

Unsuccessful public procurements

TI Georgia has studied the planning and organization of procurements by public agencies and the share of unsuccessful procurements within the total procurements. For this purpose, we reviewed public procurements that were terminated,¹ failed to take place,² and ended with a negative result.³

The Law of Georgia on Public Procurement distinguishes between the following types of procurement: electronic tender; simplified electronic tender; simplified procurement; consolidated tender; design contest. Out of these categories, we have analyzed all procurements except simplified procurements and found out that the share of unsuccessful⁴ tenders and design contests within the total procurements was mostly decreasing from 2010 to 2016, though the decrease rate dropped after 2012. Particularly large is the share of unsuccessful design contests – more than half (51.2%) of the total design contests announced in 2016 ended unsuccessfully. If we analyze all the procurements together, about a third (30%) of procurements in 2016 ended unsuccessfully. The highest proportions of unsuccessful procurements were observed in the Ministry of Defense (41.23%), the Ministry of Corrections and Probation (36.76%), and JSC Georgian Railway (36.18%). These figures are quite large, which points to significant shortcomings in the organization of procurements and inefficient spending of resources.

1. Electronic tenders⁵

The share of **successful**⁶ electronic tenders tended to fluctuate in the years 2010-2016 – it increased in 2010-2013 and decreased in 2014-2015. In 2016, this figure rose again by 1.2% compared with 2015 and by 26% compared with 2010, amounting to 73.1% of all electronic tenders (see Figure 1).

The analysis of the presented data shows that the share of **unsuccessful** electronic tenders within the total number of announced electronic tenders was significantly lower (by 29.3%) in 2016 than in 2010. It is also noteworthy that the decreases mainly occurred in the years 2010-2012, and the decrease rate mostly dropped after 2012. In 2016, about a quarter of electronic tenders (23.7%) ended unsuccessfully, which is quite a high figure and points to shortcomings in the planning and organization of tenders.

¹ **Tender terminated** – The status that an authorized representative of the procuring organization may assign to a tender only after he/she has uploaded the relevant minutes of the meeting of the tender committee which contain the grounds for terminating the tender. This status may be assigned at any stage of procurement, except when the status of “Contract concluded” has been assigned.

