

evr opis sabWo



strasburgi, 1998 wl is 1 seqtemberi

CI (98) 1

adami anis ufl ebebi da pol icia

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adamianis ufl ebaTa sainformacio centri
strasburgi 1998 wel i

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wi nasi t yvaoba

es gamocema warmoadgens adamianis ufl ebaTa dacvis sferoSi pol iciis TanamSromel Ta momzadebisTvis gankuTvnil saswavl o masal as, romel Sic „saswavl o kazusebis” saxiT mocemul ia adamianis ufl ebebis yvel aze gavrcel ebul darRvevaTa konkretul i magal iTebi, rac adamianis ufl ebaTa evropul i konvenci iTa Tu sxva saTanado aqtebiT dadgenil i standartebis ganxorciel ebaze orientirebul i swavl ebisTvis aris gamiznul i.

saxel mZRvanel os Tan axl avs „broSura pol iciel Ta profesiul i qcevis Sesaxeb”. igi Seqmnil ia rogorc damxmare l literatura im pol iciel TaTvis, roml ebic winamdebare saxel mZRvanel os mixedviT gadian momzadebis kurss.

rogorc saxel mZRvanel os, ise broSuris avtoria eseqsis universitetis adamianis ufl ebaTa centr is TanamSromel i ral f qrouSou, romel ic warsul Si gaerTianebul i samefos eseqsis pol iciis erT-erT xel mZRvanel Tanamdebobaze muSaobda.

saxel mZRvanel osa da broSuris momzadebaSi mniSvnel ovani wvl il i miuZRviT gaeros saerTaSoriso pol iciis special izebul i j gufis instruqtorebsa da bosniisa da hercegovinis pol iciis TanamSroml ebs, romel Tac 1998 wel s monawil eoba miiRes winamdebare masal is aprobirebisa da gaumj obesebis mizniT Catarebul seminarebsa da praqtikul mecadineobebSi. amitomac es masal a umTavresad swored aRniSnul i regionis probl ematikasa da specifikas asaxavs, Tumca savsebiT SesaZl ebel ia sxvadasxva qveynis pol iciis muSakebis mier misi Semdgomi damuSaveba da masal is adgil obrivi saWiroebebisaTvis morgeba. madl ierebiT unda aRiniSnos yvel a im pol iciel is damsaxureba, vinc wvl il i Seitana am masal is momzadebaSi. aseve madl obas vuxdiT evropis sabWos, pirvel yovl isa, adamianis ufl ebaTa evropul i komisiis samdivnos sasargebl o SeniSvnebisa da rCevebisaTvis.

**adamianis ufl ebaTa direqtorati
strasburgi, 1998 wl is seqtemberi**

[xel meored gamoica 2002 wl is ianvarSi]

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Sesaval i

winamdebare gamocema aSuqebis policiis saqmianobaSi adami ani s ufl ebebi s dacvasTan dakavSirebul sakiTxebs da gamiznul ia:

i momzadebis programebSi monawile policiel ebs gaacnos adami ani s ufl ebaTa evropul i konvenciisa da am konvenciis oqmebis saTanado debul ebebi, adami ani s ufl ebaTa evropul i komisiisa da sasamarTI os saqmianobis samarTI ebriv-funcional uri aspektebi, agreTve adami ani s ufl ebaTa dacvis sxva iuridiul i aqtebis Sesabamisi, kerZod, pol iciel Ta saqmianobasTan dakavSirebul i debul ebebi;

i warmoaCinos policiel Ta mier Tavianti ufl eba-moval eobebis aRsrul ebis aRniSnul i samarTI ebrivi normebisa da standartebis dacvasTan dakavSirebul i sakiTxebi.

pirvel i Tavi mimoixil avs adami ani s ufl ebaTa dacvis saerTaSoriso sistemas. sagangebodaa gaSuqebul i evropasi moqmedi sistema da is umniSvnel ovanesi rol i, romel ic pol icias eniWeba adami ani s ufl ebaTa, demokratiisa da kanonis uzenaesobis dacvis saqmeSi. bol o TavSi ganxil ul ia Tu ra pasuxismgebl oba akisria pol icis xel mZRvanel obas civilizebul i sazogadoebis am sami aucil ebel i komponentis pativiscemaze damyarebul i efeqturi samarTal damcavi muSaobis warmarTvis Tval sazrisiT.

warmodgenil i saswavl o krebul is me-2 – me-10 Tavebi eTmoba adami ani s ufl ebaTa evropul i konvenciis da misi oqmebis konkretul i muxl iTa Tu muxl ebiT dacul i im ufl ebebis ganxil vas, roml ebic gansakutrebiT aqtual uria pol icis saqmianobis procesSi.

TiToeul i Tavi Sedgeba sami nawil isagan:

i nawil i a – sadac moyvanil ia amonaridebi adami ani s ufl ebaTa sayovel Tao dekl araciisa da adami ani s ufl ebaTa evropul i konvenciidan im ufl ebisa Tu ufl ebebis Sesaxeb, roml ebic uSual od am TavSia ganxil ul i; agreTve mocemul ia aRniSnul i ufl ebisa Tu ufl ebebis dacvasa da uSual od pol icis saqmianobasTan dakavSirebul i sxvadasxva arasaxel Sekrul ebo iuridiul i aqtebis CamonaTval i.

i nawil i b - gvTavazobs saswavl o kazusebs, roml ebic mocemul TavSi ganxil ul i konkretul i ufl ebisa Tu ufl ebebis Sesaxeb j gufuri msjel obisTvis aris gamiznul i. TiToeul i kazusi ganTavsebul ia cal ke gverdze an gverdebze, raTa Sesazl ebel i iyos maTi Secvl a an sxva magal iTebiT Canacvl eba adami ani s ufl ebaTa axal i samarTI ebrivi aqtebis miRebis, konvenciis organoebis mier Semdgomi saqmeebis ganxil visa da pol icis winaSe axal i amocanebis gaCenis kval obaze.

i nawil i g (gankutvnil ia mxol od l eqtorebisTvis) – warmoadgens pedagogiuri personal isatvis gamiznul saxel mZRvanel o miTitebebs adami ani s ufl ebaTa dacvis samarTI ebriv aqtebSi Sesul debul ebebTan, konvenciis organoebis Sesabamis daskvnebsa da gadawyvetil ebebTan, aseve mocemul TavSi ganxil ul i ufl ebisa Tu ufl ebebis dacvis im sakiTxebTan dakavSirebiT, roml ebic uSual od pol icis saqmianobas Seexebs. am nawil Si mocemul i saxel mZRvanel o

miTiTebebis da mosazrebebis mizania daexmaros pedagogebs saswavl o masal ebis momzadebasa da sal eqcio kursis CatarebaSi.

me-11 Tavi exeba konvenciit gansazRvrul i ufl ebebis da Tavisufl ebebis xel yofisagan efeqturi samarTi ebrivi dacvisa (muxl i 13) da am ufl ebebiTa da Tavisufl ebebiT diskriminaciis gareSe sargebl obis (muxl i 14) garantiibs. aRniSnul i ufl ebebis specifiki dan gamomdinare, mizanSewonil ia, rom maTTvis cal ke mecadineobebis daTmobis nacvl ad, pedagogebsa da saswavl o masal ebis avtorebma am ufl ebebiTan dakavSirebul i sakiTxebi Seitanon konvenciita da misi oqmebiT dacul i sxva ufl ebebis swavl ebis procesSi.

me-11 Tavi mxol od pedagogiuri personal istvis aris gankuTvnil i da Sedgeba ori qveTavisagan, roml ebSi Sesabamisad konvenciis me-13 da me-14 muxl ebia ganxil ul i. Tavis mxriv, TiToeul i qveTavi dayofil ia or – a da b nawil ebad. pirvel Si moyvanil ia debul ebebi adamianis ufl ebaTa sayovel Tao dekl araciisa da adamianis ufl ebaTa evropul i konvenciis Sesabamisi muxl ebidan. meoreSi ki mocemul ia aRniSnul i ufl ebis ganmarteba am ori saerTasoris xel Sekrul ebis Sesabamisad da konvenciis organoTa konkretul i daskvnebis da gadawyvetil ebebis moSvel iebiT.

danarTi a izl eva adamianis ufl ebaTa evropul i komisiisa da evropul i sasamarTi os mier gamotanil i Sesabamisi daskvnebis da gadawyvetil ebebis mimoxil vas. TandarTul dokumentebSi Setanil ia adamianis ufl ebaTa sayovel Tao dekl araciis, adamianis ufl ebaTa evropul i konvenciisa da krebul Si miTiTebul i sxva samarTi ebrivi aqtebis srul i teqstebi.

vinaidan es gamocema warmoadgens adamianis ufl ebaTa dacvis sferoSi pol iciis TanamSromel Ta momzadebisTvis gankuTvnil saswavl o masal as, misi Senaxva da gamoyeneba saswavl o kursis dasrul ebis Semdgom gaTval iswinebul i ar aris. am mizniT sasurvel ia gamoices ufro vrcel masal aze dayrdnobiT momzadebul i special uri broSura: „adamianis ufl ebebi da pol icia – mokle cnobari adamianis ufl ebaTa dacvis mniSvnel obaze pol iciis saqmianobaSi“, roml is gamoyenebac SesaZl ebel i iqneboda rogorc ukve ganvl il i masal is gasameorebl ad gankuTvnil i, ise sacnobaro literaturis saxiT.

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Tavi 1: adami ani s ufl ebaTa dacvis saerTaSoriso sistema

ZiriTadi Tavisufl ebebi - msofli ioSi samarTli ianobisa da mSvidobis safuzveli

adami ani s ufl ebebi saerTaSoriso samarTli iTa da Sidasaxel mwifoebrivi kanonmdebl obiTaa dadgenil i. adami ani s ufl ebaTa samarTli ebrivi dacva uSual o SexebaSia pol iciis saqmianobasTan da mis ganuyofel nawil s warmoadgens. pol icias Tavis moval eobebis Sesrul ebisas moeTxoveba ara mxol od pativi sces, aramed qmediTad daicvas adami ani s ufl ebebi. amasTanave, kanonis uzenaesobaze damyarebul demokratiul saxel mwifoSi pol iciis saqmianobis efeqturoba swored adami ani s ufl ebebis dacvisa da am ufl ebebiT sargebl obis xarisxzea damokidebul i.

mocemul TavSi aRweril ia adami ani s ufl ebaTa dacvis saerTaSoriso sistema da, kerZod, ganxil ul ia am ufl ebebis dacvis evropasi moqmedi sistema. mniSvel ovania, rom pol iciis moxel eebma kargad gaacnobieron maTi saqmianobis es saerTaSoriso mxare. amdenad, winamdebare Tavis gacnoba momdevno TavebSi mocemul i masal is ukeT gaazrebasa da aTvisebas Seuwyobs xel s.

adami ani s ufl ebaTa sayovel Tao dekl aracia da adami ani s ufl ebaTa evropul i konvencia

saxel mZRvanel os TiToeul i Tavi eZRvneba adami ani s im ZiriTadi ufl ebebis ganxil vas, roml ebic aRiarebul ia adami ani s ufl ebaTa ori umTavresi saerTaSoriso samarTli ebrivi aqtiT - adami ani s ufl ebaTa sayovel Tao dekl araciiTa da adami ani s ufl ebaTa evropul i konvenciiT.

adami ani s ufl ebaTa sayovel Tao dekl aracia miRebul iqna 1948 wl is 10 dekembers gaerTianebul i erebis general uri asambli eis 217 A(III) rezol uciit. adami ani s ufl ebaTa dacvis evropul i konvenciisgan gansxvavebiT, igi iuridiul ad saval debul o xel Sekrul ebas ar warmoadgens, Tumca xal xistvis igi, al baT, yvel aze cnobil i dokumentia am sferoSi. sayovel Tao dekl araciis miReba da amiT adami ani s ufl ebaTa da Tavisufl ebaTa sagangebod aRiareba adami ani s ufl ebebis dacvis xel Sewyobis mizniT gaerTianebul i erebis organizaciis doneze gadadgmul i pirvel i nabij i iyo.

adami ani s ufl ebaTa evropul konvencias, roml is srul i saxel wodebaa adami ani s ufl ebaTa da ZiriTad Tavisufl ebaTa dacvis evropul i konvencia, xel i moewera romSi 1950 wl is 4 noembers. misi proeqti SeimuSava evropis sabWom _ 1949 wl is maisSi, omisSemdgom evropasi Seqmnil ma pirvel ma pol itikurma gaerTianebam. sabWos miznebia „mis wevrebs Soris ufro mtkice erTianobis miRweva maTi social uri da ekonomikuri winsvl is xel Sewyobisa da im ideal ebisa da principi ebis ganxorciel ebisa da dacvis mizniT, roml ebic maT saerTo memkvidreobas warmoadgens“.

konvenciiT dadgenil i ufl ebebi da procedurebi SemdgomSi ufro detal urad Camoyal ibda da ganivrco konvenciis mTel i rigi damatebiTi oqnebis meSveobiT. magal iTad, konvenciis pirvel i oqmis 1-l muxl Si gansazRvrul ia qonebiT Tavisufal i sargebl obis ufl eba, romel ic konvenciaSi Sesul i ar aris.

evropul i konvencia iuridiul ad saval debul o dokumentia „xel Sekrul ebaSi monawil e maRal mxareTaTvis“, anu im saxel mwifoebisaTvis, roml ebic daeTanxmnen konvenciis debul ebebs da ikisres maTi Sesrul eba. iuridiul ad saval debul o mraval sxva saerTaSoriso SeTanxmebas Soris adami ani s ufl ebaTa evropul i konvencia, al baT, yvel aze srul yofil i da qmediTunariani dokumentia. konvenciis moTxovnaTa aRsrul ebis mizniT Seqmnil i struqturabi erT-erTi yvel aze efeqturi da sanimuSoa sxva msgavs sistemaTa Soris.

samarTI i anoba da mSvidoba, adami ani s ufl ebebi, kanoni s uzenaesoba da pol icia

rogorc adamianis ufl ebaTa sayovel Tao dekl araciis, ise adamianis ufl ebaTa evropul i konvenciis preambul aSi aRniSnul ia, rom ZiriTadi Tavisufl ebebis pativiscema da kanonis uzenaesoba msofl ioSi samarTI ianobisa da mSvidobis dasayrdenia. sayovel Tao dekl araciis preambul is mesame paragrafSi naTqvamia, rom adamianis ufl ebebi kanonis uzenaesobiT unda iyos dacul i. evropul i konvenciis preambul is bol o abzaci, adasturebs ra evropis saxel mwifoTa mTavrobemis mtkice ganzraxvas daicvan sayovel Tao dekl araciit dadgenil i ufl ebebi, miuTitebs pol itikuri tradiciebis, ideal ebisa da kanonis uzenaesobis saerto memkvidreobaze evropasi.

is, rom samarTI ianoba da mSvidoba msofl ioSi moxseniebul ia rogorc sayovel Tao dekl araciis, ise evropul i konvenciis teqstebSi, kidev erTxel miuTitebs imaze, rom orive maTgani meore msofl io omis Semdgom Seqmnil i msofl io (gaertianebul i erebis organizacia) da regional uri (evropis sabWo) institutebis „pirmSoa“. gaeros erT-erTi umTavresi amocana aris saerTaSoriso mSvidobisa da uSiSroebis SenarCuneba, xol o evropis sabWos upirvel esi mizantagani ki mis wevrebs Soris erTianobis ganmtkicebaa.

saerTaSoriso mSvidoba, usafrTxoeba da saxel mwifoTa Soris erTianoba damokidebul ia adamianis ufl ebaTa pativiscemaze. am ufl ebebis samarTI ebrivi dacvis aucil ebl oba da am Tval sazrisiT kanonis uzenaesobis gadamwyveti rol i miuTitebs pol iciis saqmianobis efeqturad da kanonis fargl ebSi warmarTvis udides mniSvel obaze. pol icia, rogorc samarTal damcavi struqtura, upirvel es yovl isa Tavad unda emorCil ebodes kanonis mitxovnebs da ganuxrel ad icavdes adamianis ufl ebebs.

adamianis ufl ebebi da maTi dacvis saerTaSoriso samarTI ebrivi aqtebi

adami ani s ufl ebebi

adamianis ufl ebebi adamianis Sinagani bunebidan, misi moral uri cnobierebisa da Rirsebis SegrZnebidan momdinareobs. es ufl ebebi sayovel Tao, ganuyofel i da yvel asaTvis Tanasworia, rac imas niSnavs, rom isini adamianis arsebis nawil ia da am mniSvel obiT SeuZl ebel ia maTi warTmeva an uaryofa; yvel as, miuxedavad rasobrivi kuTvnil ebis, kanis feris, sqesis, enis, sarwmunoebis, pol itikuri an sxva mrwamsis, erovnebis, social uri warmomavl obis, qonebrivi mdgomareobis, Tu raima sxva niSnit gansxvavebisa, Tanabari ufl ebebi gaaCnia.

am ufl ebaTa saukeTeso gamoxatul ebas warmoadgens maTi aRiareba iseTi saerTaSoriso samarTI ebrivi aqtebiT, rogoricaa adamianis ufl ebaTa sayovel Tao dekl aracia da adamianis ufl ebaTa evropul i konvencia. isini awesrigeben pirovnebis da saxel mwifos urTierTdamokidebul ebis safuzvl ebs da gansazRvraven pirovnebis samarTI ebriv mdgomareobas, mis ufl eba-moval eobebs saxel mwifosTan mimarTebsi, aniWeben pirovnebas pol itikur Tavisufl ebebs da moitxoven saxel mwifosagan Tavisufl iurisdicciis fargl ebSi daakmayofil os adamianis ZiriTadi saWiroebani.

aseTi mraval mxrivi maxasiaTebi ebi adamianis ufl ebaTa farTo speqtrSi sxvadasxva kategoriis ufl ebebis arsebobaze miuTitebs. esenia: samoqal aqo ufl ebebi, romel Tac ganekutvneba sicocxl is ufl eba, wamebis akrZal va da sxva; pol itikuri ufl ebebi da Tavisufl ebebi, magal iTad, saxel mwifo da sazogadoebriv saqmeTa marTvasi monawil eobis miRebis ufl eba, Sekrebisa da gaertianebis Tavisufl eba da sxva; ekonomikuri, sicial uri da kul turul i ufl ebebi, rogoricaa Sromis ufl eba, ganaTl ebis ufl eba da a.S. ufl ebaTa sxva kategoriis miekutvneba, magal iTad, kol eqtiuri ufl ebebi, rogoricaa

ganviTarebis ufl eba da sxva. saxel mZRvanel os momdevno TavebSi ganxil ul ia samoqal aqo da pol itikuri ufl ebebi, vinaidan pol iciis saqmianobis konteqstSi yvel aze aqtual uri swored es ufl ebebia.

adamianis ufl ebaTa sayovel Tao dekl aracia icavs samoqal aqo, pol itikur, ekonomikur, social ur da kul turul ufl ebebs, maSin rodesac evropul i konvencia ZiriTadad samoqal aqo da pol itikur ufl ebebs exeba. ekonomikuri da social uri ufl ebebi evropis sabWos sistemaSi evropis social uri qartiiTaa dacul ia.

adami ani s ufl ebaTa dacvis saer TaSor iso samar TI ebr ivi aqtebi

adamianis ufl ebaTa sayovel Tao dekl araciisa da adamianis ufl ebaTa evropul i konvenciis garda, roml ebic am gamocemis sxvadasxva TavebSi ganxil ul i ufl ebebisa da Tavisufl ebebis dacvas aregul ireben, amave TavebSi moxseniebul ia adamianis ufl ebaTa dacvis sferoSi arsebul i saerTaSoriso samarTI is sxva wyaroebic. es gaxl avT sxvadasxva saxel Sekrul ebo da arasaxel Sekrul ebo, anu, rogorc monawil e mxareTaTvis iuridiul ad saval debul o, agreTve aseTi Zal is armqone dokumentebi, roml ebic pol iciis saqmianobasTan dakavSirebul debul ebebs Seicaven an uSual od pol iciis, misi sxvadasxva uwyebebisa da xel mZRvanel ebis muSaobis wess aregul ireben.

xel Sekrul ebebi

xel Sekrul ebebi, roml ebic Cveul ebriv „paqtebis“ an „konvenciebis“ saxel iT moixsenieba, SeiZl eba iyos sayovel Tao an regional uri, xol o Sinaarsis mixedviT zogadi an romel ime konkretul i sakiTxisadmi miZRvnil i. ori umniSvel ovanesi sayovel Tao xel Sekrul eba, roml ebic zogadad adamianis ufl ebaTa dacvas da ara mis romel ime cal ke aRebul aspeqts exeba, gaxl avT ekonomikur, social ur da kul turul ufl ebaTa saerTaSoriso Apaqti da samoqal aqo da pol itikur ufl ebaTa saerTaSoriso paqti. es ori xel Sekrul eba, adamianis ufl ebaTa sayovel Tao dekl araciasTan erTad, qmnis adamianis ufl ebaTa saeTaSoriso aqtebis sistemas. aRniSnul i ori paqti 1966 wel s gaerTianebul i erebis organizaciis general uri asambel is sagangebo rezol uciebiT iqna miRebul i, raTa sayovel Tao dekl araciiT aRiarebul adamianis ufl ebebs iuridiul Zal a miscemoda.

vinaidan es gamocema ganxil avs adamianis ufl ebaTa dacvas uSual od evropis sabWos sistemis fargl ebSi, zemoxsenebul i xel Sekrul ebebi momdevno TavebSi aRar iqneba moSvel iebul i, magram mniSvel ovania aRiniSnos, rom adamianis ufl ebaTa evropul i konvenciis subieqti yvel a saxel mwifo amave dros am ori saerTaSoriso xel Sekrul ebis monawil e mxarecaa. evropul i konvenciis garda, arsebobs ori sxva regional uri xel Sekrul ebac – adamianis da xal xTa ufl ebebis dacvis afrikul i qartia da adamianis ufl ebaTa dacvis amerikul i konvencia.

aRsaniSnavia isic, rom TiToeul i saxel mwifo SeiZl eba SeuerTdes sxva xel Sekrul ebebsac, roml ebic ufro konkretul sakiTxebis awesrigeben. aseTia, magal iTad, saerTaSoriso konvencia yovel gvare rasobrivi diskriminaciis likvidaciis Sesaxeb, konvencia genocidis danaSaul is aRmofxvrisa da dasj is Sesaxeb, konvencia wamebisa da sxva sastiki, araadamianuri an Rirsebis Seml axavi mopyrobisa an sasj el is winaaRmdeg, bavSvTa ufl ebebis konvencia da konvencia qal Ta diskriminaciis yvel a formis aRmofxvris Sesaxeb.

evropis sabWos sistemaSi gansakuTrebul i mniSvel obis mqone aseT xel Sekrul ebas ganekuTvneba evropul i konvencia wamebisa da araadamianuri an Rirsebis Seml axavi mopyrobis an sasj el is aRkveTis Sesaxeb. adamianis ufl ebaTa evropul i konvenciisgan gansxvavebiT, romel ic pirovnebas saSual ebas aZl evs saxel mwifos aramarTI zomieri qmedebebi gaasaCivros evropul sasamarTI oSi da im SemTxvevaSi, Tu dadgindeba konvenciiT

nakisr val debul ebaTa darRvevis faqti, moiTxovos mTavrobisTvis Sesabamisi sanqciebis dakisreba, konvencia wamebis akveTis Sesaxeb am konvenciis Tanaxmad Seqmnil wamebis sawinaaRmdego komitets aniWebs mxol od imis ufl ebamosil ebas, rom Seamowmos Tavisufl ebaaRkveTil pirTa mdgomareoba da pirobebi sasjel aRsrul ebiT dawesebul ebebSi, raTa Tavidan iqnes acil ebul i patimarTa ufl ebebis xel yofa. komitetis kompetenciaSi ar Sedis uzrunvel yos Sesabamisi sadamsjel o RonisZiebebi aseTi darRvevebis SemTxvevaSi.

pol iciis TanamSroml ebma unda icodnen, rom wamebis sawinaaRmdego komitetis wevrebi ufl ebamosil i arian moanaxul on pol iciis nebismieri dawesebul eba, Seamowmon Senobis yvel a nawil i, gaecnon dokumentacias da piradad, mowmeebis gareSe gaesaubron dakavebul pirebs.

arasaxel Sekrul ebo aqtebi

rogorc zemoT aRiniSna, zogierTi arasaxel Sekrul ebo aqti awesrigebs uSual od pol iciis saqmianobasTan dakavSirebul sakiTxebs. aseTia, magal iTad: gaerTianebul i erebis mier miRebul i samarTal damcavi sferos moxel eTa qcevis kodeqsi da evropis sabWos dekl aracia pol iciis Sesaxeb; gaeros mier SemuSavebul i ZiriTadi principiebi samarTal damcavi sferos moxel eTa mier Zal isa da cexl sasrol i iaRaris gamoyenebis Sesaxeb; agreTve, principiების krebul i nebismieri formiT dakavebul an dapatimrebul pirTa dacvis Sesaxeb.

Tumca am saxis dokumentebs saval debul o Zal a ara aqvT, isini ganaviTareben da ganamtkiceben xel Sekrul ebebSi Camoyal ibebul debul ebebs da detal uri saxel mZRvanel o standartebis Camoyal ibebis gziT xel s uwyoben am debul ebaTa dacvas. vinaidan es dokumentebi uSual od pol iciis saqmianobasa da am wignSi ganxil ul probl ematikas exeba, isini moSvel iebul i iqneba momdevno TavebSi, xol o maTi srul i teqsti ki Setanil ia TandarTul i dokumentebis nusxaSi.

adami anis ufl ebebi da maTi dacvis uzrunvel yofis meqani zmebi

adamianis ufl ebaTa dacvis saerTaSoriso standartebis gansazRvra da maTi xel Sekrul ebebiTa da sxva samarTI ebrivi aqtebiT aRiareba am ufl ebaTa pativiscemisa da dacvis mizniT gadadgmul i mxol od pirvel i nabij ia. aucil ebel ia adamianis ufl ebebis dacvisa da xel Sewyobis Taobaze saxel mwifoebis mier aRebul i saerTaSoriso val debul ebebis Sestrul ebis meqanizmebis dadgena. aseTi meqanizmebi or kategoriad SeiZl eba daiyos: erTi mxriv, uSual od xel Sekrul ebis Tanaxmad Seqmnil i organoebi da masSi gansazRvrul i procedurebi da, meore mxriv, gaerTianebul i erebis organizaciis sistemaSi moqmedi struqturebi da procedurebi.

adami anis ufl ebaTa evropul i konvenciis Tanaxmad moqmedi organoebi da procedurebi

konvenciis Tanaxmad, adamianis ufl ebaTa dacvis uzrunvel yofaze pasuxismgebl obas inawil ebs konvenciit Seqmnil i ori special uri organo (adamianis ufl ebaTa komisia da samarTI o) da ministrTa komiteti, romel ic evropis sabWos gadawyvetil ebaTa miRebaze ufl ebamosil i organoa da Sedgeba wevri-qveynebis sagareo saqmeTa ministrebis an maTi moadgil eebisgan.

am sistemis SigniT kompetenciis sferoebi Semdegnairad aris ganawil ebul i: saxel mwifoTaSorisi da cal keul i pirebisagan Semosul i ganacxadebis dasaSvebobis an dauSvebl obis sakiTxi wydeba komisiis mier. Tuki saqme dasaSvebad iqneba miCneul i, komisia moipovebs damatebiT faqtebs da Suamdgoml obs modave mxareTa morigebas. Tuki es ver xerxdeba, komisia moxsenebiT mimarTavs ministrTa komitets da gadascems

mas saqmes. amis Semdeg ministrTa komitets gamoaqvs saqmeze gadawyvetil eba da zedamxedvel obas uwevs mis aRsrul ebas. arsebobs meore al ternativac, rodesac komisiis wardginebiT an saqmeSi CarTul i saxel mwifos TxovniT, komisiis moxsenebidan sami Tvis vadaSi saqme gadaecema sasamarTI os. sasamarTI os gamoaqvs gadawyvetil eba, roml is aRsrul ebazec zedamxedvel obas axorciel ebs ministrTa komiteti.

