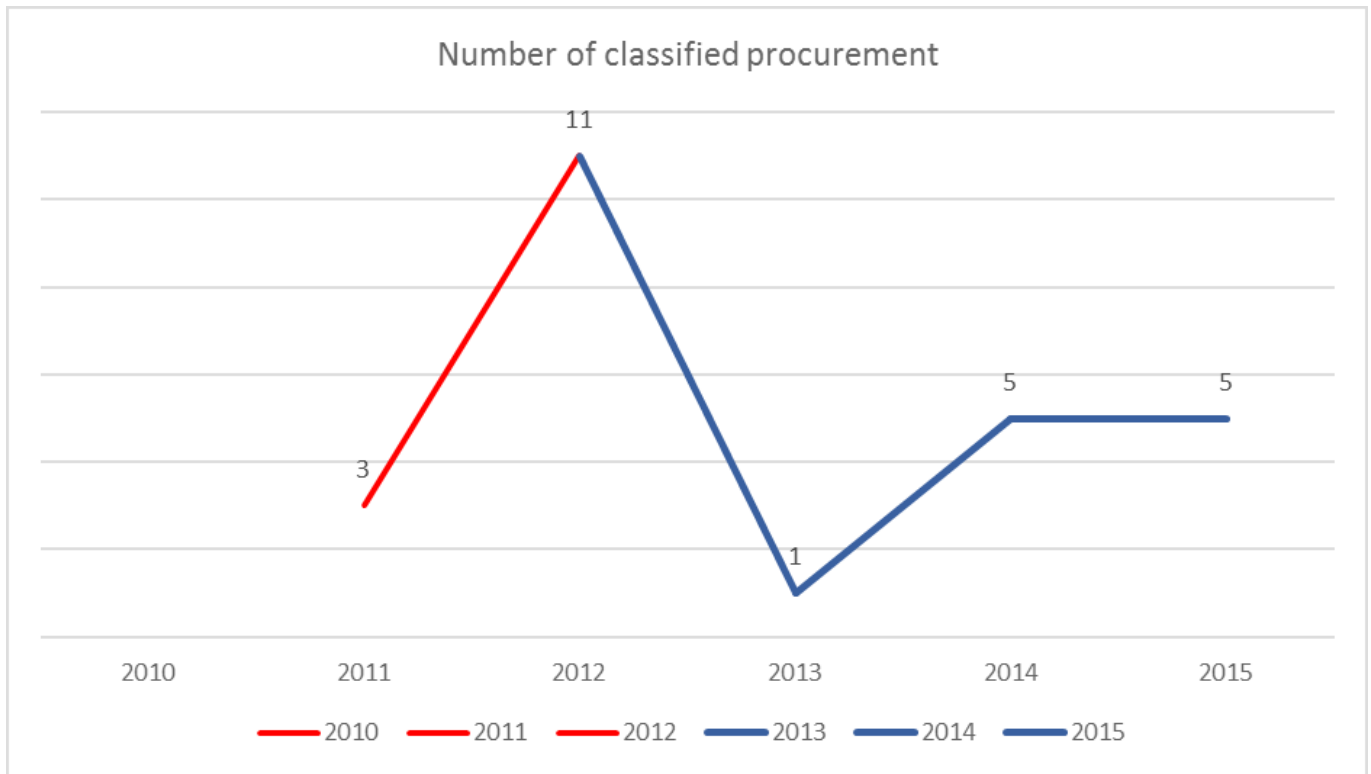
5.4. The Chancellery/Administration of the Government of Georgia

According to the official information from 1 January, 2010 to September 1, 2015 7.1. The Chancellery/Administration of the Government of Georgia signed 25 classified public procurement contracts of total cost 18,149,239 GEL.²⁸ The diagram below shows the distribution of contracts by years and their value.

²⁶ Correspondence of the National Security Council of Georgia of December 8, 2014 #2/575;

²⁷ Correspondence of the National Security Council of Georgia of December 8, 2014 #2/575;

²⁸ Correspondence of the Chancellery of the Government of Georgia of December 3, 2014 #40772 and correspondence of the Administration of the Government of Georgia of September 26, 2015 #65363;



Based on the analysis of the official information it clears out that 56% of 25 contracts, i.e. 14 contracts, signed by the agency from January 1, 2010 to September 1, 2015 was signed in 2010-2012. And 44% i.e. 11 contracts were signed from January 1, 2013 to September 1, 2015.

Herewith, the cost of 14 contracts signed in 2010-2012 is 17,622,558 GEL. And the cost of 11 contracts signed from January 1, 2013 to September 1, 2015 was 526,681 GEL. Accordingly, the Chancellery/Administration of the Government of Georgia was signing average 1 classified public procurement contract per 78 days. Additionally, the cost of the contracts signed per day in 2010-2012 is average 16,079 GEL.

The same data in respect to the period from January 1, 2013 to September 1, 2015, is the following: average 1 classified public procurement contract per 88 days and the cost of the contracts signed was 540 GEL per day.