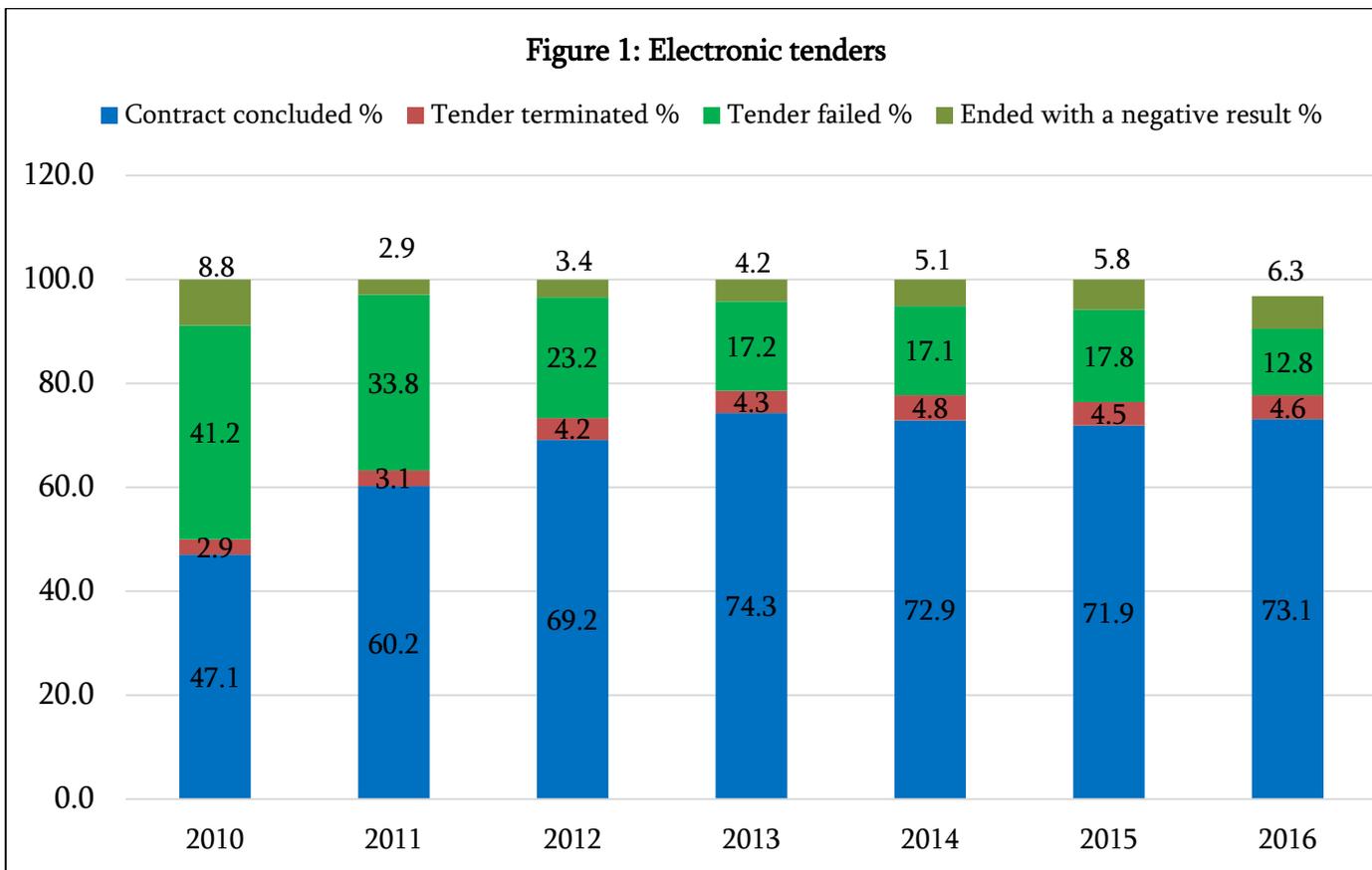
² **Tender failed** – The status that is automatically assigned to a tender after it receives the status of “Acceptance of tender proposals ended” and if no supplier takes part in the tender.

³ **Ended with a negative result** – The status that is automatically assigned to a tender if all the bidders taking part in it stop pursuing their tender proposals before the status of “Acceptance of tender proposals ended” is assigned to the tender or if all the bidders with the lower prices are disqualified. It is impermissible to assign the status provided for in this subparagraph to a tender if no bidders have taken part in it.

⁴ The category of “**unsuccessful**” tenders, in this case, includes all the tenders that (1) were terminated, (2) failed to take place, and (3) ended with a negative result.

⁵ **Electronic tender** – a method of public procurement of similar procurement objects with a value of GEL 200,000 or above, which encompasses the procedures determined by the Law on Public Procurement and a subordinate normative act for an electronic tender.

⁶ **Successful tender** – a tender with the status of “Contract concluded”.