1998 wl is noemberSi ganxorciel ebul i organizaciul i gardaqmnebis Sedegad Seiqmna mudmivmoqmedi da srul vadiani adamianis ufl ebaTa evropul i sasamarTI o, romel mac Caanacvl a manamde arsebul i ori struqtura. yovel i pirovnul i ganacxadi ukve pirdapir sasamarTI oSi xvdeba. nebismieri saCivari, romel ic aSkarad dausabuTebI ad iqneba miCneul i, adreul etapzeve icxril eba sasamarTI os sami mosamarTI isagan Semdgari kol egiis erTxmad miRebul i gadawyvetil ebiT. Semdgom, rogorc pirovnul i ganacxadiT, ise saxel mwifoTaSorisi saCivriT Semosul i saqmis dasaSveboba ixil eba sasamarTI o pal atis mier.

im SemTxvevaSi, Tu saqme dasaSvebad CaiTvl eba, sasamarTI os pal ata iwyebs damatebiTi faqtebis mopovebas da cdil obs miaRwios mxareTa morigebas. Tuki es ver xerxdeba, sasamarTI o pal ata saqmes ganxil avs arsebiTad da gamoaqvs gadawyvetil eba. gadawyvetil ebis gamotanidan sami Tvis vadaSi modave mxareebis aqvT ufl eba waradginon Txovna ganaCenis did pal ataSi gasaCivrebis Sesaxeb. Tumca, es procedura mxol od gansakuTrebul SemTxvevebze vrcel deba, magal iTad, rodesac saqme konvenciis an misi oqmebis ganmartebas an gamoyenebas, an sayovel Tao mniSvel obis sakiTxebs exebs.

am gamonakl is SemTxvevebSi gadawyvetil eba gamoaqvs 17 mosamarTI isgan Semdgar did pal atas. didi pal atis Semadgenl obaSi yovel Tvis Sedian sasamarTI os Tavmj domare da pal atebis Tavmj domareebi (raTa garantirebul i iyos ganxil vis Sesabamisoba strasburgis precedentul samarTal Tan), agreTve adamianis ufl ebaTa evropul i sasamarTI os mosamarTI e procesSi monawil e saxel mwifodan (imistvis, rom uzrunvel yofil i iyos Sidasaxel mwifoebri vi kanonmdebl obis swori gageba).

ministrTa komitetis kompetenciaSi aRar Sedis saqmis arsebiTad ganxil va da gadawyvetil ebis gamotana, Tumca igi kvl av inarCunebs sasamarTI os gadawyvetil ebaTa Sesrul ebaze zedamxedvel obis umniSvel ovanes funqcias.

adami ani s ufl ebaTa dacvis sxva xel Sekr ul ebebi T Seqmnil i organoebi da procedur ebi

adamianis ufl ebaTa dacvis ZiriTadi xel Sekrul ebebi, roml ebzec zemoT iyo saubari, iTval iswinebs am aqtebiT aRiarebul i ufl ebebis dacvis makontrol ebel i komitetebis Seqmnas da gansazRvrvs maTi saqmianobis mandats. magal iTad, samoqal aqo da pol itikur ufl ebaTa saerTaSoriso paqtis Tanaxmad Seqmnil adamianis ufl ebaTa dacvis komitets ori ZiriTadi funqcia ekisreba: „zedamxedvel oba“ da „ganacxadebis ganxil va“. pirvel i xorciel deba angariSgebis proceduris meSveobiT, rodesac xel Sekrul ebis mxareebi warmoadgenen periodul moxsenebebs „aRniSnul i paqtiT gansazRvrul i ufl ebebis efeqturi dacvis mizniT miRebul i zomebisa“ da „am ufl ebebiT sargebl obis Tval sazrisiT miRweul i Sedegebis“ Sesaxeb. „ganacxadebis ganxil vaSi“ ki igul isxmeba rogorc cal keul i pirebisagan maTi ufl ebebis darRvevis Taobaze Semosul i saCivrebi, ise mocemul xel Sekrul ebaSi monawil e saxel mwifoebis saCivrebi erTmaneTis mimarT.

kidev erT magal iTad SeiZl eba dasaxel des wamebisa da araadamianuri an Rirsebis Seml axavi mopyrobis an sasj el is sawinaaRmdego konvenciit Seqmnil i komiteti, romel ic konvenciis mxareebisagan periodul ad iRebs moxsenebebs da amowmebs im informacias, romel ic aRZrvs safuZvl ian eWvs, rom konvenciis subieqti saxel mwifos teritoriaze sistematurad aqvs adgil i wamebis faqtebs.

gaeros sistemaSi moqmedi struqtur ebi da procedur ebi

organizaciis wevri-saxel mwifoebis 53 warmomadgenl isgan Semdgari adamianis ufl ebaTa dacvis komisia geros fargl ebsi adamianis ufl ebaTa sakiTxebze momuSave ZiriTadi samsaxuria. es komisia SeimuSavebs adamianis ufl ebaTa dacvis saerTaSoriso iuridiul i aqtebis proeqtebs, xel s uwyobs adamianis ufl ebaTa dacvis gaZl ierebas da gaeros ekonomikur da social ur sakiTxTa sabWos rezol uci iT miRebul i procedurebis Sesabamisad reagirebs saCivrebze adamianis ufl ebaTa darRvevebis Sesaxeb.

komisiaSi Seqmnil ia diskriminaciis aRkveTisa da umciresobaTa dacvis qvekomisia, romel ic komisiis mier SerCeul i 26 damoukidebel i eqspertisagan Sedgeba. miuxedavad misi saxel wodebisa, aRniSnul i qvekomisia muSaobs adamianis ufl ebaTa dacvis iseT probl ematikazec, romel ic scil deba diskriminaciis aRkveTisa da umciresobaTa dacvis fargl ebs. igi Seiswavl is adamianis ufl ebaTa sayovel Tao dekl araciasTan dakavSirebul sxadasxa sakiTxebis, SeimuSavebs rekomendaciebs komisiisaTvis da warudgens mas moxsenebebs.

amasTanave, adamianis ufl ebebTan dakavSirebul i konkretul i sakiTxebis mosagvarebl ad gaerTianebul i erebis organizaciaSi moqmedebs sagangebo procedurebis praqtika. es SeiZl eba iyos special ur momxsenebl ad daniSnul i erTi adamiani, an samuSao j gufi. amgvari sagangebo procedurebis daniSvna ori principi iT SeiZl eba ganxorciel des: Tematuri an uSual od qveynis situaciidan gamomdinare.

Tematuri principi gamoiyeneba adamianis ufl ebaTa darRvevebis specifikuri SemTxvevebis dros. aRsaniSnavia, magal iTad, gansakuTrebul garemoebesSi dakargul Ta an TviTneburad dakavebul Ta ufl ebebis dacvis samuSao j gufebi, agreTve ukanono sasjel is, wamebis da rel igiuri Seuwynarebl obis sakiTxebze momuSave special uri momxsenebl ebi. cal keul qveyanebsi adamianis ufl ebaTa sistematuri darRvevebis SemTxvevaSi iniSneba special uri momxsenebel i, an iqmneba sagangebo samuSao j gufi ama Tu im konkretul i qveynis sakiTxebze.

adamianis ufl ebebi da maTi ganxorciel ebis val debul ebidan gadaxvevis SemTxvevebi

adamianis ufl ebaTa dacvis zogierTi xel Sekrul eba, magal iTad, samoqal aqo da pol itikur ufl ebaTa saerTaSoriso paqti, adamianis ufl ebaTa dacvis amerikul i konvencia da adamianis ufl ebaTa evropul i konvencia, iTval iswinebs xel Sekrul ebaSi monawil e mxareebis mier, sagangebo viTarebis dros, maT mier nakisri zogierTi val debul ebis Sestrul ebisgan droebiT gadaxvevas. am zomebis Sedegad izRudeba xel Sekrul ebiT gansazRvrul i zogierTi ufl ebis dacva.

adamianis ufl ebaTa evropul konvenciaSi aseTi gadaxvevis SesaZl ebl oba gaTval iswinebul ia me-15 muxl Si, sadac naTqvamia, rom omis an sazogadoebisTvis saSiSi sxva sagangebo viTarebis dros dasaSvebia zogierTi ufl ebis uzrunvel yofis val debul ebisagan gadaxveva. aseTi zomebi SeiZl eba gamoyenebul iqnes mxol od sagangebo situaci iT gamowveul i aucil ebl obidan gamomdinare da ar unda ewinaaRmdegebodes xel Sekrul ebaSi monawil e mxareTa sxva, saerTaSoriso samarTi iT gaTval iswinebul val debul ebebs.

gadaxveva ar daiSveba me-2 muxl idan, romel ic exeba sicocxl is ufl ebas (garda omis dros, kanonieri qmedebebis Sedegad gamowveul i sikvdil isa); me-3 da me-4 muxl ebidan, roml ebic Sesabamisad wamebisa da monobis akrZal vas exeba; da me-7 muxl is moTxovnebidan sisxl is samarTi is kanonmdebl obis retroaqtiul i gamoyenebis akrZal vasTan dakavSirebiT.

Akonvencii iT Seqmnil i organoebis mosazrebebi da gadawyvetil ebebi me-15 muxl Tan dakavSirebiT mocemul ia krebul is danarTsi. aRsaniSnavia is saqmeebi, roml ebic „sagangebo

viTarebis" ganmartebas gvTavazobs im miTiTebetan erTad, Tu rogoria aRniSnul sakiTxSi saxel mwifos „Tavisufal i Sefasebis are“, anu ra fargl ebSi SeuZl ia Tavad saxel mwifos gansazRvros arsebobs Tu ara qveyanaSi amgvvari sagangebo viTareba da, misgan gamomdinare, konvenciis moTxovnebidan gadaxvevis aucil ebl oba. aqve saubarია Tu rogor xorciel deba qveyanaSi aRniSnul i zomebis ganxorciel ebaze zedamxedvel oba evropul i struqturebis mier.

saxel mwifoze dakisrebul i val debul ebebi da pol icia

TiToeul ma saxel mwifom unda uzrunvel yos misi konstituciisa da kanonmdebl obis Sesabamisoba im val debul ebebtan, roml ebic mas adamianis ufl ebaTa dacvisa da xel Sewyobis saerTasoris samarTl is moTxovnebiT ekisreba. saxel mwifo val debul ia gaataros konstituciisa da kanonis aRsrul ebis uzrunvel sayofad aucil ebel i yvel a administraciul i, Tu sxva RonisZieba. kanonis darRvevisa da adamianis ufl ebaTa xel yofis SemTxvevaSi saxel mwifom damrRvevis mimarT unda miROS kanoniT gaTval iswinebul i zomebi da uzrunvel yos dazaral ebul is interesebis samarTl ebrivi dacva. Tuki dazaral ebul i ver axerxebis Tavisi darRveul i ufl ebebis aRdgenas, SeiZl eba amoqmeddes konvenciis saRsrul ebo meqanizmi.

ase magal iTad, adamianis ufl ebaTa evropul i konvenciis 1-l i muxl i xel Sekrul ebaSi monawil e mxareTagan moTxovs „maTi iurisdicqciis fargl ebSi yvel a adamianisTvis uzrunvel yon konvenciis 1-l i nawil iT dadgenil i ufl ebebis da Tavisufl ebebis dacva“. me-13 muxl Si naTqvamia, rom „saxel mwifom unda uzrunvel yos yvel a im adamianis ufl ebaTa efeqturi samarTl ebrivi dacva, vis mimarTac dairRva konvenciit gansazRvrul i ufl ebebi da Tavisufl ebebi, im SemTxvevaSi Tu es darRveva Cadenil iqna im pirebis mier, vinc Taviant samsaxureobrivi moval eobas asrul ebdnen.“

adamianis ufl ebaTa evropul i konvencia da am konvenciit Seqmnil i organoebis mier gamotanil i daskvnebi da gadawyvetil ebebi mowodebul ia ganamtkocon kanonis uzenaesoba. kanoni nebis mier pirovnebaze, organizaciasa Tu Tanamdebobis pirze maRl a dgas da yvel a val debul ia ganuxrel ad Seasrul os misi moTxovnebi. kanondamrRvevTa mimarT saxel mwifo unda iyenebdes saTanado sanqcias da aravin unda iyos adamianis ufl ebaTa darRvevisTvis samarTl ebrivi pasuxismgebl obisagan Tavisufal i.

pol icias marTebis imoqmedos kanonis Sesabamisad da yovel Tvis unda icavdes dadgenil procesual ur wesebsa da saxel mZRvanel o miTiTebes. gaumarTl ebel ia nebis mieri samarTal darRvevis Cadena kanonis aRsrul ebis mizniT. konvenciis me-17 muxl Si naTqvamia, rom misi arc erTi debul eba „ar SeiZl eba iqnes ise ganmartebul i, rom romel ime saxel mwifos, j gufs Tu pirovnebas eniWebodes iseTi saqmianobis an moqmedebis ufl eba, romel ic konvenciit gansazRvrul ufl ebaTa da Tavisufl ebaTa sawinaaRmdegod iqneboda mimarTul i“, an „konvenciit gaTval iswinebul ze metad SezRudavda maT“.

kanonis Tanaxmad, pol iciis yovel i muSaki pirovnul adaa pasuxismgebel i Tavis qmedebesba Tu umoqmedobaze. amastanave, pol iciis xel mZRvanel obas ekisreba umniSnel ovanesi rol i uzrunvel yos mis xel qveiTta qmedebes Sesabamisoba adamianis ufl ebaTa dacvis standartebtan. pol iciis xel mZRvanel muSakTa es pasuxismgebl oba krebul is daskvniT TavSi iqneba ganxil ul i.

Tavi 1: adamianis ufl ebaTa dacvis saerTaSoriso sistema

sadiskusio Temebi (3)

1. ratom aris „aucil ebeli“, rom „adamianis ufl ebebi kanonis uzenaesobiT iyos daculi“?

2. warmoadgens Tu ara adamianis ufl ebaTa dacvisa da xel Sewyobis Tval sazrisiT saxel mwifos mier nakisri saerTaSoriso val debul ebebis Sestrul ebis uzrunvel sayofad saerTaSoriso meqanizmebis gamoyeneba saxel mwifos Sinagan saqmeebSi Carevas?

3. ra igul isxmeba „adamianis Rirsebis“ cnebaSi?

4. ratom aris ekonomikuri, social uri da kul turuli ufl ebebis (mag. Sromis ufl eba, cxovrebis saTanado pirobebis qonis ufl eba) dacva damokidebuli samoqal aqo da politiki ufl ebebis (mag. Tavisufl ebis ufl eba, xmis micemis ufl eba) dacvaze da piriqit?

5. adamianis ufl ebaTa sayovel Tao dekl araciis 29-e muxl Si saubarია „sazogadoebriv moval eobebze“. rogor unda ganxorciel os TiToeul ma moqal aqem am muxl iT gaTval iswinebuli moval eobebi?

6. ganxil eT adamianis ufl ebaTa evropuli konvenciis preambul is mesame abzaci. Tqveni azrit, ratom miiCneva „adamianis ufl ebaTa da Ziritad Tavisufl ebaTa mxardaWera da Semdgomi ganxorciel eba“ evropis sabWos wevrebs Soris ufro mtkice erTianobis miRwevis erT-erT saSual ebad?

7. adamianis ufl ebaTa dacvisa da xel Sewyobis mizniT saxel mwifoTa mier nakisri saerTaSoriso val debul ebebis Sestrul ebis saerTaSoriso sazedamxedvel o da aRmasrul ebeli meqanizmebis efeqturoba didad aris damokidebuli arasamTavrobo organizaciebis, magal iTad *Amnesty International*-is mier mowodebul informaciaze. rogoria Tqveni mosazreba amasTan dakavSirebit.

8. ganxil eT adamianis ufl ebaTa sayovel Tao dekl araciaSi Camoyal ibebuli ufl ebebi da Tavisufl ebebi. SearCieT maT Soris xuTi ufl eba, romelic, Tqveni azrit, yvel aze ufro mniSvnel ovania Tqveni qveynis rigiTi moqal aqeebisaTvis. daasabuTeT Tqveni arCevani.

Tavi 1: adami ani s ufl ebaTa dacvi s saer TaSor iso si stema

sadiskusio Temebi (2)

1. ganixil eT adami ani s ufl ebaTa sayovel Tao dekl araciis 29.2 muxl i da adami ani s ufl ebaTa evropul i konvenciis me-17 da me-18 muxl ebi. imsj el eT aRniSnul i debul ebebi s mniSvnel obaze pol iciis saqmianobasTan mimarTebaSi.

2. ganixil eT adami ani s ufl ebaTa sayovel Tao dekl araciaSi Camoyal ibebul i ufl ebebi kanonis winaSe Tanasworobisa da kanonis dacviT Tanabari sargebl obis Sesaxeb. gamokveTeT da imsj el eT am ufl ebaTa kavSirze pol iciis saqmianobasTan.

3. ganixil eT adami ani s ufl ebaTa sayovel Tao dekl araciis me-8 muxl Si da adami ani s ufl ebaTa evropul i konvenciis me-13 muxl Si Camoyal ibebul i „efeqturi samarTl ebrivi dacvis ufl eba“ da imsj el eT pol iciis xel mZRvanel obis rol ze masTan mimarTebaSi.

4. ganixil eT adami ani s ufl ebaTa dacvis sayovel Tao dekl araciis me-18 _ 21-e da adami ani s ufl ebaTa evropul i konvenciis me-9 _ me-11 muxl ebSi Camoyal ibebul i ufl ebebi. rogor SeuZl ia pol icias am ufl ebebi s dacva da pol iciis ra qmedebebma SeiZl eba gamoiwvios maTi xel yofa?

5. ganixil eT adami ani s ufl ebaTa sayovel Tao dekl araciis 22-e – 27-e muxl ebiT gaTval iswinebul i ufl ebebi. ra gavl ena SeiZl eba hqondes pol iciis saqmianobas am ufl ebebiT sargebl obaze?

6. pol iciis romel i qmedebebis an saqmianobis dros aris yvel aze metad savaraudo adami ani s ufl ebebi s darRveva da ratom?

7. gaeros general uri asambl eis 1979 wl is 17 dekembris 34/169 rezol uciaSi, roml is Tanaxmadac miRebul iqna samarTal damcavi sferos moxel eTa qcevis kodeqsi, naTqvamia: „yovel i samarTal damcavi uwyeba unda warmoadgendes da pasuxobdes mTel i sazogadoebis interesebs da angariSval debul i iyos mis winaSe.“ ratom aris mniSvnel ovani es ganacxadi? rogor unda Sesarul des masSi Camoyal ibebul i moTxovnebi?

8. Tu pol iciis qmedebebi kanoniT regul irdeba, ristvis aris saWiros eTikuri kodeqsebis Tu pol iciel Ta qcevis kodeqsebis Seqmna?

Tavi 2: sicocxl is ufl eba

nawil i aA – samarTl ebrivi aqt ebl

adami ani s ufl ebaTa sayovel Tao dekl aracia, muxl i 3

yvel a adamians aqvs sicocxl is, Tavisufl ebisa da pirovnebis xel Seuxebl obis ufl eba.

adami ani s ufl ebaTa evropul i konvencia, muxl i 2

1. yovel i adamianis sicocxl is ufl eba kanoniTaa dacul i. dauSvebel ia nebismieri adamianis sicocxl is ganzrax xel yofa, garda sasamarTl os ganaCenis aRsrul ebisa im kategoriis danaSaul is CadenaSi pirovnebis damnaSved cnobis Semdeg, roml isTvisac aseTi sasjel i kanoniT aris gaTval iswinebul i.

2. adamianis sicocxl is mospoba ar CaiTvl eba am muxl is sawinaaRmdego qmedebad, Tu igi Sedegad mohyveba Zal is gamoyenebas, romel ic ar scil deba absol uturi aucil ebl obis fargl ebs. aseTad CaiTvl eba:

- a. ukanono Zal adobisagan nebismieri adamianis dacva - aucil ebel i mogerieba;
- b. kanonieri dpatimreba an kanonierad dakavebul i piris gaqcevis aRkveTa;
- g. amboxis an aj anyebis winaaRmdeg kanoniT gaTval iswinebul i zomebis miReba.

sxva wyar oebi :

evropis sabWos dekl aracia pol iciis Sesaxeb.

samarTal damcavi sferos moxel eTa qcevis kodeqsi, miRebul i gaerTianebul i erebis organizaciis mier.

samarTal damcavi sferos moxel eTa mier Zal isa da cecxl sasrol i iaraRis gamoyenebis ZiriTadi principi.

arakanonierad, TviTneburad da erTpirovnul ad sikvdil iT dasj is aRkveTisa da gamoZiebis principi.

Tavi 2: sicocxl is ufl eba

nawli l bB- saswavi o kazusebi

saswavi o kazusi 2.1

adamianis ufl ebaTa evropul sasamarTI os sxvadasxva dros konvenciis me-2 muxl Tan dakavSirebiT Semdegi mosazrebebi aqvs gamoTqmuli:

1. konvenciis 2.2 muxl i ar gansazRvra im SemTxvevbs, rodesac nebadarTul ia pirovnebis sicocxl is ganzrax xel yofa, aramed iTval iswinebs im garemoebbs (ukanono Zal adobisgan dacva; kanonieri dpatimreba an kanonierad dakavebul i piris gaqcevis aRkveTa; amboxis an aj anyebis winaaRmdeg kanoniT dadgenil i zomebis miReba), rodesac nebadarTul ia „Zal is gamoyeneba“, ramac winaswari ganzraxvis gareSe sikvdil i SeiZl eba gamoiwvios.

2. 2.2 muxl iT gansazRvrul SemTxvevebSi Zal is gamoyeneba ar unda gascdes „absol uturi aucil ebl obis“ fargl ebs.

3. yovel cal keul SemTxvevaSi Zal is gamoyeneba mkacrad Tanazomieri unda iyos 2.2 muxl iT gaTval iswinebul i konkretul i aucil ebl obisa.

4. sasamarTI os amocanaa zedmiwevniT gaaanal izos sicocxl is xel yofis SemTxvevebi, gansakuTrebiT sasikvdil o SedegIT Zal is mizanimarTul i gamoyenebis faqtebi. mxedvel obaSi unda iqnes miRebul i ara mxol od saxel mwifos im warmomadgenel Ta qmedebebi, roml ebic uSual od awarmoebdnen Zal ismier RonisZieebbs, aramed yvel a Tanmxl ebi garemoeba, maT Soris iseTi faqtorebi, rogoricaa am RonisZiebaTa dagegmva da maT ganxorciel ebaze kontrol i.

gansaxil vel i sakiTxebi policiis yvel a rangis moxel eTatvis:

1. ganxil eT termini „absol uturad aucil ebel i“, Camoayal ibeT misi ganmarteba da moyvaneT ramdenime konkretul i magal iTi mis sail ustraci od.

2. ganxil eT termini „mkacrad Tanazomieri“, Camoayal ibeT misi ganmarteba da moyvaneT ramdenime konkretul i magal iTi mis sail ustraci od.

gansaxil vel i sakiTxebi operatiul i martvisa da zedamxedvel obis ganxorciel ebaze pasuxismgebel i policiis moxel eebi saTvis:

1. ra garemoebebi unda iqnes gaTval iswinebul i cecxl sasrol i iaraRis gamoyenebiT policiis operaciis dagegmvis procesSi, raTa ar moxdes sicocxl is ufl ebis xel yofa?

2. ganxil eT, Tu ra gzebiT SegiZl iaT Seinarcunot kontrol i cecxl sasrol i iaraRis gamoyenebiT mimdinare policiis operaciis msvl el obaze.

saswavi o kazusi 2.2

pol iciis Sesaxeb evropis sabWos dekl araciis me-12 muxl Si naTqvamia:

„Tavisi moval eobebis Sestrul ebisas, pol iciis muSakma unda miiRos yvel a aucil ebel i zoma kanoniT dadgenil i an daSvebul i miznis misaRwevad, magram man araviTar SemTxvevaSi ar SeiZl eba mimarTos Zal ismier meTodebs im zomiT, romel ic scdeba gamarTI ebul fargl ebs.“

dekl araciis me-13 muxl i ki iTxovs, rom:

„pol iciis muSakebma unda miiRon naTel i da zusti miTiTebebi imasTan dakavSirebiT, Tu rogor da ra viTarebaSi SeuZl iaT an marTebT maT iaraRis gamoyeneba“.

gansaxil vel i sakiTxebi pol iciis yvel a rangis moxel eTaTvis:

1. imsj el eT da ganmartet termini „Zal is gamoyenebis gamarTI ebul i fargl ebi“.
2. ganxil eT is garemoebebi, rodesac SeiZl eba gamarTI ebul i iyos Zal is gamoyeneba danaSaul is CadenaSi eWvmitanil i piris mimarT.
3. SegiZl iaT gaixsenoT iseTi SemTxveva, rodesac Tqven an Tqvenma kol egam gamoiyeneT aucil ebel ze meti Zal a? ganxil eT, Tu rogor SeiZl eboda amis Tavidan acil eba. rogor moiqceodiT axl a iseT viTarebaSi, rodesac Tqveni kol ega gadametebul Zal as mimarTavs?

gansaxil vel i sakiTxebi operatiuli marTvisa da zedamxedvel obis ganxorciel ebaze pasuxismgebel i pol iciis moxel eebi saTvis:

1. moifiqreT ramdenime naTel i da zusti miTiTeba imasTan dakavSirebiT, Tu ra SemTxvevaSi SeiZl eba gamoiyenon pol iciis muSakebma pirovnebis winaaRmdeg cecxl sasrol i iaraRi.
2. ganxil eT, Tu ra zomiT ekisreba pol iciis xel mZRvanel obas pasuxismgebl oba mis xel qveITa mier Zal is ukanono gamoyenebaze da Camoayal ibeT wesi, romel ic naTI ad gansazRvravs amgvარი pasuxismgebl obis xasiaTsa da dones.

piradi Canawer ebi saTvi s:

Tavi 2: sicocxl is ufl eba

nawil i g - saxel mZRvanel o mlTITebeb l eqtorebisa da sxva saswavi o personal isaTvis

Seni Svna: aq ganxil ul i samarTI ebrivi aqtebis srul i teqsti SegiZl iaTixil oT TandarTul masal ebSi (ix. „ZiriTadi dokumentebi“). amonawerebi xel Sekrul ebis organoTa daskvnebidan da gadawyvetil ebebidan amoRebul ia krebul is a danarTSi moyvanil i saqmeebidan.

samarTI ebrivi aqtebi

adami ani s ufl ebaTa sayovel Tao dekl aracia

adamianis ufl ebaTa sayovel Tao dekl araciis me-3 muxl iT sicocxl is ufl eba aRiarebul ia iseT umniSvnel ovanes ufl ebebTan erTad, rogoricaa Tavisufl ebisa da pirovnebis usafrTxoebis ufl ebebi. miuxedavad imisa, rom sicocxl is ufl eba adamianis umTavres ufl ebas warmoadgens da upiroboda gamoxatul i sayovel Tao dekl araciaSi, adamianis ufl ebaTa sxvadasxva xel Sekrul ebebi mainc uSveben gansazRvrul pirobebSi sicocxl is xel yofas.

adami ani s ufl ebaTa evropul i konvencia

adamianis ufl ebaTa dacvis sxva xel Sekrul ebebis msgavsad, konvencia moitXovs, rom sicocxl is ufl eba kanoniT iyos dacul i, rac sxva sakiTxebTan erTad iTval iswinebs, rom saxel mwifom unda daakanonos sicocxl is mospobis garkveul i formebs akrZal va. policiis mniSvnel ovani amocanaa mkvl el obisa da sicocxl is danaSaul ebrivi xel yofis sxva formebs Tavidan acil eba da aRkveTa, agreTve am saxis danaSaul obaTa saqmeebis yovel mxrivi gamoZieba.

am muxl is 1-I i punqtiT dasaSvebad aris miCneul i sicocxl is xel yofis is forma, romel sac sistrul eSi mohyavs sasamarTI os gadawyvetil eba iseTi danaSaul is CadenaSi pirovnebis bral eul ad cnobis Semdeg, roml iTvisac sasikvdil o ganaCeni kanoniT aris gaTval iswinebul i.