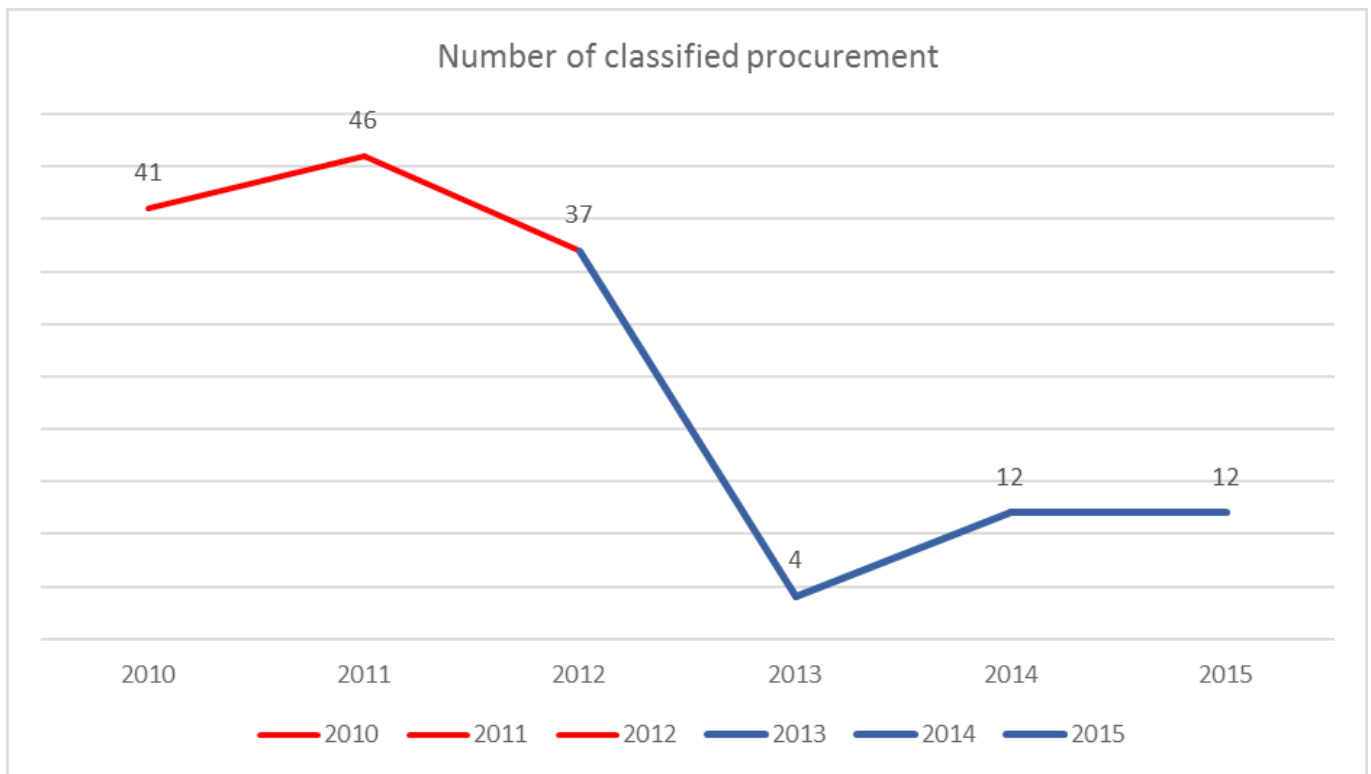
The abovementioned data is presented on the diagram below for better visualization.

Government of Georgia

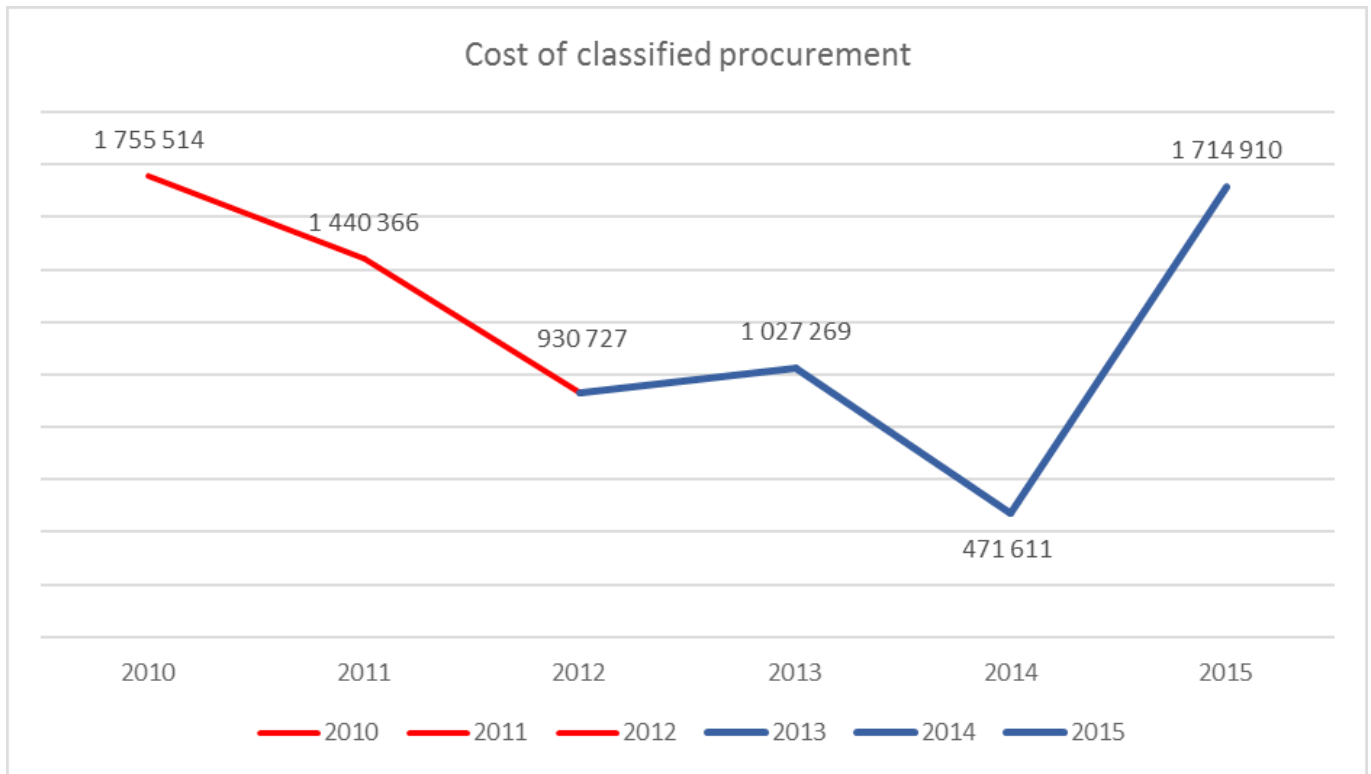
2010-2012	2013-2015
14 contracts	11 contracts
17,622,558 GEL	526,681 GEL
16,079 GEL per day	540 GEL per day
1 contract in 79 days	1 contract in 88 days

5.5. State Maintenance Agency of Georgia

Another administrative body that GYLA focused on, is the State Maintenance Agency of Georgia. According to the official information the State Maintenance Agency of Georgia signed 152 classified public procurement contracts of total cost 7,340,397 GEL from January 1, 2010 to September 1, 2015.²⁹ The diagram below shows the distribution of contracts by years and their value.