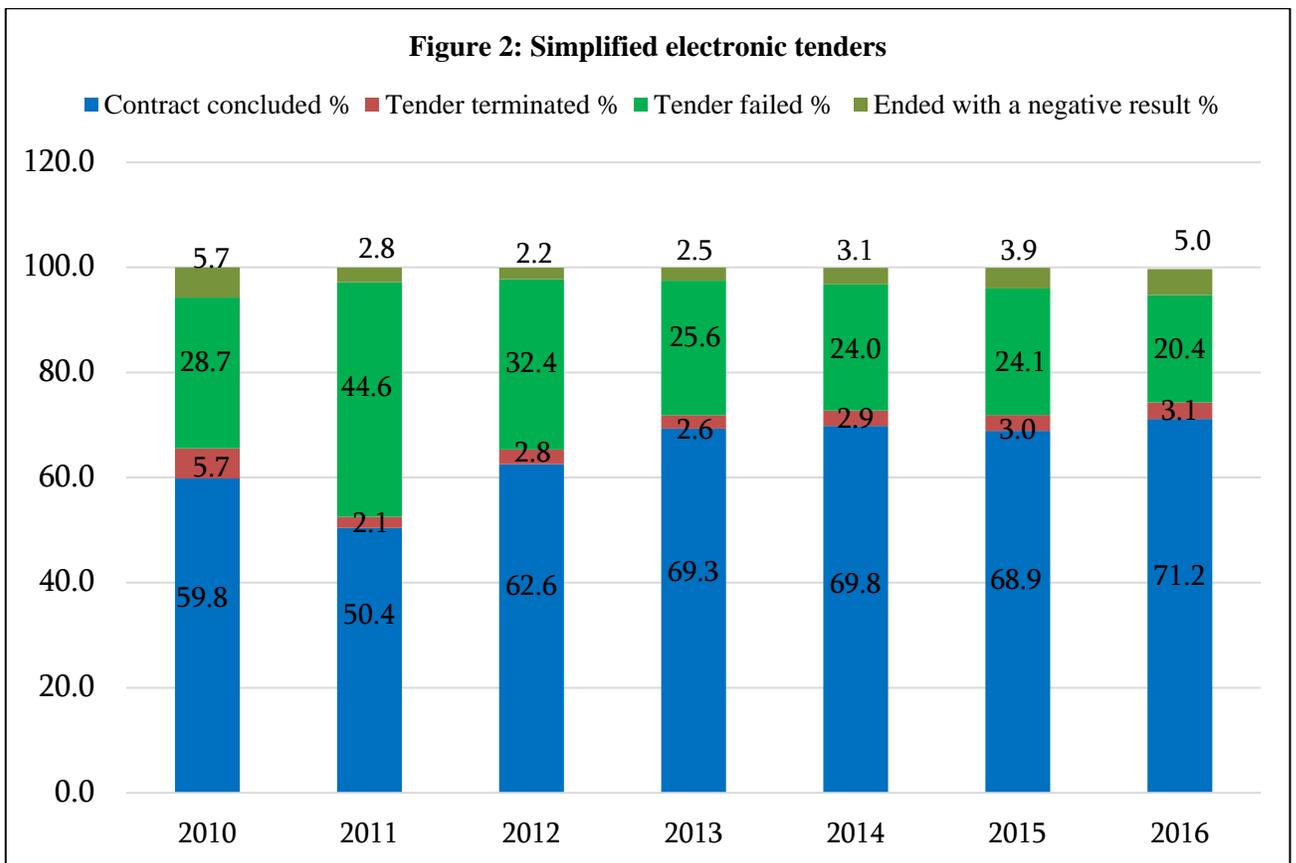
Source: The State Procurement Agency (procurement.gov.ge); Tender Monitor (tendermonitor.ge)

2. Simplified electronic tenders⁷

The share of **successful** simplified electronic tenders mainly tended to increase in 2010-2016. The only exceptions were the years 2011 and 2015 when this figure decreased by 9.4% and 0.9%, respectively. In 2016, the figure rose again, by 2.3% compared with 2015 and by 11.4% compared with 2010, amounting to 71.2% of all the simplified electronic tenders announced (see Figure 2).

The analysis of the figures shows that by 2016 the share of **unsuccessful** simplified electronic tenders had decreased by 11.6% compared with 2010. However, it should also be noted that both sharp increases and sharp decreases mainly occurred in the years 2010-2012, and the decrease rate mostly dropped after 2012. The data of 2016 show that about a quarter of simplified electronic tenders – 28.5% – ended unsuccessfully, which is quite a high figure.

⁷ **Simplified electronic tender** – a method of public procurement of similar procurement objects with a value of up to GEL 200,000, which encompasses the procedures determined for a simplified electronic tender by the Law on Public Procurement and a subordinate normative act.



