

saeqperito anal izi kanonproeqtze “advokatTa Sesaxeb”kanonSi
cvl il ebebisa da damatebebis Setanis Sesaxeb

damoukidebel i eqsperti I evan al afiSvil i

adamianis ufl ebaTa dacva da misi uzrunvel yofisaTvis saWiro RonisZiebebis gatareba Tanamedrove demokratiul i saxel mwifoebis umTavresi amocanaa, es saktxi gansakuTrebit mniSvel ovania egreTwdebul i gardamaval i demokratiis qveynebisatvis. erT-erTi prioriteti am saqmeSi gaxl avT j erovani da srul yofil i sakanonmdebl o bazis Seqmna.

damoukidebl obis aRdgenis Semdgom saqarTvel oSi gatarebul iqna rigi RonisZiebebis adamianis ufl ebaTa dacvis sferoSi, miRebul iqna axal i konstitucia, miRebul iqna axal i kodeqsebi, Camoyal ibda axal i institutebi (mag.: saxal xo damcveli), moxda sasamarTl o sistemis struqturuli da funqciuri srul yofa, magram es ar aris sakmarisi. umniSvel ovanesia im institutis formireba, romel zec damoukidebul ia adamianis ufl ebaTa j erovani dacva: Tuki adamiani ver miRebs kval ificiur iuridiul rCevebs da daxmarebas, maSin arsebobs imis saSiSroeba, rom misi ufl ebebi darCes daucveli Tundac imis gamo, rom adamianma damoukidebl ad ver SeZl o misi moTxovnis sworad Camoyal ibeba da wardgena sasamarTl oSi.

aRniSnul is gaTval iswinebit mniSvel ovnad wingadadgmul i nabiji gaxl daT 2000 wels `advokatTa Sesaxeb- kanonis miReba, roml iTac sistemizebul ad gaxl avT Camoyal ibebl i advokatis statusi, advokaturis struqtura da moqal aqeta garantiebi kval ificiur iuridiul daxmarebaze. miuxedavad imisa, rom Catarda advokatTa 2 testireba, samwuxarod am kanonis amoqmedeba ver moxerxda dRemde.

dReisaTvis ki sakanonmdebl o organoSi mimdinarebs msjel oba `advokata Sesaxeb- saqarTvel os kanonSi cvl il ebebis Setanis sakiTxze. dRes arsebul i kanonit advokatis statusis mosapovebl ad dadgenil ia pirobebi, rom pirs gavil i unda hqondes testiteba, unda hqondes profil iT muSaobis 1 wliani staJi, ar unda iyos nasamarTl evi ganzraxi mZime danaSaul is CadenisaTvis, unda iyos advokatTa asociacis wevri, dadebul i unda hqondes advokatis fici da Seyvanil unda iyos advokatTa erTian siaSi - dagveTanxmeiT, rom sakmaod rTuli da droSi gawel ili proceduraa. aRniSnul isgan gansxvavebit kanonproeqtSi mocemul ia ufro martivi procedura. moqmedi kanonit gaTval iswinebul ia 3 advokatTa asociaciis arseboba (e.w. central uri, afxazetis da aWaris), gansaxl vel i kanonproeqtit ki gaTval iswinebul ia mxol od erTi – saqarTvel os advokatTa asociaciis, arseboba. mokl ed rom aRiniSnos, kanonproeqtis koncefcia dadebiti da misaRebia.

miuxedavad dadebiti mxareebisa kanonproeqtSi axl eburad gasaazrebel ia rigi sakiTxebisa, agreTve aRmosafxvrel ia xarvezebi. kerZod:

kanonis pirveli muxl is pirvel punqtSi Sesatani cvl il ebit gaTval iswinebul ia, rom advokati aris piri, romel ic gawevrianebul ia saqarTvel os advokatTa asociaciaSi. kanonSi damatebis saxiT Sesatan 21.4. muxl Si ki aRniSnul ia, rom piri advokatis statuss iZens saadvokato ficis dadebis an gancxadebis daweris Semdgom. vfiqrobT winaaRmdegoba saxezea, ris gamoc kanonis pirveli muxl is pirveli punqti unda Camoyal ibdes Semdegi redaqciit:

2. advokati aris Tavisufali profesii piri, romelic emorCil eba mxolod kanonsa da profesiuli eTikis normebs, gawevrianebul ia saqarTvel os advokatTa asociaciaSi da dadebul i aqvs advokatis fici, an daweril i aqvs gancxadeba am kanoniT dadgenil i advokatis ufl ebebisa da moval eobebis keTil sindisierad dacvis Sesaxeb-.