[Seni Svna: konvenciis #6 oqmi sikvdil iT sasjel is gauqmebas exeba. oqmis Sesaval nawil Si aRniSnul ia amgvani sasjel is akrZal vis zogadi tendencia, xol o oqmis xel momwerebi sikvdil iT sasjel is gauqmebis val debul ebas iReben].

me-2 punqti gansazRvravs im gansakuTrebul garemoebes, rodesac sisocxl is mospoba „Tu igi Sedegad mohyveba Zal is gamoyenebas, romel ic ar scil deba absol uturi aucil ebl obis fargl ebs“, ar iTvl eba konvenciis sawinaaRmdego qmedebad.

1-I da me-2 punqtebSi Camoyal ibeul i gamonakl isebis saxiT, konvenciis es muxl i gansazRvravs gansakuTrebul garemoebaTa im SezRudul CamonaTval s, rodesac saxel mwifos ar ekrZal eba adamianis sicocxl is xel yofa. konvenciIT daSvebul i ar aris saxel mwifos mier sicocxl is mospobis aranairi sxva safuZveli, garda me-15 muxl iT gaTval iswinebul i SemTxvevebisa. es ukanasknel i iTval iswinebs omis an sazogadoebisTvis saSiSi sxva sagangebo viTarebis dros xel Sekrul ebaSi monawil e mxareebis mier konvenciIT nakisri zogierTi val debul ebis Sestrul ebisagan droebiT gadaxvevas. miuxedavad imisa, rom es muxl i krZal avs gadaxvevas me-2 muxl idan, igi mainc iZl eva erT gamonakl iss: „omis dros, kanonieri qmedebebis Sedegad gamowveul i sikvdil is“ SemTxvevaSi.

[Seni Svna: konvenciis me-15 muxl Tan dakavSirebiT ix. saxel mZRvanel os 1-I i Tavi da am Tavis Sesabamisi saqmeebi, roml ebic danarTSia moyvanil i].

xazgasmiT unda aRiniSnos, rom me-2 punqtSi naxsenebi „Zal is gamoyeneba“ Seqmnil i garemoebebis Tanazomieri da aucil ebel i unda iyos, rogorc amas fraza: „Zal is gamoyeneba, romel ic ar scdeba absol uturi aucil ebl obis fargl ebs“ moiTxovs.

konvenciis am muxl Si gamoyenebul i terminol ogia Sesabisi saqmeebis magal iTze ganxil ul ia „xel Sekrul ebis organoTa daskvnebis da gadawyvetil ebebis“ nawil Si.

evr opis sabWos dekl aracia pol iciis Sesaxeb

me-12 muxl i moiTxovs pol iciis mier Zal is mxol od gamarTI ebul fargl ebSi gamoyenebas, xol o me-13 muxl i - pol iciisaTvis naTel i da zusti miTiTebebis micemas imis Taobaze, Tu rogor da ra viTarebaSi SeuZl iaT maT iaraRis gamoyeneba.

samar Tal damcavi sfer os moxel eTa qcevis kodeqsi , mi Rebul i gaer Ti anebul i erebis organizaciis mier

me-3 muxl i moiTxovs Zal is gamoyenebis SemTxvevaSi pol iciis mier aucil ebl obisa da Tanazomierebis principebis dacvas. am muxl is komentarSi naTqvamia, rom pol icia ufl ebamosil ia mimarTos Zal as mxol od im zomIT, romel ic gamarTI ebul ia danaSaul is aRkveTisa an damnaSaveTa Tu danaSaul Si eWvmitanil Ta kanonieri dapetimrebis aucil ebl obiT. aRniSnul i muxl i agreTve moiTxovs, rom cecxl sasrol i iaraRis gamoyeneba moxdes mxol od maSin, Tu danaSaul Si eWvmitanil i pol icias SeiaraRebul winaaRmdegobas uwevs, an safrTxeSi ayenebs sxvebis sicocxl es da rodesac nakl ebad eqstremal uri zomebis miReba sakmarisi ar aris eWvmitanil is dasakavebl ad.

samar Tal damcavi sfer os moxel eTa mier Zal isa da cecxl sasrol i iaraRis gamoyenebis Zir iTadi principebi

am detal ur da Zal ze praqtikul dokumentSi 26 principia Camoyal ibebul i. masSi gansazRvrul i standartebi pol iciis mier Zal isa da cecxl sasrol i iaraRis gamoyenebis yvel a mniSvnel ovan aspeqts exeba. maT Sorisaa: iseTi aRWurvil obis uzrunvel yofa, romel ic Zal is diferencirebul ad gamoyenebis saSual ebas iZl eva; pol iciel Ta saTanado SerCeva da profesiul i momzadeba; xel qveITa qmedebebze pol iciis xel mZRvanel obis pasuxismgebl oba; moTxovnebi pol iciis mier Zal isa da cecxl sasrol i iaraRis gamoyenebis SemTxvevaSi Sesabamisi moxsenebiTi masal is warmodgenisa da kontrol is procedurebTan dakavSirebiT. me-9 principis Tanaxmad, cecxl sasrol i iaraRis gamoyeneba SeiZl eba mxol od im SemTxvevaSi, Tu arsebobs sikvdil is an sxel is seriozul i dazianebis gardaual i safrTxe.

ar akanoni er ad, Tvi Tnebur ad da er Tpi rovnul ad si kvdil i T dasj is aRkveTisa da gamoZiebis principebi

20 principisgan Semdgari es dokumenti mowodebul ia aRkveTos saxel mwifo moxel eTa mxridan sicocxl is nebismieri ukanono xel yofa da uzrunvel yos yovel i aseTi faqtis saTanado gamoZieba. kerZod, me-2 principi xel is ufl ebisgan moiTxovs dakavebaze, dapetimrebaze, gansaj el Ta da msj avrdebul Ta mimarT aRmkveTi RonisZiebebis aRsrul ebaze pasuxismgebel i yvel a moxel is, agreTve im moxel eebis ufl ebamosil ebaTa mkafio gansazRvras, visac kanoniT Zal isa da cecxl sasrol i iaraRis gamoyenebis ufl eba aqvs. es dokumenti agreTve moiTxovs aRniSnul ufl ebamosil ebaTa ganxorciel ebaze mkacri kontrol is warmoebas.

xel Sekrul ebis organoTa daskvnebi da gadawyvetil ebebi

xel Sekrul ebis organoTa daskvnebsa da gadawyvetil ebebsi, roml ebic a danarTSia moyvanil i, gamoTqmul ia Semdegi Zir iTadi mosazrebebi:

1. konvenciis me-2 muxl i ar gansazRvrvavs im SemTxvevebs, rodesac nebadarTul ia pirovnebis sicocxl is ganzrax xel yofa.

2. konvenciis me-2 muxl i gansazRvrvavs SemTxvevebs, rodesac dasaSvebia Zal is gamoyeneba, rasac SeiZl eba Sedegad mohyves sicocxl is mospoba winaswari ganzraxvis gareSe. konvenciis me-2 muxl is 2(a), 2(b), da 2(g) qve-punqtebiT gaTval iswinebul i romel ime mizniT Zal is gamoyeneba ar unda scil debodes absol uturi aucil ebl obis fargl ebs.

3. imis Sesafasebl ad „aucil ebel i“ iyo Tu ara miRebul i zomebi, unda dadgindes iyo Tu ara konvenciit gaTval iswinebul ufl ebaSi Careva im kanonieri miznebis Tanazomieri, romel sac es Careva emsaxureboda.

4. raTa dadgindes, iyo Tu ara Zal is gamoyeneba „mkacrad Tanazomieri“, mxedvel obaSi unda iqnes miRebul i mizani, romel sac igi emsaxureboda, mocemul i situaciis saSiSroeba sicocxl isaTvis da Zal is gamoyenebis sasikvdil o SedegiT dasrul ebis al baTobis xarisxi.

5. adamlanis ufl ebaTa evropul ma sasamarTI om aRniSna, rom man zedmiwevniT unda Seamowmos ara mxol od is, iyo Tu ara Zal is gamoyeneba mkacrad Tanazomieri dasaxul i miznisa, aramed isic, iyo Tu ara Tavad (eWvmitaniL Ta dakavebis) operacia dagegmil i da warmarTul i ise, rom iaraRis gamoyenebis saWiroeba SeiZl ebisdagvarad minimal uri yofil iyo.

pol icilis saqmianoba da adamlanis ufl ebebi

mniSvel ovania imis gacnobiereba, rom:

1. pol icias gansakuTrebul i rol i akisria sicocxl is ufl ebis dacvasi - sicocxl is ukanono xel yofis, magal iTad mkvl el obis, aRmkveTi zomebis miRebisa da mkvl el obis saqmeebis yovel mxrivi gamoZiebis meSveobiT.

2. Zal is kanonieri gamoyeneba mniSvel ovania pol icilis saqmianobis efeqturad da warmatebit warmarTvisaTvis, xol o Zal is ukanono gamoyeneba sazano gavl enas axdens pol iciasa da sazogadoebas Soris urTierTobaze.

3. pol icilis xel mZRvanel obis moval eobaa:

a. kadrebis SerCeva, samuSaoze ayvana da profesiul i momzadeba – pol icilis xel mZRvanel obam unda uzrunvel yos, rom pol iciel Ta rigebis dakompl eqteba xdebodes mxol od im pirebisgan, romel TacAZal is gamoyenebis ufl eba SeiZl eba miendoT; da rom pol iciel ebs unda CautardeT am ufl ebit sargebl obisTvis aucil ebel i momzadeba.

b. wesebi da aRWurvil oba – pol icilis xel mZRvanel obam unda uzrunvel yos pol icilis mier Zal is gamoyenebis Taobaze mkafio da naTel i wesebis arseboba da yovel i pol iciel is mier maTi codna; agreTve pol iciel Ta jerovani momarageba rogorc Tavdacvis saSual ebebiT, ise aucil ebel i iaraRiT, romel sac isini mxol od aucil ebl obis SemTxvevaSi, saWiroebisamebr gamoiyeneben.

g. Zal isa da cecxl sasrol i iaraRis daniSnul ebisamebr gamoyeneba – pol icilis xel mZRvanel obam unda uzrunvel yos xel qveitebis mier Zal isa da cecxl sasrol i iaraRis gamoyeneba mxol od kanoniT dasvebul SemTxvevebSi da Zal is nebismieri aramarTI zomieri gamoyenebis dasj a kanonis Sesabamisad.

d. xel qveiTta qmedebebze pasuxismgebl oba – pol icilis xel mZRvanel oba pasuxs agebs xel qveitebis mier Zal isa da cecxl sasrol i iaraRis ukanono gamoyenebaze.

e. xel mZRvanel oba da kontrol i – pol iciis xel mZRvanel obam unda uzrunvel yos cexl sasrol i iaraRis gamoyenebiT mimdinare pol iciis operaciis warmarTva da masze kontrol i, maT Soris operatiul i informaciis saTanado damuSavebis, operaciis dagegmvisa da xel qveiTebTan sagangebo msj el obis, marTvisa da kontrol is efeqturi sistemisa da operaciis msvl el obisa da Sedegebis Semdgomi gaanal izebis meSveobiT.

4. yovel i pol iciei i val debul ia:

a. Zal isa da cexl sasrol i iaraRis gamoyenebamde mimarTos sakiTxis mSvidobianad gadaWris yvel a SesaZl o xerxs.

b. pativi sces kanons da Seasrul os normatiul i wesebi da miTiTebebi Zal isa da iaraRis gamoyenebis Sesaxeb.

Tavi 3: wamebis da aramar Tebul i mopyrobis akrZal va

nawil i aA- samarTl ebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl aracia, muxl i 5

dauSvebel ia nebismieri adami anis wameba da sastiki, araadami anuri an Rirsebis Seml axavi mopyroba an dasja.

adami anis ufl ebaTa evropul i konvencia, muxl i 3

aravin SeiZl eba gaxdes wamebis da araadami anuri an Rirsebis Seml axavi mopyrobis an sasjel is msxverpli.

sxva wyar oebi :

evropis sabWos dekl aracia pol iciis Sesaxeb.

samarTal damcavi sferos moxel eTa qcevis kodeqsi, miRebul i gaerTianebul i erebis organizaciis mier.

evropul i konvencia wamebis da araadami anuri an Rirsebis Seml axavi mopyrobis an sasjel is aRkveTis Sesaxeb.

dekl aracia wamebis da sxva sastiki, araadami anuri an Rirsebis Seml axavi mopyrobis an sasjel isgan yovel i adami anis dacvis Sesaxeb.

wamebis da sxva sastiki, araadami anuri an Rirsebis Seml axavi mopyrobis an sasjel is sawinaaRmdago konvencia.

principebis krebul i nebismieri formiT dakavebul an dpatimrebul pirTa dacvis Sesaxeb.

Tavi 3: wamebis da aramar Tebul i mopyrobis akr Zal va

nawil i b – saswavi o kazusebi

saswavi o kazusi 3.1

adamianis ufl ebaTa evropul i komisiis ganmartebiT, araadamianuri mopyroba aris „mZime fsiqikuri an fizikuri tanjvis gamomwvevi gamiznuli qmedeba“. amave komisiis ganmartebis Tanaxmad, wameba aris „araadamianuri mopyroba, roml is mizania informaciis an aRiarebis mopoveba, an dasj a da igi araadamianuri mopyrobis damZimebul formas warmoadgens“.

adamianis ufl ebaTa evropul i sasamarTl os erT-erTi mosamarTl is TqmiT: „fizikuri Zal is gamoyeneba Tavisufl ebaaRkveTil i adamianis mimarT, Tu igi ar warmoadgens misive qmedebidan gamomdinare mkacr aucil ebl obas, l axavs adamianis Rirsebas da amdenad konvenciis me-3 muxl iT garantirebul i ufl ebis darRvevad unda iqnes miCneuli.“

gansaxil vel i sakiTxebi policiis yvela rangis moxel eTaTvis:

1. garda imisa, rom wameba, iseve rogorc araadamianuri an Rirsebis Seml axavi mopyrobis mraval i forma danaSul ebriv qmedebas warmoadgens, kidev ra argumentebi SeiZl eba dasaxel des informaciis an aRiarebis mopovebis mizniT wamebisa an aramarTebul i mopyrobis sawinaaRmdegod?
2. ganxil eT, Tu ras gul isxmobs „fsiqikuri wameba“ da moiyyaneT ramdenime konkretul i magal iTi mis sail ustraci od.
3. Tavisufl ebaaRkveTil i piris ra qmedebebma SeiZl eba gaamarTl os mis mimarT fizikuri Zal is gamoyeneba?
4. ra moval eoba gekisrebaT im SemTxvevaSi, Tu dakavebul is wamebis an misdami aramarTebul o mopyrobis brZanebas miiRebT?

gansaxil vel i sakiTxebi operatiuli martvisa da zedamxedvel obis ganxorciel ebaze pasuxismgebel i policiis moxel eebi saTvis:

1. ganxil eT, Tu ra gzebiT SegiZl iaT uzrunvel yoT Tqvens daqvemdebarebaSi myof pol icie l Ta humanuri mopyroba dakavebul Ta mimarT.
2. ra profesiul i unar-Cvevebis gamomuSaveba esaWiroebaT policiis moxel eebis, raTa Semcir des dakavebul Tagan Cvenebis miRebisas maT mimarT arasaTanado mopyrobis al baToba. riTi SegiZl iaT xel i SeuwyoT am unar-Cvevebis Camoyal ibebas?

saswavi o kazusi 3.2

warmoidgineT, rom daakaves qurdobaSi eWvmitanil i pirovneba. igi uaryofs misdami wayenebul bral debas, da Tumca misi kanonieri dakavebisTvis sakmarisi safuZvel i arsebobs, samarTal damcavi organoebis gankargul ebaSi arsebul i mtkicebul ebebi sakmarisi ar aris sisxl is samarTI is saqmis aRsaZvrel ad.

damatebiTi mtkicebul ebebis mopovebis mizniT ori pol iciel i awarmoebis dakavebul is dakiTxvas pol iciis ganyofil ebaSi. dakiTxvisas, roml is ganmavl obaSic eWvmitanil i kvl av uaryofs danaSaul Si monawil eobas, erT-erTi pol iciel i aRiarebis iZul ebis mizniT ramdenj erme ZI ierad artyams mas TavSi, ris Sedegadac dakavebul i skamidan vardeba da Tavbru esxmis. dartymebis Sedegad mas saxeze mcire dazianebebi etyoba, magram gonebas ar kargavs.

dakavebul s ori pol iciel i Zal iT wamoayenebs da daj domis ufl ebas ar aZl evs. SekiTxvebze pasuxisas, eWvmitanil i ganagrZobs danaSaul is uaryofas, ris Semdegac meore pol iciel i iaraRs udebs pirSi da gasrol iT emuqreba, Tu igi danaSaul is CadenaSi ar gamotydeba. dakavebul i aSkarad SeSinebul ia da aRiarebiT Cvenebas iZl eva.

gansaxil vel i sakiTxebi pol iciis yvel a rangis moxel eTaTvis:

1. imsj el eT, warmoadgens Tu ara dakavebul is cema, mistvis pirSi iaraRis Cadeba, an gasrol iT muqara adamianis ufl ebaTa evropul i konvenciis me-3 muxl is moTxovnaTa darRvevas da daasabuTeT Tqveni mosazreba.

2. ganixil eT, Tqveni qveynis romel i kanonebi irRveva pol iciel Ta TiTeul i aRniSnul i qmedebis Sedegad.

gansaxil vel i sakiTxebi operatiul i marTvisa da zedamxedvel obis ganxorciel ebaze pasuxismgebel i pol iciis moxel eebi saTvis:

1. ramdenad misaRebia, rom pol iciis TanamSromel i, romel ic awarmoebis eWvmitanil is dakiTxvas pol iciis ganyofil ebaSi, cecxli sasrol i iaraRiT iyos SeiaraRebul i? ra safrTxe momdinareobs amgvani praqtikidan?

2. ra sazedamxedvel o meTodebi da RonisZiebebi SeiZl eba dainergos dakavebul Ta mimarT amgvani aramarTI zomieri mopyrobis aRsakveTad?

piradi Canawer ebi saTvi s:

Tavi 3: wamebis da aramar Tebul i mopyrobis akrZal va

nawil i g - saxel mZRvanel o miTi Tebebi l eqtorebisa da sxva saswavi o personal isaTvis

Seni Svna: aq ganxil ul i samarTi ebrivi aqtebis srul i teqsti SegiZl iaTixil oT TandarTul masal ebSi (ix. „ZiriTadi dokumentebi“). amonawerebi xel Sekrul ebis organoTa daskvnebidan da gadawyvetil ebebidan amoRebul ia krebul is a danarTSi moyvanil i saqmeebidan.

samarTi ebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl araci a

wamebis akrZal va martivad da erTmniSvnel ovnad aris Camoyal ibebul i me-5 muxl Si, rac xazs usvams wamebis danaSaul is srul da absol utur akrZal vas. am akrZal vidan gamonakl isebi ar daiSveba da ar arsebobs garemoeba, romel ic wamebas kanoniers an gamarTi ebul s xdis.

adami anis ufl ebaTa evropul i konvencia

wamebis akrZal vis moTxovna konvenciis me-3 muxl Si arsebiTad isevea Camoyal ibebul i, rogorc sayovel Tao dekl araciis Sesabamis debul ebaSi. evropul i konvencia ar uSvebs aranair garemoebas, romel ic wamebis l egitimacias moaxdenda. es akrZal va konvenciit dadgenil i erT-erTi im ufl ebaTagania, romel Ta Sestrul ebisgan gadaxveva me-15 muxl iT gaTval iswinebul i sazogadoebisaTvis saSiSi sagangebo vitarebis dros dauSvebel ia.

konvenciis am muxl Si gamoyenebul i terminol ogia Sesabisi saqmeebis magal iTze ganxil ul ia „xel Sekrul ebis organoTa daskvnebisa da gadawyvetil ebebis“ nawil Si.

evropis sabWos dekl araci a pol iciis Sesaxeb

me-3 muxl i krZal avs nebismier vitarebaSi sikvdil iT erTpirovnul dasjas, wamebas da araadamianuri an Rirsebis Seml axavi mopyrobis an sasjel is sxva formebs. amave muxl Si naTqvamia, rom pol iciis moxel e val debul ia ar daemorCilos aranair brZanebas an miTitebas, romel ic amgvari zomebis ganxorciel ebas iTval iswinebs.

samarTal damcavi sferos moxel eTa qcevis kodeqsi, miRebul i gaerTi anebul i erebis organizaciis mier

ganacxadebs ra, rom samarTal damcavi sferos arcerT moxel es ara aqvs ufl eba ganaxorciel os, waaqezos an Seurigdes wamebis da sxva sastiki, araadamianuri an damamcirebel i mopyrobis an sasjel is faqtebs, me-5 muxl i ayal ibebs wamebisa da sxva arasaTanado mopyrobis akrZal vis kategoriul moTxovnas. garda amisa, es muxl i krZal avs xel mZRvanel obisagan miRebul i brZanebebisa an gansakuTrebul i garemoebebis moSvel iebas wamebisa an sxva aramarTi zomieri moqmedebebis gasamarTi ebl ad.

am muxl is b. punktis komentarsi moyvanil ia wamebis is gansazRvreba, romel sac wamebis da sxva sastiki, araadamianuri an Rirsebis Seml axavi mopyrobis an sasjel isagan yovel i adamianis dacvis Sesaxeb dekl araciis 1-l i muxl i izl eva.

wamebis da araadamianuri an Rirsebis Seml axavi mopyrobis an sasjel is arKveTis evropul i konvencia

konvencia wamebis akveTis Sesaxeb am konvenciis Tanaxmad Seqmnil wamebis

sawinaaRmdago komitets aniWebs mxol od imis ufl ebamosil ebas, rom Seamowmos Tavisufl ebaaRkveTil pirTa mdgomareoba da pirobebi sasjel aRsrul ebiT dawesebul ebebiSi, raTa Tavidan iqnes acil ebul i patimarTa ufl ebebis xel yofa. komitets kompetenciaSi ar Sedis uzrunvel yos Sesabamisi sadamsjel o RonisZiebebi aseTi darRvevebis SemTxvevaSi.

konvenciis mizania daexmaros saxel mwifoebis ukeT daicvan Tavisufl ebaSezRudul pirTa ufl ebebi da ara is, rom daZraxos isini am sferoSi arsebul i xarvezebisatvis. amdenad, komitetsa da konvenciaSi monawil e mxareTa urTierTobebi TanamSroml obisa da konfidencial urobis principebzea damyarebul i. TanamSroml oba gul isxmobs, rom komitets wevrebs SeuZl iaT moinaxul on nebismieri adgil i, sadac saxel mwifos mier Tavisufl ebaSezRudul i pirebi imyofebian, Tuki amis ganxorciel ebas raime gansakuTrebul i garemoeba ar uSl is xel s.

konfidencial urobis principis amosaval i aseT TanamSroml obaze damyarebul i urTierTobaa. komitets Sefasebebis da daskvnebis saj arod gamoqveynebis saWiroeba warmoiSveba mxol od maSin, Tu saxel mwifo ar TanamSroml obs komitetTan, an uars ambobs komitets rekomendaciebis Sesrul ebaze.

komiteti ori saxis _ periodul da sagangebo – vizitebs axorciel ebs. periodul i vizitebi komitets grZel vadiani samuSao ganrigiTaa gansazRvrul i da regul arul ad xorciel deba konvenciaSi monawil e yvel a saxel mwifoSi. sagangebo vizitebi ewyoba maSin, rodesac amas „garkveul i garemoebebis gaTvaliswinebiT komiteti miicnevs aucil ebl ad“.

komiteti ufl ebamosil ia konfidencial ur pirobebiSi piradad gaesaubros nebismier Tavisufl ebaaRkveTil pirs da SeuZRudavad iqonios urTierToba yvel asTan, visac, komitets azrit, SeuZl ia saWiro informacia miawodos mas. yovel i vizitis Semdeg komiteti amzadebs moxsenebas, romel Sic Camoyal ibebul ia komitets daskvnebi da, saWiroebis SemTxvevaSi, misi rekomendaciebi da rCevebi xel isufl ebisa da Sesabamisi uwyebebisadmi.

dekl aracia wamebis da sxva sastiki, araadami anuri an Rir sebis Seml axavi mopyr obis an sasjel isgan yovel i adami anis dacvis Sesaxeb

am dekl aracias iuridiul ad saval debul o Zal a ara aqvs. mis 1-l muxl Si mocemul ia wamebis ganmarteba, xolo dekl araciis sxva debul ebebi Seicavs iseT motxovnebs, rogoricaa: samarTal damcavi sferos moxel eTa mosamzadebel kursebSi wamebis akrZal vastan dakavSirebul i sakiTxebis srul ad gaTval iswineba (muxl i 5); TiToeul i saxel mwifos mier sistematuri kontrol is warmoeba dakiTxvis sxvadasxva xerxebsa da maT praqtikul gamoyenebaze, agreTve Tavisufl ebis aRkveTis adgil ebSi arsebul pirobebsa da aq moTavsebul i pirebisadmi mopyrobaze sistematuri kontrol is warmoeba (muxl i 6); da wamebis Taobaze yovel i saCivris dauyovnebel i gamoZiebis aucil ebl oba (muxl i 9).