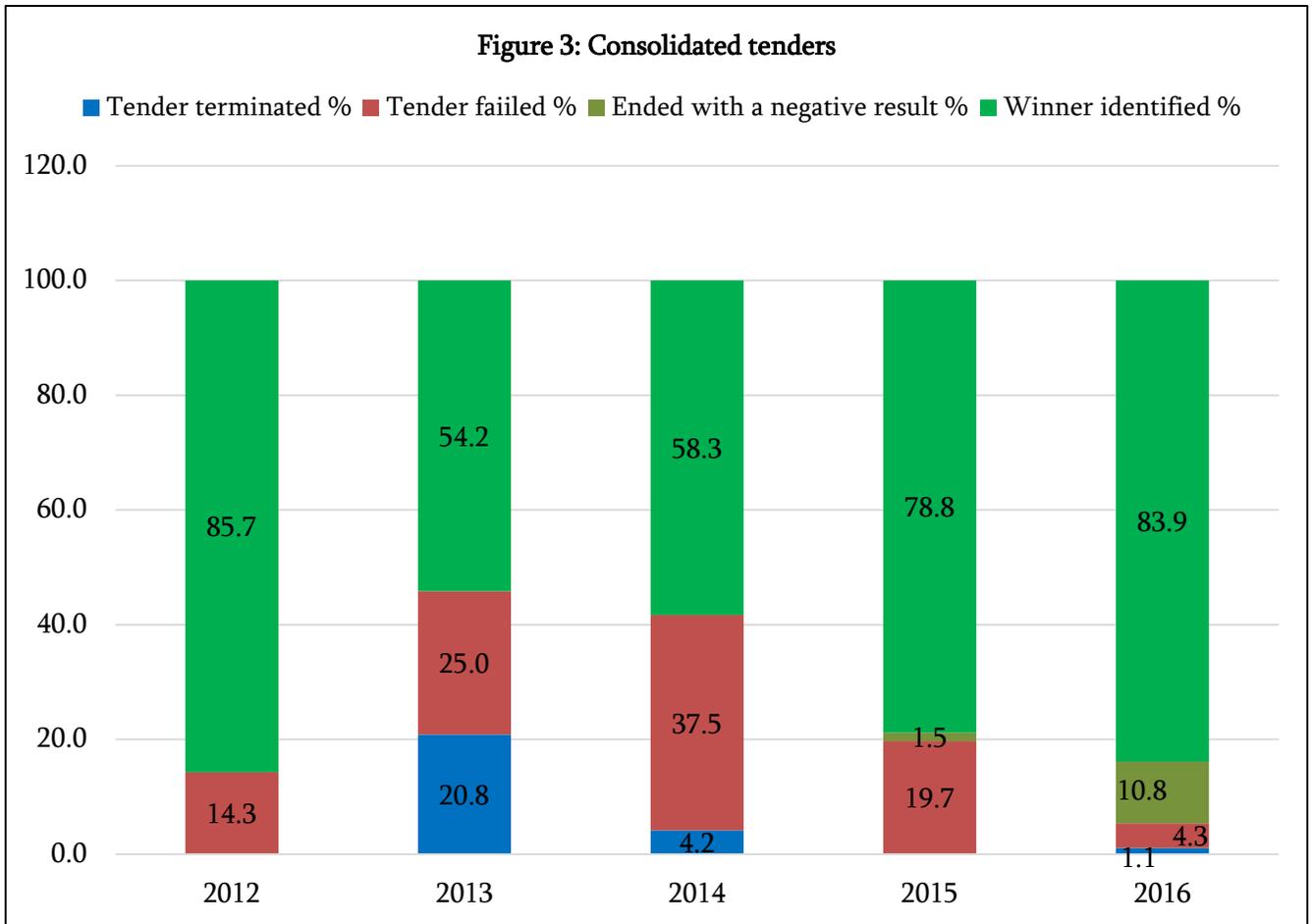
Source: The State Procurement Agency (procurement.gov.ge); Tender Monitor (tendermonitor.ge)

3. Consolidated tenders⁸

The share of consolidated tenders with the “**Winner identified**” status tended to fluctuate in the years 2012-2016 – it decreased in 2012-2013 and increased in 2014-2016. By 2016, this figure had increased by 5.1% compared with 2015, but decreased by 1.8% compared with 2012, amounting to 83.9% (see Figure 3).

The data show that by 2016 the share of **unsuccessful** consolidated tenders had increased by 1.8% compared with 2012. This figure equaled 14.3% in 2012, while in 2013 it already amounted to 45.8%. From 2013, it started to decrease steadily until it dropped to 16.1% in 2016. Although 16.1% is a relatively small figure compared with the figures of other types of tenders discussed above, we don’t see a decrease compared with 2012, which indicates that work in this direction hasn’t been very effective in the recent years.