²⁹ Correspondence of the State Maintenance Agency of Georgia of January 14, 2015 #8/3/ and September 22, 2015 #6/1-3/2;

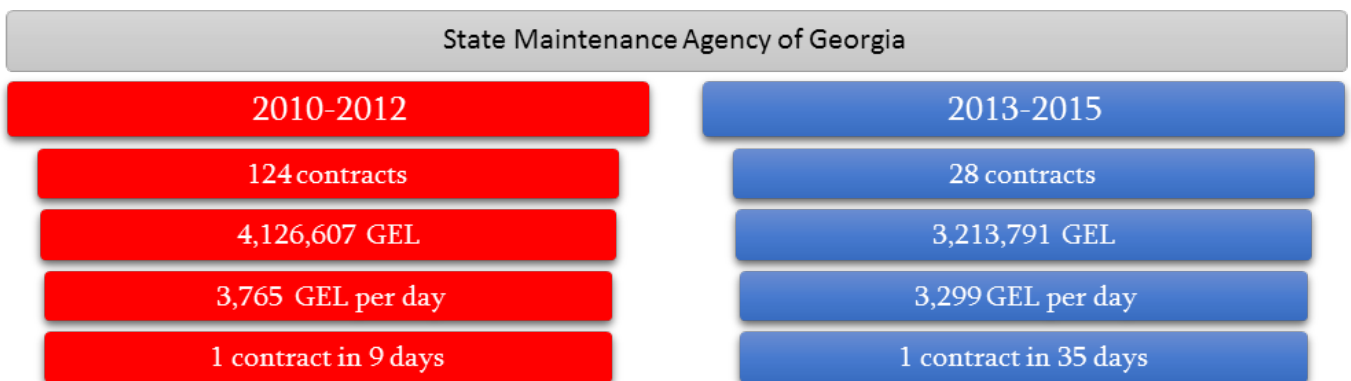


According to the Agency information 82% of 152 contracts i.e. 124 contracts signed from January 1, 2010 to September 1, 2015 were signed in 2010-2012. And 18% i.e. 18 contracts were signed in the period from January 1, 2013 to September 1, 2015.

Despite this, the cost of 124 contracts signed in 2010-2012 was 4,126,607 GEL. And the cost of 28 contracts signed from January 1, 2013 to September 1, 2015 was 3,213,791 GEL. Accordingly, the State Maintenance Agency of Georgia was signing average 1 classified public procurement contract per 9 days in 2010-2012. Herewith, the cost of the contract signed in one day was 3,765 GEL.

As regards the data from January 1, 2013 to September 1, 2015, the agency was signing 1 classified public procurement contract average per 35 days. And the cost of the contracts per day was 3,299 GEL.

The abovementioned data is presented on the diagram below for better visualization.



5.6. Administration of the President of Georgia

Another administrative organ that provided the information to GYLA regarding the classified public procurement during 2010-2015 was the Administration of the President of Georgia. But, unlike other agencies, the Administration of the President did not specify the information regarding the years and regarding the number of the classified public procurement per year and the costs of the contracts. Accordingly the data below gives less statistical data concerning the President's Administration than it was in relation to other agencies.

According to the official information, from January 1, 2010 to September 1, 2015, the Administration of the President of

Georgia signed 12 classified public procurement contracts of cost 869,875 GEL.³⁰ 8 out of the abovementioned 12 contracts were signed from January 1, 2010 to November 27, 2014 and the rest 4 contracts cover the period from November 27, 2014 to September 1, 2015.³¹

Based on analysis of the information provided by the Administration of the President of Georgia, it becomes clear that the Administration of the President of Georgia was signing average 1 contract of classified public procurement per 173 days from January 1, 2010 to September 1, 2015. And the cost of the contracts per day signed by the Administration of the President of Georgia from January 1, 2010 to September 1, 2015 was 420 GEL.

5.7. State Security and Crisis Management Council of Georgia

According to the Official information provided by the Office of the State Security and Crisis Management Council of Georgia, the Office of the Council carried out the classified public procurement only in 2015 and signed 15 contracts from January 1, 2015 to November 11, of the same year.³²

Based on the information provided by the Office of the Council, decree of March 9, 2015 #04- \square became the basis of 6 contracts out of the abovementioned 15. Although the Office of the State Security and Crisis Management Council of Georgia did not provide the information regarding the cost of the contracts, based on the report on the implementation of 9 months of the state budget 2015, 2,333,000 GEL was allocated the government's reserve fund for the Office of the Council, on the basis of decree of the Government of Georgia #04- \square of March 9, 2015, out of which actual cost was 602,851 GEL.³³

Information regarding the cost and/or actual performance of the rest 9 contracts is unknown to GYLA.

6. DE-CLASSIFIED AGREEMENTS

One of the most important issues GYLA faced during the preparation of the presented research report was related to obtaining the agreements that were signed with the status of classified public procurement and were later de-classified.

This issue is important also because due to the inexistence of relevant regulations, it is possible to discuss what types of state procurement were classified.

In total, according to the information obtained by GYLA, the total cost of de-classified public procurement agreements, signed and classified during January 1, 2010, and September 1, 2015 by the Ministry of Defense of Georgia, the Ministry of Internal Affairs of Georgia, and the Chancellery/Administration of the Government of Georgia amount to 46,019,400 EUR, 35,571,692 GEL, and 8,402,337 USD.

6.1. The Ministry of Defense of Georgia

According to the official information provided by the Ministry of Defense of Georgia,³⁴ 14 classified public procurement agreements signed by the Ministry of Defense of Georgia were de-classified during the period of 2010-2015 (up to September 1, 2015); the total cost of these agreements amounts to 46,019, 400 EUR, 11,720,877 GEL and 7,675,20 USD.

Information about each agreement is presented below, grouped according to supplier parties of the agreements.