kanonproeqtis me-10 muxl is pirveli punqtis `g- qvepunqtiT gaTval iswinebul ia, rom pirs unda hqondes iuristad an advkatis stajiorad muSaobis aranakl eb 1 wl is Sromis staji. migvaCnia, rom am muxlidan amoRebul unda iqnes sityva `Sromis- radganac Tundac sawyis etapze am formul irebiT kanonis arseboba Seqmnis probl emebs, kerZod, rogorc mogexsenebaT dRemde advokatTa didi nawil i klientis interesebs warmoadgens rwmunebul ebeb is meSveobiT (ise, rom ar aqvs Camoyal ibebul i saadvokato biuro an firma), Sesabamisad SeuZl ebel i iqneba dokumental urad 1 wliani SromiTi stajis qonis dadastureba.

kanonproeqtis me-10 muxl is me-3 punqtiT gaTval iswinebul ia, rom advokati imavdroul ad ar SeiZl eba iyos sajaro moxel e. es koncefcia yvel a sajaro moxel esTan mimarTebaSi gaumarTl ebl ad migvaCnia Semdeg garemoebaTa gaTval iswinebiT. mogexsenebaT sajaro dawesebul ebebSi arsebobs iuridiul i ganyofil ebebi, roml ebic awarmoeben am dawesebul ebaTa interesebis dacvasa da warmodgenas sasamarTl o Tu sxva dawesebul ebebSi. Tuki gaviTval iswinebT aRniSnul s, agreTve saqarTvel os samoqal aqo saproceso kodeqssa da saqarTvel os sixl is samarTl is saproceso kodeqsSi Setanil cvl il ebebs (sasamarTl o instanciebSi warmomadgenl is meSveobiT saqm is warmoebis SezRudvis Sesaxeb) maSin gamodis, rom sajaro dawesebul ebebi val debul ni iqnebian nebismieri davis SemTxvevaSi daiqiraon advokati, rac gazrdis sabiuj eto xarj ebs da praqtikul ad daikargeba am dawesebul ebebSi iuridiul i ganyofil ebis arsebobis saWiroeba. migvaCnia, rom sajaro dawesebul ebebs unda hqondeT micemul i saSual eba gaakeTon arCevani: daiqiraon advokati an saqme awarmoon uSual od maTive TanamSroml ebma.

aRniSnul is gaTval iswinebiT mizaSewonil ad migvaCnia 10.3. muxl Si sityvis `sajaro moxel e-, Semdeg daematos (garda im pirebisa, roml ebsac sajaro dawesebul ebaSi ukaviaT iuristis Tanamdeboba; iuridiul i ganyofil ebis (departamentis, samsaxuris, samarTvel os an sxva) special istis Tanamdeboba, an special istis Tanamdeboba da eval ebaT sajaro dawesebul ebis interesebis dacva sasamarTl o da sxva dawesebul ebeb is winaSe)-.

garda amisa, Tuki gaziarebul i iqneba es koncefcia, Sesabamisi cvl il ebebi iqneba Sesatani saqarTvel os samoqal aqo saproceso kodeqssa da saqarTvel os sixl is samarTl is saproceso kodeqsSi.

gansaxil vel i kanonproeqtiT mocemul i me-18 muxl is pirveli punqtis formul irebiT advokats SeuZl ia saadvokato saqmianobis ganxorciel eba damoukidebl ad da iuridiul i piris Seiqmnel ad awarmoos saqmianoba, an aseTi saqmianoba awarmoos mxolod sxva advokatebTan erTad - amxanagobis xel Sekrul ebiT an samewarneo iuridiul i piris SeqmniT (sol idarul i

pasuxisgebl obis sazogadoeba an komandituri sazogadoeba). migvaCnia, rom sityvebi `an sxva advokatebTan erTad- mizanSewonilia Seicval os Semdegi formul irebiT `an sxva pirebTan erTad-. radganac, advokats unda darCes arCevanis Sesazl ebl oba: man saqmianoba awarmoos damoukidebl ad; saqmianoba awarmoos sxva advokatebTan erTad an saqmianoba awarmoos ara advokatebTan erTad. migvaCnia, rom am Sesazl ebl obis micema mniSvel ovnad Seuwyobs xel s advokatTa material ur-teqniki bazi srul yofas Tundac sawyis etapze. mogexsenebat, rom dRes advokatTa didi nawil is material ur-teqniki baza ar aris jerovani, ar aqvT el ementarul i baza klientis miRebisaTvis, saofise muSaobisaTvis, dokumentebis momzadebisaTvis Tu sxva.

