

saegsperto anal izi kanonproeqtze
“saxel mwifo saiduml oebis Sesaxeb” saqarTvel os kanonSi
cvl il ebebisa da damatebis Setanis Taobaze

damoukidebel i eqsperti I evan al afiSvil i

Tanamedrove demokratiis umTavres miRwevas ganekuTvneba saj aroobisa da gadawyvetil ebebis miRebis procesSi sazogadoebis monawil eobis garantiebis Seqmna da damkvidreba, Tumca amave dros mniSvel ovania saxel mwifo saiduml oebis dacvac, imisaTvis rom ziani ar miadges saxel mwifos. am SemTxvevaSi sasworis erT mxares Zevs saxel mwifo interesi, xol o meore mxares demokratiis umTavresi faseul obebi. am ori faqtoris urTierTSej erebis Sesabamisad unda iqnes miRebul i gadawyvetil eba informacia miekuTvnos saxel mwifo saiduml oebas da gaxdes daxurul i sazogadoebis farTo wrisaTvis, Tu iyos xel misawvdomi yvel asaTvis – es sakiTxi ar unda iyos dakavSirebul i mxol od konkretul i Tanamdebobis piris subieqtur Sexedul ebebze, miTumetes, rom Sesazl ebel ia es Sexedul ebebi kanonSeusabamo an gaumarTI ebel i iyos. aRniSnul is gaTval iswinebiT saval debul oa, rom moxdes am sakiTxis sakanonmdebl o wesiT regul ireba, kanoniT dadgindes is zRude (CarCo) roml is fargl ebSic moxdeba gadawyvetil ebebis miReba.

es gaxl daT is winapirobebi, roml ebmac ganapiroba saqarTvel os parlamentis mier 1996 wl is 29 oqtomers `saxel mwifo saiduml oebis Sesaxeb- saqarTvel os kanonis miReba; amave dRes miRebul iqna saqarTvel os kanoni `normatiul i aqtebis Sesaxeb-.

`saxel mwifo saiduml oebis Sesaxeb- saqarTvel os kanoniT mkacrad ganisazRvra sakiTxTa is wre, romel Ta Sesaxeb informaciac Sesazl ebel ia (da ara saval debul oa) miekuTvnos saxel mwifo saiduml oebas. kanoniT ganisazRvra Tanamdebobis pirTa kompetencia da informaciis saiduml oebad miCnevis wesi. umniSvel ovanesi sakiTxi, romel ic ganisazRvra kanoniT (muxl i 8), is aris rom dadginda is sakiTxebi, romel Ta Sesaxeb informaciac ar SeiZl eba iyos saxel mwifo saiduml oeba.

dReisaTvis saqarTvel os sakanonmdebl o organoSi wardgenil ia kanonproeqti, roml iTac gaTval iswinebul ia cvl il ebebis Setana `saxel mwifo saiduml oebis Sesaxeb- saqarTvel os kanonis me-8 muxl is me-2 punktSi. SemoTavazebul i cvl il ebebis Sesabamisad dasaSvebad aris miCneuli, rom saxel mwifo saiduml oebas miekuTvnos saqarTvel os saerTaSoriso xel Sekrul ebebi da SeTanxmebebi, agreTve Tavdacvis, saxel mwifo uSiSroebis, Sinagan saqmeTa, iusticiisa da finansTa saministros is aqtebi, roml ebic Seexeba maT Sida saqmianobas Tavdacvis, uSiSroebisa da marTI wesrigis sferoebSi.

migvaCia, rom SemoTavazebul i kanonproeqtis am saxiT miReba gaumarTI ebel ia Semdeg garemoebaTa gamo:

`saqarTvel os saerTaSoriso xel Sekrul ebebis Sesaxeb- saqarTvel os kanoniT (miRebul ia 1997 wl is 16 oqtomers) upirobod dadgenil ia saqarTvel os saerTaSoriso xel Sekrul ebebisa da SeTanxmebebis saj arooba, metic kanoniT dadgenil ia maTi gamoqveyneba (mag.: me-6 muxl i da 30-e muxl i). garda amisa gasaTval iswinebel ia is garemoebac, rom Tanamedrove saerTaSoriso urTierTobebSi ar arsebobs SeTanxmeba, romel ic ar iqneba saj aro. Tuki gaviTval iswinebT aRniSnul s, maSin gansaxil vel i kanonproeqtis miRebis