6.1.1. Super V, Ltd.

In the reporting period, the Ministry of Defense of Georgia and *Super V, Ltd.* signed three classified public procurement agreements. In each case, the subject of the agreement was the renovation of the house located in village Tsavkisi and listed under the properties of the Ministry of Defense.³⁵

³⁰ Correspondence of the Administration of the President of Georgia of March 9, 2015 #2235 and September 29, 2015 #9671;

³¹ Correspondence of the Administration of the President of Georgia of March 9, 2015 #2235 and September 29, 2015 #9671;

³² Correspondence of the Office of the State Security and Crisis Management Council of Georgia of November 11, 2015 #1246;

³³ The report on the implementation of 9 months of the state budget 2015. Available at: http://mof.gov.ge/images/File/biuj2015-9tve/TAVI_III.pdf;

³⁴ Correspondences of the Ministry of Defense of Georgia, dated March 13, 2015, #MOD 2 15 00196952 and September 22, 2015, #MOD 7 15 00779905;

³⁵ State procurement agreements of December 9, 2010, March 4, 2011 and July 21, 2011. Parties: The Ministry of Defense of Georgia and *Super V Ltd.*

The Ministry of Defense of Georgia and <i>Super V, Ltd.</i> (09.12.2010 - 21.07.2011)			
	Subject of the Agreement	Amount (GEL)	Payment
1	Renovation of the house in village Tsavkisi, listed under the properties of the Ministry of Defense	256,283	Gradual. However, if bank guarantees were presented, it would be possible to make an advance payment of 95% of the total cost.
2	Second Stage of the renovation of the house in village Tsavkisi, listed under the properties of the Ministry of Defense	249,238	Gradual
	Renovation of the house in village Tsavkisi, listed under the properties of the Ministry of Defense	8880	Gradual

Hence, the total cost of the three agreements signed between the Ministry of Defense and *Super V, Ltd* for the purposes of renovating the house in village Tsavkisi, listed under the properties of the Ministry of Defense, amounted to 514,401 GEL. The criteria for selecting *Super V, Ltd* as the enforcer party, as well as the reasoning behind the classification of the agreement about renovation works, remains unknown.

Per the decision of the Ministry of Defense of Georgia, the agreements with *Super V Ltd* were declassified on May 13, 2013.³⁶

6.1.2. Georgian Leasing Company, LLC

On June 21, 2011, the Ministry of Defense of Georgia and *Georgian Leasing Company LLC* signed an agreement on financial leasing, which was immediately classified.³⁷ According to the agreement, the company had to hand over Gulfstream Aerospace G450, serial number 4106 (two Rolls Royce with Tay Mark 611-8C Engine) to the Ministry.

According to the agreement, the Ministry had to pay a monthly amount of 426,400 USD to *Georgian Leasing Company LLC*, according to the exchange rate on the day of payment.³⁸ The Ministry had to pay the mentioned amount on a monthly basis for 96 months, signing all payments on December 31, 2012.³⁹ However, on December 31, 2012 the parties signed an agreement about ceasing the agreement on financial leasing. Therefore, from June 21, 2012 to December 31, 2012, the Ministry of Defense of Georgia would pay the equivalent of 7,675,200 USD in national currency for 18 months.⁴⁰ Later, on May 8, 2013, the Ministry of Defense of Georgia made a decision to de-classify the mentioned agreement.⁴¹

Considering that the above-mentioned agreement was ceased with the consent of both parties before the due date, it can certainly be asked how reasonable the decisions to sign and classify this agreement were.

6.1.3. Georgian Airways Ltd.

The Ministry of Defense of Georgia signed two classified procurement agreements with *Georgian Airways, Ltd.*, on June 21, 2011, and July 25, 2012. The agreements with total cost of 10,000,000 GEL to be paid by the Ministry gradually, after signing the acceptance certificate, envisaged special flights with aircraft Gulfstream G450 and technical assistance.⁴²

The decision to de-classify the agreements was made on December 14, 2012.⁴³

6.1.4. Algorithm Ltd.

The Ministry of Defense of Georgia signed three procurement agreements with *Algorithm, Ltd.*, on March 7, March 17, and April 2, 2012; the three agreements were classified.⁴⁴ According to the agreements, their total cost was 26,750 GEL. As for

³⁶ Notes – to the state procurement agreements of December 9, 2010, March 4, 2011 and July 21, 2011. Parties: The Ministry of Defense of Georgia and *Super V, Ltd*;

³⁷ Public procurement Agreement of July 21, 2011. Parties: The Ministry of Defense of Georgia and *Georgian Leasing Company LLC*;

³⁸ Public procurement Agreement of July 21, 2011. Parties: The Ministry of Defense of Georgia and *Georgian Leasing Company LLC*;

³⁹ Public procurement Agreement of July 21, 2011. Parties: The Ministry of Defense of Georgia and *Georgian Leasing Company LLC*; Attachment N1.

⁴⁰ December 31, 2012 agreement on ceasing the agreement on financial leasing. Parties: Ministry of Defense of Georgia, *Georgian Leasing Company LLC* and *Georgian Airways, Ltd.*

⁴¹ Notes - Public procurement Agreement of July 21, 2011. Parties: The Ministry of Defense of Georgia and *Georgian Leasing Company LLC*;

⁴² Public procurement Agreements of June 21, 2011 and July 25, 2012. Parties: The Ministry of Defense of Georgia and *Georgian Airways, Ltd.*

⁴³ Notes - Public procurement Agreements of June 21, 2011 and July 25, 2012. Parties: The Ministry of Defense of Georgia and *Georgian Airways, Ltd.*

⁴⁴ Public procurement Agreements of March 7, March 13, and April 2. Parties: The Ministry of Defense of Georgia and *Algorithm, Ltd.*

the matter of the agreement, it was similar in all three cases – card/smart package (10, 700 units).

The basis for classifying the agreement of the Ministry with *Algorithm, Ltd.*, as well as the criteria for selecting the mentioned company, is unknown.