wamebis da sxva sastiki, araadami anuri an Rir sebis Seml axavi mopyr obis an sasjel is sawinaaRmdago konvencia

iuridiul ad saval debul o am xel Sekrul ebis 1-l muxl Si wameba Semdegnairad aris ganmartebul i:

„am konvenciaSi, termini „wameba“ aRniSnavs nebismier mizandasaxul qmedebas, roml is Sedegadac pirovnebisTvis miyenebul i mZime fizikuri an fsiqikuri tkivil i an gancda emsaxureba misgan an mesame pirisgan informaciis an aRiarebis mopovebas, misi an mesame piris mier Cadenil i qmedebis an am qmedebaSi monawil eobis eWvis gamo pirovnebis dasjas, an mis an mesame

piris daSinebas an iZul ebas, an pirovnebis raime niSnIT diskriminacias, da rodesac aseTi tkivil i an ganxda saxel mwifo moxel is, an oficial uri moval eobis Semsrul ebel i piris mier, misi waqezebiT, TanxmobiT an nebarTviT aris miyenebul i. igi ar moicavs im tkivil sa Tu ganxdas, romel ic SeiZl eba axl des kanonieri sanqciebis ganxorciel ebas.”

es gansazRvreba emyareba gaeros wamebis sawinaaRmdego dekl araciis 1-l muxl Si Camoyal ibebul gansazRvrebas, romel ic agreTve Setanil ia samarTal damcavi sferos moxel eTa qcevis kodeqsis me-5 muxl Si (orive aRniSnul i dokumenti Setanil ia TandarTul masal ebSi; ix. „ZiriTadi dokumentebi”).

dekl araciaSi mocemul ganmartebasTan SedarebiT, konvenciaSi Sesul i ganmarteba ufro vrcel ia. magal iTad, aq wamebis Sesazl o miznebad agreTve dasaxel ebul ia dasj a mesame piris mier Cadenil i qmedebis gamo, msxverpl is an mesame piris iZul eba, da diskriminacia. konvenciaSi aseve ganvrcobil ia saxel mwifos pasuxismgebl obac, rac saxel mwifo moxel eTa „TanxmobiT an nebarTviT” Cadenil qmedebeansac moicavs.

rogorc ganxil ul i gansazRvrebidan Cans, wamebasa da aramarTebul i mopyrobis sxva gamovl inebebs ori faqtori ganasxvavebs – tkivil isa da ganxdis simZafre da daniSnul eba, anu mizani.

konvencia Seicavs dekl araciis msgavs debul ebebs samarTal damcavi sferos moxel eTa momzadebasTan (muxl i 10), dakiTxvis meTodebsa da praqtikaze sistematuri kontrol is warmoebasTan (muxl i 11) da wamebis Taobaze yovel i saCivris swrafi gamoziebis aucil ebl obasTan (muxl i 12) dakavSirebiT.

konvenciis Tanaxmad Seqmnil i wamebis sawinaaRmdego komiteti ganxil avs mxareebis mier periodul ad warmodgenil moxsenebebs da awarmoebs sistematuri wamebis faqtebis mokvl evas.

princi pebis krebul i nebi smieri formiT dakavebul an dapatimrebul pirTa dacvis Sesaxeb

ufl ebaTa dacvis es detal urad damuSavebul i dokumenti 39 principisgan Sedgeba. 1-l i principi moicavs patimarTa mimarT humanuri mopyrobis ZiriTad val debul ebas, xol o me-6 principi imeorebs moTxovnas wamebis akrZal vis Sesaxeb. dokumenti aseve Seicavs sxvadasxva debul ebebs patimrebis mdgomareobaze sasamarTl o zedamxedvel obis, iuridiul i daxmarebis miRebis, oj axis wevrebTan urTierTobis, saTanado samedicino kontrol is ganxorciel ebis, dakavebis saregistracio da patimrobis periodSi saaRricxvo Jurnal ebis warmoebisa da sxva mniSvnel ovani sakiTxebis Taobaze. 7.2 principis Tanaxmad, krebul is moTxovnebis darRvevis an Sesazl o darRvevis aRmoCenis SemTxvevaSi yvel a moxel e val debul ia amis Sesaxeb acnobos xel mZRvanel obas.

21-e principi ayal ibebs dakavebul Ta dakiTxvis mniSvnel ovan standartebs. 21.a. punqtis Tanaxmad, akrZal ul ia dakavebul is mdgomareobis borotad gamoyeneba im mizniT, rom aiZul o igi aRiaros, daibral os, an misces Cveneba sxva adamianis winaaRmddeg. 21.b. punqtSi naTqvamia, rom dakiTxvis procesSi dauSvebel ia patimris mimarT Zal adobis, muqaris an dakiTxvis iseTi meTodebis gamoyeneba, roml ebic zemoqmedeben misi gansj isa da gadawyvetil ebis miRebis unarze.

xel Sekrul ebis organoTa daskvnebi da gadawyvetil ebebi

xel Sekrul ebis organoTa daskvnebsa da gadawyvetil ebebsi, roml ebic a danarTSia moyvanil i, gamoTqmul ia Semdegi ZiriTadi mosazrebebi:

1. wameba yovel Tvis araadamianur da Rirsebis Seml axav mopyrobas gul isxmobs, xol o araadamianuri mopyroba amave dros Rirsebis Seml axavicaa.

2. araadamanuri mopyroba iseTi mopyrobaa, romel ic gamiznul ad ayenebs adamians mZime fsiqikur an fizikur tanj vas.

3. pirovnebisadmi mopyroba an dasja Rirsebis Seml axavia, Tu igi uxeSad Seuracxyofs mas sxvebis winaSe da ubiZgebs sakuTari nebis an sindisis sawinaaRmdego moqmedebisken.

4. wameba aris „araadamanuri mopyroba, romel ic informaciis an aRiarebis miRebis, an sasjel is mizniT xorciel deba da igi, sazogadod, araadamanuri mopyrobis umZimes gamovl inebas warmoadgens“.

5. sensorul i deprivacia, romel ic pirovnebas arTmevs grZnobebis gamoyenebis Sesazl ebl obas da fizikur da fsiqikur zemoqmedebas axdens masze, „araadamanur da damamcirebel mopyrobas“ warmoadgens, radganac igi ar iwvevs im xarisxisa da sisastikis tanj vis gancdas, rac sityva „wamebaSi“ igul isxmeba.

6. danaSaul is, kerZod, terorizmis winaaRmdeg brZol is saqmeSi arsebul ma udavo siZnel eebma ar SeiZl eba gamoiwvios pirovnebis fizikuri xel Seuxebl obis SezRudva.

pol iciis saqmianoba da adamianis ufl ebebi

ZiriTadi saki xebi :

1. wamebisa da aramarTebul i mopyrobis srul i da upirobo akrZal vis aRiarebisa da dacvis mniSvnel oba.

2. imis gacnobierebis aucil ebl oba, rom aranairi garemoeba, maT Soris zemdgomTagan miRebul i brZanebebi Tu gansakuTrebul i garemoebebi, ar SeiZl eba iqnes gamoyenebul i wamebis an aramarTebul i mopyrobis gasamarTl ebl ad.

3. pol iciis xel mZRvanel obis moval eobaa:

a. pol iciis TanamSromel Ta momzadeba – pol iciis xel mZRvanel obam unda uzrunvel yos, rom yvel a pol iciis moxel e kargad icnobdes wamebis akrZal vis moTxovnas; gavl il i hqondes momzadeba dakavebul pirebTan saTanado mopyrobisa da maTi dakiTxvis warmarTvis iseT meTodebSi, roml ebic zemoqmedebas ar axdenen dakavebul Ta gansj isa da gadawyvetil ebis miRebis unarze.

b. kontrol i da zedamxedvel oba – pol iciis xel mZRvanel obam mudmivi kontrol i unda awarmoos dakavebul ebTan mopyrobasa da maTi dakiTxvis meTodebze, zedamxedvel oba gauwios xel qveitebis mier kanonebis, wesebisa da saxel mZRvanel o miTitebebis dacvas am Tval sazrisiT.

g. wamebisa da aramarTebul i mopyrobis Taobaze saCivrebis gamoZieba - xel mZRvanel obam unda uzrunvel yos wamebisa da aramarTebul i mopyrobis Taobaze Semosul i ganacxadebis dauyovnebel i da yovel mxrivi gamoZieba.

4. yovel i pol iciei i val debul ia:

a. kargad esmodes, rom misi moval eobaa ar daemorCil os aranair brZanebas an miTitebas, romel ic pirovnebis wamebas an mis mimarT aramarTebul mopyrobas moiTxovs.

b. srul ad hqondes gacnobierebul i, rom wamebis da araadamanuri an Rirsebis Seml axavi mopyrobis an sasjel is arKveTis evropul konvenciaSi monawil e saxel mwi foebSi wamebis sawinaaRmdego komitets ufl eba aqvs moinxul os dakavebis adgil ebi, maT Soris pol iciis ganyofil ebebi.

Tavi 4: Tavisufl ebisa da pirovnebis xel Seuxebl obis ufl eba

nawili a – samarTl ebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl aracia, muxli 3

yvel a adami anis aqvs sicocxli s, Tavisufl ebisa da pirovnebis xel Seuxebl obis ufl eba.

adami anis ufl ebaTa sayovel Tao dekl aracia, muxli 9

dauSvebel ia nebismeri adami anis TviTneburad dakaveba, dpatimreba an gaZeveba.

adami anis ufl ebaTa evropul i konvencia, muxli 5

1. yvel a adami anis aqvs Tavisufl ebisa da pirovnebis xel Seuxebl obis ufl eba. ar SeiZl eba aravis Tavisufl ebis aRkveTa garda qvemoT CamoTvli il i SemTxvevebisa, kanoniT dadgenil i wesis Sesabamisad:

a. pirovnebis kanonieri dakaveba Sesabamisi kompetenciis sasamarTl os gamamtyunebel i ganaCenis safuZvel ze;

b. pirovnebis kanonieri dpatimreba an dakaveba sasamarTl os kanonieri ganCinebis daumocil ebl obisatvis, an kanoniT gansazRvrul i romel ime val debul ebis Sesrul ebis uzrunvel sayofad;

g. pirovnebis kanonieri dpatimreba an dakaveba marTl msaj ul ebis ufl ebamოსil i organos winaSe misi wardgenis mizniT, Tu arsebobs danaSaul is CadenaSi misi monawil ebis safuZvli iani eWvi, an Tu pirovnebis dpatimreba an dakaveba...aucil ebl ad aris micneul i mis mier danaSaul is Cadenis an danaSaul is Semdeg misi gaqcevis Tavidan asacil ebl ad;

d. arasrul wl ovanis dakaveba kanonieri brZanebis safuZvel ze, mis mimarT saswavl o-aRmzrdel obiTi zedamxedvel obis ganxorciel ebis mizniT an misi kanonieri dakaveba Sesabamisi marTl msaj ul ebis organos winaSe mis warsadgenad;

e. pirovnebis kanonieri dakaveba infeqciuri daavadebis gavrcel ebis Tavidan acil ebis mizniT; fsiqurad daavadebul i pirebis, l oTebis, narkomanebis an mawanwal ebis kanonieri dakaveba;

v. pirovnebis kanonieri dpatimreba an dakaveba misi qveyanaSi ukanonod Sesvl is aRsakvetad, an Tu mis winaaRmdeg xorciel deba deportaciis an eqstradiaciis RonisZiebebi.

2. nebismer dpatimrebul pirs dauyovnebl iv, mistvis gasageb enaze, unda ecnobos dpatimrebis mizezebi da mis winaaRmdeg wayenebul bral debaTa Sinaarsi.

3. am muxli s 1.g. qvepunctis debul ebaTa Sesabamisad dpatimrebul i an dakavebul i nebismeri piri dauyovnebl iv unda iqnes wardgenil i mosamarTl is an marTl msaj ul ebis ganxorciel ebaze ufl ebamოსil i sxva moxel is winaSe da hqondes saTanado vadebSi misi saqmis sasamarTl oSi ganxil vis an sasamarTl omde ganTavisufl ebis ufl eba. ganTavisufl eba SeiZl eba moxdes sasamarTl oSi gamocxadebis garantiis safuZvel ze.

4. dpatimrebis an dakavebis Sedegad Tavisufl ebaaRkveTil nebismer pirs ufl eba aqvs sasamarTl oSi gaasacivros misi dakavebis kanoniereba. sasamarTl o val debul ia swrafad ganxil os es sacivari da ganTavisufl os aRniSnul i piri, Tu misi dakaveba ukanonoa.

5. yvel as, vinc gaxda am muxl is debul ebaTa darRveiT ganxorciel ebul i dpatimrebis an dakavebis msxverpl i, aqvs ufl eba moiTxovos kompensacia.

sxva wyaroebi:

evropis sabWos dekl aracia pol iciis Sesaxeb.

principebis krebul i nebismieri formiT dakavebul an dpatimrebul pirTa dacvis Sesaxeb.

Tavi 4: Tavisufli ebisa da pirovnebis xel Seuxebl obis ufl eba

nawili b – saswavi o kazusebi

saswavi o kazusi 4.1

1. adamianis ufl ebaTa evropul i konvenciis me-5 muxl i aRiarebs yovel i adamianis Tavisufli ebisa da piradi xel Seuxebl obis ufl ebas.

amave muxl iT gansazRvrul ia is eqvsi SemTxveva, rodesac nebadarTul ia dapetimreba an dakaveba. maT Sorisaa „danaSaul Si monawil eobis dasabuTebul i eWvis safuZvel ze pirovnebis kanonieri dakaveba an dapetimreba marTI msaj ul ebis ufl ebamosil i organos winaSe misi wardgenis mizniT“.

me-5 muxl i aseve moitXovs, rom „nebismier dapetimrebul pirs dauyovnebl iv, mistvis gasageb enaze, unda ecnobos dapetimrebis mizezebi“

gansaxil vel i sakiTxebi policiis yvel a rangis moxel eTaTvis:

1. ganixil eT, ratomaa Tavisufli ebisa da pirovnebis xel Seuxebl obis ufl eba esoden mniSvel ovani da ra gzebiT SeuZl ia policias am ufl ebis dacva da pativiscema.

2. gaaanalizeT me-5 muxl Si mocemul i im eqvsi saxis SemTxveva, rodesac nebadarTul ia dapetimreba an dakaveba da Camoayal ibeT dapetimrebisa da dakavebis nebismieri sxva safuZveli, romelic, Tqveni azriT, Setanili unda iyos aRniSnul muxl Si. ganmartet da daasabuteT Tqveni mosazrebebi.

3. ra codna da unar-Cvevebi unda hqondes policiis moxel es imisaTvis, rom man pirovnebis dakaveba mxol od kanonier safuZvel ze da Zal ismieri meTodebis minimal uri gamoyenebiT moaxdinos.

gansaxil vel i sakiTxebi operatiuli martvisa da zedamxedvel obis ganxorciel ebaze pasuxismgebel i policiis moxel eebi saTvis:

1. ganixil eT cneba „danaSaul is CadenaSi monawil eobis safuZvl iani eWvi“ da Camoayal ibeT, Tu rogor ganumartavdiT am gamoTqmis mniSvel obas Tqvens xel qveitebs. moyivaneT ramdenime konkretul i magal iTi Tqveni ganmartebis sail ustraci od.

2. ganixil eT, ratom aris mniSvel ovani pirovnebisTvis, rom mas saswrafod da mistvis gasageb enaze ganemartos dapetimrebis mizezebi. ra procedurebi arsebobs Tqvens uwyebaSi imistvis, rom ganxorciel des aRniSnul i moTxovna? rogor aris uzrunvel yofil i am procedurebis Sesrul eba?

sakuT ar i Canawer ebi saT vi s:

Tavi 4: Tavisufli ebisa da pirovnebis xel Seuxebl obis ufl eba

nawili g - saxel mZRvanel o miTi Tebebi I eqtorebisa da sxvasaswavi o personalisaTvis

Seni Svna: aq ganxil ul i samarTl ebrivi aqtebis srul i teqsti SegiZl iaT ixil oT TandarTul masal ebSi (ix. „ZiriTadi dokumentebi“). amonawerebi xel Sekrul ebis organoTa daskvnebidan da gadawyvetil ebebidan amoRebul ia krebul is a danarTSi moyvanil i saqmeebidan.

samarTl ebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl aracia

Tavisufli ebisa da pirovnebis xel Seuxebl obis ufl eba adami anis erT-erTi ZiriTadi ufl ebaa da sayovel Tao dekl araciis me-3 muxl iT sicocxl is ufl ebaTan erTad aris dacul i. igi uzrunvel yofs pirovnebis Tavisufli ad gadaadgil ebis, fizikuri SezRudvebisagan Tavisufli ebisa da am Tavisufli ebis samarTl ebrivi dacvis ufl ebas. pirovnebis xel Seuxebl oba ki ukanono dakavebisa da dapetimrebisagan dacvas iTval iswinebs.

pirovnebas aqvs ufl eba dacul i iyos saxel mwifos mxridan Tavisufli ebis TviTneburad aRkveTisagan da swored es ufl ebaa mkafiod gansazRvrul i dekl araciis me-9 muxl iT.

adami anis ufl ebaTa evropul i konvencia

me-5 muxl i adgens Tavisufli ebisa da pirovnebis xel Seuxebl obis ufl ebas. misi 1-l i punqti iZl eva im eqvsi SemTxvevis amomwurav CamonaTvals, rodesac pirovnebis dakavebis an dapetimrebis dasaSvebi safuZveli arsebobs da icavs mas Tavisufli ebis TviTneburad aRkveTisagan. me-2 – me-4 punqtebSi Camoyal ibebul ia is procesual uri ufl ebebi, roml ebic yvel a aRniSnul SemTxvevaSi unda iqnes dacul i.

Tumca pol icia SeiZl eba monawil eobdes 1-l punqtsi mocemul i eqvsive mizeziT pirovnebis Tavisufli ebis aRkveTis operaciaSi, pol icisaTvis yvel aze metad aqTual uri mainc 1.g. qvepunqtiT gansazRvrul i SemTxvevebia (dapetimreba an dakaveba danaSaul Si monawil eobis dasabuTebul i eWvis safuZvel ze, agreTve danaSaul is Cadenisa an danaSaul is Semdeg gaqcevis aRkveTis aucil ebl obidan gamomdinare).

unda aRniSnos, rom 1.g. qvepunqtsi Camoyal ibebul i debul ebebi amomwuravia da ar SeiZl eba maTi sxva, am punqtiT gauTval iswinebel i miznebiT gamoyeneba, magal iTad, pirovnebis dakaveba sxvebis Sesaxeb informaciis mosapovebl ad da sxva.

evropis sabWos dekl aracia pol icis Sesaxeb

dekl araciis me-8 muxl i iTval iswinebs pirovnebis xel Seuxebl obis ufl ebas adami anebis im kategoriisTvis, romel Ta Cxreka, dakaveba an samarTl Si micema xdeba maTi rasis, rel igiis an politikuri mrwamsis mizeziT da ara imitom, rom isini raime ukanono qmedebis CadenaSi arian eWvmitanil i. aRniSnul i muxl i ukrZal avs pol icias monawil eoba miiRos aseT pirovnebaTa aRmoCenaSi, adgil samyoFel is dadgenaSi, dakavebaSi, dacva-Tanxl ebas Tu dainteresebul i mxarisaTvis maT gadacemaSi.

principebis krebul i nebismieri saxiT dakavebul an dapetimrebul pirTa dacvis Sesaxeb

krebul Si Setanil i principebis mokle aRwera mocemul ia am saxel mZRvanel os

me-3 TavSi. ramdenime principi uSual od dapatiTrebis sakiTxebs exeba da evropul i konvenciis me-2_me-5 punqtebiT gaTval iswinebul garantiEs moicavs.

kerZod, mniSvel ovania Semdegi debul ebebis aRniSvna:

principi 2 moiTxovs, rom dapatiTreba mxol od kanonier safuZvel ze da kompetenturi organoebis mier unda xorciel debodes;

principi 12 moiTxovs oqmebis warmoebas dapatiTrebis mizezebis, drois, dakavebis adgil ze patimris miyvanis, agreTve marTI msaj ul ebis winaSe misi pirvel i wardgenis Sesaxeb;

principi 13 moiTxovs, rom dakavebul s saswrafod ecnobos da ganemartos misi ufl ebebi;

principi 14 moiTxovs, rom dakavebul s, romel sac oficial uri ena sakmarisad kargad ar esmis, aRniSnul i informacia mistvis gasageb enaze miwodos;

principi 16 moiTxovs, rom ojaxis wevrebs an axl obl ebs saswrafod ecnobot dakavebul i piris adgil samyofel i.

xel Sekrul ebis organoTa daskvnebi da gadawyvetil ebebi

xel Sekrul ebis organoTa daskvnebsa da gadawyvetil ebebsi, roml ebic a danarTSia moyvanil i, gamoTqmul ia Semdegi ZiriTadi mosazrebebi:

1. kanoniereba gul isxmobs qveynis material uri da procesual uri samarTI is normebTan da, agreTve, konvenciis me-5 muxl Tan Sesabamisobas, romel ic pirovnebis TviTnebobisagan dacvas iTval iswinebs.

2. demokratiul sazogadoebaSi, romel ic kanonis uzenaesobas emyareba, aranairi TviTneburi dakaveba ar SeiZl eba CaiTval os kanonierad.

3. mafiis wevrobaSi eWvmitanil i piris patara kunZul ze gamomwyvdeva pol iciis mkacri zedamxedvel obis qveS CaiTval a Tavisufl ebis aRkveTad, xol o SedarebiT did kunZul ze da nakl ebad mkacri zedamxedvel obis qveS iZul ebiTi cxovreba ar iqna miCneul i Tavisufl ebis aRkveTad.

4. Tavisufl ebis aRkveTas ar hqonda adgil i, roca pol iciis ganyofil ebaSi ori saatis ganmavl obaSi mimdinareobda aTi wl is gogonas dakiTxva, magram am dros igi ar iyo Caketil i.

5. me-5 muxl is 1.b. qvepunqti ar iTval iswinebs sazogadoebrivi simSvidis, sazogadoebrivi wesrigis an saxel mwifo uSiSroebis dacvis mizniT dapatiTrebas an dakavebas.

6. usafrTxoebis mizniT Semowmeba SeiZl eba CaiTval os me-5 muxl is 1.b. qvepunqtiT gaTval iswinebul val debul ebad.

7. konvenciis me-5 muxl is 1.g. qvepunqtiT gaTval iswinebul i „eWvis safuZvl ianobis“ moTxovna, TviTneburi dapatiTreba da dakavebisagan dacvis mniSvel ovani garantiaa.

8. „safuZvl iani eWvis“ qona gul isxmobs iseTi sarwmuno faqtebisa da informaciis arsebobas, romel Ta safuZvel zec obieqturi damkvirvebel i miiCnevda, rom mocemul pirs SeeZl o Caedina aRniSnul i danaSaul ebrivi qmedeba.

9. eWvis safuZvl ianobis dadgenisas unda gaTval iswinebul iqnes yvel a arsebul i garemoeba. teroriznis gansakuTrebul i bunebidan gamomdinare, terorizmsi eWvmitanil Ta dasapatiTrebl ad eWvis safuZvl ianoba SeiZl eba yovel Tvis imave kriteriუმებიT ar Sefasdes, rac sxva xasiaTis danaSaul obaTa SemTxvevaSi gamoiyeneba. amave dros, ar SeiZl eba am mizeziT gamarTI ebul i iyos „safuZvl ianobis“ cnebis imgvari viwro

gageba, rodesac dairRveva pirovnebis Tavisufl ebisa da xel Seuxebl obis me-5 muxl is 1.g. qvepunqtiT uzrunvel yofil i garantiebi.

10. me-5 muxl is me-2 punqti Seicavs im el ementarul garantias, rom yovel ma dakavebul ma pirma unda icodes, Tu ratom moxda misi Tavisufl ebis arKveTa. es moTxovna me-5 muxl iT gansazRvrul i dacvis meqanizmis ganuyofel i nawil ia.

11. yvel a dakavebul s martiv, gasageb enaze unda ganemartos misi dakavebis iuridiul i da faqtobrivi safuZvel i, raTa mas hqondes saSual eba, Tuki amas saWirod miiCnevs, mimarTos sasamarTl os misi dakavebis kanonierebis dadgenis moTxovniT.

12. Tumca dakavebul pirs es informacia (dakavebis safuZvel i) „dauyovnebl iv“ unda ecnobos, es moTxovna ar gul isxmobs, rom mas dakavebis momentSive srul ad unda mieces aseTi axsna-ganmarteba uSual od im moxel is mier, vinc misi dakavebis operacias axorciel ebs.

13. is, Tu ramdenad srul yofil ad da droul ad iqna miwodebul i es informacia, unda Sefasdes yovel i cal keul i SemTxvevis konkretul garemoebaTa gaTval iswinebiT.

14. dakavebul pirs sakmarisi ganmarteba unda mieces im faqtebisa da mtkicebul ebebis Taobaze, romel Ta safuZvel zec iqna miRebul i gadawyvetil eba misi dakavebis Sesaxeb. kerZod, mas unda mieces SesaZl ebl oba aRiaros an uaryos mis mimarT wayenebul i bral debebi.

15. me-5 muxl is 1.g. qvepunqtis im debul ebasTan dakavSirebiT, romel ic uSvebs pirovnebis kanonier dakavebas, Tuki es „aucil ebl ad aris miCneul i mis mier danaSaul is Cadenis an danaSaul is Semdeg misi gaqcevis asacil ebl ad“, aucil ebel ia mTl ianad 1.g. qvepunqtis gaTval iswineba, roml is Tanaxmadac aseTi dapetimreba an dakaveba dasaSvebia mxol od „marTl msaj ul ebis ufl ebamosil i organos winaSe misi wardgenis mizniT“. aseve aucil ebel ia am muxl is me-3 punqtis gaTval iswinebac, romel ic moitXovs, rom 1-1 i punqtiT dasvebul i dapetimreba an dakaveba mxol od sasamarTl o ganxil vis wina stadia iyos (sxva sityvebiT rom vTqvaT, me-5 muxl is 1.g. qvepunqti muxl i internirebas, an prevenciul dakavebas ar iTval iswinebs).

16. oTxive pirovnebis dakaveba (Sesamabisad: xuTi dRiTa da TerTmeti saaTiT, eqvsi dRiTa da Teqvsmetnaxevari saaTiT, oTxi dRiTa da eqvsi saaTiT da oTxi dRiTa da TerTmeti saaTiT) scil deba konvenciis 5.3 muxl iT gansazRvrul i mkacri vadebis fargl ebs. arc erTi dakavebul i ar iqna „dauyovnebl iv“ wardgenil i mosamarTl is winaSe da arc „dauyovnebl iv“ iqna ganTavisufl ebul i Sepyrobis Semdeg.

