



NGOs Respond to the Detention of the Defense Ministry Employees

On October 28, the Chief Prosecution of Georgia has detained the high-level officials of the Ministry of Defense on the charges relating to the embezzlement of the 4 000000 GEL from the state budget during the state procurements: former head of the state procurement department within the Defense Ministry – Gizo Ghloni; head of the J-6 communications and informational technologies of the united headquarters of the armed forces of Georgia department – Nugzar Kaishauri; head of the division of the state procurement department – Giorgi Lobzhanidze; chief specialist of the state procurement department of the Defense Ministry – Archil Alavidze and the head of the division of the J-6 communications and informational technologies of the united headquarters of the armed forces of Georgia department – Davit Tsipuria.

On October 30 the Tbilisi City Court 30 has imposed the imprisonment upon all five (5) of them, as the preventive measure.

It is important to underline that while presenting the charges, the prosecution has refused to provide the defense with the copies of the evidences, citing the state secrecy. Both the Georgian Young Lawyers – Association (GYLA) and the lawyers of the defendants have made statements in this regard. Unfortunately, the rule, prescribed under the Article 83 of the Criminal Code of Georgia is being violated up to date. According to this rule, the prosecution is obliged to forward the evidences to the defense at any stage. It is even more concerning that the court did not have any response to this grave violation, despite the fact that the above Article of the Criminal Code obliges the court to recognize inadmissibility of such evidences presented by the prosecution, because despite the request of the defense, none of the evidences have been forwarded to the defense up to date. Therefore, since both the prosecution and the court violate the above requirements of the law, following the disclosure of the top-secret evidences, at minimum, it will be possible for the defendants to fully enjoy the constitutional right to defense.

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It should also be noted that the Defense Ministry, which is the body that has labeled the information as the top secret, requested partial disclosure of the top-secret information itself. Specifically, according to the Articles 17 and 18 of the law of Georgia on the [] Secrecy Act the Defense Ministry has addressed the Chief Prosecution to forward the copies of the case materials to the counterintelligence department of the MIA of Georgia, since the labeling, as the top-secret requires the permit of the MIA.

It is also interesting that according to the statement of the prosecution, [] the purpose of ensuring the transparent investigation and maximally informing the public, as the criminal prosecution started, the part of the information, which would not have caused disclosure of the state secrecy, was publicized based on the preliminary written permit of the counterintelligence department of the MIA. Most likely, this means that the prosecution has fully forwarded the case materials to the relevant responsible body of the MIA prior to the start of the criminal prosecution and therefore, it can be done again – this time, following the Defense Ministry request.

On October 29, the Defense Ministry has presented the official position on the disputed procurements. Based on the information, provided to us by the Defense Ministry and the statement, publicized by the prosecution, it is difficult to identify the signs of a crime at this stage. We consider that in presenting the charges, the prosecution must have presented more substantial evidences and arguments against the defendants, especially that the case relates to the defense and security of the country.

Ensuring comprehensive protection of the convicted and ensuring the principle of equality and competitiveness, as well as due to the high level of public interest, we call upon the following bodies:

1. The Chief Prosecution of Georgia [] to immediately forward the case materials to the defense lawyers, as well as to ensure providing these documents to the countersurveillance department of the MIA;
2. The MIA and the Defense Ministry [] to ensure protection of the secret information so that the state security and defense capacity are not damaged, while at the same

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time to support the transparent process of the investigation.

3. The trust group of the parliament of Georgia □ to actively engage in monitoring this process and to take the case under the direct control.

Georgian Young Lawyers' Association (GYLA)

Transparency International - Georgia

Institute of the Development of the Freedom of Information (IDFI)

Civil Development Agency (CiDA)

Economic Policy Research Center (EPRC)

Article 42 of the Constitution

Human Rights Centre