The Ministry of Defense of Georgia made the decision to de-classify the above-mentioned three agreements on April 5, 2013.⁴⁵

6.1.5. "TRANSMOBILE LTD CORP" and *Legioni, Ltd.*

The classified public procurement agreements with *TRANSMOBILE LTD CORP* and *Legioni, Ltd.* can be considered two of the most interesting agreements which were later de-classified by the Ministry of Defense of Georgia. The four agreements signed between the Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP* between 2011 and 2012 were classified from the onset, and two of these four agreements include *Legioni, Ltd.* as a third party, with no clear status.⁴⁶

The total cost of the above-mentioned 4 agreements is 46,019,400 EUR and exceeds the total cost of all the other agreements obtained by GYLA during research. The mentioned agreements are related to the procurement of automated cannons, T-72 tanks, and ammunition.⁴⁷

The reason of declassifying these agreements is unknown; however, all four agreements include numerous interesting details, namely:

- ✓ The identity of *TRANSMOBILE LTD CORP*, the seller of the subject of the agreements, is unknown;
- ✓ In all four agreements submitted by the Ministry of Defense, identification data of *TRANSMOBILE LTD CORP* is hidden, therefore, exact identification of the company is complicated. However, in the signing part of one of the four agreements with the company, signed on May 11, 2012, where the details of agreement parties should be indicated, the seal of *TRANSMOBILE LTD CORP* is left open. The seal includes the name of the company and the inscription: "Republic of Panama".⁴⁸

According to webpage www.opencorporates.com, a company named *TRANSMOBILE LTD CORP* was registered in Panama on September 2, 2010, and belongs to an anonymous society.⁴⁹ Therefore, obtaining information about a company with which the Ministry of Defense formed four classified public procurement agreements with total cost of 46,019,400 EUR during 2011-2012, is extremely complicated.

In the agreements of July 23, 2011, and October 13, 2011, between the Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*, a company named *Legioni Ltd.*, is included as a third party, without any clear status or functions. In these two agreements, the role of *Legioni, Ltd.*, is indicated only in Section 4 – Payment. For example, in the agreement signed on July 23, 2011, it is indicated that: *The procurer is authorized to make an advance payment within 2,500,000 EUR, after the seller presents a relevant bank guaranty.* In this case, the payment should have been made to the bank account of *Legioni, Ltd.*⁵⁰

Transferring money to the account of *Legioni* is also envisaged in the agreement signed on October 13, 2011. The total cost of the agreement was 5,669,400 EUR, and according to Section 4 of the agreement: *60% of the total cost of the agreement should be transferred to the bank account of Legioni, Ltd., after the agreement enters into force.*⁵¹

The inclusion of *Legioni, Ltd.* as a third party in the agreements between the Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*, signed on July 23, 2011 and October 13, 2011, raises important questions, namely, what the actual role of the company was in the mentioned agreements, and whether any illegal agreements took place through this company. The latter question is further strengthened by the fact that later, *Legioni, Ltd.* is not mentioned in the agreements dated March 9, 2012, and May 11, 2012.⁵²

In the documents submitted by the Ministry of Defense of Georgia, the identification data for *Legioni Ltd.*, like those of *TRANSMOBILE LTD CORP*, is hidden. However, in the signing part of the agreement signed on July 23, 2011, the seal of the company is left open; the seal shows that *Legioni Ltd.*, the company representing a third party in the agreement be-

⁴⁵ Notes - Public procurement Agreements of March 7, March 13, and April 2. Parties: The Ministry of Defense of Georgia and *Algorithm, Ltd.*

⁴⁶ Public procurement Agreements of July 23, 2011 and October 13, 2011. Parties: Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*, Third party – *Legion, Ltd.*

⁴⁷ Public procurement Agreements of July 23, 2011 and October 13, 2011. Parties: Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*, Third party – *Legion, Ltd.*; Public procurement Agreements of March 9, 2012 and May 11, 2012. Parties: Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*;

⁴⁸ Public procurement Agreement of May 11, 2012. Parties: Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*;

⁴⁹ <https://opencorporates.com/companies/pa/711250>;

⁵⁰ Public procurement Agreement of July 23, 2011. Parties: Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*, Third party – *Legion, Ltd.*

⁵¹ Public procurement Agreement October 13, 2011. Parties: Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*, Third party – *Legion, Ltd.*

⁵² Public procurement Agreements of March 9 and May 11, 2012. Parties: Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*.

tween *TRANSMOBILE LTD CORP* and the Ministry of Defense of Georgia, was created approximately 10 months before the mentioned agreement was signed.⁵³ The founder of the company and the owner of 100% of its shares was Merab Metreveli, a physical person. In addition, it is worth noting that from September 24, 2010, 66% of the shares of *Legioni, Ltd.*, were transferred to citizens Zaza Kakubava and Ekaterina Ungarova.⁵⁴

According to the agreement signed between the Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP* on March 9, 2012, the total cost of the agreement was 20,360,000 EUR. According to Section 4 of the agreement, after the agreement entered into force, the procurer – The Ministry of Defense of Georgia – was authorized to make an advance payment of 100% of the total cost to the company.⁵⁵

As for the agreement signed on May 11, 2012, with the total cost of 3,000,000 EUR, the Ministry had to make an advance payment with the amount of 50% of the total cost to the *TRANSMOBILE LTD CORP* Company.⁵⁶

Hence, the four above-mentioned agreements between the Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*, signed through the classified procurement form, point to numerous dubious circumstances and questions. This includes the existence of a possible illegal and corrupt agreement.

6.1.6. JSC Silknet and the So-called “Cable Case”

On December 26, 2013, the Ministry of Defense of Georgia and *JSC Silknet* signed a public procurement agreement, which was classified.⁵⁷ The total cost of the agreement was 6,720,877 GEL, and included components such as:

- Transfer of the optic cable tips in the linear structures of the supplier to the possession of the Ministry of Defense;
- Installation of goods;
- Relevant services for the optic cable during the duration of the agreement and the placement of communication equipment and property of the Ministry on company facilities/linear structures (rent).

In the payment section of the agreement, it was mentioned that if the supplier required advance payment, the procurer would be authorized to make an advance payment in the amount of 6,480,877 GEL, after the company presented bank guaranty for the same amount.⁵⁸

The duration of the mentioned agreement was envisaged up to April 1, 2036 and for a long period of time, no details would have been publicized, if not the so-called “Cable Case.”

