

## damouki debel i eqspertis daskvana

saqarTvel os kanonis proeqtze “saqarTvel os samoqal aqo kodeqsis  
cvl il ebebis Setanis Sesaxeb”

*diana berekaSvil i*

samoqal aqo kodeqsis 1243-e muxl i gansazRvravs qonebis umkvidrobis dadgenisa wess da im pirTa wres, romel Tac umkvidro qonebis miRebis ufl eba gaaCniaT. samoqal aqo kodeqsis Zal aSi Sesvl isTanave gamoikveTa saerTo sasamarTI oebis mier am muxl is araswori interpretaciis damkvidrebis tendencia. umkvidro qonebis bedis sworad da swrafad gadawyvetas udidesi sajaro interesi gaaCnia samoqal aqo brunvis stabil urobis Tval sazrisiT. samoqal aqo kodeqsis 1343-e muxl is pirvel i nawil is Tanaxmad: Tuki arc kanoniT da arc anderZiT memkvidreebi ar arian, an arc erTma memkvidrem ar mi iRO memkvidreoba, anda, roca yvel a memkvidres CamoerTva memkvidreobis ufl eba, umkvidro qoneba gadadis xazinaze; xolo, Tu mamkvidrebel i moxucTa, inval idTa, samkurnal o, aRmzrdel obiTi da social ur dacvis sxva dawesebul ebaTa rCenaze imyofeba, maSin maT sakuTrebaSi. am muxl is Tanaxmad, umkvidro qonebis miRebis val debul eba hqonda xazinas. damkvidrebul i sasamarTI o praqtikis mixedviT, qonebis umkvidrobis dadgenisa da misi miRebis dros sasamarTI oSi pretenzias acxadebdnen adgil obrivi TviTmmarTvel obis organoebi – gamgeobebi, rac am normis araswori gagebaze miuTitebs. saxazino samsaxuri ar SeiZl eba gaigivdes adgil obrivi mmarTvel obis organoebTan, xazina warmoadgens central ur saxel mwifo xel isufl ebas, adgil obrivi TviTmmarTvel obis organo ki adgil obrivi mmarTvel obis aRmasrul ebel i organoa. sasamarTI os dabneul oba, bunebrivia, mxol od normis araswori interpretaciiT ar iyo ganpirobebul i, radgan Tavad xazina veraviTar SemTxvevaSi ver mogvevl ineba qonebis mimReb subieqtad. finansTa saministros debul ebis me-12 muxl is Sesabamisad:

*saqarTvel os finansTa saministros saxazino samsaxuri aris saqarTvel os finansTa saministros saxel mwifo saqveuwyebო dawesebul eba, romel ic uzrunvel yofs:*

*a) saxel mwifo biuj etis xarj viTi nawil is aRsrul ebas, saxel mwifo, afxazeTisa da allaris avtonomiuri respubl ikebisa da saqarTvel os sxva teritoriul i erTeul ebis biuj etebis Semosul obaTa aRricxvas, angariSgebasa da angariSsworebas;*

*b) finansTa ministris mier damtkicebul i xarjebis ganweris safuZvel ze dafinansebis gegmis gaSl as mxarj av dawesebul ebaTa mier xazinaSi warmodgenil i ganawil ebis mixedviT;*

*g) mxarj av dawesebul ebaTa val debul ebebis registracias dadgenil i wesis mixedviT, sabiuj eto organizaciis mier registrirebul i sabiuj eto val debul ebebis damowmebis Sesabamisad gadaxdas dadgenil i wesis mixedviT;*

*d) Sesabamisi sagadasaxado, sabajo organos an xel isufl ebis sxva organos mier miRebul i gadawyvetil ebebis safuZvel ze zedmetad an SecdomiT gadaxdil i bijjetis Semosul obis dabrunebas, aRricxvasa da angariSgebas.*

2. saxel mwifo xazina mxarjavi dawesebul ebebidan iRebs biuj etis Sesrul ebis bal anss.

