

damouki debel i eqspertis daskvna

kanonis proeqtebze:

“saqarTvel os administraciul saproceso kodeqsSi cvl il ebisa da damatebebis Setanis Taobaze” da “saqarTvel os zogad administraciul kodeqsSi cvl il ebebis da damatebebis Setanis Sesaxeb”

TinaTin xidaSel i

upirvel es yovl isa, rogorc zogadi xasiaTis SeniSvna, unda aRiniSnos, rom rodesac 34 muxl ian kanonSi safuZvl ianad icvl eba 23 muxl i da emateba 4 axal i muxl i, Cemis azriT, umj obesia axal i kanonis miReba. aseTi gadawyvetil eba umj obesia Tundac imitom, rom Tavidan iyos acil ebul i bevri ararsebul i muxl is da bevri prima muxl is arseboba, rac xSirad gaugebrobas iwvevs xol me.

meore aseTive zogadi xasiaTis SeniSvna Seexeba ganmartebiT baraTs, romel ic Cemis azriT araadeqvaturad asaxavs warmodgenil i cvl il ebebis arss. masSi bevri mniSvnel ovani cvl il ebebis mizezis axsna da dasabuTeba ubral od gamotovebul ia, rac Tavistavad arasworia da kanonis darRvevaa.

aseve, rogorc zogadi xasiaTis SeniSvna SeiZl eba iTqvas, rom SemoTavazebul cvl il ebebSi aris damazustebel i frazebisa da debul ebebis amoRebis tendencia rac Cemis azriT gaumartl ebel ia. aRniSnul i cvl il ebebis umravl esoba kodeqsSi 2001 wel s daemata da amis mizezi sasamarTI o praqtikis araerTgvarovneba iyo, rac Cemis azriT, sul ac ar aris ara-aqtual uri dRevandel vitarebaSi.

da bol os, gaugebaria romel i cvl il ebebi ganapirobebs meores, vinaidan kanonis dasaxel ebidan Tu vimsjel ebT, irkveva rom administraciul saproceso kodeqsSi cvl il ebebma ganapiroba sxva or kanonSi cvl il ebebi, xol o ganmartebiTi baraTiT dgindeba, rom zogad administraciul kodeqsSi cvl il ebebma gamoiwvia yvel a sxva danarCeni cvl il eba.

zogad administraciul kodeqsSi
SemoTavazebul i cvl il ebebi da damatebebi

1. cvl il ebebi gaTval iswinebul ia terminTa ganmar tebaSi, rac yovel Tvis umniSvnel ovanisi siaxle nebismeri kanonisaTvis. kerZod, SemoTavazebul i winadedebis mixedviT icvl eba administraciul i aqtis, administraciul i garigebis, gancxadebisa da administraciul i warmoebis definicia.

1.1. administraciul i aqti: Tavistavad is, rom termini “administraciul i aqti” icvl eba “individual uri administraciul -samarTI ebrivi aqtiT”, principul i xasiaTis probl emas ar warmoadgnes, vinaidan kanonSi mocemul i gansazRvrebis mixedviT igi yovel Tvis iyo individual uri samarTI ebrivi aqti. gacil ebiT ufro mniSvnel ovania is faqti, rom cvl il ebebis avtorebi ubrundebian am terminis ganmar tebis pirvel ad saxes, romel ic 1999 wl is versiaSi iyo da yvel a Semdeg miRebul i cvl il eba aris amoRebul i. kerZod, is rom magal iTad, “uari” iTvl eba aseTive aqtad, an is rom “aqtia” nebismeri sxva dokumenti, romel sac SesaZl oa mohyves samarTI ebrivi Sedegi.

aRniSnul i cvl il ebebis ganxorciel eba 2001 wel s ganpirobepul i iyo informaciis gacemaze “uaris” dokumentis statusis ara erTgavarovani gagebiT. swored aRniSnul i gaugebrobis Tavidan acil ebis mizniT kanonSi cal saxad Caiwera rom “administraciul aqtad CaiTvl eba agreTve administraciul i organos mier miRebul i gadawyvetil eba mis ufl ebamosil ebaSi Semaval i sakiTxis dakmayofil ebaze ganmcxadebl isaTvis uaris Tqmis Sesaxeb”. vfiqrob, amgvari Canaweris amoReba kvl avac bevri gaugebrobis da davis mizezi gaxdeba imis Taobaze, aris “uari” administraciul i aqti Tu ara.