⁸ **Consolidated tender** – a procedure implemented by the Public Procurement Agency in cases determined by the Government of Georgia to procure a similar procurement object, during which the best tender proposal is identified.



Source: The State Procurement Agency (procurement.gov.ge); Tender Monitor (tendermonitor.ge)

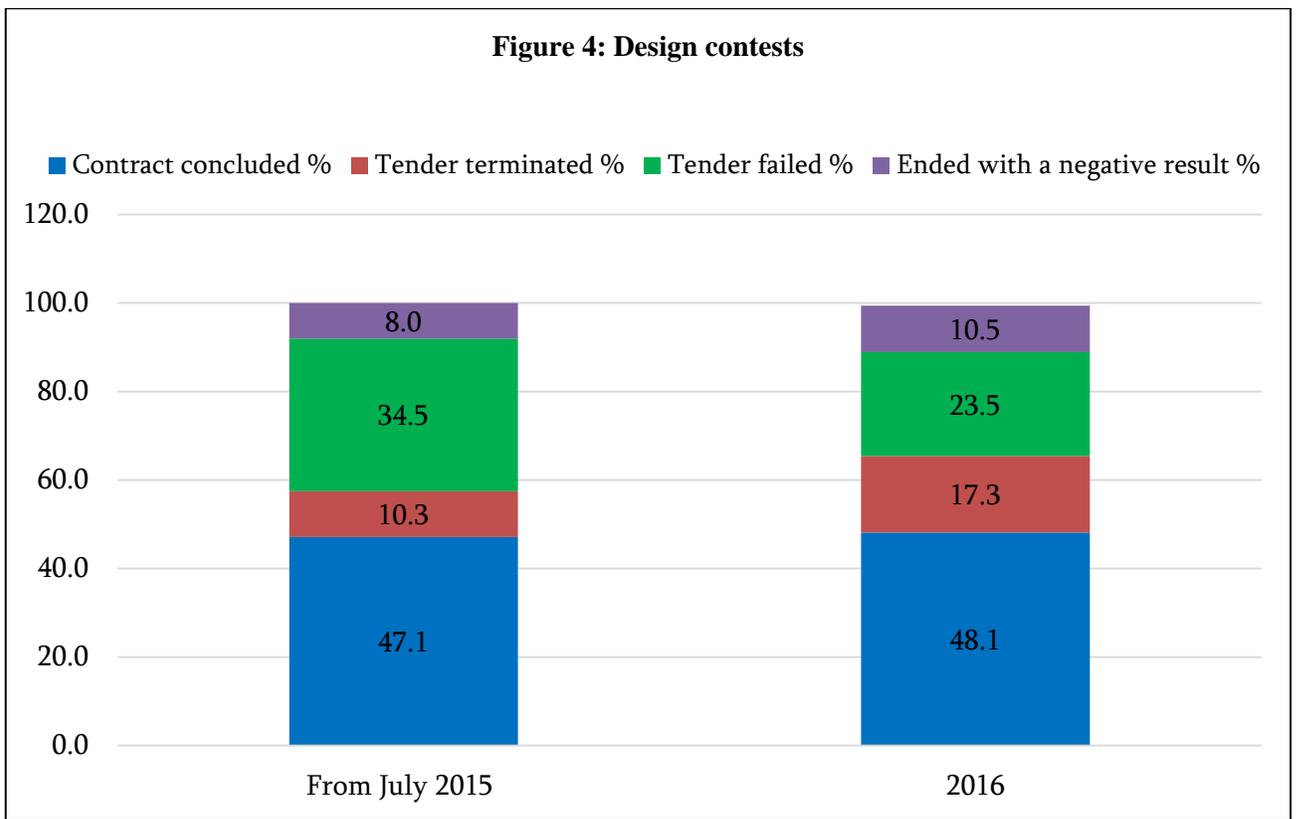
4. Design contests⁹

Design contest, as a method of public procurement, was introduced from July 2015.