The so-called “Cable Case” was publicized on October 28, 2014, when during a briefing in the Chief Prosecutor’s Office of Georgia; the Office informed the public about the arrest of high-ranking officials of the Ministry of Defense.⁵⁹ Certainly, this research does not aim at the assessment of a specific criminal case; however, considering the fact that the case was related to classified public procurement, certain significant details can be highlighted in the statement of the Prosecutor’s Office, namely:

- ✓ *The officials of the Ministry of Defense conducted classified public procurement, allegedly for the purposes of market research and determination of the lowest price for the needed goods and services;*
- ✓ *In addition to JSC Silknet, invitations were sent to 9 other companies operating in Georgia; the deadline for these companies to submit their proposals was determined as September 5. Since the Ministry of Defense had determined an unrealistically short period, only four companies were able to submit general Cost Estimates;*
- ✓ *During the classified public procurement organized by the Ministry of Defense, only the supply costs indicated in the proposals submitted by the companies were announced; with the same date, the memorandum for proposal opening was prepared, according to which the proposals were opened via transparent procedures and were overviewed in the presence of representatives. In reality, the proposals had already been opened and the participants were denied the possibility to read the proposals of other candidates, regardless of their requests;*
- ✓ *During the classified public procurement, the officials of the Ministry of Defense took all possible measures in order to grant preferences and privileges to JSC Silknet, as demonstrated in the supply of inaccurate information about goods and services to other companies;*
- ✓ *During the proposal review and later, in the pre-agreement period, the officials of the Ministry of Defense deliberately refused to investigate the conditions and costs for procurement of analogous goods, since it would have been*

⁵³ Extract from Business Register, *Legioni, Ltd.* September 17, 2010. Available online at: www.reestri.gov.ge;

⁵⁴ Extract from Business Register, *Legioni, Ltd.* September 25, 2012. Available online at: www.reestri.gov.ge;

⁵⁵ Public procurement agreement of March 9, 2012. Parties: Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*;

⁵⁶ Public procurement agreement of May 11, 2012. Parties: Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*;

⁵⁷ Public procurement agreement of December 25, 2013. Parties: Ministry of Defense of Georgia and *JSC Silknet*.

⁵⁸ Public procurement agreement of December 26, 2013. Parties: Ministry of Defense of Georgia and *JSC Silknet*;

⁵⁹ http://pog.gov.ge/geo/news?info_id=567;

possible to procure the mentioned goods and services on the market, for much more discounted prices, from other participant companies;

- ✓ The Ministry of Defense has to pay a total of 6,720,877.20 GEL to JSC Silknet, and 6,480,877.20 GEL has already been transferred as advance payment.⁶⁰

Even if the conditions mentioned by the Chief Prosecutor's Office were real, the elements such as: the "alleged" market research by the officials of the Ministry of Defense, the unrealistically short period requested by the Ministry of Defense, or the non-compliance with the rules during proposal opening and the refusal to issue the proposals of other candidates to the participants, fails to essentially justify the position of the Chief Prosecutor's Office. In relation to all the mentioned issues, the main problem is that, even if everything was exactly as the Chief Prosecutor's Office described, it is hard to discuss the violation of the rules of classified public procurement by the officials of the Ministry of Defense, since in the conditions of nonexistence of regulations, considering a specific action as illegal is complicated.

In addition, the appellation of the Chief Prosecutor's Office that the Ministry of Defense granted privileges to *JSC Silknet* is unpersuasive. During the procurement, the Ministry had the opportunity to invite only *JSC Silknet* to sign the agreement and the parties would be able to agree on the costs and conditions of the agreement without any problems. Furthermore, even if the Ministry deliberately avoided researching the conditions and costs for analogous service, it is hard to discuss whether any norms of classified public procurement have been violated.

During the briefing of October 28, 2014, the Chief Prosecutor's Office stressed the advance payments. The presented research study discusses a classified public procurement agreement of a significantly higher cost than that between the Ministry and *JSC Silknet*. This refers to the agreement signed between the Ministry of Defense and *TRANSMOBILE LTD CORP* on March 9, 2012, according to which, after the enforcement of the agreement, the Ministry was authorized to make an advance payment of 100% of the total agreement cost to the company.⁶¹ Regrettably, such agreements have not yet become a topic of wide discussion; nor is it known whether the investigation agencies are interested in this issue.

To sum up, the "Cable Case" clearly demonstrated that the state is facing serious challenges in relation to classified procurement. The Government still has not finalized the list of classified procurement and rules for procurement. The non-existence of such regulations, as mentioned above, represents the best grounds for negotiations entailing risks of corruption, to the least.

6.2. The Chancellery/Administration of the Government of Georgia

According to the information provided by the Administration of the Government of Georgia, from September 1, 2010 to September 1, 2015, 7 classified public procurement agreements signed in the same period by the Chancellery/Administration of the Government of Georgia have been de-classified.⁶² The total payment for the seven de-classified agreements amounts to 21,145,000 GEL and 727,127 USD.

6.2.1. Arkitektorebi.ge2 Ltd.

On December 20, 2011, the Chancellery of the Government of Georgia and *Arkitektorebi.ge2* signed an agreement about public procurement of services.⁶³ According to the agreement, the company had to provide architectural, construction and engineering documentation, as well as architectural supervision services. For the mentioned service, the Chancellery of the Government of Georgia had to pay the equivalent of 269,575 USD in GEL to the company, calculated according to the exchange rate on the day of payment.⁶⁴

In addition, the agreement specified that the Chancellery of the Government would transfer 100% of the total agreement cost to the company as an advance payment within five days after the submission of the relevant bank guaranty. On the day of signing the agreement, the above-mentioned 269,575 USD was equivalent to 446,443 GEL.⁶⁵

During the discussion on the decision to categorize the mentioned agreement as classified public procurement, we could underline only the reasonability of classifying this agreement and the problematic nature of advance payment, however, in this case, more grave violation of law is apparent. Specifically, the case relates to classified public procurement without complying with the requirements of the Law of Georgia on Public procurement.⁶⁶

⁶⁰ http://pog.gov.ge/geo/news?info_id=567;

⁶¹ Public procurement agreement of March 9, 2012. Parties: Ministry of Defense of Georgia and *TRANSMOBILE LTD CORP*;

⁶² Correspondences #25281 of February 2, 2015 and #65363 of September 26, 2015 of the Administration of the Government of Georgia;

⁶³ December 20, 2011 agreement on public procurement of service N1 (simplified procurement). Parties: the Government of Georgia and *Arkitektorebi.ge2 Ltd*.

⁶⁴ December 20, 2011 agreement on public procurement of service N1 (simplified procurement). Parties: the Government of Georgia and *Arkitektorebi.ge2 Ltd*.

⁶⁵ www.nbg.gov.ge;

⁶⁶ Law of Georgia on Public procurement, Article 2, Section 2.