1.2. SemoTavazebul i cvl il eba terminis “administraciul i garigebis” administraciul i xel Sekrul ebiT Secvl is Sesaxeb terminol ogiuri Tval sazrisiT araviTar winaRmdegobas ar iwvevs, Tumca Tavad definiciaSi 4 sityvis “saj aro ufl ebamosil ebis ganxorciel ebis mizniT” damateba erTgvar gaugebrobas warmoSobs. arsad kodeqsSi Semdeg ar aris ganmar tebul i ras niSnavs “saj aro ufl ebamosil ebis ganxorciel eba”, xol o ganmar tebiT baraTSi weria “mmarTvel obiTi funqciebis ganxorciel ebis mizniT”. am SemTxvevaSi ori sxvadasxva terminia, xol o amgvari terminol ogiuri aRreva Zal ze saxifaToa da SesaZl oa imgvarad winaRmdegobrivi gaxdes sasamarTI o praqtikaSi, rogorc ara erTi sxva termini. Cemis azriT, amgvari dazusteba absol uturad zedmetia am SemTxvevaSi, vinaidan rogorc administraciul i warmoebis, aseve saj aroobis

Tval sazrisiT yvel a garigeba an xel Sekrul eba, romel ic ideba administaciul i organos mier, Tanabari statusis mqonea da identur samarTI ebriv Sedegebs warmoSobs.

anal ogiuri probl emaa 71-e muxl s damatebul i me-3 punqtSi miTiTebul “saj aro interes”-Tan mimarTebiT. vinaidan dRevandel i real obis gaTval iswinebiT, ar arsebul i definiciis pirobebSi am debul ebis ara-saTanadod gamoyenebis al baToba Zal zed maRal ia.

1.3. cvl il eba “gancxadebis” definiciaSi (“T” qve-punqti) teqniki xasiaTiasaa da (d) qve-punqtis cvl il ebidan gamomdi nareobs.

2. muxl i 9. muxl is axal i dasaxel eba ufro gasagebs xdis mis real ur arss. amasTanave, muxl is SemoTavazebul i redaqtI ufro l ogikurad aris gaweril i sxvadasxva pirobebi. magal iTad, axal i redaqtis meore nawil i dRes moqmedi redaqtis anal ogiuria da raim e siaxl es ar gvaTavazobs, Tumca SemoTavazebul i cvl il ebiT ufro gasagebad da l ogikurad aris warmodgenil i kanonieri ndobis ararsebobis SemTxvevebi, romel ic manamde sxvadasxva punqtebSi usistemod iyo gabneul i.

axal i redaqtis pirvel i punqtSi, Zvel i redaqtisagan gansxvavebiT, amoRebul ia sityvebi “Tanamdebobis piri”, rac Cemis azriT gaumarTI ebel ia, vinaidan kodeqsi arsad cal saxad ar saubrobs aRniSnul i mizniT administraciul i organosa da Tanamdebobis piri identurobis Sesaxeb.

me-9 muxl is SemoTavazebul i redaqtis mesame da meoTxe punqtebi siaxl es warmoadgens. meoTxe nawil iT gaTval iswinebul i gasaCivrebis Sesazl ebl oba cal saxad mniSvnel ovani da saWi ro damatebaa.

dapirebis gacemis mimarT dainteresebul i mxaris mier sakuTari mosazrebebis wardgenis pirobis daweseba, Cemis azriT, gaumarTI ebel ia, gansakuTrebiT magal iTad, saj aro informaciis gacemis Sesaxeb dapirebas Tu ganvixil avT, vinaidan am SemTxvevaSi winaaRmdegobaSi movdivarT 37-e muxl is meore nawil Tan, romel ic pirdapir acxadebs informaciis moTxovnis miznisa da motivis miTiTebis aucil ebl obis ararsebobaze. es ukanasknel i saj aroobis erTerT fundamentur debul ebas warmoadgens. aseTi dapirebis gacemis aucil ebl oba xSirad gamowveul ia moTxovnil i informaciis mocul obiT. rac Seexeba sxva dainteresebul i administraciul i organos weril obiTi Tanxmobis arsebobas, misaRebi da sasurvel i pirobaa. da bol os,

am muxl Tan dakavSirebiT sasurvel i iqneboda aseTi pirobis gacemis dokumentSi vadis miTitebis val debul ebis pirobis dadgena.