17. (sasamarTl os winaSe dauyovnebl iv wardgenis/saTanado vadaSi sasamarTl o ganxil vis/sasamarTl omde ganTavisufl ebis 5.3 muxl Si Camoyal ibebul ufl ebebTan dakavSirebiT) – yovel i gansasjel is winaswari patimrobis mizanSewonil oba unda gadawydes konkretul ad misi saqmis garemoebaTa Sefasebidan gamomdinare.

18. (sasamarTl os winaSe dauyovnebl iv wardgenis/saTanado vadaSi sasamarTl o ganxil vis/sasamarTl omde ganTavisufl ebis 5.3 muxl Si Camoyal ibebul ufl ebebTan dakavSirebiT) – evropul ma sasamarTl om unda gansazRvros ramdenad safuZvl iani da adekvaturi mizezebi iqna warmodgenil i qveynis xel isufl ebis mier imis dasasabuTeb ad, rom winaswari patimrobis gagrZel eba mizanSewonil i iyo da ar warmoadgenda 5.3 muxl is sawinaaRmdego qmedebas. amisaTvis sasamarTl om unda ganxil os is faqtebi da garemoebebi, roml Tac iSvel iebda orive mxare samarTal warmoebis yvel a ganvl il etapze.

19. (sasamarTl os winaSe dauyovnebl iv wardgenis/saTanado vadaSi sasamarTl o ganxil vis/sasamarTl omde ganTavisufl ebis 5.3 muxl Si Camoyal ibebul ufl ebebTan dakavSirebiT) – 5.3 muxl is daskvniTi winadadeba miuTiTebis, rom Tu winaswari patimrobis erTaderT mizezad gamoZiebisa da sasamarTl osagan bral debul is damal vis SiSi rCeba, igi ganTavisufl ebul unda iqnes sasamarTl o procesamde, Tuki SesaZl ebel ia sasamarTl o da sagamoZiebo organoebSi misi gamocxadebis garantiebis (piradi val debul eba, Tavdeboba) mopoveba.

20. (dapetimrebisa da dakavebis „kanonTan Sesabamisobis“, kerZod ki kanoniT gansazRvrul vadebSi winaswari patimrobidan ganTavisufl ebis sakiTxTan dakavSirebiT) – evropul sasamarTI os zogierT SemTxvevaSi gauTval iswinebia, rom dakavebul i piris ganTavisufl eba SeiZl eba garkveul i, mcire droiT gaWianurdes. Tumca aseT SemTxvevebSi dakavebis vada kanonmdebl obiT ar iyo gansazRvrul i da ganTavisufl ebis Sesaxeb gadawyvetil eba sasamarTI os unda mieRo. sasamarTI oSi saqmeTwarmoebis procesual uri moTxovnebis da kanoniT gansazRvrul i sxva procedurebis gaTval iswinebiT, aseTi gadawyvetil ebis gamotanasa da aRsrul ebas garkveul i dro SeiZl eba dasWirdeS. im SemTxvevaSi, rodesac dakavebis maqsimal uri xangrZI ivoba kanoniTaa dawesebul i da amdenad winaswar aris cnobil i, Sesabamisi organoebi moval eni arian miRon yvel a aucil ebel i zoma, raTa winaswari dakavebis xangrZI ivobam dasaSvebs ar gadaaWarbos.

pol iciis saqmianoba da adamianis ufl ebebi

mniSvnel ovania imis gacnobiereba, rom:

1. Tavisufl ebisa da pirovnebis xel Seuxebl obis ufl eba adamianis ZiriTadi ufl ebebia.
2. pol iciam Tavisufl ebis aRkveTis ufl ebamosil eba marTI zomierad da kanonis srul i dacviT unda ganaxorciel os.
3. pol iciis xel mZRvanel obis moval eobaa:
 - a. pol iciis TanamSromel Ta momzadeba - pol iciis xel mZRvanel obam unda uzrunvel yos, rom yvel a pol iciis moxel em kargad icodes Tavisi ufl ebebi da moval eobebi Tavisufl ebis aRkveTasTan dakavSirebiT.
 - b. zedamxedvel oba – pol iciis xel mZRvanel obam zedamxedvel oba unda gauwios kanonis moTxovnaTa ganuxrel Sesrul ebas pol iciis mier pirovnebis dakavebis da dapetimrebisas; agreTve, gaakontrol os dakavebul Ta ufl ebebis da procesual uri norme bis dacva.
4. yovel i pol icie l is pasuximgebl obaa:
 - a. danaSaul Si monawil eobisa an danaSaul is ganzraxvis eWvis safuZvel ze pirovnebis dakavebisas imoqmedos mxol od obieqtur faqtebsa da informaciaze dayrdnobiT.
 - b. ganuxrel ad Seasrul os dakavebasTan dakavSirebul i yvel a wesi da procesual uri moTxovna da uzrunvel yos dakavebul i pirTa ufl ebebis dacva.

Tavi 5: samarTI i ani sasamarTI o ganxil vis ufl eba

nawil i aA- samarTI ebrivi aqtebi

adami ani s ufl ebaTa sayovel Tao dekl aracia, muxl i 10

yvel a adamians misi ufl eba-moval eobebis da mis mimarT wayenebul i nebismeri bral debis dasadgenad aqvs ufl eba, rom misi saqme saj arod da samarTI ianobis yvel a moTxovnis dacviT, srul i Tanasworobis safuZvel ze, ganxil os damoukidebel ma da miukerZoebel ma sasamarTI om.

adami ani s ufl ebaTa sayovel Tao dekl aracia, muxl i 11

1. yvel a adamians, visac bral ad edeba danaSaul is CadenaSi monawil eoba, aqvs ufl eba iTvl ebodes udanaSaul od manam, sanam misi bral eul oba ar dadasturdeba kanoniT gansazRvrul i wesiTa da mistvis dacvis yvel a ufl ebis uzrunvel yofiT gamarTul i Ria sasamarTI o ganxil vis safuZvel ze.

2. aravis SeiZl eba daekisros sisxl issamarTI ebrivi pasuxismgebl oba iseTi qmedebis an umoqmedobis gamo, romel ic qveynis Sida kanonmdebl obisa an saerTaSoriso samarTI is mixedviT ar iTvl eboda danaSaul ad Cadenis momentSi. ar SeiZl eba agreTve imaze ufro mZime sasj el is dakisreba, vidre es kanonmdebl obiT iyo gaTval iswinebul i im dros, rodesac danaSaul i iqna Cadenil i.

adami ani s ufl ebaTa evropul i konvencia, muxl i 6

1. yvel a adamians Tavisi samoqal aqo ufl ebebisa da moval eobebis, an mis mimarT wayenebul i nebismeri bral debis dasadgenad aqvs damoukidebel i da miukerZoebel i sasamarTI os mier misi saqmis saTanado vadebSi, Ria da samarTI iani ganxil vis ufl eba. ganaCeni cxaddeba saj arod, magram presisa da sazogadoebisaTvis sasamarTI o procesi SeiZl eba, mTI ianad an nawil obriv, daxurul ad gamocxaddes, demokratiul saxel mwifoSi moral is, sazogadoebrivi wesrigisa da erovnul i uSiSroebis interesebidan gamomdinare, an rodesac amas arasrul wl ovanTa interesebi an modave mxareTa piradi cxovrebi dacva moiTxovs, an, mkacrad aucil ebel fargl ebSi, Tu sasamarTI o miicnevs, rom saqmis gansakuTrebul i garemoebidan gamomdinare, saj aroobam SeiZl eba ziani miayenos marTI msaj ul ebis interesebs.

2. yvel as, visac bral ad edeba danaSaul is CadenaSi monawil eoba, aqvs ufl eba iTvl ebodes udanaSaul od manam, sanam misi bral eul oba ar dadasturdeba kanoniT dadgenil i wesiT.

3. yvel as, visac bral ad edeba danaSaul is CadenaSi monawil eoba, sul mcire Semdegi ufl ebebi gaaCnia:

a. mas dauyovnebl iv, mistvis gasageb enaze da detal urad unda ecnobos Tu raSi da ra mizezebiT edeba bral i;

b. bral debul s unda mieces saTanado dro da saSual eba misi dacvis mosamzadebl ad;

g. daicvas Tavi piradad an mis mier SerCeul i advokatis meSveobiT, xol o Tu bral debul s damcvel is asayvanad saWiro saxsrebi ar moepoveba, mas unda daeniSnos advokati saxazino wesiT, Tu amas marTI msaj ul ebis ganxorciel ebis interesebi moiTxovs;

d. dakiTxos bral debis mowmeebi an moiTxovos maTi dakiTxva da hqondes mowmeTa gamoZaxebisa da dakiTxvis Suamdgoml obis ufl eba imave pirobebiT, rac bral debis mowmeebze vrcel deba;

e. isargebl os Tarj imnis ufaso momsaxurebiT, Tu mas ar esmis an ver saubrobs samarTal warmoebis enaze.

sxva wyar oebi :

principebis krebul i nebismeri formiT dakavebul an dpatimrebul pirTa dacvis Sesaxeb.

Tavi 5: samarTl i ani sasamarTl o ganxi l vi s
uf l eba

nawil i b - saswavl o kazusebi

Cawer eT Tqveni sakuTar i kazusebi .

Tavi 5: samarTl iani sasamarTl o ganxil vis ufl eba

nawil i g - saxel mZRvanel o miTiTebebi l eqtorebisa da sxva saswavl o personal isaTvis

Seni Svna: aq ganxil ul i samarTl ebrivi aqtebis srul i teqsti SegiZl iaTixil oT TandarTul masal ebSi (ix. „ZiriTadi dokumentebi“). amonawerebi xel Sekrul ebis organoTa daskvnebidan da gadawyvetil ebebidan amoRebul ia krebul is a danarTSi moyvanil i saqmeebidan.

samarTl ebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl araci a

samarTl iani sasamarTl o ganxil vis ganmsazRvrel i kriteriუმები მოცემულია მე-10 მუხლით. ეს უფლებები კანონის უზენაესობისა და ადამიანის უფლებების დაცვის უმნიშვნელოვანესი გარანტიებია.

მე-11 მუხლი ასევე მოიცავს სამართლიანი სასამართლო განხილვის არსებით პრინციპებს. ესენია: ბრალდების უდანაშაულობის პრეზუმფცია, აგრეთვე დანაშაულისა და სასჯელის რეტროაქტიულობის დაუსვებლობის პრინციპი.

ადამიანის უფლებების ევროპული კონვენცია

მე-6 მუხლის პირველი პუნქტი იმეორებს და განაზრახავს სამართლიანი სასამართლო განხილვის კრიტერიუმებს, რასაც ემატება ბრალდების სასამართლო პროცესის საჯაროობის შესაძლო სერუდვის პირობების დაზღვევა.

საქვეყნის ტერიტორიაზე, ევროპული კონვენცია „უფლებების“ ნაცვლად იყენებს ტერმინს „სამოქალაქო უფლებები და მოქალაქეობის უფლებები“. სამოქალაქო უფლებები და მოქალაქეობის უფლებები არის ნაწილობრივად, მაგალითად, სამოქალაქო სამართლის დარღვევების უფლებებისა და მოქალაქეობის კონვენციის აგრეთვე მოცემულია სასამართლოს მიერ საკმის „საბრალდებო ვადის“ განხილვის უფლება, რაც დარღვევების დროს საკმის სასამართლოსი გადაგზავნისა და სასამართლო პროცესის დროს დასრულებას გულახველობით. ეს უფლება ემთხვევა კონვენციის 5.3 მუხლით განსაზღვრულ უფლებას „საბრალდებო ვადის საკმის სასამართლოსი განხილვის“ დაზღვევა, თუმცა ეს უკანასკნელი პირობების თავისუფლების უფლებების დაცვასთან დაკავშირებული, ხოლო 6.1 მუხლით მოცემული ბრალდების სასამართლოს მიერ გადაყვანილების დროს დასრულებასთან დაკავშირებული უფლებების დაცვას.

მეორე პუნქტის გამოყენების უდანაშაულობის პრეზუმფციის უფლება, ხოლო მე-3 პუნქტი კი იმის ნაცვლად ბრალდების ხუთი სხვადასხვა უფლების გამოყენების შესახებ. ამ უფლებების დაცვის პროცესის მონაწილეთა ტანსვორუფლებების უზრუნველყოფა, რაც სამართლიანი სასამართლო განხილვის აუცილებელ მოთხოვნას წარმოადგენს.

პრინციპების კრებულის მიხედვით დაკავებულ ან დაპატიმრებულ პირების დაცვის შესახებ

ამ დოკუმენტის მრავალი ბრალდების იმეორებს ადამიანის უფლებების ევროპული კონვენციის გამოყენების უფლებების და აქდენს მათ შემდგომ დეტალიზაციას. კერძოდ:

მე-8 და 36-ე პრინციპები იმეორებენ ბრალდების უდანაშაულობის პრეზუმფციის პრინციპს და განაზრახავენ მის განხორციელებასთან დაკავშირებული საკითხებს.

მე-9 პრინციპი საგანგებო შემთხვევების შემთხვევაში მოქმედების კანონით

miniWebul i ufl ebamosil ebis fargl ebSi moqmedebas. ufl ebaTa gadameteba an maTi borotad gamoyeneba sasamarTI oSi ganxil vis sagani unda iyos.

me-11 principi uzrunvel yofs dakavebul Ta ufl ebas Tavad daicvan Tavi an mimarTon damcvel is daxmarebas.

me-17 da me-18 principebi advokatis yol is, masTan urTierTobisa da iuridiul i rCevebis miRebis ufl ebebs gansazRvraven.

21-e da 23-e principi dakavebul Ta dakiTxvasTan dakavSirebul mniSvel ovan debul ebebs moicavs da dakiTxvis mankieri formebis aRkveTas isaxavs miznad. es debul ebebi gansakuTrebiT mniSvel ovania, ramdenadac dakiTxvis dros zemoqmedebis ukanono zomebis gamoyenebam SeiZl eba yal bi aRiarebis iZul eba gamoiwvios, rac ewinaaRmdegeba samarTI iani sasamarTI o ganxil vis ufl ebis ganxorciel ebas.

27-e principi moiTxovs, rom mtkicebul ebaTa Sefasebisas aucil ebl ad iqnes gaTval iswinebul i, Tu isini krebul Si Camoyal ibebul i principebis darRveviT iqna mopovebul i.

xel Sekrul ebis organoTa daskvnebi da gadawyvetil ebebi

xel Sekrul ebis organoTa daskvnebsa da gadawyvetil ebebSi, roml ebic a danarTSia moyvani i, gamoTqmul ia Semdegi ZiriTadi mosazrebebi:

1. samarTI iani sasamarTI o ganxil vis ufl eba SeiZl eba gavrcel des rogorc disciplinarul i, aseve sisxl is samarTI is kanondarRvevebze. danaSaul is buneba da sasjel is simkacre ufro mniSvel ovania, vidre saxel mwifos mier am danaSaul is kl asifikacia.

2. iman, rom pol iciam moipova bral debul Ta aRiarebiTi Cvenebebi, roca maT ar hyavdaT advokati da xangrZl iv izol irebul patimrobaSi imyofebodnen, adamianis ufl ebaTa evropul i sasamarTI o daaeWva am CvenebaTa marTebul ebaze. am da sxva faqtorebis gaTval iswinebiT sasamarTI om daadgina, rom adgil i hqonda me-6 muxl is pirvel i punqtiT garantirebul i samarTI iani da sajaro sasamarTI o ganxil vis ufl ebis darRvevas.

3. xel isufl ebis warmomadgenl ebs gansakuTrebul i sifrTxile marTebT sagamoZiebo saqmeebTan dakavSirebiT sajaro gancxadebebis gakeTebisas, raTa ar moxdes bral debul is udanaSaul obis prezumfciis darRveva.

4. sasamarTI o procesis garSemo xmauris mizezi Tavad gansasjel Ta gancxadebebi da saqciel i SeiZl eba gaxdes. aseT SemTxvevaSi udanaSaul obis prezumfciis darRvevas adgil i ara aqvs.

5. Tumca bral debul is advokatTan urTierTobis ufl eba konvenciaSi pirdapir ar aris miTitebul i, es ufl eba gamoMdinareobs bral debul is ufl ebidan hqondes dacvis momzadebis...saSual eba (muxl i 6.3.b) da isargebl os damcvel is momsaxurebiT (muxl i 6.3.g).

6. muxl i 6.3.d ar aZl evs gansasjel s sasamarTI oSi mowmeTa gamoZaxebisa da maTi dakiTxvis moTxovnis SeuzRudav ufl ebas. vinaidan pol icii informators, roml is cnobebsac gamoZieba iyenebs, SeiZl eba srul iad kanonieri interesi hqondes, rom ar moxdes misi vinaobis gaxmaureba. aseT anonimurobaze uaris Tqmisa da sasamarTI oSi saval debul o gamocxadebis moTxovnis SemTxvevaSi, sakmaod didi informacia, romel ic danaSaul Si eWvmitanil Ta samarTal Si micemisTvisaa aucil ebel i, gamoZiebamde aRar mividoda.

7. nebismieri saqmisaTvis aucil ebel ia, rom moxdes sxvebis monayol ze agebul i,

arapirdapiri mtkicebul ebebis gadamowmeba da maTi sxva mowmeTa CvenebebiTa da nivTier i mtkicebul ebebiT, an Tavad bral debul is aRiarebiT dadastureba.

8. yvel a mtkicebul eba warmodgenil i unda iqnes gansasjel is TandaswrebiT Ria sasamarTI o sxdomaze, raTa mas SesaZI ebl oba mieces sawinaaRmdego argumentebiT gaabaTil os isini.

9. adamianis ufl ebaTa evropul i sasamarTI o j erovnad afasebs organizebul i danaSaul is winaaRmdeg brZol is mniSvnel obas, magram amave dros miCnevs, rom marTI msaj ul ebis samarTI iani ganxorciel ebis ufl ebas imdenad didi mniSvnel oba aqvs demokratiul i sazogadoebisaTvis, rom dauSvebel ia misi sxvadasxva praqtikul i mosazrebebiT SezRudva.

10. gamamtyunebel i ganaCenis gamotana mxol od anonimuri mowmeebis mier mowodebul cnobebze dayrdnobiT zRudavs gansasjel is dacvis ufl ebebs da amdenad SeuTavsebel ia me-6 muxl Si Camoyal ibebul garantiebTan.

11. adamianis ufl ebaTa evropul ma sasamarTI om ganacxada, rom pol iciis sazogadoebasTan TanamSroml obas udavod didi mniSvnel oba aqvs danaSaul Tan brZol is saqmeSi. amasTan dakavSirebiT sasamarTI o AaRniSnavs, rom konvencia ar krZal avs gamoZiebis etapze anonimuri mowmeebis CvenebaTa gamoyenebas, Tumca sxva sakiTxia sasamarTI os mier anonimuri wyarodan miRebul informaciis ZiriTad mtkicebul ebad gamoyeneba gamamtyunebel i ganaCenis gamotanasas.

pol iciis saqmianoba da adamianis ufl ebebi:

mniSvnel ovania imis gacnobiereba, rom:

1. pol iciis mier danaSaul is gamoZieba marTI msaj ul ebis samarTI iani ganxorciel ebis aucil ebel i pirobaa, romel ic umniSvnel ovanes rol s TamaSobs Tanamedrove demokratiul sazogadoebaSi.

2. pol iciis mier danaSaul is gamoZiebis upirvel esi amocanaa sasamarTI os winaSe warsadgenad iseT mtkicebul ebaTa mopoveba, roml ebic gansasjel isaTvis samarTI ian sasamarTI o ganxil vas uzrunvel yofs.

3. pol iciis xel mZRvanel obis moval eobaa:

a. pol iciis TanamSromel Ta momzadeba – pol iciis xel mZRvanel obam unda uzrunvel yos, rom pol iciis yvel a moxel e srul yofil ad fl obdes yovel mxrivi, kanonieri da miukerZoebel i gamoZiebis sawarmoebel ad aucil ebel unar-Cvevebs.

b. zedamxedvel oba – pol iciis xel mZRvanel obam zedamxedvel oba unda gauwios xel qveiTebs, raTa maT danaSaul is gamoZieba operatiul ad da samarTI iani sasamarTI o ganxil vis ufl ebis moTxovnaTa gaTval iswinebiT warmarTon.

g. pol iciis mier anonimuri mowmeebis CvenebaTa gamoyenebis Taobaze naTel i saxel mZRvanel o miTitebebis Camoyal ibeba, raTa minimumamde iqnas dayvanil i korufciisa da kriminal ebis mier pol iciel Ta sakuTari miznebiT gamoyenebis SesaZI ebl oba da gaizardos sasamarTI oSi saqmis sworad gadawyvetisaTvis mniSvnel ovani da sando mtkicebul ebebis mopoveba; aucil ebel ia am miTitebebis ganuxrel i Sesrul ebis uzrunvel yofa.

4. yovel i pol iciel is pasuximgebl obaa:

a. bral debul Tan urTierTobisas da gamoZiebasTan dakavSirebul i nebismeri gancxadebis gakeTebisas daicvas bral debul is udanaSaul obis prezumfcia.

b. im kanonebis, wesebisa da saxel mZRvanel o miTitebebis Sesrul eba, roml ebic aregul ireben dakavebul i pirebisadmi mopyrobisa da danaSaul is CadenaSi eWvmitanil Ta dakiTxvis sakiTxebs, raTa Tavidan iqnes acil ebul i yal bi aRiarebis safrTxe da ar dairRves samarTI iani sasamarTI o ganxil vis ufl eba.

Tavi 6: piradi da ojaxuri cxovrebi s, sacxovrebl isa da korespondenciis xel Seuxebl obis ufl eba

nawil ia – samarTl ebrivi aqtebi

adami ans ufl ebaTa sayovel Tao dekl aracia, muxl i 12

ar SeiZl eba aravis pirad da ojaxur cxovrebaSi TviTnebur i Careva, misi sacxovrebl isa Tu korespondenciis saiduml oebis, anda misi Rirsebisa da reputaciis Sel axva. yvel a adami ans aqvs ufl eba kanoniT iyos dacul i mis ufl ebebSi aseTi Carevisa an maTi xel yofisagan.

adami ans ufl ebaTa evropul i konvencia, muxl i 8

1. yvel a adami ans aqvs piradi da ojaxuri cxovrebi s, misi sacxovrebl isa da korespondenciis xel Seuxebl obis ufl eba.

2. dauSvebel ia am ufl ebiT sargebl obaSi saxel mwifo organoebis Careva, garda kanoniT gansazRvrul i SemTxvevebisa da rodesac es aucil ebel ia demokratiul sazogadoebaSi erovnul i uSiSroebis, sazogadoebis usafrTxoebisa an ekonomikuri keTil dReobis interesebidan gamomdinare, areul obis an danaSaul is Tavidan acil ebis, j anmrTel obisa da moral is, an sxvaTa ufl ebebisa da Tavisufl ebebis dacvis mizniT.

sxva wyar oebi :

evropis sabWos dekl aracia pol iciis Sesaxeb.

samarTal damcavi sferos moxel eTa qcevis kodeqsi, miRebul i gaerTianebul i erebis organizaciis mier.

**Tavi 6: piradi da oj axuri cxovrebi s,
sacxovrebi is da korespodenciis
xel Seuxebi obis ufl eba**

nawili bB – saswavi o kazusebi

CawereT Tqveni sakuTari kazusebi.

Tavi 6: piradi da oj axuri cxovrebi s, sacxovrebl isa da korespodenciis xel Seuxebl obis ufl eba

nawil ig - saxel mZRvanel o miTitebebi leqtorebisa da sxva saswavo personalisaTvis

SeniSvna: aq ganxil uli samarTl ebrivi aqtebis sruli teqsti Segizl iaTixil oT TandarTul masal ebSi (ix. „ZiriTadi dokumentebi“). amonawerebi xel Sekrul ebis organoTa daskvnebidan da gadawyvetil ebebidan amoRebul ia krebul isa danarTsi moyvanili saqmeebidan.

samarTl ebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl aracia

me-12 muxli krZal avs piradi da oj axuri cxovrebi s, sacxovrebl isa Tu korespodenciis saiduml oebis, agreTve pirovnebis Rirsebisa da reputaciis yovel gvar xel yofas da, amdenad, icavs adami anis pirad cxovrebaSi Caurevl obis ZiriTad ufl ebas. es ufl eba ganmtkicebul ia misi darRvevebisagan samarTl ebrivi dacvis moTxovniT.

adami anis ufl ebaTa evropuli konvencia

me-8 muxlis pirveli punqti sayovel Tao dekl araciis me-12 muxlis safuZvel zea Camoyal ibebuli, Tumca masSi mocemuli ar aris Rirsebisa da reputaciis ganzrax Sel axvis akrZal va.

am muxlis meore punqti ayal ibebs „demokratiul sazogadoebaSi aucil ebel “ im samarTl ebriv SezRudvebs, roml ebic am ufl ebis ganxorciel ebasTan dakavSirebiT SeiZl eba dawesdes.

evropis sabWos dekl aracia pol iciis Sesaxeb

me-15 muxli pol iciis moxel eTagan moitXovs ar gaaxmauron amgvari saidumli o xasiaTis informacia, garda im SemTxvevebisa, rodesac amas kanoni an maTi profesiuli moval eoba moitXovs.

samarTal damcavi sferos moxel eTa qcevis kodeqsi, mi Rebuli gaerTianebuli erebis organizaciis mier

me-4 muxlis Tanaxmad, samarTal damcavi sferos moxel eebma ar unda gaamJRavnon maTTvis cnobili saidumli o xasiaTis informacia, Tuki amas maTze dakisrebul moval eobaTa Sesrul eba an marTl msaj ul ebis interesebi ar mitXovs.

am muxlis komentarsi mititebul ia, rom samarTal damcavi sferos moxel eebS didi sifrtxil is gamocena marTeBT, raTa ar gaxmaurdes sxvaTa piradi cxovrebi s Sesaxeb maT xel Tarsebuli informacia. amgvari informaciis arasanqcirebuli gamJRavneba yovl ad gaumarTl ebel ia.

xel Sekrul ebis organoTa daskvnebi da gadawyvetil ebebi

xel Sekrul ebis organoTa daskvnebsa da gadawyvetil ebebSi, roml ebic a danarTsia moyvanili, gamoTqmuli ia Semdegi ZiriTadi mosazrebebi:

SeniSvna: qvemoT mocemuli pirveli 4 punqtis ukeT gasagebad, aucil ebel ia aRiniSnos, rom isini amokrebi l ia Crdil oet kvi prosSi Turqetis SeiaraRebuli Zal ebis qmedebetan dakavSirebiT aRZrul i saqmeebidan. kvi prosSi Turqetis j arebi s

Seyvanam mosaxl eobis didi nawil is sakuTari saxl ebidan gamodevna gamoiwvia da maT jer kidev ar eZl evaT Sin dabrunebis SesaZl ebl oba.

1. is, rom [kvi prosel berZen] l tol vil ebs ar miecaT Taviant saxl ebSi [Crdil oeT kvi prosSi] dabrunebis fizikuri SesaZl ebl oba, warmoadgens maTi sacxovrebl is pativiscemis ufl ebis darRvevas, rac ar SeiZl eba gamarTI des me-8 muxl is me-2 punqtiT gaTval iswinebul i romel ime mizeziT.