3. xazina misTvis dakisrebul funqciebs axorciel ebs xazinis central ur aparatSi Semaval i departamentebis, q. foTisa da regional uri xazinebis meSveobiT, romel Ta debul ebas amtkicebs finansTa ministri.

bunebrivia, iseTi central izebul i uwyeba, rogorc xazinaa, ar SeiZl eba fl obdes da verc miRebs sakuTrebaSi qonebas, maSin roca saqarTvel os samoqal aqo kodeqsis 1444-e muxl is Tanaxmad, xazinas ara aqvs ufl eba uari Tqvas samkvidros miRebaze, romel ic maSTan gadavida. vfiqrobT, am mxriv kanonproeqtiT SemoTavazebul i novacia misaRebia. aqve minda aRvniSno, rom saxel mwifo sakuTrebaSi gadasul i qoneba SeiZl eba saxel mwifo qonebis privatizaciis Sesaxeb kanonis Sesabamisad gaiyidos, gaices ijara-gamosyidviT da a. S. vfiqrob, mizanSewonil i iqneba umkvidro qoneba gadaeces adgil obrivi TviTmmarTvel obis organos, romel ic Sesabamisad miznobrivad gamoiyenebs am qonebas, SeiZl eba Cairicxos sabinao fondSi da a.S. (aRniSnul i sakiTxi sainteresodaa mowesrigebul i estoneTis da evropis bevri qveynis kanondebl obiT), qoneba unda gadaeces samkvidros gaxsnis adgil is mixedviT TviTmmarTvel obis organos.

mind a yuradReba gavamaxvil o im garemoebaze, rom SemoTavazebul i novacia marTal ia win gadadgmul i nabijia, magram ver gamoasworebs im uamrav xarvezebs, rac samoqal aqo kodeqsis me-6 wigni Seicavs da rasac bunebrivia pirdapiri kavSiri aqvs umkvidro qonebis sakiTxis gadawyvetasTanac. umkvidro qonebis miRebis ufl eba aqvs saxel mwifos, magram am ufl ebis warmoSoba damokidebul ia ramdenime pirobaze. up. yovl isa unda dadgines, rom memkvidreoba gaixsna, da rom mamkvdrebl is qoneba umkvidroa. umkvidro qonebis Sesaxeb informaciis miRebis normatiul i safuZvel i ar arsebobs, saqarTvel oSi oficial urad ar qveyndeba memkvidreobis gaxsnis Sesaxeb informacia, rogorc es xdeba evropis bevr qveyvebSi, ar arsebobs samemkvidreo saqmeTa erTiani reestri, iusticiis saminstros ara aqvs informacia TiToeul i piris oj axur-naTesauri kavSirebis Sesaxeb (arsebobs mxol od anderZebis reestri). umkvidro qonebis Sesaxeb informaciis droul ad miRebaze damokidebul ia umkvidro qonebis miRebis ufl ebis efeqturi realizacia da am qonebis droul ad CarTva samoqal aqo brunvaSi. Sesabamisad. zemoaRniSnul i obieqturi mizezebis gamo SeuZl ebel ia imis dadgena arsebobs Tu ara memkvidred mowveul i pirebi: hyavs Tu ara mamkvidrebel s kanonismieri memkvidreebi saerTod. saqarTvel os samoqal aqo kodeqsis 1421-e muxl is Tanaxmad, samkvidros misaRebad memkvidrem unda mimarTos notariuss gancxadebiT, aseT SemTxvevaSi iol ia imis garkveva arian Tu ara memkvidreebi - gamoiTxoveba notariusidan informacia. magram amave muxl is Tanaxmad, samkvidro aseve SeiZl eba miRebul iqnas faqtobrivi mfl obel obiTac, xol o, Tu memkvidre faqtobrivad Seudga samkvidros nawil is fl obas, iTvl eba, rom man mTl ianad miRo samkvidro, raSic unda gamoixatebodes da sadac unda iyos igi. samkvidros miRebis Semdeg samkvidro mowmoba gaicema nebis mier dros, masze raime xandazmul obis vada ar vrcel deba. yovel ive amis gaTval iswinebiT, Tu sanotaro organoSi gancxadeba memkvidreTa mier samkvidros miRebaze ar aris Sesul i, SeuZl ebel ia imis dadgena, darCa Tu ara mamkvidrebel s memkvidreebi.