In the introductory part of the agreement signed between the Chancellery of the Government of Georgia and *Arkitektorebi.ge2* on December 20, 2011, it is noted that the agreement was being formed according to Subsection D, Section 3, Article 10¹ the Law of Georgia on Public procurement. The mentioned norm relates to the application of simplified public procurement in cases where the necessity of conducting an event of national and societal importance in a limited time-frame is on the agenda.⁶⁷

In the First Section of the Law of Georgia on Public procurement, it is noted that the Law does not apply on procurement related to public classified information.⁶⁸ Therefore, it is unclear how the Chancellery of the Government of Georgia applied the Law of Georgia on Public procurement to procurement that was classified from the onset.

6.2.2. LTD "Artesi"

The secret contract with "*Arkitektorebi.ge2*" was not the only case when during the secret procurement procedure the Chancellery of the Government used the Law on Public Procurement as the basis of the contract.

On 15 February 2012 the a contract was concluded between the Government Chancellery and LTD "Artesi" through simplified procurement procedure. The subject matter of the contract was construction works of Prime Minister's office (Atoneli str. 25, Tbilisi) with the total value 21,120,000 GEL.⁶⁹

Despite the fact the aforementioned contract was concluded on the basis of the Law on Public Procurement, it was granted a secret status contrary to the legislative requirements.

According to the first draft of the contract, 25% prepayment – 5,280,000 GEL was due upon submission of a bank guarantee. Subsequent payments would be made in line with basic phases.⁷⁰

However shortly after conclusion the contract was amended and 2 paragraphs "6.2.1" and "6.2.2." were added on 30 May 2012. According to these paragraphs, the Contractor had to present bank guarantee for 1,700,000 GEL. At the same time the Contractor was exempted from the obligation to submit the bank guarantee for 3,580,000 GEL and it was able to receive prepayment on the basis of submitted letter.⁷¹

Later, on July 5 2012 paragraph "6.2.3" was added to the contract providing that LTD Artesi could receive prepayment in the amount of 5,280,000 based on a letter without bank guarantee.⁷²

According to official documents available to GYLA, the contract dated 15 February 2012 was amended on 1 September 2012 for the last time. According to the amendment, the ending date for works was postponed from September 1 2012 to 31 December 2012.⁷³

Thus the aforementioned secret procurement contract between the Government Chancellery and LTD Artesi contradicts the Law on Public Procurement and raises questions concerning the value and payment modality. For example, according to calculation of costs, only floor refurbishment works cost 1,829,308 GEL, while the cost of courtyard and metal fence was 518,757 GEL.⁷⁴

6.2.3. LTD Msheninjservisi

According to official data, on July 9 2012 a contract on public procurement was concluded between the Government Chancellery and LTD Msheninjservisi through simplified procurement procedure provided by the Law on Public Procurement. This contract was also declared secret.⁷⁵

The value of the contract was 25,00 GEL; its subject was technical oversight of construction works of the Prime-Minister's Office (Atoneli str. 25, Tbilisi); payment was due in installments.⁷⁶

Likewise the aforementioned contracts, the Government Chancellery violated Georgian legislation while concluding the

⁶⁷ Law of Georgia on Public procurement, Subsection D, Section 3, Article 10¹.

⁶⁸ Law of Georgia on Public procurement, Article 1.

⁶⁹ Contract #2 on Public Procurement dated February 15 2012. Parties of the Contract: the Government Chancellery and LTD Artesi.

⁷⁰ Contract #2 on Public Procurement dated February 15 2012. Parties of the Contract: the Government Chancellery and LTD Artesi.

⁷¹ Contract #2-s/1 dated 30 May 2012 amending Contract on Public Procurement dated February 15 2012. Parties of the Contract: the Government Chancellery and LTD Artesi.

⁷² Contract #2-s/2 dated 5 July 2012 amending Contract on Public Procurement dated February 15 2012. Parties of the Contract: the Government Chancellery and LTD Artesi.

⁷³ Contract #2-s/3 dated 1 September 2012 amending Contract on Public Procurement dated February 15 2012. Parties of the Contract: the Government Chancellery and LTD Artesi.

⁷⁴ Contract #2 on Public Procurement dated February 15 2012. Parties of the Contract. Registry of estimated calculation of cost. Parties of the Contract: the Government Chancellery and LTD Artesi s 2012 წლის 15.

⁷⁵ Contract #4 on Public Procurement dated July 9 2012. Parties to the contract the Government Chancellery and Msheninjservisi LTD.

⁷⁶ Contract #4 on Public Procurement dated July 9 2012. Parties to the contract the Government Chancellery and Msheninjservisi LTD.

secret contract with Msheninjservi as used the Law on Public Procurement as the basis. The Law excludes possibility to use its provisions for secret procurement; in addition this contract violated important principles concerning rational spending of monetary funds designated for public procurement and publicity of public procurement.⁷⁷

6.2.4. Other Contracts

Besides the aforementioned three contracts the Government Chancellery concluded three more secret contracts on public procurement. However these contracts were not concluded with physical and legal persons registered in Georgia.

Concerning the secret contracts on public procurement concluded between the Government Chancellery and physical/legal persons not registered in Georgia the following should be noted:

The Government Chancellery of Georgia			
#	Implementing Party and Duration of Contract	Subject of Contract	Value of Contract and Payment Modality
1.	Charlotte M. Ponticheli ⁷⁸ 23.12.2011 – 31.12.2012	Consultation Service (Evaluation and amendment of the Government Strategy to align it with requirements presented by the US Government and trade unions concerning system of granting export privileges.)	38,780 USD in installments
2.	Sandler Trade LLC ⁷⁹ 23.12.2011 – 31.12.2012	Consultation Service (Evaluation and amendment of the Government Strategy to align it with requirements presented by the US Government and trade unions concerning system of granting export privileges.)	38,780 USD in installments
3.	Jason Rosenberg ⁸⁰ 28.01.2012 – 31.05.2012.	Consultation Service (concerning electronic campaign in the ministries)	1500 USD in a month. In addition, travel, communication, office essentials, accommodation and flight costs.

The aforementioned three contracts raise questions concerning the selection of implementing parties and reasonability of concluding secret contracts for this type of services.