3. SemoTavazebul i cvl il ebebis proeqtiT mniSvnel ovan wil ad icvl eba debul ebebi “administarciul i aqtis” Sesaxeb.

3.1. muxl i 51.

pirvel i cvl il eba, romel ic individual uri administraciul -samarTI ebrivi aqtis formas Seexeba, aris misi gamocemis wesi, SemoTavazebul i cvl il ebebiT gaTval iswinebul i individual uri administraciul -samarTI ebrivi aqtis gamocema zepirad raime konkretul i pirobis arsebobis gareSe. dRes moqmedi wesis Sesabamisad, zepiri aqtebis gamocema SesaZI ebel i iyo mxol od gadaudebel SemTxvevebSi, rodesac dayovneba konkretul zians iwvevda. Cemis azriT, individual uri administraciul -samarTI ebrivi aqtebis zepirad gamocemis SesaZI ebl obebi SezRudul i unda iyos, raTa Sesabamisad Semcirdes erTpirovnul i gadawyvetil ebebis raodenoba da gavl ena samarTI ebriv Sedegebze. minimumamde unda iyos dayvanil i iseTi aqtebis raodenoba, romel ic aRsrul ebis dawyebamde ar eqvemdebareba SeCerebas da gasaCivrebas. zepir aqtebtan mimarTebaSi moqmedi formul ireba ufro gamarTI ebul i da l ogikuria.

sasurvel i iqneboda kanonmdebel s moeTxova yvel a zepirad gamocemul i aqtis weril obiTi gaformeba imis miuxedavad, moiTxovs amas daintersebul i piri im momentSi Tu ara. aseTi midgoma qveyanaSi samarTI ebrivi wesrigis mniSvnel ovani winapirobaa. amasTanave, kanonis moqmed da SemoTavazebul redaqciebSi vkiTxul obT, rom weril obiT gamocema saval debul oa, rodesac aqti “zRudavs piris kanonier ufl ebebsa da intersebs”, Tumca ar aris piriqit, piris ufl ebebSi aRmWurvel i zepiri aqtis gamocemis val debul eba, rac SesaZI ebel ia Tanamdebobis pirTa mxridan interesTa konfliqtis, nepotizmis an favoritizmis niSnebis Semcvel i zepiri aqtebis sazogadoebisagan dafarvis saSual ebad iqces. amitom, Cemis azriT, aucil ebel ia yvel a aqtis weril obiT gamocemis val debul ebis daweseba.

meore, SemoTavazebul i redaqcis me-3 punqtSi naTqvamia “marTvis avtomaturi saSual ebebis gamoyenebiT gamocemul weril obiT ... aqtSi”. Cemis azriT, es ukanaknel i kanonisaTvis gaugebari terminia da aucil ebel ia misi ganmar teba.

3.2. muxl i 52. rekvizitebi

Logikuria individual uri da normatiul i aqtebis gayofa da aucil ebel i rekvizitebis cal k-cal ke gansazRvra. Sesabamisad moxda 52¹ muxl is damateba. 52 muxl Si SemoTavazebul ia teqniki cvl il ebebi, romelic terminologiuri siaxli T aris gamowveuli. rac Seexeba 52¹ muxl s Cemis azriT rekvizitebs aucil ebl ad unda daematos aqtis gamomcemi organo, xolo (e) qve-punqti sasurvel ia Camoyal ibdes 52-e muxl is pirveli punqtis (d) qve-punqtis anal ogiurad.