2. sxvadasxva Sida SeTanxmebis safuZvel ze kvi prosel i berZnebis samxreTiT gadayvana da maTTvis Crdil oeT kvi prosSi, sakuTar saxl ebSi dabrunebis fizikuri SesaZl ebl obis warTmeva warmoadgens maTi me-8 muxl is 1-l i punqtiT gansazRvrul i sacxovrebl is pativiscemis ufl ebis darRvevas, rac me-2 punqtiT gaTval iswinebul i arc erTi mizeziT ar SeiZl eba gamarTI des.

3. kvi prosel berZenTa oj axebis gaxl eCa im mizeziT, rom isini aiZul es daetovebinaT Tavianti saxl ebi, warmoadgenda maTi oj axuri cxovreblis pativiscemis ufl ebaSi Carevas, rac ar SeiZl eba gamarTI ebul iqnes me-8 muxl is me-2 punqtiT gaTval iswinebul i arc erTi mizeziT.

4. wina ganacxadebis Taobaze komisiis mier gakeTebul i moxsenebis Semdgom arsebul i viTarebis ucvl el ad gagrZel eba (kvi prosel i berZnebisTvis Sin dabrunebis ufl ebis warTmeva da maTi oj axebis kvl av gancal kevebiT cxovreba), mocemul i saqmis garemoebaTa gaTval iswinebiT damamZimebel faqtorad unda CaiTval os.

5. Tumca konvenciis me-8 muxl is 1-l punqtsi satel efono saubrebi uSual od ar aris moxseniebul i, aseTi saubreblis saiduml os dacva „piradi cxovreblisa“ da „korespondenciis“ xel Seuxebl obis garantiiTaa gaTval iswinebul i.

6. konvenciaSi monawil e mxareebis ara aqvT maTi iurisdicqciis qveS myof pirebze farul i Tval Tval is ganusazRvrel i ufl ebamosil eba.

7. kanoni, romel ic ar zRudavs saxel mwifos ufl ebamosil ebas awarmoos pirovnebase saiduml o Tval yuris devneba Tundac im sababiT, rom es demokratiis dasacavadaa aucil ebel i, safrTxes uqmnis Tavad demokratias da mis arsebobasac ki. amdenad, konvenciis mxareebis ara aqvT ufl eba jaSuSobisa da terorizmis winaaRmdeg brZol is saxel iT gamoiyenon pirovnebase Tval yuris devneblis nebismieri saSual eba.

8. imisda miuxedavad Tu farul i Tval yuris devneblis ra wesebi moqmedebs saxel mwifoSi, yovel Tvis unda arsebobdes aRniSnul i ufl ebamosil ebis borotad gamoyeneblisagan dacvis qmediTi garantiebi.

9. konvenciis me-8 muxl is me-2 punqtsi termini „kanoniT gansazRvrul i SemTxvevebi“ moiTxovs, rom kanonmdebl oba sakmarisad naTI ad da mkafiod unda gansazRvravdes im mizezebsa da garemoebes, rodesac saxel mwifo uwyebes SeuZl iaT ganaxorciel on saiduml o da potenciurad saSiSi Careva piradi cxovreblisa da korespodenciis saiduml oebis pativiscemis ufl ebaSi.

pol iciis saqmianoba da adamianis ufl ebebi

mniSvnel ovania imis gacnobiereba, rom:

1. piradi da oj axuri cxovreblis, sacxovrebl isa da korespodenciis xel Seuxebl oba adamianis ZiriTad ufl ebas warmoadgens.

2. nebismieri iseTi qmedeba, romel ic zRudavs am ufl ebas, unda xorciel debodes mxol od kanonis fargl ebSi da pol iciis saqmianobis miznebidan gamomdinare.

3. pol iciis xel mZRvanel obis moval eobaa:

a. pol iciis TanamSromel Ta momzadeba - pol iciis xel mZRvanel obam unda uzrunvel yos, rom pol iciis moxel eebma kargad icodnen Tu ra ufl ebeba-moval eobebl aqvT maT Cxrekis, korespodenciis amoReblis, satel efono saubreblis mosmenisa da farul i Tval yuris devneblis ganxorciel ebisas;

b. zedamxedvel oba – pol iciis xel mZRvanel obam unda uzrunvel yos kanonis, wesebisa da saxel mZRvanel o miTiTebebis ganuxrel i dacva Cxrekis, korespondenciis amoRebis, satel efono saubrebis mosmenisa da farul i Tval yuris devnebis sxva xerxebisa da saSual ebebis gamoyenebisas.

4. yovel i pol iciei is pasuximgebl obaa:

a. daicvas mis xel T arsebul i yvel a saiduml o masal is konfidencial uroba, Tu am informaciis gamj Ravnebas ar moiTxovs pol iciei Ta profesiul i moval eoba an marTI msaj ul ebis interesebi; ar gaaxmauros cnobebi sxvaTa piradi cxovrebi Sesaxeb da ar dauSvas am informaciis araufl ebamosil pirTa xel Si moxvedra.

b. keTil gonivrul ad da saqmis codniT gamoiyenos Cxrekis, Tval Tval isa da samxil Ta mopovebis kanoniT miniWebul i ufl ebamosil eba.

Tavi 7: azris, sindisisa da religiis Tavisufleba, azris gamoxatvis Tavisufleba

nawili aA- samarTlebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl aracia, muxli 18

yvel a adamians aqvs azris, sindisisa da religiis Tavisuflebis ufl eba; es ufl eba gul isxmobs religiis an rwmenis Secvl is Tavisuflebas da rogorc marto, ise sxvebTan erTad, cal ke Tu saj arod religiisa an rwmenis Tavisufali gamovlenis ufl ebas swavl ebis, mimdevrobis, locvisa da wesebis aRsrul ebis meSveobiT.

adami anis ufl ebaTa sayovel Tao dekl aracia, muxli 19

yvel a adamians aqvs azrisa da misi gamoxatvis Tavisufleba; es ufl eba moicavs Tavisufali Sexedul ebebis qonisa da nebismieri sainformacio saSual ebis gamoyenebiT, sazRvrebis miuxedavad, ideebisa da informaciis moZiebis, miRebisa da gavrcelebis ufl ebas.

adami anis ufl ebaTa evropuli konvencia, muxli 9

1. yvel as aqvs azris, sindisisa da religiis Tavisuflebis ufl eba; es ufl eba gul isxmobs religiis an rwmenis Secvl is Tavisuflebas da rogorc marto, ise sxvebTan erTad, cal ke Tu saj arod religiis an rwmenis Tavisufali gamovlenis ufl ebas swavl ebis, mimdevrobis, locvisa da wesebis aRsrul ebis meSveobiT.

2. religiisa da rwmenis gamovlenis Tavisufleba SeiZleba SeizRudos mxol od kanoniT gansazRvrul SemTxvevebSi da Tu aseTi SezRudva aucil ebel ia demokratiul sazogadoebaSi sazogadoebrivi usafrTxoebis, wesrigis, janmrTel obisa da moral is, an sxvaTa ufl ebebis da Tavisuflebebis dacvis mizniT.

adami anis ufl ebaTa evropuli konvencia, muxli 10

1. yvel as aqvs azris gamoxatvis Tavisufleba; es ufl eba moicavs sakuTari Sexedul ebebis qonisa da saxel mwifos Carevis gareSe, sazRvrebis miuxedavad informaciisa da ideebis Tavisufali miReba-gavrcelebis ufl ebas. es muxli saxel mwifos ar ukrZal avs radiomauwebl obis, tel eviziisa da kinowarmoebis sferoSi licenzierebis moTxovnis dawesebas.

2. am TavisuflebaTa ganxorciel eba ganuyofel ia garkveuli moval ebebis da val debul ebebis Sesrul ebisagan da amdenad SeiZleba daeqvemdebaros iseTi pirobebis, SezRudvebis da sanqciebis moTxovnebs, roml ebi kanoniT aris gaTval iswinebuli da aucil ebel ia demokratiul sazogadoebaSi erovnuli uSiSroebis, teritoriuli mTI ianobisa an sazogadoebrivi usafrTxoebis interesebidan gamomdinare, areul obisa da danaSaul is Tavidan acil ebis, janmrTel obisa da moral is, sxvaTa ufl ebebis da reputaciis dacvis, konfidencial urad miRebuli informaciis gauxmaurebl obis an samarTlos damoukidebl obisa da miukerZoebl obis SenarCunebis mizniT.

sxva wyar oebi :

evropis sabWos dekl aracia pol iciis Sesaxeb.

dekl aracia nebismieri saxis Seuwynarebl obisa da religiis an rwmenis safuZvel ze yovel gvare diskriminaciis aRmofxvris Sesaxeb.

Tavi 7: azris, sindisisa da religiis
Tavisuflebisufleba, azris gamoxatvis
Tavisufleba

nawili bB- saswavi o kazusebi

CawereT Tqveni sakuTari kazusebi.

Tavi 7: azris, sindisisa da religiis Tavisuflebis ufl eba, azris gamoxatvis Tavisufleba

nawili g - saxel mZRvanel o miTiTebebi leqtoresisa da sxvasawlo personalisatvis

Seni Svna: aq ganxil uli samarTi ebrivi aqtebis sruli teqsti SegiZliaTi xil oT TandarTul masal ebSi (ix. „ZiriTadi dokumentebi“). amonawerebi xel Sekrul ebis organoTa daskvnebidan da gadawyvetil ebebidan amoRebul ia krebul isa danarTSi moyvanili saqmebidan.

samarTi ebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl aracia, muxli 18

azris, sindisisa da religiis Tavisuflebis ufl eba moicavs religiis an rwmenis Secvlis ufl ebas da swalebis, mimdevrobis, locvisa da wesebis aRsrul ebis meSveobit religiis an rwmenis Tavisufali gamovlenis ufl ebas.

adami anis ufl ebaTa evropuli konvencia, muxli 9

am muxlis pirveli punqti TiTqmis zustad imeorebs sayovel Tao dekl araciis me-18 muxlis, xolo meore punqti gansazRvravs am ufl ebis Sesazlo SezRudvebs, romlebic konvenciiT gatvaliswinebuli sxvaseti SezRudvebis msgavsad, kanonis Sesabamisi da demokratiul sazogadoebaSi aucil ebeli unda iyos.

saWiroa aqve aRiniSnos, rom amgvare SezRudvebi SeiZleba mxolod religiis an rwmenis gamovlenis ufl ebas Seexos. azris, sindisisa da religiis Tavisufleba da religiis an rwmenis Secvlis ufl eba aranair SezRudvebs ar eqvemdebareba da amdenad absolutur ufl ebebs ganekutvneba.

adami anis ufl ebaTa sayovel Tao dekl aracia, muxli 19

am muxliT aRiarebuli azris gamoxatvis Tavisufleba moicavs sakuTari Sexedul ebebis qonis, agreTve informaciisa da ideebis moZiebis, miRebisa da gavrcel ebis ufl ebas. am ufl ebebit sargebl oba sazRvrebis miuxedavad da nebismieri sainformacio saSual ebis gamoyenebit SeiZleba.

adami anis ufl ebaTa evropuli konvencia, muxli 10

konvencii me-9 muxlis msgavsad, es muxlic sayovel Tao dekl araciis Sesabamis muxlis emyareba. me-2 punqtsi mocemuli SezRudvebi standartuli debulebitaa Camoyal ibebuli da Seicavs moTxovnas, rom nebismieri asetis SezRudva kanonis dacvita da demokratiul sazogadoebaSi aucil ebl obis pirobit ganxorciel des. Tumca, SezRudvaTa Camonatvali aq ufro vrcel ia, vidre, magaliTad, me-9 da me-11 muxlebsi. amasTan erTad, cal kea aRniSnuli is moval eobebi da val debulebebi, romlebic am muxliT daculi Tavisuflebebit sargebl obas ukavSirdeba.

evropis sabWos dekl aracia policiis Sesaxeb

me-8 muxlis Tanaxmad, policiis moxel eebsekrZalebaT im pirTa aRmoCena, adgil samyofelis dadgena, dakaveba, dacva-Tanleba da dainteresebuli mxarisaTvis gadacema, romlebic kanonsawinaaRmdego qmedebaSi ar arian eWvmitanili da izebnebian, dpatimrebuli arian an idevnebin maTi rasobrivi kutvnil ebis, religiuri Tupol itikuri mrwamsis gamo.

dekl araci a nebi smi eri saxi s Seuwynar ebl obisa da rel igiis an rwmenis safuZvel ze yovel gvari di skr imi naciis aRmofxvri s Sesaxeb

dekl araciis preambul is meore abzacSi moxseniebul ia diskriminaciis dauSvebl obisa da kanonis winaSe Tanasworobis principebebi da adamianis ufl ebaTa sayovel Tao dekl araciiT aRiarebul i azris, sindisisa da rel igiis Tavisufl ebis ufl eba.

dekl aracia rva muxl isagan Sedgeba da maTSi Camoyal ibebul i debul ebebi moicavs: dekl araciiT dacul i ufl ebebis CamonaTvals (muxl i 1); nebi smieri saxel mwifos, organizaciis, adamianebis jgufis Tu cal keul i pirovnebebis mxridan rel igiis an rwmenis niadagze diskriminaciis akrZal vas (muxl i 2); moTxovnas, rom yvel a saxel mwifom miiRos efeqturi zomebi aseTi diskriminaciis Tavidan acil ebisa da aRkveTis mizniT (muxl i 4) da sxva.

xel Sekrul ebis organoTa daskvnebi da gadawyvetil ebebi

xel Sekrul ebis organoTa daskvnebsa da gadawyvetil ebebSi, roml ebic a danarTSia moyvani i, gamoTqmul ia Semdegi ZiriTadi mosazrebebi:

azris, sindisis da rel igiis Tavisufl eba

1. me-9 muxl is debul ebebiT garantirebul i dacva pacifisturi fil osofiis mimdevrebzec vrcel deba. Tumca, saagitacio furcl ebis gavrcel eba ar warmoadgens pacifisturi rwmenis gamovl enas, vinaidan termini „mimdevroba“, ra mniSvnel obiTac igi 9.1 muxl Si aris gamoyenebul i, „ar moicavs rel igiit an rwmeniT motivirebul an STagonebul nebi smier qmedebas“.

2. „Tu pirovnebaTa qmedebebi rwmenis uSual o gamoxatvas ar warmoadgenen, isini ar SeiZl eba ganxil ul iqnen 9.1 muxl is fargl ebSi, maSinac ki, rodesac aRniSnul i qmedebebi am rwmeniTaa motivirebul i“.

3. „miuRebel i prozel itizmi“ gamoixateba „sj ul is axal i mimdevrebi mopovebis mizniT material uri an social uri sargebl is SeTavazebiT, an ekonomikurad Tu sul ierad gaWirvebul adamianebze miuRebel i zewol is ganxorciel ebiT“.

4. me-9 muxl iT aRiarebul i azris, sindisis da rel igiis Tavisufl eba demokratiul i sazogadoebis safuZvel Tagania. rel igiuri Tval sazrisiT, es ufl eba morwmuneTa msofl mxedvel obisa da Rirebul ebaTa sistemis Camoyal ibebis erT-erTi umniSvnel ovanesi el ementia. amave dros, igi uaRresad faseul ia aTeistebis, agnostikosebis, skeptikosebisa Tu miukerZoebel i Sexedul ebebis adamiantaTvis. demokratiul sazogadoebaSi plural izmi mraval saukunovani Zal isxmeviT miRweul i mopovaria da misi arsebobaa am ufl ebis ganxorciel ebazea damokidebul i.

5. me-9 muxl Si CamoTvl il ia rel igiis an rwmenis gamovl enis sxvadasxva formebi, kerZod ki swavl eba, mimdevroba, l ocva da wesebis aRsrul eba. miuxedavad amisa, me-9 muxl i ar icavs rel igiita da rwmeniT motivirebul an STagonebul yvel a qmedebas. sakuTari rel igiis gamovl enis Tavisufl ebiT sargebl obisas, pirovnebas arsebul i vitarebisaTvis angariSis gaweva SeiZl eba mouxdes.

magal iTad, Tu adamiანი sakuTari survil iT irCevs samxedro profesias, igi nebayofl obiT Tanxmdeba daemorCil os samxedro discipl inas, romel ic Tavisi bunebiT iTval iswinebs iseTi SezRudvebis dawesebis SesaZl ebl obas SeiaraRebul i Zal ebis wevrTa ufl ebebsa da Tavisufl ebebzee, rac samoqal aqo pirebze ar SeiZl eba gavrcel des. saxel mwifo ufl ebamosil ia miiRos SeiaraRebul i Zal ebis saqmianobis maregul irebel i discipl inuri wesebi, roml ebic krZal avs ama Tu im saxis qmedebebs, magal iTad, arRvevs samxedro mosamsaxureTa saval debul o qcevis momwesrigebel special ur normebis.

azris gamoxatvis Tavisufli eba

1. me-10 muxli Seexeba da icavs pol itikuri Sinaarsis saagitacio furcl ebis gavrcel ebis ufl ebas. Tumca, saxel mwifo SeiZl eba Caerios am ufl ebis ganxorciel ebaSi „erovnul i uSiSroebis dacvisa“ da „areul obis Tavidan acil ebis“ mizniT, rogorc es me-2 punqtiT aris gansazRvrul i.

2. unda gaimij nos, erTi mxriv, mTavrobis mier gatarebul i pol itikis mimarT kritikul i gancxadebebis gakeTeba da, meore mxriv, cal keul i jariskacebis waqezeba daumorCil ebl obisaken da sanacvl od maTTvis konkretul i dapirebebis micema.

3. azris gamoxatvis Tavisufli eba demokratiul i sazogadoebis erT-erTi umTavresi safuZvel Tagania da misi srul yofisa da yovel i adamianis ganvitarebis aucil ebel winapirobas warmoadgens... es Tavisufli eba exeba ara mxol od im „informaciasa“ da „ideebis“, roml ebic sasurvel ad miCneva, an ar aRiqmeba gansakuTrebul i mniSvel obis mqoned an Seuracxmyofel ad, aramed imaTac, roml ebic kritikul adaa ganwyobil i, an iwvevs saxel mwifos an mosaxl eobis raime nawil is ukmayofil ebas Tu ganrisxebas. aseTia pl ural izmis, Semwynarebl obisa da Ria sazogadoebis moTxovnebi, romel Ta gareSe demokratiul i sazogadoeba ver iarsebebs.

4. am muxl is me-2 punqtsi terminis „areul obis Tavidan acil eba“ ganmartebis mizniT unda aRiniSnos, rom sazogadoebrivi wesrigis cneba gul isxmobs im wesrigsac, romel ic garkveul i social uri j gufis SigniT unda arsebobdes. SeiaraRebul i Zal ebis SemTxvevaSi, am j gufsi warmoqmnil ma areul obam SeiZl eba mTel sazogadoebaze iqonios gavlena.

5. me-10 muxl iT gaTval iswinebul i azris gamoxatvis Tavisufli eba SeiaraRebul i Zal ebis mosamsaxureebzec vrcel deba. amave dros, jaris gamarTul i funqcionireba Znel i warmosadgenia im maregul irebel i wesebis gareSe, roml ebic samxedro discipl inisa da val debul ebebis dacvas uzrunvel yofs.

pol iciis saqmianoba da adamianis ufl ebebi

mniSvel ovania imis gacnobiereba, rom:

1. azris, sindisis da rel igiis Tavisufli eba da azris gamoxatvis Tavisufli eba adamianis uaRresad mniSvel ovani ufl ebebia da maTi ganxorciel eba aucil ebel ia pol itikuri demokratiis arsebobisaTvis.

2. ar SeiZl eba am ufl ebaTa SezRudva kanoniT gaTval iswinebul i SemTxvevebis garda.

3. pol iciis xel mZRvanel obis moval eobaa:

a. uzrunvel yos, rom pol iciis moxel eebis CautardeT Sesabamisi momzadeba, sagangebo saubrebi da, saWiroebis SemTxvevaSi, mieceT konkretul i daval ebebi am ufl ebebis dasacavad.

b. uzrunvel yos, rom pol iciis Zal ebi ar iqnen gamoyenebul i im pirTa aRmoCenis, adgil samyofel is dadgenis, dakavebis, dacva-Tanxl ebisa Tu dainteresebul i mxarisaTvis gadacemis mizniT, roml ebic ar arian kanonsawinaaRmdago qmedebaSi eWvmitanil i da iZebnebian, dpatimrebul i arian an idevnebin maTi rasobrivi kuTvnil ebis, rel igiuri Tu pol itikuri mrwamsis gamo.

4. yovel i pol icieel is pasuximgebl obaa:

pativi sces da daicvas yvel a es ufl eba, da kerZod, miiRos efeqturi zomebi rel igiuri an sxva rwmenis niadagze warmoebul i diskriminaciis aRsakveTad.

Tavi 8: mSvidobiani Sekrebisa da gaertianebis Tavisufleba

nawilia - samartlebrivi aqtebi

adami ans uflebaTa sayovel Tao deklaracia, muxli 20

1. yvela admians aqvs mSvidobiani Sekrebisa da gaertianebis Tavisufleba.
2. ar SeiZleba aravis izuleba gaxdes romel ime gaertianebis wevri.

adami ans uflebaTa evropuli konvencia, muxli 11

1. yvelas aqvs mSvidobiani Sekrebisa da sxvebtan gaertianebis Tavisufleba, maT Soris sakuTari interesebis dacvis mizniT profkavSirebis Seqmnisa da maTSi gawevrianebis ufleba.

2. dauSvebelia am uflebit sargebl obis yovel gvare SeZRudva, garda kanonit dadgenil i SemTxvevebis da Tu es aucilebelia demokratiul sazogadoebaSi erovnul i uSiSroebis an sazogadoebrivi usafrTxoebis interesebidan gamomdinare, areul obis an danaSaulis Tavidan acilebis, janmrTel obisa da moralis, an sxvaTa uflebebis da Tavisuflebebis dacvis mizniT. am uflebebit sargebl obasTan dakavSirebit, es muxli ar krZalavs kanonieri SeZRudvebis dawesebas SeiaraRebuli Zalebis, policiisa da saxel mwifo administraciis warmomadgenel TamimarT.

sxva wyaroebi:

Ziritadi principebi samartal damcavi sferos moxleTa mier Zalisa da cexl sasrol i iaraRis gamoyenebis Sesaxeb.

**Tavi 8: mSvidobi ani Sekrebi sa da gaerTi anebi s
TavisufI eba**

nawil i b - saswavi o kazusebi

CawereT Tqveni sakuTari kazusebi.

Tavi 8: mSvidobiani Sekrebisa da gaertianebis Tavisufleba

nawili g - saxel mZRvanel o miTitebebi leqtorebisa da sxvasavlo personalisatvis

SeniSva: aq ganxiluli samarTlebrivi aqtebis sruli teqsti Segizliatixil ot TandarTul masal ebSi (ix. „Ziritadi dokumentebi“). amonawerebi xel Sekrulis organoTa daskvnebidan da gadawyvetilebebidan amoRebulia krebulisa danarTSi moyvanili saqmeebidan.

samarTlebrivi aqtebi

adamiანი სუფლებათა საოველ ტაო დეკლარაცია

me-20 მუხლის 1-ლი პუნქტი არიარებს მსვიდობიანი სეკრესისა და გაერთიანების ტავისუფლებას, ხოლო me-2 პუნქტი კრზალავს გაერთიანებასი სესვლის იზულებას.

adamiანი სუფლებათა ევროპული კონვენცია

me-11 მუხლის 1-ლი პუნქტი არიარებულია იგივე ორი ტავისუფლება (მსვიდობიანი სეკრესისა და გაერთიანების), რაც საოველ ტაო დეკლარაციის me-20 მუხლითაა გარანტირებული და აქვეა მოცემული პროფკავსების სეკმნისა და მათსი გავერიანების უფლება, რომელიც საოველ ტაო დეკლარაციის სხვა, სახელდობრ 23.4 მუხლით არის დაცული. ტუმცა, ევროპული კონვენციის me-11 მუხლი არ იტვალისწინებს გაერთიანებასი ჯალდატანებიტ გავერიანებისაგან დაცვას.

me-11 მუხლის მეორე პუნქტსი გამოყალიბებულია არნისნული უფლებათა ის სეზრუდვები, რომლებიც „აუცილებელია დემოკრატიულ საზოგადოებასი“. მასი ნატყვამია ასევე, რომ ამ უფლებებიტ სარგებლობასთან დაკავსირებიტ დასაშვებია გარკვეული სეზრუდვების დაშვება სეიარარებულ ჯალდებისა და პოლიციის უარმოდგენილების მიმართ.