6.3. Ministry of Internal Affairs of Georgia

Ministry of Internal Affairs (MIA) is one more administrative body that submitted information concerning declassified procurements contracts to GYLA.

According to official information, MIA declassified 7 secret contracts on public procurement concluded from January 1 up to September 1 2015. The total value of these declassified contracts is 2,705,814.72 GEL. The subject matter of all contracts was construction and refurbishment works; the contractor in 5 contracts was Block Georgia LTD and in 2 contracts - JSC Construction Union Imereti.⁸¹

Information concerning the declassified contracts by MIA is presented below.

6.3.1. Block Georgia LTD

MIA declassified 5 contracts on secret public procurement with total value of 2,335,252 GEL concluded with Block Georgia LTD during the reporting period.⁸²

Please see the information concerning each declassified contract with Block Georgia LTD below:

⁷⁷ The Law of Georgia on Public Procurement, articles 1 and 2.

⁷⁸ Contract dated of December 23 2011. Parties to the Contract: The Government Chancellery and Charlotte M. Ponticheli.

⁷⁹ Contract dated of December 23 2011. Parties to the Contract: The Government Chancellery and Sandler Trade LLC,

⁸⁰ Contract dated of January 28 2012. Parties to the Contract: The Government Chancellery and Jason Rosenberg.

⁸¹ A letter from MIA #1190293 dated June 3 2015.

⁸² Contracts on public procurement concluded In 2013: July 3 #031/13, July 29 #039/13, September 4 #051/13, November 4 #087/13 and November #088/13. Parties to the contracts: MIA and Block Georgia LTD.

MIA and Block Georgia LTD (03.07.2013 – 5.11.2013)			
	Subject of Contract	Amount (GEL)	Payment Modality
1	Refurbishment works of a building located on the territory of Special and Emergency Situations Centre in Zemo Ponichala.	703,391 GEL and 80 Tetri	By installments based on performed works. However the contract provided that the contractor could receive advance payment in the amount of maximum of 30% of the contract value upon submission of bank guarantee.
2	Reconstruction-refurbishment of temporary / police isolation cells located in administrative building of MIA at #1 of Chaladze str.	413,732 GEL and 59 GEL and	By installments based on performed works.
3	Refurbishment works of roofed parking located on the territory of Special and Emergency Situations Centre	92,477 GEL and 8 GEL and	By installments based on performed works. However the contract provided that the contractor could receive advance payment in the amount of maximum of 30% of the contract value upon submission of bank guarantee.
4	Refurbishment works of administrative building located on the territory of Special and Emergency Situations Centre	912,076 Gel and 65 Tetri	By installments based on performed works. However the contract provided that the contractor could receive advance payment in the amount of maximum of 30% of the contract value upon submission of bank guarantee.
5	Refurbishment works of administrative building of parking located on the territory of Special and Emergency Situations Centre	209,574 GEL and 51 Tetri	By installments based on performed works. However the contract provided that the contractor could receive advance payment in the amount of maximum of 30% of the contract value upon submission of bank guarantee.

Based on the analysis of the contracts concluded between MIA and Block Georgia LTD from July 7 up to November 5 2013, it is clear that while there is no regulation of secret public procurements government agencies may conclude secret contracts even when there is no need, including for refurbishment works of temporary / police isolation cells and parking. The fact that the Order of the Minister of Internal Affairs dated July 17 2014 declassified these contracts seems to be one more ground to claim that it was not reasonable to use secret procurement procedure.⁸³

6.3.2. JSC Construction Union Imereti

According to official information, MIA declassified 2 contracts on secret public procurement with total value of 370,562 GEL concluded with JSC Construction Union Imereti during the reporting period.⁸⁴

MIA and 6.3.1. JSC Construction Union Imereti (11.09.2013 – 22.11.2013)			
	Subject of Contract	Amount (GEL)	Payment Modality
1	Reconstruction-refurbishment of working area on the XI floor of the administrative building of MIA located at #1 of Chaladze str.	314,471 GEL and 71 Tetri	By Installments
2	Reconstruction-refurbishment of working area on the XI floor of the administrative building of MIA located at #1 of Chaladze str.	59,090 Gel and 38 Tetri	By Installments

In case of Block Georgia LTD, as well as JSC Construction Union Imereti the concern is why secret public procurement procedures were employed for conclusion of contracts on refurbishment works. In addition to the issue of reasonability, non-existence of regulations on secret public procurements there is a high risk of risk of corruption and other illegal agreements.

⁸³ A letter from MIA #1190293 dated June 3 2015.

⁸⁴ Contracts on public procurement concluded In 2013: September 11 #056/13 and November 22 #100/13. Parties to the contracts: JSC Construction Union Imereti.

7. CONCLUSION

Based on the information and findings presented in the research the following issues should be highlighted:

- While there are no regulations on roster of object and procurement procedures related to state secret the government continues to use secret contracts for public procurements. During 2010-2015 only seven government agencies concluded 2752 secret contracts with the total value of 747,407,518 Gel. This fact demonstrates that there is a high risk of corruption and other violations of law;
- The majority of secret contracts on public procurement raise questions concerning the reasonability of secret procurements and selection of contractors;
- While there are no regulations on roster of object and procurement procedures related to state secret, the Government uses Law of Georgia on Public Procurement for secret procurements that is a violation of this law and lacks legal basis;
- It is alarming and requires additional clarification by government agencies concerning classified contracts that were concluded during 2010-2015 and provide for the existence of companies with unclear functions as so called "third parties of contracts". There is a high probability that participation of these "third parties" in the contracts indicate on the alleged corruptive deals.
- After 2012 parliamentary elections, the number and contract value of secret contracts on public procurements was significantly decreased. Despite this fact while there are no relevant regulations, the issues related to reasonability of such contracts, selection of contractors and possibility of corruptions are still questionable.

8. RECOMMENDATIONS

GYLA has the following recommendations:

- The Government of Georgia has to adopt and implement regulations concerning on roster of object and procurement procedures related to state secret;
- The Government of Georgia has to ensure reasonable participation of interested groups in and transparency of the process of elaboration of regulations;
- The administrative bodies have to decrease to minimum use of secret procurement procedures until regulations on on roster of object and procurement procedures related to state secret are elaborated and adopted.