3.3. muxl i 53. aqtis dasabuTeba.

cvl il ebebi Seexeba muxl is 1, me-7 da me-8 punqtebs. me-7 puqtsi pirveli puqtis axal debulebaSi damatebuli / Secvl il ia sityvebi da nacvl ad “yvel a” aqtisa vkiTxul obT “weril obiT formiT gamocemuli individual uri administraciul -samarTl ebrivi aqti unda Seicavdes weril obiT dasabuTebas”. vfiqrob, cvl il ebebis avtorebs terminologiuri cvl il ebebis SesabamisobaSi moyvanis dros teqnikiurad gaeparat Secdoma, romlis Sedegadac 53-e muxl is 1 punqtis regulirebidan faqtobrivad amovardnil ia normatiul i administraciul i aqtebi, rac bunebrivia Secdomaa. pirvel puqtsi unda eweros “administraciul samarTl ebrivi aqti” individual uris gareSe.

me-7 punqtiT gaTval iswinebul ia individual uri administraciul -samarTl ebrivi aqtis dasabuTebis aucil ebl obis ararsebobis SemTxvevebi. aseT pirobad ki miTitebul ia: a) gamocemul ia dainteresebul i piris moTxovnis safuzvel ze, b) ar arRvevs mesame pirebis ufl ebebsa da interesebs. unda aRiniSnos, rom individual uri administraciul -samarTl ebrivi aqtebis udidesi umravlesoba gamoicema swored dainteresebul i piris moTxovniT, rac niSnavis mas, rom aseT aqtebze ar vrcel deba, magaliTad am muxl is me-3 an me-4 nawil ebiT gaTval iswinebul i moTxovnebi. Cemis azriT, amgvari midgoma arasworია. xolo meore pirobasTan mimarTebaSi gTxovT ixil ot 51-e muxl is SemoTavazebul i cvl il ebis komentaris meore abzaci.

3.4. me-60 muxl i. arara administraciul samarTl ebrivi aqti.

sasurvel i iqneboda SemoTavazebul i muxl is me-2 nawil s daematos sityva “ararad dauyovnebl iy aRiaros”.

umniSvnel ovanesi debulebia, sagulisxmo saixlea da Sesabamisi organosatvis aqtis ararad gamocxadebis dakisreba mniSvnel ovanwil ad amartivebs proceduras, Tumca Cemis azriT aucil ebel ia me-60 muxl is axal redaqtias daematos me-3 punqti romelic gasacivrebis proceduras *gaTval iswinebs*

ara mxol od administraciul i organos mier ararad ar gamocxadebis SemTxvevaSi aqtis gauqmebis, aramed ukve srul ad an nawil obriv aRsrul ebul i aqtis SemTxvevaSi pirvandel i samarTI ebrivi mdgomareobis aRdgenis Sesazl ebl obas.

3.5. 60¹ muxl i. administraciul samarTI ebrivi aqtis baTil oba.

zogadi xasiaTis SeniSvna mdgomareobs imaSi, rom muxl is saTauri "baTil oba" ar Seesabameba misive ramodenime punqtis samarTI ebriv SedegeS "ukanonod cnoba", magal iTad punqti 3, 6 da 8. aseve magal iTad me-6 punqtis axal redaqtiaSi gvxdeba termini "gauqmebiT miyenebul i ziani". muxl is saTauridan gamomdinare yvel a es termini baTil obis eqval enturia da amitom, umj obesia terminol ogiuri sicxadisaTvis gamoyenebul iqnes erTi termini, am SemTxvevaSi baTil oba.

60¹ muxl is (me-7 nawil i) SemoTavazebul i redaqtiiT mniSvnel ovani siaxl e Semodis aqtis baTil obis Semdeg damdgar SedegTan mimarTebaSi. Tuki manamde aqtis baTil ad gamocxadeba niSnavda misi Zal aSi Sesvl idan warmoSobil i samarTI ebrivi Sedegebis gauqmebas, SemoTavazebul i cvl il ebebis avtorebi aqtis baTil obis da samaTI ebrivi Sedegebis dadgomis sxvadasxva vadebs gvTavazoben. me-7 punqtTan mimarTebaSi yvel aze mwvaved vl indeba terminol ogiuri aRreviT gamowveul i savaraudogarTul ebebi. me-7 punqti acxadebs rom "aqtis ukanonod cnobasTan erTad" dgindeba samarTI ebrivi Sedegic da Semdeg saubrobs sam Sesazl o Sedegze. Tumca amave muxl is pirveli punqtis mixedviT, aqti baTil ia Tuki is ewinaaRmdegeba kanons. Semdeg am muxl Si an sadme sxvagan arsad aris saubari imaze, Tu ra Sedegebi moyveba aqtis baTil obas. Zveli redaqtiiS me-60 muxl is me-7 punqti cal saxad acxadebda, rom baTil oba niSnavs misi Zal aSi Sesvl idan warmoSobil i samarTI ebrivi Sedegebis gauqmebas. aseTi debul eba dRes kanonSi ar devs, xol o 60¹ muxl i xan baTil obaze saubrobs, xan ukanonod gamocxadebaze, xanac gauqmebze.