SemTxvevaSi Teoriul ad SesaZl ebel ia, rom romel ime saerTaSoriso mraVal mxrivi xel Sekrul eba saqarTvel os fargl ebs gareT (sxva saxel mwifoebSi) iyos saJar o, xol o saqarTvel oSi iyos saxel mwifo saiduml oeba. kanonproeqtze msjel obisas gaTval iswinebul unda iqnes is garemoebac, rom `saqarTvel os saerTaSoriso xel Sekrul ebebis Sesaxeb-saqarTvel os kanoni aris special uri kanoni da miRebul ia `saxel mwifo saiduml oebis Sesaxeb- saqarTvel os kanonze gvian anu dRes arsebul i real obis gaTval iswinebiT saqarTvel os saerTaSoriso xel Sekrul eba da SeTanxmeba saJar o `normatiul i aqtebis Sesaxeb- saqarTvel os kanonis 25-e da 26-e muxl ebis Sesabamisad.

rac Seexeba kanonproeqtiT SemoTavazebul koncefcias, rom saxel mwifo saiduml oebas SeiZl eba miekuTvnebodes Tavdacvis, saxel mwifo uSiSroebis, Sinagan saqmeTa, iusticiisa da finansTa saministros is aqtebi, roml ebic Seexeba maT Sida saqmianobas Tavdacvis, uSiSroebisa da marTI wesrigis sferoebSi, migvaCnia, rom es koncefcia uaryofil unda iyos. `saxel mwifo saiduml oebis Sesaxeb- saqarTvel os kanonis me-7 muxl is pirvel i punqtiTa da me-7 muxl is me-4 punqtiT, agreTve `operatiul -samZero saqmianobis Sesaxeb-saqarTvel os kanoniT mocemul ia is sferoebi da saqmianobis is saxeebi, roml ebic SesaZl ebel ia miekuTvnos an warmoadgens saxel mwifo saiduml oebas, anu sakanonmdebl o wesiT mocemul ia is CarCo, roml ebSic kanonproeqtiT gansazRvrul uwyebes SeuZl iaT warmarTon saqmianoba da uzrunvel yon saxel mwifo saiduml oebis reJimis dacva. SemoTavazebul i kanonproeqti ki iZl eva subieqturi, dausabuTebl i an kanonsawinaaRmdego gadawyvetil ebebis miRebis SesaZl ebl oebes, rac Tanamedrove demokratiis principeTan SeuTavsebel ia. gasaTval iswinebel ia is garemoebac, rom kanonproeqtis miRebis SemTxvevaSi aRniSnul uwyebaTa aqtebi SesaZl ebel ia Seexebodes sxva gareSe pirebs, maTs ufl ebebs da am SemTxvevaSi es piri moklebul i iqneba SesaZl ebl obas icodes misi ufl ebebis SezRudvis safuZvl is (mag.: ministris brZanebis) Sesaxeb. praqtikul ad rom warmovidginoT, SesaZl ebel ia magal iTad uSiSroebis ministrma gamosces brZaneba, roml iTac ganisazRvrebakontrsadazvervo saqmianoba da masSi aRniSnul i iqneba, rom uSiSroebis TanamSromel s aqvs ufl eba isargebl os nebismieri piris (saqarTvel os moqal aqis, ucxoel i moqal aqis an sxva) sakuTrebaSi arsebul i avtomanqaniT. am SemTxvevaSi bunebrivia moqal aqes aqvs kanonieri ufl eba uSiSroebis TanamSromel s mostxovos normatiul i aqti, roml iTac il axeba misi sakuTrebis ufl eba – uSiSroebis TanamSromel i ki ministries brZanebas moqal aqes ver gaacnobs im ubral o mizezis gamo, rom brZaneba iqneba saxel mwifo saiduml oebis Semcveli informacia da misi moqal aqisaTvis gacnobis SemTxvevaSi TviT uSiSroebis TanamSromel i daarRvevs `saxel mwifo saiduml oebis Sesaxeb- saqarTvel os kanons radganac igi gaamJRavnebs saxel mwifo saidumoebas – dagveTanxmebiT rom konkretul SemTxvevaSi SesaZl ebel ia Seiqmnas sakmaod araordinal uri situacia.

kidev ufro Tval naTel i rom gaxdes Cveni msjel oba da argumentacia movixmobT real urad arsebul magal iTs saqarTvel os sul axl o warsul idan. 1998 wl is 18 Teberval s (anu mas Semdeg rac miRebul iqna kanoni `saxel mwifo saiduml oebis Sesaxeb-) saqarTvel os prezidentma (!) gamosca normatiul i aqti, brZanebul eba #03-s `saqarTvel ossamxedro Zal ebis dasakompleqtebl ad rezervis oficerTa Semadgenl obis pirebis 1998 wel s saqarTvel os samxedro Zal ebSi gawvevis Sesaxeb-. erTis SexedviT aRniSnul i brZanebul ebis miRebaSi sagangaSi araferia, magram am aqts miniWebul i hqonda saxel mwifo saiduml oebis grifi. brZanebul ebis Sesabamisad konkretul i rezervis oficeri ise unda gawveul iyo samxedro samsaxurSi, rom igi ver