ზირიტადი პრინციპები სამართალდამცავი სფეროს მოხელეთა მიერ ჯალისა და ცეცხლსასროლი იარაღის გამოყენების შესახებ

me-12 პრინციპი მეორებს კანონიერ და მსვიდობიან სეკრებებსი მონაწილეობის უფლებას და მტავრობების, სამართალდამცავი უწყებებისა და მათი ტანამსრომლებისაგან მოიტხოვს იმის არიარებას, რომ ჯალა და ცეცხლსასროლი იარაღი მხოლოდ me-13 და me-14 პრინციპების შესაბამისად შეიზლება იყნეს გამოყენებული.

me-13 პრინციპი მოიტხოვს, რომ არაკანონიერი მსვიდობიანი სეკრებების დასის სამართალდამცავმა ტავი უნდა აარიდონ ჯალისმირ მეტოდეებს, ხოლო ტუ ჯალის გამოყენება გარდაუვლია, მინიმუმამდე უნდა სეზრუდონ იგი.

me-14 პრინციპი ტანაქმად, არამსვიდობიანი სეკრებების დასის სამართალდამცავმა მოხელეებმა ცეცხლსასროლი იარაღი მხოლოდ იმ შემტხვევასი შეიზლება გამოიყენონ, ტუ სხვა სასუალეების გამოყენება სედეგს არ იზიევა. ამასთან, ცეცხლსასროლი იარაღის გამოყენება აუცილებლობის ფარგლებს არ უნდა გასცდეს და მხოლოდ me-9 პრინციპის მოტხოვნათა დაცვით შეიზლება განხორციელდეს. არნისნული პრინციპი ცეცხლსასროლი იარაღის გამოყენებას მხოლოდ იმ შემტხვევებსი იტვალისწინებს, როდესაც სიკვდილის ან მზიე დაშვების გარდაუვლი საფრტხე უარმოიყმნება.

xel Sekrulis organoTa mosazrebani da gadawyvetilebebi

xel Sekrulis organoTa daskvnebsa da gadawyvetilebebsi, რომლებიც ადარტსია მოყვანილი, გამოტყმულია შემდეგი ზირიტადი მოსაზრებები:

1. Sekrebiş Tavisufl eba yvel a qveynis pol itikuri da social uri cxovrebiş mnişvnel ovani nawil i da pol itikur partiaTa saqmianobis aucil ebel i el ementia.
2. mSvidobiani Sekrebiş ufl eba demokratiul i sazogadoebaSi adamianis ZiriTadi ufl ebaa da azris gamoxatvis Tavisufl ebaŞTan erTad demokratiul i sazogadebiş safuZvel s warmoadgens.
3. mSvidobiani Sekrebiş ufl eba moicavs rogorc kerZo Sekrebebiş, ise sazogadoebrivi TavSeyris adgil ebSi mitingebisa da msvl el obebiş mowyobiş Tavisufl ebaş.
4. mSvidobiani Sekrebiş ufl eba vrcel deba ara mxol od demonstraciebiŞi monawil e cal keul adamianebeze, aramed am aqciaTa organizatorebze, romel Ta Soris sxvadasxva gaerTianebebiş SeiZl eba iyos.
5. mSvidobiani Sekrebiş ufl eba aqvs yvel as, visac mSvidobiani demonstraciis mowyoba surs.
6. agresiul i kontr-demonstraciebiş mowyobisa an eqstremistul i gamoxdomebiş SesaZl ebl oba ar SeiZl eba am ufl ebiş xel yofis mizezi gaxdes.
7. mSvidobiani Sekrebiş ufl eba moicavs kontr-demonstrantebiş Tavdasxmebisagan dacvis ufl ebasac, vinaidan mxol od amgvarad SeiZl eba am ufl ebiT sargebl obis uzrunvel yofa im social uri j gufebişaTvis, romel Tac surT uaRresad mwvave sakiTxebiş mimarT TavianTi principul i damokidebul ebiş gamoxatva.
8. demokratiis pirobebiŞi kontr-demonstraciis gamarTvis ufl eba ar SeiZl eba zRudavdes demonstraciis mowyobiş ufl ebaş.
9. mSvidobiani Sekrebiş WeSmariti Tavisufl eba ar SeiZl eba gaigivdes mxol od saxel mwifos mxridan Caurevl obis moTxovnasTan. me-11 muxl is arsi da mizani scil deba saxel mwifos val debul ebaş Tavi Seikavos amgvare Carevisagan. me-8 muxl is msgavsad, es muxl i zogierT SemTxvevaSi saxel mwifos qmediTi zomebiş miRebasac aval debul ebs, iseT sakiTxebiŞi ki, roml ebiş adamianTa Soris urTierTobiş sferos ganekuTvneba.
10. mSvidobiani demonstraciis dacvis taqtikis gansazRvrisas, saukeTeso arCevani, al baT, iqneboda prevenciul i zomebiş miReba fizikuri Zal adobiş Tavidan asacil ebl ad, xol o Zal is gamoyeneba im SemTxvevaSi, rodesac areul obas aqvs adgil i. aseTi midgoma gansakuTrebiT mnişvnel ovania maSin, rodesac arsebobs real uri safrTxe, rom Zal adobiş afeTqebis sababi Tavad pol iciis Careva SeiZl eba gaxdes.
11. demonstraciis akrZal va mxol od im SemTxvevaSi SeiZl eba iyos gamarTI ebul i, Tu arsebobs misi areul obaSi gadazrdiş real uri safrxe, roml is Tavidan acil eba SeuZl ebel ia sxva, nakl ebad mkacri zomebiş gatarebiT.
12. proporciul obis principi moitxovs, rom dacul i iqnes Tanazomiereba 11.2 muxl Si CamoTvl il i miznebiT ganxorciel ebul SezRudvebsa da quCaSi an sazogadoebrivi TavSeyris adgil as Sekrebiş Ta mier sityviT an Tundac mdumare aqiiT sakuTari azris Tavisufl ad gamoxatvis ufl ebaş Soris. samarTI iani bal anis dacva gul isxmobs, rom ar SeiZl eba Seiqmnas iseTi viTareba, rodesac mosal odnel i discipl inuri sanqciebiT gamowveul i SiSi aiZul ebs adamianebs ar gamoamJRavnon sakuTari pozicia.
13. adamianis ufl ebaTa evropul i konvenciIT garantirebul i Sekrebiş Tavisufl eba ar SeiZl eba gamoyenebul iqnes iseTi aqciebiş gasamarTI ebl ad, romel Ta mizania rasobrivi diskriminaciis waqezeba da sxvaTa ufl ebebişa da Tavisufl ebebiş xel yofa.

pol iciis saqmianoba da adamianis ufl ebebi

mnişvnel ovania imiş gacnobiereba, rom:

1. mSvidobiani Sekrebişa da gaerTianebiş Tavisufl eba demokratiul

sazogadoebaSi adamianis ZiriTadi ufl ebaa da pol icias mniSvnel ovan i ekisreba misi dacvis uzrunvel yofaSi.

2. mSvidobiani Sekrebisa da gaerTianebebis ufl ebebis dacvam pol iciis mxridan qmediTi zomebis miReba, maT Soris, Sekrebis monawil eebis kontr-demonstrantebisagan dacva SeiZl eba moiTxovos.

3. erTi mxriv, mSvidobiani Sekrebisa da gaerTianebebis Tavisufl ebebis dacvasa da, meore mxriv, sazogadoebrivi areul obisa da danaSaul is Tavidan acil ebebis, agreTve sxvaTa ufl ebebis dacvis mizniT gatarebul RonisZiebaTa Soris bal ansis uzrunvel sayofad, pol iciam unda ixel mZRvanel os Tanazomierebis principiT.

4. kanonis Zal iT SeiZl eba SeizRudos pol iciis TanamSromel Ta Sekrebisa da gaerTianebebis Tavisufl eba.

5. pol iciis xel mZRvanel obis moval eobaa:

a. marTvisa da kontrol is uzrunvel yofa pol iciis Zal ebiT sazogadoebrivi Sekrebebis dacvis procesSi, maT Soris operatiul i informaciis saTanado damuSavebis, operaciis dagegmvisa da xel qveitebisatvis mkafio miTitebebis micemis, marTvisa da kontrol is efeqturi sistemis, operaciis warmarTvisa da Sedegebis Semdgomi gaanal izebisa da Sesabamisi daskvnebis gamotanis meSveobiT.

b. sazogadoebrivi Sekrebis dasacavad iseTi strategiisa da taqtikis gamoyeneba, romel mac ar SeiZl eba Tavad moaxdinos Zal adobis provocireba.

6. yovel i pol icieel is pasuximgebl obaa:

a. arakanonieri mSvidobiani Sekrebebis daSl isas SeZl ebisdagvarad aaridon Tavi Zal ismier meTodebs, xol o Tu Zal is gamoyeneba gardauval ia, minimumamde SezRudon igi.

b. aramSvidobiani Sekrebebis daSl isas cecxl sasrol i iaraRis gamoiyenebas mimarTon mxol od im SemTxvevaSi, rodesac adamianis sikvdil is an mZime daSavebis gardauval i safrTxe warmoiqmneba da rodesac sxva saSual ebebis gamoyeneba Sedegs ar izl eba.

Tavi 9: sakuTrebi s ufl eba da qonebi T Tavisufl ad sargebl obis ufl eba

nawil i a - samarTl ebrivi aqtebi

adami ani s ufl ebaTa sayovel Tao dekl aracia, muxl i 17

1. yvel a adami ans aqvs qonebis kerZo da saerTo sakuTrebi s ufl eba.
2. dauSvebel ia vinmesTvis qonebis TviTnebur i CamorTmeva.

adami ani s ufl ebaTa evropul i konvenci a, pi rvel i oqmi , muxl i 1

yvel a fizikur da iuridiul pirs aqvs sakuTrebi T Tavisufl ad sargebl obis ufl eba. dauSvebel ia vinmesTvis qonebis CamorTmeva, Tu amas sazogadoebrivi interesebi ar moiTxovs da igi ar xorciel deba kanonis moTxovnebis a da saerTaSoriso samarTl iT gansazRvrul i ZiriTadi principebis dacvi T.

amasTanave, aRniSnul i debul ebebi T ar izRudeba qonebi T sargebl obasTan dakavSirebi T saxel mwifos mier iseTi kanonebis miRebi s ufl eba, roml ebi c aucil ebel ia saerTo interesebis gaTval iswinebis, anda gadasaxadebis, sxva Senatanebi Ta Tu sanqciebi T gaTval iswinebul i Tanxebis gadaxdis uzrunvel sayofad.

sxva wyar oebi :

evropis sabWos dekl aracia pol iciis Sesaxeb.

samarTal damcavi sferos moxel eTa qcevis kodeqsi, miRebul i gaerTianebul i erebis organizaciis mier.

Tavi 9: sakuTrebi s ufl eba da qonebi T
Tavisufl ad sargebl obis ufl eba

nawil i b - saswavl o kazusebi

CawereT Tqveni sakuTari kazusebi.

Tavi 9: sakuTrebi s ufl eba da qonebi T Tavisufl ad sargebl obis ufl eba

nawili g - saxel mZRvanel o miTiTebebi Ieqtorebisa da sxva saswavi o personal isaTvis

SeniSvna: aq ganxil uli samarTi ebrivi aqtebis sruli teqsti Segizli iaTixili oT TandarTul masal ebSi (ix. „ZiriTadi dokumentebi“). amonawerebi xel Sekrul ebis organoTa daskvnebidan da gadawyvetil ebebidan amoRebul ia krebul is a danarTSi moyvanili saqmeebidan.

samarTi ebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl aracia

me-17 muxli s pirveli punqtiT aRiarebuli sakuTrebi s ufl eba ganmtkicebul ia qonebis TviTnebuli CamorTmevis akrZal viT, romelic momdevno punqTSia Camoyal ibebuli.

adami anis ufl ebaTa evropuli konvencia, pirveli oqmi

am oqmis 1-1 i muxli icavs sakuTrebi s ufl ebas da ayal ibebs qonebis TviTneburad CamorTmevis akrZal vasTan dakavSirebul ufro detal ur debul ebebs, vidre sayovel Tao dekl aracia. saxel mwifo ufl ebamosil ia miRos kanonebi, romlebic mowodebul ia qonebiT sargebl obisas sazogadoebrivi interesebis gaTval iswinebis, agreTve gadasaxadebis, sxva SenatanebiTa Tu sanqciebiT gaTval iswinebuli Tanxebis gadaxdis uzrunvel sayofad. amastanave, qonebis CamorTmeva mxol od kanoniT dadgenili moTxovnebis dacviT SeiZli eba ganxorciel des.

evropis sabWos dekl aracia pol iciis Sesaxeb

1-1 i muxli pol iciis moxel eTagan moitXovs aRasrul on kanoniT maTze dakisrebuli moval eobebi gamozal vis, mtacebl obis da danaSaul ebrivi qmedebebisagan moqal aqeta da sazogadoebis dasacavad.

me-2 muxli moitXovs, rom pol iciis moxel eebma patiosnad, miukerZoebl ad da Rirseul ad imoqmedon, kerZod ki, borotad ar isargebl on samsaxurebrivi mdgomareobiT da win aRudgnen korufciis yovel gvar gamovl inebas.

samarTal damcavi sferos moxel eTa qcevis kodeqsi, miRebuli gaerTianebuli erebis organizaciis mier

1-1 i muxli samarTal damcavi sferos moxel eTagan moitXovs ganuxrel ad da maRali profesiuli pasuxismgebl obiT Seasrul on maTze kanoniT dakisrebuli moval eobebi, emsaxuron sazogadoebas da TiToeuli adamiani daicvan maTi ufl ebebis da kanonieri interesebis danaSaul ebrivi xel yofisagan.

me-7 muxli samarTal damcavi organoebis muSakebs ukrZal avs korufciul garigebebSi monawil eobas da moitXovs, rom isini daupirispirdnen da SebrZol on korufciis yovel gvar gamovl inebas.

xel Sekrul ebis organoTa daskvnebi da gadawyvetil ebebi

SeniSvna: qvemoT mocemul i masal is ukeT gasagebad, aucil ebel ia aRiniSnos, rom isini amokrebi ia Crdil oet kviprosSi Turqetis SeiaraRebuli Zal ebis qmedebebTan dakavSirebiT aRZruli saqmeebidan. kviprosSi Turqetis jarebis Seyvanam mravali adamianis sakuTari saxl ebidan gamodevna da Tavianti qonebiT sargebl obis Sesazli ebl obis wartmeva gamoiwvia.

xel Sekrul ebis organoTa daskvnebsa da gadawyvetil ebebSi, roml ebic a danarTSia moyvani i, gamoTqmul ia Semdegi ZiriTadi mosazrebebi:

1. sakuTreba warTmeul iqna: sacxovrebel Si SeWrisa da misi dapaTronebis; sasofl o-sameurneo miwebis, savaWro da samrewvel o sawarmoebis miTvisebis; Zarcvsa da yaCaRobis; sakuTrebis ganzrax ganadgurebis Sedegad, rac adamianis ufl ebaTa evropul i komisiis mier miCneul iqna #1 oqmis 1-l i muxl is darRvevad.

2. komisiam daadgina, rom iseTi kanonis miReba, romel ic ganamtkicebs ufl ebebs adre miTvisedul qonebaze (komisiis adrindel i gadawyvetil ebiT aRniSnul i miTvisebis faqti qonebis warTmevad iqna miCneul i), #1 oqmis 1-l i muxl is darRvevas warmoadgens.

3. adamianis ufl ebaTa evropul sasamarTI os miaCnia, rom miwis kanonierma mfl obel ma, romel sac xangrZI ivi dros ganmavl obaSi ar mieca aRniSnul i miwiT sargebl obis ufl eba, faqtobrivad dakarga Tavis sakuTrebase kontrol i da am sakuTrebis gamoyenebis yovel gvare Sesazl ebl oba.

amgvare qmedeba sasamarTI om Seafasa rogorc #1 oqmis 1-l i muxl iT miniWebul ufl ebebSi Careva, vinaidan aRniSnul i faqti aSkarad warmoadgens am muxl is pirvel winadadebaSi Camoyal ibedul i „sakuTrebiT Tavisufl ad sargebl obis“ ufl ebis xel yofas.

amastan dakavSirebiT, sasamarTI om miuTiTa, rom qonebiT sargebl obisTvis fizikurad xel is SeSl a konvenciis darRvevas SeiZl eba warmoadgendes iseve, rogorc misTvis iuridiul i dabrkol ebis Seqmna.

pol icis saqmianoba da adamianis ufl ebebi

ZiriTadi sakiTxebi:

1. qurdobisa da qonebis dazianebis aRkveTisa da gamoZiebis meSveobiT sakuTrebis Tavisufl ad gankargvis ufl ebis dacva pol icis umniSvnel ovanesi amocanaa.

2. pol icis moval eobaa ganuxrel ad daicvas kanonis moTxovnebi da uzrunvel yos kanonierebis dacva da sazogadoebrivi wesrigi, raTa sakuTrebis mfl obel ebs hqondeT Tavianti qonebiT sargebl obisa da misi Tavisufl ad gankargvis Sesazl ebl oba.

3. Zal ze mniSvnel ovania, rom qonebis konfiskaciis an masze yadaRis dadebis dros pol icia asrul ebdes kanonis yvel a moTxovnas.

4. pol icis xel mZRvanel obis moval eobaa:

a. pol icis TanamSromel Ta momzadeba da zedamxedvel oba – pol icis xel mZRvanel obam unda uzrunvel yos, rom pol icis yvel a moxel em kargad icodes Tavisi ufl eba-moval eobebi qonebis konfiskaciisa da dayadaRebasTan dakavSirebiT; agreTve, uzrunvel yos j erovani zedamxedvel oba am ufl ebebis da moval eobebis ganxorciel ebaze.

b. CamorTmeul i qonebis aRnusxva da Senaxva – pol icis xel mZRvanel obam unda uzrunvel yos pol icis mier kanonierad CamorTmeul i an dayadaRebul i qonebis detal uri aRricxvis sistemis muSaoba; agreTve, CamorTmeul i qonebis usafrTxod Senaxva special ur sacavebSi.

5. yovel i pol iciel is pasuxismgebl obaa:

a. imoqmedon mxol od kanonis fargl ebSi, qonebasa da sakuTrebasTan dakavSirebul i wesebisa da miTitebebis Sesabamisad.

b. efeqturi zomebi miRon sakuTrebiT Tavisufl ad sargebl obis ufl ebis dasacavad da ar dauSvan arc erTi pirovnebis diskriminacia sqesis, rasobrivi kuTvnil ebis, kanis feris, enis, sarwmunoebis, pol itikuri Tu sxva mrwamsis, erovnebis, social uri warmomavl obis, qonebrivi mdgomareobis, Tu raime sxva niSniT.

Tavi 10: Tavisufal i gadaadgil ebis ufl ebanawil i aA- samar TI ebrivi aqtebi

adami ani s ufl ebaTa sayovel Tao dekl aracia, muxl i 13

1. yvel a adamians aqvs nebismieri saxel mwifoSi Tavisufal ad gadaadgil ebisa da sacxovrebel i adgil is arCevis ufl eba.

2. yvel a adamians aqvs nebismieri qveynis, maT Soris Tavisu sakuTari qveynis datovebis ufl eba da ufl eba dabrundes Tavis mSobl iur qveyanaSi.

adami ani s ufl ebaTa evropul i konvencia, oqmi #4, muxl i 2

1. yvel as, vinc kanonierad imyofeba saxel mwifos teritoriaze, aqvs am teritoriaze Tavisufal ad gadaadgil ebisa da sacxovrebel i adgil is arCevis ufl eba.

2. yvel a adamians unda SeeZl os nebismieri qveynis, maT Soris Tavisu qveynis Tavisufal ad datoveba.

3. dauSvebel ia am ufl ebiT sargebl obis yovel gvare SeZRudva, garda kanoniT dadgenil i SemTxvevebisa da Tu es aucil ebel ia demokratiul sazogadoebaSi erovnul i uSiSroebis an sazogadoebrivi usafrTxoebis interesebidan gamomdinare, sazogadoebrivi wesrigis SenarCunebis, danaSaul is Tavidan acil ebis, janmrTel obisa da moral is, an sxvaTa ufl ebebisa da Tavisufal ebebis dacvis mizniT.

4. 1-1 i punqtiT gansazRvrul i ufl ebebi garkveul i teritoriis fargl ebSi SeiZl eba aseve daeqvemdebaros SeZRudvebs kanonis moTxovnaTa Sesabamisad da demokratiul sazogadoebaSi sazogadoebis interesebidan gamomdinare.

**Tavi 10: Tavi sufal i gadaadgi I ebi s ufI eba
nawI I b - saswavi o kazusebi**

CawereT Tqveni sakuTari kazusebi.

Tavi 10: Tavisufali gadaadgil ebisufl eba

nawli ig - saxel mZRVanel o mITITebebi I eqtorebisa da sxvasawlo personal isaTvis

SeniSvna: aq ganxil uli samarTi ebrivi aqtebis sruli teqsti Segizli iaTixili oT TandarTul masal ebSi (ix. „ZiriTadi dokumentebi“). amonawerebi xel Sekrul ebis organoTa daskvnebidan da gadawyvetil ebebidan amoRebul ia krebul isa danarTSi moyvanili saqmeebidan.

samarTi ebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl aracia

me-13 muxl is pirveli punqti Zalze farTod ayal ibebs saxel mwifos SigniT Tavisufali gadaadgil ebisa da cxovrebi ufl ebas, aniWebs ra aseT Tavisufl ebas „yvela adami ans“.

meore punqTSi aseve farTodaa gamoxatul i nebismieri qveynis datovebis ufl eba, vinaidan isic „yvela adami anze“ vrcel deba. Tumca, qveyanaSi dabrunebis ufl eba SezRudul ia sityebiT „Tavis qveyanaSi“ da mxol od am qveynis moqal aqeebze vrcel deba.

adami anis ufl ebaTa evropuli konvencia, oqmi #4

me-2 muxl is 1-1 punqTSi mocemuli Tavisufali gadaadgil ebisufl eba da sacxovrebeli adgil is arCevis Tavisufl eba SezRudul ia da vrcel deba mxol od saxel mwifos teritoriaze kanonierad myof pirebze. garda amisa, me-4 punqti uSvebs am ufl ebisa da Tavisufl ebis kanoniT gaTval iswinebul SezRudvebs, roca es gamarTi ebul ia „demokratiul sazogadoebaSi sazogadoebis interesebidan gamomdinare“.

me-2 punqTSi gamoxatul ia yovel i adami anis mier nebismieri qveynis datovebis ufl eba, xolo me-3 punqti ayal ibebs pirveli or punqTSi mocemul ufl ebaTa da Tavisufl ebaTa dasaSveb SezRudvebs da ZiriTadad imeorebs konvenciis me-8 _ me-11 muxl ebis Sesabamis debul ebebs.

xel Sekrul ebis organoTa daskvnebi da gadawyvetil ebebi

xel Sekrul ebis organoTa daskvnebsa da gadawyvetil ebebsi, roml ebic a danarTSia moyvanili, gamoTqmul ia Semdegi ZiriTadi mosazrebebi:

1. mafiisgan momdinare safrTxe adasturebs mTavrobis gancxadebas, rom mafiis erT-erTi wevris mimarT ganxorciel ebul i iseTi SezRudvebi, rogoricaa:

pol iciis sagangebo zedamxedvel obis daweseba;

pol iciis gafrTxil ebis gareSe binis datovebis akrZal va;

gansazRvrul dros pol iciaSi gamocxadebis val debul eba; da

gadaadgil ebis sagangebo rejimis daweseba

gamarTi ebul i iyo sazogadoebrivi wesrigis dacvisa da danaSaul is arKveTis interesebiT.

2. rodesac konvenciis 5.3 muxl is Sesabamisad sasamarTi omde ganTavisufl ebul i piris (gansasjel is) mimarT xorciel deba iseTi sagarantio xasiaTis RonisZiebebi, roml ebic zRudaven misi gadaadgil ebis Tavisufl ebas, magaliTad, qveynidan gasvl is

akrZal va da qveynis SigniT gadaadgil ebisTvis saWi ro dokumentebis CamorTmeva, amgvari Careva SeiZl eba CaiTval os danaSaul is aRkveTisaTvis aucil ebel iZul ebiT RonisZiebad.

3. qveyanaSi ucxoel Ta yofnis „kanonierebis“ pirobebs saxel mwifo gansazRvrvavs. es niSnavs, rom: cxovrebis nebarTvis misaRebad misi Txovnis dakmayofil ebande, qveyanaSi droebiT da pirobiT Semosul i ucxoel i mxol od im SemTxvevaSi imyofeba „kanonierad“ saxel mwifos teritoriaze, Tu igi ar arRvevs aRniSnul pirobebs.

pol iciis saqmianoba da adamianis ufl ebebi

Zi ri Tadi saki Txebi :

1. pol icias mniSvnel ovani rol i akisria Tavisufal i gadaadgil ebis ufl ebisa da sacxovrebel i adgil is arCevis Tavisufl ebis dacvaSi da moeTxoveba yovel gvare (sqesis, rasobrivi kuTvnil ebis, kanis feris, enis, rel igiis, pol itikuri Tu sxva mrwamsis, erovnul i an social uri warmomavl obis, qonebrivi mdgomareobis, Tu raime sxva niSnit) diskriminaciis gareSe saTanado reagireba moaxdinos am ufl ebisa da Tavisufl ebis darRvevaTa Sesaxeb Semosul yvel a saCivarze.

2. pol icia mniSvnel ovan rol s TamaSobs Tavisufal i gadaadgil ebisa da sacxovrebel i adgil is arCevis ufl ebis ganxorciel ebaSi da moeTxoveba, rom am ufl ebisa da Tavisufl ebis nebismieri SezRudvisas imoqmedos mxol od sakuTari kompetenciis fargl ebSi da ganuxrel ad daicvas kanonis yvel a moTxovna.

3. pol iciis xel mZRvanel obis moval eobaa:

a. uzrunvel yos, rom TiToeul ma pol iciel ma kargad icodes Tavisufl ebisa moval eobebi Tavisufal i gadaadgil ebisa da sacxovrebel i adgil is arCevis ufl ebis ganxorciel ebas da am ufl ebis kanoniT gaTval iswinebul SezRudvebTan dakavSirebiT.

b. uzrunvel yos, rom pol icia saTanadod icavdes Tavisufal i gadaadgil ebisa da sacxovrebel i adgil is arCevis ufl ebas, am ufl ebisa da Tavisufl ebis darRvevaTa Sesaxeb saCivrebze Sesabamisi reagirebisa da misi ufl ebasosil ebis patiosnad da pasuxismgebl obiT ganxorciel ebis meSveobiT;

Tavi 11: darRveul i ufl ebebi sa da Tavisufl ebebi s efeqturi samarTI ebrivi dacvis ufl eba da ufl ebebi Ta da Tavisufl ebebi T di skr i mi naci i s gareSe sargebl obi s ufl eba

Seni Svna: rogorc am krebul is Sesaval TavSia miTiTebul i, am TavSi ganxil ul i ufl ebebis specifikidan gamomdinare, mizanSewonil ia, rom maTTvis cal ke mecadineobebis daTmobis nacvl ad, pedagoge bma da saswavl o masal ebis avtorebma am ufl ebebTan dakavSirebul i sakiTxebi Seitanon konvenciiTa da misi oqmebiT gansazRvrul i sxva ufl ebebis swavl ebis procesSi.

aq ganxil ul i samarTI ebrivi aqtebis srul i teqsti SegiZl iaT ixil oT TandarTul masal ebSi (ix. „ZiriTadi dokumentebi“). amonawerebi xel Sekrul ebis organoTa daskvnebidan da gadawyvetil ebebidan amoRebul ia krebul is a danarTSi moyvanil i saqmeebi dan.

1. darRveul i ufl ebebi sa da Tavisufl ebebis efeqturi samarTI ebrivi dacvis ufl eba

nawil i a - samarTI ebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl aracia, muxl i 8

yvel a adami ans mistvis konstituciiT an kanoniT miniWebul i ZiriTadi ufl ebebis darRvevis SemTxvevaSi aqvs qveynis Sesabamis sasamarTI o instanciiebi maTi efeqturi dacvis ufl eba.

adami anis ufl ebaTa evropul i konvencia, muxl i 13

konvenciiT gaTval iswinebul i ufl ebebi sa da Tavisufl ebebis darRvevis SemTxvevaSi, yvel a adami ans aqvs xel isufl ebis organoSi maTi efeqturi samarTI ebrivi dacvis ufl eba, im SemTxvevaSi, Tu aseTi darRveva Cadenil iqna im pirebis mier, vinc Taviant samsaxureobriv moval eobas asrul ebdnen.

nawil i b - ufl ebis ganmar t eba

adami anis ufl ebaTa sayovel Tao dekl aracia

me-8 muxl is moqmedebis are Zal ze farToa, ramdenadac igi moiTxovs konstituciiT da kanoniT miniWebul i ZiriTadi ufl ebebis efeqturi dacvis uzrunvel yofas.

adami anis ufl ebaTa evropul i konvencia

me-13 muxl i ki iTxovs konvenciiT aRiarebul i ufl ebebi sa da Tavisufl ebebis efeqturi samarTI ebrivi dacvis uzrunvel yofas. amdenad, igi ufro SezRudul ia, vidre sayovel Tao dekl araciis me-8 muxl i. amasTanave, konvencia darRveul ufl ebaTa efeqturi samarTI ebrivi dacvis ganxorciel ebas iTxovs „xel isufl ebis organosagan“, rac ufro farTo Sinaarsis cnebaa, vidre sayovel Tao dekl araciaSi gamoyenebul i termini „qveynis Sesabamisi sasamarTI o instanciebi“.

konvencii es debul eba ganvrcobil ia fraziTY, „im SemTxvevaSi, Tu aseTi darRveva Cadenil iqna im pirebis mier, vinc Taviant samsaxureobriv moval eobas asrul ebdnen“. mocemul i debul eba moiTxovs, rom im pirebs, romel Tac miaCniaT rom adgil i

hqonda konvenciIT an misi oqmebiT garantirebul i maTi ufl ebebis darRvevas, unda SeeZI oT dauyovnebl ad mimarTon xel isufl ebis Sesabamis organos maTi darRveul i ufl ebebis efeqturi dacvis uzrunvel sayofad.

xel Sekrul ebis organoTa daskvnebi da gadawyvetil ebebi

kl asis saqmis ganxil visas Camoyal ibda mniSvnel ovani principi, rom me-13 muxl Tan dakavSirebiT ganacxadis dasaSvebobisTvis sakmarisia momCivanma aCvenos, rom qveynis xel isufl ebam ar uzrunvel yo konvenciIT an misi oqmebiT garantirebul i misi romel ime ufl ebis efeqturi samarTI ebrivi dacva, rodesac man aRniSnul i darRvevis Taobaze saCivriT mimarTa Sesabamis organos.

es principi kidev ufro dazustda sil veris saqmis ganxil visas, rodesac sasamarTI om miicnia, rom aucil ebel ia momCivanma misi ufl ebis darRvevis Taobaze (miuxedavad imisa, Tu ramdenad seriozul darRvevas exeba igi) warmoadginos dasabuTebul i ganacxadi. evropul ma sasamarTI om, aRniSnul i moTxovnis CaTvl iT, oTxi principi Camooyal iba.