Cemis azriT, mniSvnel ovania am muxl is redaqtireba, terminol ogiis sinqronizacia da Sesabamisi samarTI ebrivi Sedegebis gansazRvra, vinaidan rogori terminic ar unda gamoviyenoT, magal iTad kanonsawinaaRmdego, an kanoniT gaTval iswinebul i procedurebis darRreviT aqtis miRebis SemTxvevaSi "momaval Si konkretul i TariRis miTitebiT" gauqmebis Sesazl ebl obis arseboba yovl ad dauSvebel ia. aseTi aqti dauyovnebl iv unda gauqmdes mis mier warmoSobil SedegebTan erTad da unda aRdges aqtis miRebamde arsebul i mdgomareoba.

administraciul saproceso kodeqsSi SemoTavazebul i cvl il ebebi da damatetebebi

zogadi xasiaTis SeniSvnis saxiT unda iTqvas, rom cvl il ebebis ena sakmaod orazrovania muxl ebis srul i redaqqiis cvl il ebasTan mimarTebaSi. zogierT SemTxvevaSi miTiTebul ia, rom amoRebul iqnas konkretul i punqti, xol o sxva SemTxvevebSi weria - esa da es muxl i Camoyal ibdes Semdegi redaqqiit... Tumca gamotovebul i punqtebis Sesaxeb araferia naTqvami. rom ara gansxvavebul i SemTxvevebi, gasagebia, rom muxl is axal i redaqqia niSnavs, rom saxezea Sesabamisi gamotovebul i punqtebis amoReba, magram teqstis orazrovneba aseTi daskvnis gakeTebis safuZvel s ar iZl eva.

aseve zogadi SeniSvnis saxiT unda iTqvas, rom yvel a is debul eba, romelic kanonSi 2004 wel s damatebebis saxiT iyo miRebul i da Seexeboda pirTa ukanono da dausabuTebul i qonebis Sesaxeb davebs, axal i redaqqiit amoRebul ia, rac Cemis azriT mniSvnel ovani cvl il ebaa da aucil ebel ia misi amoRebis ganmartebiT baraTSi dasabuTeba.

SemoTavazebul i cvl il ebebis bevri debul eba teqniki xasiaTisaa da gamodinareobs zogad administarciul kodeqsSi SemoTavazebul i terminol ogiuri an sxva xasiaTis cvl il ebebidan (magal iTad 25-e muxl Si aqtis ararad aRiareba, da a.S.).

me-10, me-12, me-13 muxl ebSi SemoTavazebul i cvl il eba namdvil ad misasal mebel ia da sicxade Seaqvs Sesabamisi debul ebebis erTgvarovani gamoyenebi saTvis.

me-16 muxl Si mesame pirebTan dakavSirebiT SemoTavazebul i cvl il ebebi afarToebs mesame pirad saqmeSi monawil eobis Sesazl ebl obebs, Tumca upriani iqneboda aRniSnul i debul ebebi ufro naTI ad mianiSnebdes garkveul i SemTxvevebSi mesame pirad CarTvis val debul ebaze.

me-18 muxl is pirvel i nawil i. Cemis azriT mizanSewonil ia erTgvarovani midgoma gamovi yenoT mowmis Cvnebasaa da eqspertizasTan mimarTebaSi da Sesabamisad, dRes moqmed redaqqiaSi imperatiul ad dadgenil i 3 dRiani vada SevinarCunoT ucvl il ebad, vidre sasamarTI os movaniWoT amgvani diskrecia.