kanonproeqts aqvs advil ad gamosasworebel i teqniki xarvezi, kerZod 21-e muxl is me-3 punqtSi miTitebul ia kanonis me-10 muxl is pirvel i punqtis `d- qvepunqti, maSin rodesac Semotavazebul i kanonproeqtis mixedviT me-10 muxl is pirvel punqts `d- qvepunqti ar aqvs. garda amisa 21-e muxl is me-3 punqtis `a- qvepunqts sityvis `qvepunqtebis- Semdeg unda daematos `agreTve am kanonis me-10 muxl is me-2 punqtiT-, rameTu ganzrax mZime danaSaul is CadenisaTvis nasamarTl oba miCneul ia im pirobad, roml is gamoc piri ver gaxdeba advokati.

migvaCnia, rom Sesacvl el ia kanonproeqtis mocemul i 21² muxl is me-2; me-3 da me-4 punqtebis koncefciebi. am punqtebiT mocemul ia advokatisaTvis saqarTvel os advokatTa asociaciis wevrobis SeCerebis pirobebi da wesi. miuxedavad amisa yuradRebis miRmaa darCenil i is sakiTxi, rom amave kanonis Sesabamisad pirs aqvs (unarcundeba) advokatis statusi da kanonis me-2 muxl is Sesabamisad igi ufl ebamosil ia ganaxrciel os saadvokato saqmianoba. Cven miviCnevT, rom advokatTa asociaciis wevrobis SeCerebis SemTxvevaSi pirs ar unda SeeZl os saadvokato saqmianobis ganxorciel ebac da amis Sesaxeb pirdapir unda iyos miTitebul i kanonSi.

aRniSnul is gaTval iswinebiT migvaCnia, rom aucil ebel ia kanonproeqtis 21² muxl s daematos Semdegi Sinaarsis me-5 punqti:

5. pirs, romel sac SeCerebul i aqvs saqarTvel os advokatTa asociaciis wevroba ekrZal eba saadvokato saqmianobis warmoeba-

morigi teqniki xarvezi Semotavazebul i kanonproeqtisa gaxlavT kanonproeqtis me-14 muxl Si mocemul i formul ireba, rom 31-e muxl is `b- da `d- qvepunqtebi Camoyal ibdes axali redaqqiit. saWiroa sityvebis `31-e muxl is- Semdeg daematos `pirveli punqtis-. aRniSnul is safuZvel ia is garemoeba, rom kanonis 31-e muxl s aqvs 2 punqti da qvepuqtebi ki aqvs mxol od pirvel punqts. garda amisa kanonis 31-e muxl is pirvel i punqtis `d- qvepunqti unda Camoyal ibdes Semdegi redaqqiit: `d) saqarTvel os advokatTa asociaciis wevrobis Sewyvetis SemTxvevaSi-. aRniSnul is safuZvel ia is garemoeba, rom TviT kanoni icnobs wevrobis Sewyvetis cnebas da ara wevrobidan gamoyvanis cnebas.

kanonproeqtis me-17 muxl iT mocemul ia kanonis me-40 muxl is pirvel i punqtis axali redaqqia, roml is Sesabamisadac advokatTa asociaciis amoqmedebamde advokatTa testirebis Catarebas uzrunvel yofs advokatTa

sakvalifikacio komisia. vfiqrobT dasazustebel ia am punqTSi miTitebul i termini `amoqmedebamde~; niSnavs Tu ara igi mxol od asociaciis Seqmnis (faqtis) Semdgom periods, Tu igul isxmeba rom Sesazl ebel ia asociaciis Seqmnis Semdgom Tuki am ukanasknel ma vTqvaT 1 wl is ganmavl obaSi ver Caatara testireba, maSin testirebis Catareba SeeZl eba iusticiis umaRl es sabWos. am gaugebrobis Tavidan asacil ebl ad mizanSewonili iqneboda amave punqTSi aRniSnul iyo: `saqarTvel os advokatTa asociacia Seqmnidan 6 Tvis vadaSi (an 2006 wl is 1 ivnisamde) uzrunvel yofs advokatTa testirebis Catarebas.~

migvaCnia, rom gansaxl vel ad SemoTavazebul i kanonproeqti misaRebia da misi srul yofisaTvis gaTval iswinebul unda iqnes zemoaRniSnul i mosazrebebi. kanonproeqtis droul ad miReba da advokatTa asociaciis uaxl oes momaval Si Seqmna saxel mwifos gadaudebel i amocanaa da es xel s Seuwyobs advokatTa korporaciul i erTobis Seqmnas, erTiani eTikuri normebs Seqmna-damkvidrebas da sabol oo j amSi adamianis ufl ebaTa kval ificiurad dacvas.