umkvidro qonebis saxel mwifoze gadasvl asTan dakavSirebiT mniSvnel ovania aseve erTi garemoeba. qonebis umkvidrobis faqtis dadgena warmoadgens iuridiul i mniSvnel obis faqtis dadgenas, romelic warimarTeba udavo warmoebis wesiT, Tu dadginda, rom mamkvidrebel s memkvidre ar darCa(?); xolo Tu arsebul i informaciit dasturdeba memkvidris arsebobas, maSin qonebis umkvidrobis faqti unda dadgindes sasarCel o warmoebis wesiT. vinaidan qonebis umkvidrobis dadgenis sxva wesi kanonmdebl obiT dadgenili ar aris, Sesabamisad, iuridiul i mniSvnel obis faqtis dadgena sasamarTl o kompetenciaa (saqarTvel os samoqal aqo sproceso kodeqsi 312-e muxl i). Tu winaswari informaciit cans, rom qoneba umkvidroa, maSin ufl ebamosil ma pirma - saxel mwifom, moxucTa TavSesafarma da a. S. unda waradginos gancxadeba qonebis umkvidrod cnobisa da am qonebis mesakutred aRiarebis moTxovniT. samoqal aqo sproceso kodeqsis 314-e muxl is Sesabamisad, "gancxadeba iuridiul i mniSvnel obis faqtebis dadgenis Sesaxeb Seitaneba sasamarTl oSi ganmcxadebl is sacxovrebel i adgil is mixedvit. gamonakl iss warmoadgens gancxadeba sakutrebis ufl ebit uzravi qonebis fl obis faqtis dadgenis Sesaxeb, romelic Seitaneba sasamarTl oSi uzravi qonebis adgil samyofel is mixedvit."

Tuki am muxl iT dadgenil normas gavaanal izebt gansaxil vel sakiTxTan mimarTebaSi, aSkarad gamoikveTeba seriozul i xarvezi. kerZod, qonebis umkvidrod cnobis moTxovniT gancxadebis wardgenis sas ver iqneba gamoyenebul i damowmebul i muxl is bol o winadadeba (qvemdebareoba uzravi qonebis adgil mdebareobis mixedvit), radgan es norma exeba uzravi qonebis fl obis faqtis dadgenis Sesaxeb gancxadebis qvemdebareobis sakiTxs, xolo umkvidro qonebis SemTxvevaSi ganmcxadebel i ar fl obs umkvidro qonebas. Sesabamisad, gamosayenebl ad rCeba damowmebul i muxl is pirvel i winadadebit dadgenil i norma, roml is Sesabamisad, gancxadeba wardgenil unda iqnas ganmcxadebl is sacxovrebel i adgil is mixedvit. miuxedavad imisa, rom umkvidro qonebis mimRebi ar SeiZl eba iyos fizikuri piri (romel sac aqvs sacxovrebel i adgil i), gavaigivoT sacxovrebel i adgil i da iuridiul i misamarTi da davuSvaT, rom ganmcxadebel ma gancxadeba unda waradginos iuridiul i misamarTis mixedvit. probl ema arc am SemTxvevaSi aRmoifxvrebas, radgan umkvidro qonebis miRebaze pretenzia SeiZl eba hqondes ramdenime subieqts (saxel mwifo da sxvadasxva dawesebul eba, romel Ta rCenazec imyofeboda mamkvidrebel i), roml ebsac iuridiul i misamarTi aqvT sxvadasxva administraciul -teritoriul erTeul ebSi. am SemTxvevaSi ganmcxadebl is iuridiul i misamarTis mixedvit gancxadebis wardgenis normis gamoyenebis SemTxvevaSi, Sesazl oa, sxvadasxva sasamarTl os erTdroul ad an sxvadasxva dros wardginos sxvadasxva subieqtis gancxadeba, rasac Sedegad SeiZl eba mohyves srul i qaosi \_ erTi da igive umkvidro qonebis mesakutred cnobil i iqnas sxvadasxva subieqti.

aqedan gamodinare, qvemdebareobis sakiTxis dasadgenad samoqal aqo sproceso kodeqsis 314-e muxl i gamousadegaria. vfiqrob, samoqal qo sproceso kodeqsi umkvidro qonebis saxel mwifoze gadasvl asTan dakavSirebiT qvemdebareobis sakiTxi saWiroebs harmonizacias. qonebis umkvidrod cnobis kompetencia unda gaaCndes samkvidros gaxsnis adgil is sasamarTl os, Sesabamisad samkvidros gaxsnis adgil is TviTmmarTvl obis organo mimarTos sasamarTl os umkvidro qonebis misarebad.