SemoTavazebul i cvl il ebebi me-5, me-6 da 21¹-e muxl ebSi iTval iswinebs magistratibis institutis SemoRebas, rac erTgvani siaxl ea qarTul i marTI msaj ul ebis sistemisaTvis. Sesabamisad, me-5

da 21¹-e muxl ebis cvl il eba teqnikuri xasiaTisaa. rac Seexeba me-6 muxl s, axal i redaqtia iTval iswinebs magistratēbis mier pirvel i instanciit saqmeebis ganxil vas, xolo dRes moqmedi redaqtiiT gaTval iswinebul i pirvel i instanciit saol qo sasamarTl oebis gansakuTrebul i gansjadoba SemoTavazebul i cvl il ebebis miRebis SemTxvevaSi aRar iarsebebs.

me-6 muxl iT SemoTavazebul i magistratēbis sasamarTl osTan dakavSirebit mxol od imis Tqma SeiZl eba, rom Tuki parl amentis mier miRebul i iqneba Sesabamisi cvl il ebebi saerto sasamarTl oebis Sesaxeb kanonmdel obaSi, aseT SemTxvevaSi administraciul saproceso kodeqsSi asaxva unda hpovos magistrebis arsebobam da maSin me-6 muxl is SemoTavazebul i redaqtia l ogikuria. Tumca gaumarTl ebl ad meCveneba dRes moqmedi redaqtiiT saapel acio sasamarTl osatvis ganpirovnebul i yvel a saqmis raionul i sasamarTl os iurisdicqiaSi gadacema maTi mniSvel ovnebi dan gamomdinare.

21¹ muxl iT SemoTavazebul i cvl il eba, Cemis azrit, arasworad aris formul irebul i, Tuki gaviTval iswinebT me-5 muxl is meore nawilit da me-6 muxl is (v) qve-punqtit SemoTavazebul i cvl il ebis Sinaars. anu Tuki mewarmis saqmianobis Semowmebis Taobaze brZanebas gamoscems magistratēbis sasamarTl o (6.v), xolo raionul i sasamarTl o pirvel i instanciit saqmeebs ganxil avs iq sadac ar aris Seqmnil i magistratēbis sasamarTl o, maSin aqcenti 21¹ muxl Si unda gakeTdes swored magistratēbis sasamarTl oze.

21³ muxl is pirvel nawil Si SemoTavazebul ia saqmis ganxil vis drois 24 saatidan 72 saatamde gazrda. Cemis azrit, amgvari gadawyvetil ebebi miRebul i unda iyos maqsimal urad Semwidrovebul vadebSi, raTa uzrunvel yofil i iyos mewarmis ufl ebebis dacva biurokratiis arasaTanado Carevisagan da Sesabamisad am drois gazrda mizanSewonil i ar aris. es gansakuTrebit mZime da arasasurvel ia, Tuki Semowmeba ukve dawyebul ia. aseTis SesaZel ebl oba ki dasvebul ia kanonmdebl obiT da amave muxl is me-6 punqtit aris dadasturebul i. muxl is SemoTavazebul i redaqtis me-14 da me-15 punqtēbit SemoTavazebul i vadis 48 saatamde gagrZel eba swored pirvel punqtSi vadis gagrZel ebit aris gamowveul i da Sesabamisad, mizanSewonil ad ar meCveneba misi gagrZel eba 24-dan 48 saatamde.

rac Seexeba Tavad me-6 punqts, erTaderTi SemoTavazebul i cvl il eba es aris sityva “dasabuTebul is” amoReba dadgenil ebis gamocemasTan mimarTebaSi. Cemis azrit, nebismieri gadawyvetil eba, dadgenil eba, da a.S. romelic gamoicema sasamarTl os mier, gansakuTrebit romel ime mxarisaTvis ufl ebis Camortmevis,

saqmianobis akrZal vis da a.S. Sesaxeb aucil ebl ad unda iyos dasabuTebul i, vinaidan msgavsi dasabuTebis aucil ebl oba swored sasamarTI os gadawyvetil ebebis bunebi dan gamomdinareobs.