miiRebda informacias gawvevis samarTl ebrivi safuZvl is Sesaxeb. metic Tuki igi uars ityoda samxedro samsaxuris gavl aze daisj eboda kanonis Sesabamisad, xol o im SemTxvevaSi Tuki konkretuli `samxedro komisari- brZanebul ebas gaacnobda gasawvev pirs, maSin daisj eboda `samxedro komisari- saxel mwifo saiduml oebis gamJRavnebisatvis. winamdebare statiis avtorma (romelic am droisaTvis muSaobda saqarTvel os parlamentis Tavdacvisa da uSiSroebis komitetSi da gaxl avT `saxel mwifo saidul oebis Sesaxeb- saqarTvel os kanonis avtori), cnobili gaxda ra prezidentis aRniSnuli brZanebul ebis gamocemis Sesaxeb masobrivi informaciis saSual ebebs misca intervieu (gazeTi `rezonansi-; gazeTi `droni-), romel Sic miuTiTa, rom prezidentis aRniSnuli brZanebul eba ewinaaRmdegeboda `saxel mwifo saiduml oebis Sesaxeb- saqarTvel os kanonis; bunebrivia intervius mohyva mwvave saxel isufl o reaqcia, magram miuxedavad aRniSnul isa miRbul iqna kanonSesabamisi gadawyvetil eba - 1998 wl is 27 marts saqarTvel os prezidentma gamosca #183 brZanebul eba, romliTac 1 TviT adre gamocemul brZanebul ebas moexsna saiduml oebis grifi. es erT-erTi argumenti gaxl avT imisaTvis, rom ar aris gamoricxul i Sesabamisma ministrebma subieqturi Sexedul ebit kanonsawinaaRmdegod gamoscen normatiuli aqtebi, risi dasturic gaxl avT sul axl axans `saqarTvel os sakanonmdebl o macne--s 2004 wl is 8 dekembris #144-Si gamoqveynebul i saqarTvel os prezidentis 2004 wl is 6 dekembris #562 brZanebul eba, romliTac saiduml oebis grifi moexsna 1993-1998 wl ebSi central uri xel isufl ebis mraval normatiul aqts, am CamonaTval Si vxvdebiT iseT normatiul aqtebs, romlebic Seexeba pirTa Sewyal ebas, saqarTvel os sael Coebis gaxsnas, biujetidand saxsrebis gamoyofas, konfiskaciaqmili qonebis dabrunebas da sxva - anu am wl ebSi arsebobda iseTi normatiuli aqtebi, romlebic kanonsawinaaRmdegod mikuTvnebul i gaxl daT saxel mwifo saiduml oebas.

vfiqrobT, rom aRniSnuli probl emebis daZl evis meqanizmebi mocemul ia `saxel mwifo saiduml oebis Sesaxeb- saqarTvel os kanonSi (me-7 muxli) da `normatiuli aqtebis Sesaxeb- saqarTvel os kanonis me-17 da 41-e muxl ebSi, ris gamoc migvaCnia, rom `saxel mwifo saiduml oebis Sesaxeb- saqarTvel os kanonis me-8 muxl is me-2 punqti SesaZl ebel ia Camoyal ibdes Semdegi redaqqiit: 2. ar SeiZl eba saxel mwifo saiduml oebas mikuTvnos normatiuli aqtebi, garda `normatiuli aqtebis Sesaxeb- saqarTvel os kanoniTa da `operatiul -samZebro saqmianobis Sesaxeb- saqarTvel os kanoniT gansazRvrul i SemTxvevebis-

migvaCnia, rom sakiTxis am wesiT daregul irebis SemTxvevaSi erTis mxriv uzrunvel yofil iqneba saxel mwifo saiduml oebis dacva, meores mxriv ki gamoricxul iqneba subieqturi gadawyvetil ebebis miReba da uzrunvel yofil iqneba demokratiuli principebis dacva - `saxel mwifo saiduml oebis Sesaxeb- saqarTvel os kanoni ki, romlis ganxil vis procesSi aqtiurad iRebden monawil eobas arasamTavrobo organizaciebisa da mediis warmomadgenlebi (nayofieri TanamSromlobis Sedegad SegviZl ia davasaxel oT kanonis Tundac 38-e muxli, romelic iZl eva garatiebs mediisaTvis), ar iqneba Semaferxebeli saqarTvel oSi demokratiuli Rirebul ebebis damkvidrebisa da dacvis saqmeSi.