In 2016, the share of **successful** design contests rose by 1% compared with the previous year, amounting to 48.1% (see Figure 4).

The presented data show that in 2015 the share of **unsuccessful** design contests within the total number of contests was 52.9%, while in 2016 it amounted to 51.2%. In 2016, this figure decreased – albeit insignificantly (by 1.7%), although it still remains almost twice as high as the corresponding figures of other types of procurement. We can assume that the reason why the share of unsuccessful design contests is so large is because it is a relatively new type of procurement, though the fact that more than half of design contests end unsuccessfully is alarming.

⁹ **Design contest** – for the purposes of the Law of Public Procurement, an alternative method of public procurement of design services or of services relating to dismantling of buildings and structures and/or removal of materials and waste from the territory after dismantling works, which is used by decision of a procuring organization.



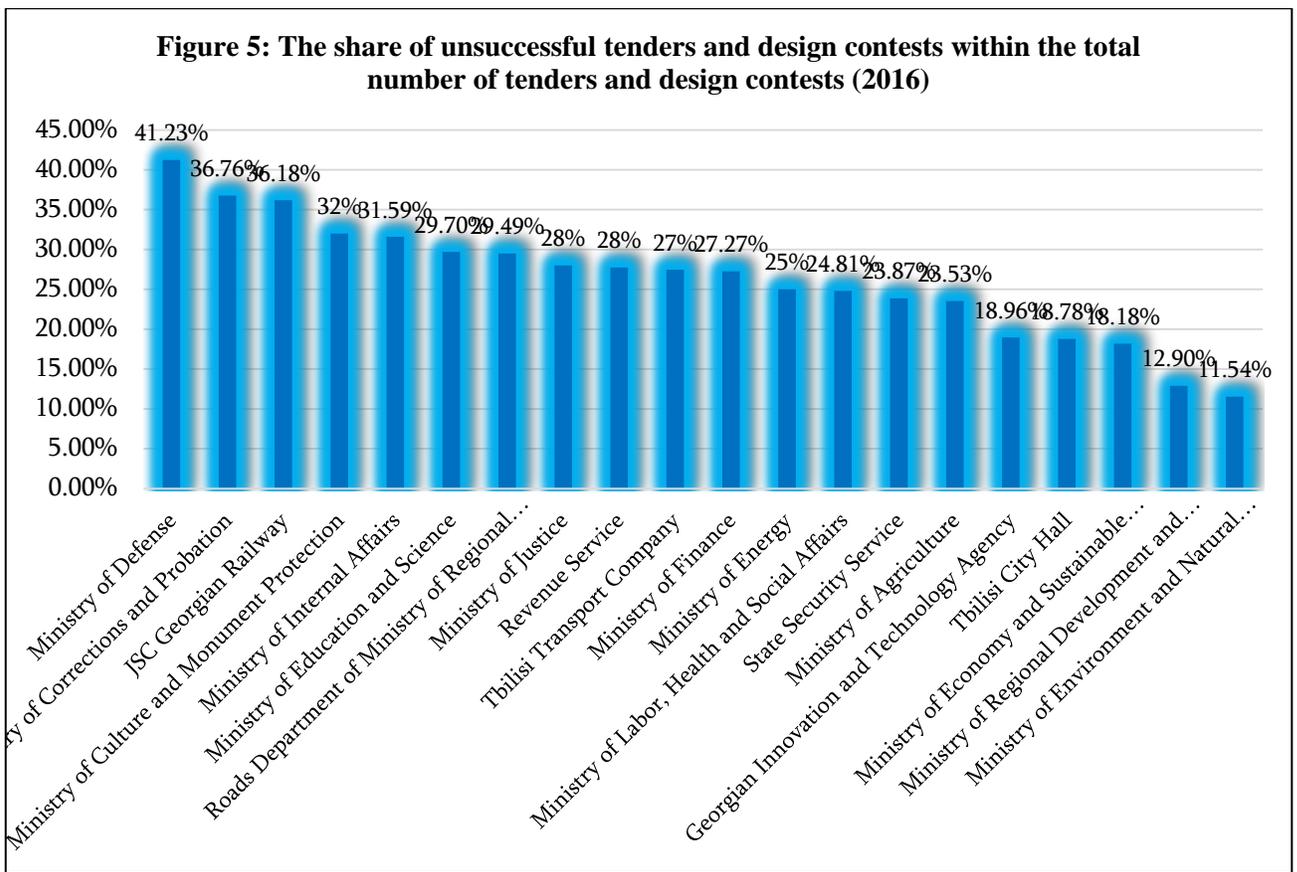
Source: The State Procurement Agency (procurement.gov.ge); Tender Monitor (tendermonitor.ge)