me-11 punqtis amoReba SesaZI ebel ia ganxil ul i iqnes, rogorc mewarmis dacvis piroba Tuki CaiTvl eba, rom imave saqmeze xel axl a mimarTve ar daiSveba. Tumca, aseTi ram zustad unda iyos gansazRvrul i kanoniT. winaaRmdeg SemTxvevaSi am punqtis ubral od amoRebiT SesaZI oa Sedegad miviRoT is, rom piroba axal i garemoebisa aRar arsebobs da anal ogiuri davebi SesaZI oa usasrul od meordebodes sasamarTI oSi.

me-12 punqtiT SemoTavazebul i cvl il eba misasal mebel ia da bunebrivia, nakarnaxevia mewarmis dacvis survil iT.

muxl i 22. dasaxel eba ar icvl eba, Tumca pirvel i punqtidan SemoTavazebul i redaqqi iT amoRebul ia sityvebi “Zal adakargul ad gamocxadeba”, rac bunebrivia Seusabamo Tavad muxl is dasaxel ebasTan. es probl ema gamovl inebaa zogad administraciul kodeqsis SemoTavazebul i cvl il ebebis redaqqi isa, sadac terminol ogiuri aRveva da principSi bol omde gaugebaria is samarTI ebrivi Sedegebi, romel ic aqtis gauqmebis Semdeg dgeba, vinaidan Tavistavad aqtis baTil oba da Zal agadakargul ad gamocxadeba sxvadasxva samarTI ebriv Sedegebs iwvevs.

imave muxl Si SemoTavazebul ia sasarCel o xandazmul obis vadis 1 Tvemde Semicireba, rac Cemis azriT garkveul wil ad amZimebs sasamarTI osadmi mimarTvis ufl ebis real izebis mdgomareobas. dRes moqmed redaqqiaSi ori, eqvsi da samTviani vadaa gaTval iswinebul i. gasaTval iswinebel ia is garemoebac, rom kodeqsis miRebis dros mis pirvandel redaqqiaSi aseTi vada eqvsi TviT ganisazRvreboda da Cemis azriT, sasurvel i iqneboda kodeqsis swored pirvandel saxes davubrundeT da saerto sargebl obisatvis eqvs Tviani vadis principi aRvadginoT. amastanave, axal redaqqiaSi vkiTxul obT “Tu kanoniT sxva ram ar aris gaTval iswinebul i”. Cemis azriT, aseTi Canaweri saSual ebas qmnis, rom admini atraciul i samarTal warmoebis procedurebi da gansakuTrebiT xandazmul oba raime sxva sakanonmdebl o aqtiT ganisazRvros, rac sakanonmdebl o Tval sazrisiT da kodeqsebis arsebobs principidan gamomdinare miuRebel ia. sasurvel i iqneba aRniSnul debul ebaSi ikiTxebodes “am kanoniT” da ara zogadad kanonmdebl obiT.

sasarCel o xandazmul obis vadebis Temis gagrZel ebaa 23-e muxl is mesame punqtis damateba. mesame punqtSi naTqvamia “administraciul -samarTI ebrivi aqti”, bunebrivia muxl is saTauridan da struqturidan gamomdinare unda iyos “individual uri administraciul -samarTI ebrivi aqti”. meorec, sasurvel i iqneboda am SemTxvevaSic gamoyenebul i yofil iyo 6

Tviani vadis principi, Tumca aqve unda aRiniSnos rom 22 muxl is formul irebidan gamomdinare 23.3-is aucil ebl oba ar arsebobs, vinaidan es sakiTxi ukve regul irebul ia 22-e muxl iT.

muxl i 29. umniSvnel ovanesi procedurul i muxl ia da axal i redaqqi iT SemoTavazebul ia mTel i rigi cvl il ebebi. amasTanave, am muxl Si integrirebul ia moqmedi redaqqiis ori - 29-e da 30-e muxl ebi.

pirvel i punqtis SemoTavazebul i debul eba iTval iswinebs terminis “wardgena” Secvl as terminiT “miRebiT”. iTqosda umniSvnel o cvl il eba principul i xasiaTisaa, vinaidan sarCel is miRebis sakiTxi SesaZl oa ramodenime dRe mimdinareobdes, risi Sedegic SesaZl oa aqtis aRsrul eba iyos. swored amitom Tavis droze kanonmdebel ma miuTiTa sarCel is wardgena, rogorc aqtis moqmedebis SeCerebis vada da ara sarCel is miReba, romel ic droSi ufro gawel il i procesia. SemoTavazebul i 26² muxl is Sesabamisad, sarCel is wardgenidan *ori kviris* ganmavl obaSi iniSneba gamwesrigebel i sxdoma, xol o ori kvira sakmarisi vadaa imisaTvis, rom moxdes aqtis srul fasovani aRsrul eba.