marTali SemoTavazebuli novacia exeba samoqal aqo kodeqsis 1343-e muxl is pirvel nawilis, magram yuradrebis gareSe ar SeiZl eba davtovoT muxl is meore nawilic. samoqal aqo kodeqsis 1343-e muxl is me-2 nawilit umkvidro qonebis mimRebTa wre gafarToebulia, kerZod, "umkvidro qoneba samewarmeo sazogadoebaSi, an kooperativSi wilis, aqciis an pais saxiT gadadis maT xel Si, Tu kanonit sxva ram ar aris gaTval iswinebuli."

unda vivaraudoT, rom umkvidro qoneba (wili, aqcia pai) samewarmeo sazogadoebaSi gadadis samewarmeo sazogadobebis, an kooperativis xel Si da ara xazinis, an sxva subieqtis sakuTrebaSi, radgan winaaRmdeg SemTxvevaSi 1343-e muxl is me-2 nawili sruliad zedmeti iqneboda, umkvidro pai, wili da aqcia daeqvemdebareboda 1343-e muxl is pirveli nawilit dadgenil rejims.

Sesabamisad, 1343-e muxl is me-2 nawilis Tanaxmad, umkvidro pai, wili, an aqcia gadadis samewarmeo sazogadobebis, an kooperativis sakuTrebaSi, Tu kanonit sxva ram ar aris gaTval iswinebuli. aqedan gamomdinare, am normis gamoyenebisas unda gavitval iswinoT mewarmeTa Sesaxeb kanonit dadgenil i normebic:

1. mewarmeTa Sesaxeb kanonis 46-e muxl is me-6 punktis Sesabamisad: SezRuduli pasuxismgebl obis sazogadobebis ekrZal eba sakuTari wilis fl oba: "dauSvebelia sakuTari wilis SeZena".

2. saaqcio sazogadobebis ara aqvs ufl eba gamoisyidos umkvidro aqcia \_ aseT SesaZlebl obas mewarmeTa Sesaxeb kanoni ar uSvebda samoqal aqo kodeqsis miRebis dros da ar uSvebs axlac: gamosyidva daiSveba cocxlad myofi aqcioneris moTxovnit kanonit dadgenil i pirobebis arsebobis SemTxvevaSi da wesiT.

3. kooperativis samarTlebrivi da ekonomikuri bunebidan gamomdinare, warmoudgenelia pais gadasvla Tvit kooperativze da amgvar normas arc mewarmeTa Sesaxeb kanoni uSvebs (muxli 62.9).

4. mewarmeTa Sesaxeb kanoni awesrigebs memkvidreobis sakiTxs solidaruli pasuxismgebl obis sazogadobebaSi muxli 33.1. "umemkvidreod darCenili partnioris gardacval ebis SemTxvevaSi misi wili daemateba sxva danarCen partniorebs."

rogorc vxedavT, mewarmeTa Sesaxeb kanoni gamoricxavs umkvidro aqciis, wilis, pais gadasvl as samewarmeo sazogadobebis an kooperativis sakuTrebaSi, rogorc amas gansazRvras samoqal aqo kodeqsis 1343-e muxl is me-2 nawili da, amdenad, samkvidro qonebis am nawilis mimarT moqmedebis umkvidro qonebisatvis dadgenil i saerto rejimi, cxadia, specialuri kanonit \_ mewarmeTa Sesaxeb kanonit dadgenil i normebis gaTval iswinebit. amitomac iwvevs gaugebrobas samoqal aqo kodeqsis 1343-e muxl is me-2 nawilis arsebuli redaqlia.

samwuxarod SemoTazebuli muxlebi ar aris erTaderti, romelic seriozul problemebs qmnis memkvidreobit urTierTobebSi, dasmul problemebSi kidev erTxel, koncentrirebulad vlindeba yvela is seriozuli xarvezebi, rac axasiaTebis samoqal aqo kodeqsis me-6 wignis, romelic saswrafod saWiroebis Secvl as.