5. Unsuccessful tenders and design contests, according to budget-funded organizations

In 2016, the 10 large budget-funded procuring organizations that were distinguished by the highest percentages of unsuccessful procurements within the total procurement figures were as follows:

- 1) The Ministry of Defense – 41.23%
- 2) The Ministry of Corrections and Probation – 36.76%
- 3) JSC Georgian Railway – 36.18%
- 4) The Ministry of Culture and Monument Protection – 32%
- 5) The Ministry of Internal Affairs – 31.59%
- 6) The Ministry of Education and Science – 29.70%
- 7) Roads Department of the Ministry of Regional Development and Infrastructure – 29.49%
- 8) The Ministry of Justice – 28%
- 9) The Revenue Service – 28%
- 10) Tbilisi Transport Company – 27% (see Figure 5)

The figures below show that in 15 out of the 20 budget-funded organizations the share of unsuccessful procurements within the total procurements is more than 20%, which once again points to shortcomings in the planning and organization of procurements by the agencies.



Source: The State Procurement Agency (procurement.gov.ge); Tender Monitor (tendermonitor.ge)

6. Conclusion and recommendations

It is noteworthy that the share of unsuccessful tenders and design contests within the total procurements mostly tended to decrease from 2010 to 2016, although the decrease rate started to drop after 2012. According to the 2016 data, about a quarter of electronic tenders and simplified electronic tenders – 23.7% and 28.5%, respectively – ended unsuccessfully; 16.1% of consolidated tenders and 51.2% of design contests also ended unsuccessfully. In 15 out of 20 large budget-funded procuring organizations, the share of **unsuccessful** procurements within the total procurements was more than 20%, and the following agencies were distinguished by the highest figures: the Ministry of Defense – 41.23%, the Ministry of Corrections and Probation – 36.76%, JSC Georgian Railway – 36.18%, the Ministry of Culture and Monument Protection – 32%, the Ministry of Internal Affairs – 31.59%. These figures are quite high, which indicates significant shortcomings in the planning and organization of procurements – inappropriate formulation of requirements, and inefficient spending of the budget by the agencies.

Currently, the Parliament is discussing a draft law on amendments to the Law of Georgia on Public Procurement. This draft law introduces a fee for filing a complaint, abolishes the simplified electronic tender as a form of procurement, changes the timeframes for submitting a tender proposal, etc. The amendments are aimed at ensuring the fulfillment of obligations undertaken by the State of Georgia by the *2016 National Action Plan for the Implementation of the Association Agreement*

*between Georgia, on the one part, and the European Union and the European Atomic Energy Community and their Member States, on the other part, and the Association Agenda between Georgia and the European Union, which was approved by a decree of the Government of Georgia, and at bringing them in conformity with the best international practice. Although TI Georgia welcomes and gives a positive assessment to the said legislative changes (about which we are going to talk more extensively in our upcoming public procurement report), for the purpose of resolving the problems identified in this overview, **TI Georgia believes that:***

- The State Procurement Agency should intensify the monitoring of tenders that were terminated, failed to take place, and ended with a negative result and strengthen the mechanisms of control;
- Procuring organizations should conduct preliminary market research/study the technical and quality characteristics of the procurement object while planning the procurement and determine the price accordingly;
- It is necessary to formulate relevant requirements on the basis of information obtained as a result of the market research and take them into account properly when selecting the winner;
- It is necessary to conduct a study and find out the reasons why the share of failed tenders and design contests is high in the aforementioned agencies and to conduct relevant training sessions.