amasTanave, SemoTavazebul i redaqqiis me-4 punqti gvTavazobs aqtis SeCerebis gauqmebis SesaZl ebl obas, rac Cemis azriT mizanSewonil i ar aris. amisi mizezia winamdebare muxl is meore punqti, romel ic mkveTrad da konkretul ad gansazRvravs gamonakl is SemTxvevebs, rodesac sarCel is wardgena ar iwvevs aqtis SeCerebis Sewyvetas. amitom kidev damatebiTi debul ebis Semotana SeCerebis gauqmebis Sesaxeb Cemis azriT TavisTavad SeCerebis principis moqmedebas SeuZl ebel s xdis. Sesabamisad, mizanSeuwonel ia me-4 muxl is SemoTavazebul i formul irebac.

Cemis azriT, me-6 punqtis formul ireba zogadi xasiaTisaa da unda dakonkretdes, romel i gadawyvetil ebebis miReba xdeba sami dRis vadaSi. magal iTad, am muxl is, an am muxl is konkretul i punqtebis Sesaxeb, da a.S.

winaaRmdgobrivia am muxl is me-7 punqtis SemoTavazebul i formul ireba. gaugebaria rogor SeiZl eba moxdes, rom SeCerebul i aqti aRsrul ebul ia. Tuki saubaria ukve aRsrul ebul ze, maSin igi eqceva meore punqtis (e) qve-punqtis moqmedebis areal Si. xol o Tu misi aRsrul eba ar momxdara sarCel is Setanamde da saxeze ar aris meore punqtiT gaTval iswinebul i arc erti garemoeba, maSin kanoniT vaRiarebT rom SesaZl ebel ia SeCerebis miuxedavad administraciul i organos mier mainc ganxorciel des aRsrul eba. aseTi midgoma absol uturad miuRebel ia. amgvari garemoebis dadgoma SesaZl ebel ia mxol od administraciul i organos mier kanonis moTxovnebis darRvevis SemTxvevaSi da Sesabamisad am dros sasamarTI oebis sxvagvari gadawyvetil ebebi gamoaqvT da ara “aqtis aRsrul ebi s SeCerebis gauqmeba”.

mniSvnel ovania axali, 30¹-e muxli, romelic gansazRvravs normatiuli aqtis moqmedebis SeCerebis SesaZlebl obas da aseTi regulirebis SemoReba mniSvnel ovania aRniSnuli kodeqsis srul yofil ebisaTvis.

31-e muxl Tan dakavSirebit pirveli, rac unda aRiniSnos, aris is, rom axali redaqtis me-2 puqtsi mititebulia saapelicio sasamarTლო, romelic Tavad kodeqsis Ziritadi nawilidan amoRebulia. amave muxl Si saxezea terminol ogiuri aRreva, vinaidan muxlis dasaxel ebaSi gvxdება termini “gankargul eba”, xolo bolome-4 punqti acxadebs rom sasamarTლო iRebs gadawyvetil ebas “ganCinebis” saxiT.

Cemis azrit 33-e muxl Si terminol ogiuri aRreva, vinaidan SeuZlebelia es ukanskneli mxlood individualur administraciul -samarTლებრივ ატებს ეხებდეს, vinaidan mრავალჯერადი gamoyenebis, anu normatiuli aqtების gamocemis dakisrebazec unda SeeZლოს sasamarTლოს მსჯელობა. მაგალიტად, rodesac kanonit zustad aris gansazRvruli normatiuli aqtის მიწის ვალდებულება, xolo administraciული organo ან Tanamdebობის პირი Tavis არიებს kanonit dadgenili ამ ვალდებულების შესრულებას. ამიტომ Cemis azrit, 33-e muxl Si administraciul -samarTლებრივი აქტი unda iyos gamoyenebuli ნაცვლად, individualურისა.