1. konvenciIT dadgenil i ufl ebebis darRvevasTan dakavSirebiT dasabuTebul i ganacxadi unda ganxil os da gadawyvitos xel isufl ebis kompetenturma organom da, saWiroebis SemTxvevaSi, uzrunvel yos Sesabamisi sanqciebis gatareba.

2. aucil ebel i ar aris, rom qveynis xel isufl ebas sasamarTI o warmoadgendes, magram aseT SemTxvevaSi mniSvnel ovania, rom mocemul i administraciul i organos ufl ebamosil eba da is garantiebi, romel sac igi aniWebs, uzrunvel yofdes aRniSnul ufl ebaTa efeqtur dacvas.

3. Tumca darRveul i ufl ebis Sidasaxel mwifoibrivi samarTI ebrivi dacvis romel ime erTi saSual eba SeiZI eba sakmarisi ar iyos me-13 muxl is moTxovnaTa dasakmayofil ebl ad, am ufl ebis efeqturi dacvis SesaZI ebl obas SeiZI eba izI eodes qveynis kanonmdebl obiT gaTval iswinebul i dacvis sxvadasxva saSual ebebis erTobl ioba.

4. konvencia ar gansazRvravs konkretul SidasamarTI ebriv meqanizmebs konvenciis debul ebebis efeqturi ganxorcil ebis uzrunvel sayofad.

rac Seexeba am muxl is darRvevaTa gasaCivrebas konvenciis organoebSi, is, rom momCivanisTvis aucil ebel i ar aris konvenciis romel ime sxva debul ebis darRvevis faqtis Cveneba, niSnavs, rom me-13 muxl Tan dakavSirebul i saCivrebi axl a ukve damoukidebl ad SeiZI eba iqnes ganxil ul i. konvenciis organoebS SeuZI iaT daadginon, rom adgil i hqonda me-13 muxl is darRvevas im SemTxvevaSic ki, Tu ar momxdara konvenciIT gansazRvrul i romel ime material uri ufl ebis darRveva. Tumca, meore mxriv, Tu dadgindeba konvenciis sxva debul ebis darRvevis faqti, me-13 muxl is darRvevasTan dakavSirebul i saCivari Cveul ebriv aRar ganxil eba xol me.

2. ufl ebebiTa da Tavisufl ebebiTYdiskriminaciis gareSe sargebl obis ufl eba

nawil i a – samar TI ebrivi aqtebi

adami anis ufl ebaTa sayovel Tao dekl aracia, muxl i 2.1

yvel as, miuxedavad misi rasobrivi kuTvnil ebis, kanis feris, sqesis, enis, sarwmunoebis, politikuri an sxva mrwamsis, erovnebis, social uri warmomavl obis, qonebrivi mdgomareobis, Tu raime sxva niSniT gansxvavebisa, aqvs ufl eba Tanabrad isargebl os dekl araciIT gansazRvrul i yvel a ufl ebiTa da Tavisufl ebiT.

adami anis ufl ebaTa evropul i konvencia, muxl i 14

konvenciiT dadgenil i ufl ebebiTa da Tavisufl ebebiT sargebl oba unda ganxorciel des yovel gvare dikriminaciiS gareSe, ganurcevl ad sqesis, rasis, kanis feris, enis, rel igiis, politikuri an sxva mrwamsis, erovnebis, social uri warmomavl obis, erovnul umciresobasTan kavSiris, qonebrivi mdgomareobis, dabadebis Tu raime sxva niSniT gansxvavebisa.

nawil i b – ufl ebis ganmar teba

adami anis ufl ebaTa sayovel Tao dekl aracia

Tanasworufl ebianoba adamianis ufl ebaTa dacvis umniSvnel ovanesi principia da igi sayovel Tao dekl araciiS preambuliTa da misi sxvadasxva muxl ebiT aris ganmtkicebul i. magal iTad, preambula aRiarebs „adamianTa oj axis yvel a wevris Tanaswor da ganuyofel ufl ebebs“, xolo 1-I muxl Si naTqvamia, rom „yvel a adamiani Tavisufal i da Tavisufl RirsebiTa da ufl ebebiT Tanaswori ibadeba“.

me-2 muxl is Tanaxmad yvel a adamiani Tanasworia sayovel Tao dekl araciiT aRiarebul i ufl ebebiT sargebl obisas da akrZal ul ia maTi raime niSniT diskriminacia.

aRsaniShavia, rom diskriminaciiS konkretul gamovl inebebTan dakavSirebiT miRebul ia araerTi saerTaSoriso aqti, magal iTad:

gaerTianebul i erebis dekl aracia rasobrivi diskriminaciiS yovel gvare formis aRmofxvris Sesaxeb;

saerTaSoriso konvencia rasobrivi diskriminaciiS yovel gvare formis aRmofxvris Sesaxeb;

dekl aracia qal Ta diskriminaciiS aRmofxvris Sesaxeb;

konvencia qal Ta yovel gvare diskriminaciiS aRmofxvris Sesaxeb;

dekl aracia nebismieri saxis Seuwynarebl obisa da rel igiis an rwmenis safuZvel ze diskriminaciiS aRmofxvris Sesaxeb.

adami anis ufl ebaTa evropul i konvencia

me-14 muxl i saxel mwifoebS ar aval debul ebs diskriminaciiS winaaRmdag zogadi garantiis Seqmnas. igi moiTxovs mxol od imis uzrunvel yofas, rom ar iqnes daSvebul i diskriminacia konvenciiT aRiarebul i ufl ebebiTa da Tavisufl ebebiT sargebl obis Tval sazrisiT. igi aseve moiTxovs, rom im SemTxvevebSi, rodesac konvencia iTval iswinebs am ufl ebaTa dasaSveb SezRudvebs (ixil eT me-8 – me-11 muxl ebi), nebismieri aseTi SezRudva diskriminaciiS gareSe unda ganxorciel des.

evropul i konvencia imeorebs im faqtorebis CamonaTval s, romel Ta safuZvel zec adamianis ufl ebaTa sayovel Tao dekl araciiS Tanaxmad akrZal ul ia diskriminacia da agreTve Seicavs miTitebas erovnul umciresobebTan dakavSirebiT.

xel Sekrul ebis organoTa daskvnebi da gadawyvetil ebebi

Tumca me-14 muxl i cal ke ufl ebas ar gansazRvavs, aramed ganavrcobs da ganamtkicebs konvenciiS sxva, ZiriTad ufl ebaTa gamomxatvel debul ebebs, am muxl s samarTal warmoebaSi garkveul i avtonomiuroba mainc gaaCnia. kerZod, konvenciiS organoebSi me-14 muxl is darRvevaTa gasaCivrebisas aucil ebel i ar aris konvenciiT dacul i romel ime material uri ufl ebis darRvevis faqtis Cveneba. ufro zustad,

saWiroa imis demonstrireba, rom konvenciis esa Tu is debul eba diskriminaciul ad iqna gamoyenebul i. es principi Camoyal ibebul ia bel giis saqmeSi, sadac enis sakiTxebze wamoWriI davasTan dakavSirebiT sasamarTI om ganaxxada, rom me-14 muxl i „konvenciis TiToeul i im muxl is ganuyofel i nawil ia, roml ebSic ZiriTadi ufl ebebi da Tavisufl ebebia Camoyal ibebul i”.

es principi niSnavs, rom sxva ufl ebebis darRvevaTa Sesaxeb saCivrebs konvenciis organoebi ganxil aven me-14 muxl Tan kavSirSi. sxva sityvebiT rom vTqvaT, saqmis garemoebaTa cal ke ganxil vis SemTxvevaSi SeiZl eba ar Candes romel ime ZiriTadi ufl ebis darRvevis faqti, magram darRveva SeiZl eba gamovl indes misi ganxil visas me-14 muxl Tan kavSirSi.

meore mxriv, xel Sekrul ebis organoebi yovel Tvis ar iTval iswineben me-14 muxl is am avtonomiurobas, Tu dgindeba romel ime ZiriTadi ufl ebis an Tavisufl ebis darRvevis faqti. aseT SemTxvevebSi isini Cveul ebriv miCneven, rom diskriminaciis cal ke ganxil va aucil ebel i ar aris. es principi gamoxatul ia earis saqmeSi.

pol iciisaTvis, romel ic mkacrad discipl inirebul ierarqiul struqturas warmoadgens, gansakuTrebiT aqtual uri SeiZl eba iyos engel is saqmeSi Camoyal ibebul i principi. kerZod, miTiTebul saqmesTan dakavSirebiT sasamarTI om ganaxxada, rom sxvadasxva samxedro wodebis mosamsaxureTaTvis discipl inarul sferoSi gansxvavebul i ufl eba-moval eobebis gansazRvris sakiTxSi saxel mwifos Tavisufal i Sefasebis farTo are gaaCnia.

aseve mniSvnel ovania aRiniSnos saqme gaerTianebul i samefos winaaRmdeg, romel Sic ixil eboda me-14 muxl is savaraudo darRveva me-5 muxl Tan (Tavisufl ebis xel yofa) kavSirSi. sasamarTI om daadgina, rom teroristul i aqtis ganxorciel ebaSi monawil eTaTvis gansxvavebul i sasjel is miyeneba „SeiZl eba gamarTI ebul i iyos, Tu igi kanonier mizans emsaxureboda da gamoyenebul i saSual ebebi dasaxul i miznis proporciul i iyo”.

es sakiTxi ganxil eboda sagangebo ufl ebamosil ebaTa aqtTan dakavSirebiT, romel ic gamorCeul ad Seexo kaTol ikur sazogadoebas.

pol iciis saqmianoba da adamianis ufl ebebi (1 da 2 nawil ebi)

ZiriTadi sakiTxebi:

1. mniSvnel ovania, rom pol icia TanamSroml obdes da daxmarebas uwevdes xel isufl ebas yvel a im piris ufl ebebis efeqturi samarTI ebrivi dacvis uzrunvel yofaSi, vinc acxadebs, rom darRveul iqna mistvis konvenciit an konvenciis oqmebiT miniWebul i esa Tu is ufl eba an Tavisufl eba.

2. aucil ebel ia, rom pol iciis TanamSroml ebma Tavianti ufl eba-moval eobebis Sesrul ebisas daicvan konvenciis moTxovna diskriminaciis akrZal vasTan dakavSirebiT.

3. pol iciis xel mZRVanel obis moval eobaa:

a. uzrunvel yos pol iciis yovel dRiuri saqmianobis amsaxvel i oqmebis, moxsenebiTi masal isa da sxva Canawerebis, maT Soris satabel o da samorigeo Jurnal ebis j erovani warmoeba, rac xel s Seuwyobs adamianis ufl ebaTa savaraudo darRvevebze mokvl evis warmoebas.

b. uzrunvel yos pol iciis uwyebaTa strategiasa da samoqmedo gegmebSi diskriminaciis akrZal vis principis saTanadod gaTval iswineba.

g. piradi magal iTiTa da sazedamxedvel o RonisZiebebiT uzrunvel yos pol iciis mier aRniSnul i principis ganuxrel i dacva.

4. yovel i pol icieI is moval eobaa:

a. droul ad da zustad Seitanos monacemebi saregistracio Jurnal ebSi da gaaformos yvel a aucil ebel i oqmi, romel ic mas Tavisi moval eobebis Sesrul ebisas moeTxoveba.

b. srul ad daemoCiI os yvel a im instruqciis, wesisa da miTiTebis moTxovnebs, roml ebic diskriminaciis akrZal vas exeba.

Tavi 12: adami anis ufl ebebi da pol iciis xel mZRvanel obis moval eobaTa sfero

saerTo evropul i Rirebul ebebi

adami anis ufl ebebi, pol itikuri demokratia da kanonis uzenaesoba saerTo evropul i Rirebul ebebia. es Rirebul ebebi gamoxatul ia adami anis ufl ebaTa evropul i konvenciis preambul aSi da konvenciis debul ebebiTa da xel Sekrul ebis organoTa gadawvyetil ebebiT aris ganmtkicebul i. amasTanave, es Rirebul ebi uSual od aris erTmaneTTan dakavSirebul i, rameTu adami anis ufl ebebs kanonis uzenaesoba icavs; kanonis uzenaesoba adami anis ufl ebaTa pativiscemas emyareba; adami anis ufl ebaTa ganuxrel i dacva ki pol itikuri demokratiis ganuyofel i nawil ia.

pol iciis ufl ebamosil eba da saerTo evropul i Rirebul ebebi

saerTo evropul Rirebul ebaTa dacva da ganmtkiceba mniSvnel ovnadaa damokidebul i pol iciis saqmianobaze. magal iTad, pol iciis erT-erTi ZiriTadi amocanaa uzrunvel yos sazogadoebrivi wesrigis dacva, raTa ar moxde adami anis ufl ebaTa xel yofa, ganmtkicdes kanoniereba da xel i ar SeeSal os demokratiul i pol itikuri procesebis ganxorciel ebas. amave dros aucil ebel ia, rom pol icia Tavad scemdes pativs da xel mZRvanel obdes adami anis ufl ebebis, kanonis uzenaesobisa da demokratiul i principebis dacvis interesebiT. winaaRmdeg SemTxvevaSi es Rirebul ebebi Seil axeba swored im adami anebisa da uwebebis mier, roml ebic Tavad arian mowodebul i daicvan isini yovel gvarel xel yofisagan. yovel ive es mkafiod warmoaCens, Tu raoden mniSvnel ovani rol i ekisreba pol iciis xel mZRvanel obas da rogoria misi pasuxismgebl oba am Rirebul ebaTa j erovani dacvis uzrunvel yofaSi.

am krebul is 1-l TavSi saubarua pol iciis saqmianobis efeqturad da kanonis Sesabamisad warmarTvis udides mniSvnel obaze. pol iciel ebi, rogorc samarTal damcavi sferos moxel eebi, val debul i arian ganuxrel ad Seasrul on kanonis moTxovnebi, maT Soris, adami anis ufl ebaTa dacvis sferoSi. adami anis ufl ebaTa evropul i konvenciit Seqmnil organoTa daskvnebsa da gadawvyetil ebebSi araerTgzisaa xazgasmul i pol iciis mier kanonis pativiscemisa da dacvis, sxvadasxva procesual uri moTxovnebis saval debul o Sesrul ebis aucil ebl oba.

konvenciis organoebi aRniSnaven agreTve or sxva princips, romel Tac gansakuTrebul i mniSvnel oba eniWebat pol iciis saqmianobisa da misi xel mZRvanel obis pasuxismgebl obaTa ganxorciel ebis Tval sazrisiT. esenia Tanazomierebisa da diskriminaciis dauSvebl obis principebi. Tanazomierebis dacva, magal iTad, aucil ebel ia imisaTvis, rom miRweul iqnes saTanado bal ansi, erTi mxriv, Sekrebis Tavisufl ebis dacvasa da, meore mxriv, iseTi aucil ebl obiT ganpirobepul RonisZiebebs Soris, rogoricaa sazogadoebrivi usafrTxoebis dacva, areul obis an danaSaul is aRkveTa da sxva. diskriminacia duSvebel ia adami anis nebismieri ufl ebis dacvisa Tu am ufl ebis kanonieri SezRudvis ganxorciel ebisas.

pol icia ganuxrel ad unda xel mZRvanel obdes kanonis moTxovnaTa dacvis, Tanazomierebisa da diskriminaciis dauSvebl obis principebiT. mxol od aseTi midgoma uzrunvel yofs pol iciis mier saerTo evropul i Rirebul ebebis dacvasa da ganmtkicebas da am Rirebul ebaTa saerTo pol iciur Rirebul ebebad damkvidrebas.

saerTo evropul i Rirebul ebebi da pol iciis funqciebi

pol iciis iseTi funqciebi, rogoricaa danaSaul obaTa Tavidan acil eba da gamoZieba, sazogadoebrivi wesrigis uzrunvel yofa da dacva, saswrafo samaSvel o RonisZiebebis

ganxorciel eba da gansacdel Si myofi adamianebisaTvis daxmarebis gaweve, mTel i msofli iosa da, maT Soris, evropis pol iciuri samsaxurebis saerTo amocanebia.

adamianis ufl ebaTa evropul konvenciasa da am konvenciis organoTa daskvnebsa da gadawyvetil ebebSi Camoyal ibebul ia pol iciis saqmianobis umniSvnel ovanesi standartebi, roml ebic ganamtkiceben adamianis ufl ebebis dacvas, pol itikur demokratiasa da kanonis uznaesobas. magal iTad, danaSaul obaTa gamoZiebasa da samarTliani sasamarTli o ganxil vis ufl ebasTan dakavSirebiT adamianis ufl ebaTa evropul i sasamarTli o miuTitebs, rom igi srul ad iziarebs organizebul i danaSaul is winaaRmdog brZolis udides mniSvnel obas, magram amave dros miicnevs, rom marTli msaj ul ebis samarTliani ganxorciel ebis ufl ebas imdenad gadamwyveti roli akisria Tanamedrove demokratiul sazogadoebaSi, rom dauSvebel ia am ufl ebis sxvadasxva praqtikul i mosazrebebiT SezRudva.

pol iciis mier danaSaul is gamoZiebis upirvel esi mizania bral debul is samarTali Si micema da mtkicebul ebaTa mopoveba misi saqmis samarTliani sasamarTli o ganxil vis uzrunvel sayofad. adamianis ufl ebaTa evropul i sasamarTli o moitxovs danaSaul is gamoZiebas kanonierebisa da samarTli anobis dacvit, rac niSnavs, rom pol iciam ganuxrel ad unda Seasrul os sxvadasxva amocanaTa (mtkicebul ebaTa Segroveba, eWvmitanil ebisadmi saTanado mopyroba da sxva) Sesrul ebasTan dakavSirebiT dadgenil i detal uri wesebi, roml ebic swored am standartebis misaRwevad aris gamiznul i.

sazogadoebrivi wesrigis uzrunvel yofasTan dakavSirebiT adamianis ufl ebaTa evropul i sasamarTli o xazgasmit aRniSnavs demokratiul sazogadoebaSi mSvidobiani Sekrebis ufl ebis mniSvnel obas. sasamarTli o miicnevs, rom agresiuil i kontr-demonstraciebis mowyobisa an eqstremistul i gamoxdomebis Sesazl ebl oba ar SeiZl eba am ufl ebis xel yofis mizezi gaxdes. sasamarTli os azrit, mSvidobiani Sekrebis ufl eba aucil ebl ad moicavs mowinaaRmdoge banakis warmomadgenel Ta Tavdasxmehisagan dacvis ufl ebasac, vinaidan mxol od amgvarad SeiZl eba mSvidobiani Sekrebis ufl ebis uzrunvel yofa im social uri j gufebisaTvis, romel Tac surT sxvadasxva sakamato sakiTxebis mimarT Tavianti principul i damokidebul ebis masobrivi gamoxatva.

mSvidobiani demonstraciis dacvis taqtikis gansazRvrisas, saukeTeso arCevani, al baT, iqneboda prevenciul i zomebis miReba fizikuri Zal adobis Tavidan asacil ebl ad, xol o Zal is gamoyeneba mxol od im SemTxvevaSi, rodesac areul obas aqvs adgil i. aseTi midgoma gansakuTrebiT mniSvnel ovania maSin, rodesac arsebobs real uri safrTxe, rom Zal adobis afeTqebis sababi Tavad pol iciis Careva SeiZl eba gaxdes.

es mosazrebebi ayal ibebs im standartebis, roml ebsac aucil ebl ad unda iTval iswinebdes sazogadoebrivi wesrigis dacvisa an aRdgenis miznit gansazRvrul i pol itika, strategia da taqtika. magal iTad, gaTval iswinebul i unda iyos mSvidobiani Sekrebis ufl ebis mniSvnel oba; uzrunvel yofil unda iqnes kontr-demonstrantebis Tavdasxmehisagan dacva; zogiert SemTxvevaSi Sesazl oa saWiro gaxdes pol iciis mxridan garkveul i prevenciul i zomebis miReba imisaTvis, rom Tavidan iqnes acil ebul i Setakebebis dawyeba.

SeiZl eba dasaxel des sxva magal itebic imasTan dakavSirebiT, Tu ra moTxovnebs ayenebs saerTo evropul i Rirebul ebebis dacva pol iciis ufl eba-moval eobaTa ganxorciel ebis Tval sazrisiT. es moTxovnebi evropis sabWos mier adamianis ufl ebaTa dacvis sferoSi miRebul sxvadasxva iuridiul aqtebsa da konvenciis organoTa gadawyvetil ebebSi aris asaxul i.

saerTo pol iciuri Rirebul ebebi

zogadad Tu vityvit, mTel msofli ioSi pol icias msgavsi funqciebi da ufl eba-moval eobebi gaaCnia, roml ebic msgavs SezRudvebs eqvemdebareba. pol icia mkacrad disciplinirebul i, ierarqiuil i struqturaa. yovel ive es ganapirobebs imas, rom

svvadasxva qveynebsi Camoyal ibebul i pol iciuri praqtika mraVal i saerTo niSniT xasiaTdeba.

SesaZl ebel ia amas xel s uwyobdes agreTve pol iciuri saqmianobis mzardi internacional izacia. magal iTad, dRes gaeros samSvidobo misiebSi gverdigverd TanamSroml oben mraVal i qveynis pol iciuri Zal ebi; qveynebs Soris dadebul i ormxrivi SeTanxmebebi da saerTaSoriso organizaciebis egidIT miRebul i dokumentebi svvadasxva qveynis pol icias Soris codnisa da gamocdil ebis gaziarebis saSual ebas iZl eva; garda amisa, svvadasxva qveynis pol iciuri uwyebebi sul ufro mWidrod TanamSroml oben erTmaneTTan iseT danaSaul obebTan brZol is saqmeSi, roml ebmac saerTaSoriso ganzomil eba SeiZines.

istoriul i, pol itikuri da ekonomikuri faqtorebis gavl eniT, agreTve yvel a im mizezis gamo, rac adamianis ufl ebaTa, pol itikuri demokratiisa da kanonis uzenaesobis saerTo evropul i Rirebul ebebis arsebobas ganapirobebs, es tendenciebi kidev ufro mkafio gamoxatul ebas hpovebs evropasi. amaSi gansakuTrebul i rol i iTamaSa evropis sabWomac, romel ic mowodebul ia xel i Seuwyos wevr saxel mwifoebSi saerTo evropul i Rirebul ebebis damkvidrebasa da gaZl ierebas.

saerTo pol iciuri Rirebul ebebi da adamianis ufl ebebi

am Rirebul ebaTa pativiscemis ganmtkicebas gansakuTrebul i mniSnel oba aqvs pol iciisaTvis, vinaidan pol iciaSi damkvidrebul i qcevis kul turis zogierTi aspeqti, gansakuTrebiT ki mosaxl eobasTan uSual o SexebaSi myof pol iciel Ta Soris gavrcel ebul i mankeri damokidebul eba da praqtika SeuTavsebel ia adamianis ufl ebaTa dacvisa da kanonis uzenaesobis principebTan. magal iTad, im rTul ma amocanebma, romel Ta gadaWrac rigiT pol iciel s yovel dRiurad uxdeba, da misma sakuTarma warmodgenam pol iciis rol is Sesaxeb SeiZl eba mtrul ad ganawyos igi kanonebis, procesual uri moTxovnebis da miTitebebis mimarT, roml ebic, misi azrit, mxol od imistvis arsebobs, rom xel i SeuSal os mas muSaobaSi da cxovreba gauiol os kriminal ebs. uaryofiti damokidebul eba im kanonebis, wesebisa da saxel mZRvanel o miTitebebisadmi, roml ebic mowodebul ia daicvas danaSaul Si eWvmitanil Ta ufl ebebi, pol iciaSi damkvidrebul i kul turis erT-erTi zemoxsenebul i aspeqtia.

is, rom pol iciuri saqmianobis internacional izacia udavod ganapirobebs aseTi damokidebul ebis kidev ufro farTo gavrcel ebas, miuTitebs Tu raoden didi mniSnel oba eniWeba evropis sabWosa da sxva saerTaSoriso organizaciebis muSaobas im mimarTul ebiT, rom gaZl ierdes pol iciis mier adamianis ufl ebebis da kanonis uzenaesobis Rirebul ebaTa pativiscema. amasTanave, es kidev erTxel warmoaCens im mniSnel ovan rol s, romel ic pol iciis xel mZRvanel obas akisria. mTel i evropul i oj axis interesebi moiTxovs, rom pol iciuri saqmianoba ganxorciel on iseTma adamiane bma, roml ebic icaven kanons da pativiscemen adamianis ufl ebebs. amas adasturebs isic, rom evropis zogierT nawil Si pol iciis Tvitnebobasa da arahumanur qmedebebs umZimesi Sedegi mohyol ia. garda amisa, pol iciis saqmianoba arafeqTuria, Tu igi ar emyareba kanonis, adamianis ufl ebebis da interesebis dacvasa da pativiscemas.

Rirebul ebaTa damkvidreba praqtikaSi

pol iciis xel mZRvanel oba Sedgeba zedamxedvel ebis (administraciul i mmarTvel obis pirvel i safexuri), Sua da zeda rgol is xel mZRvanel i muSakebisagan. zedamxedvel obaze pasuxismgebel i pirebi uSual o kontrol s axorciel eben operatiul TanamSromel Ta saqmianobaze da pirdapiri gavl ena SeuZl iaT iqonion maT damokidebul ebebsa da qcevaze. Sua rgol is xel mZRvanel i muSakebi warmoadgenen xids pol itikis ganmsazRvrel rgol sa da operatiul TanamSroml ebs Soris da pasuxismgebel i arian am pol itikis praqtikul ganxorciel ebaze. zeda rgol is xel mZRvanel oba SeimuSavebs pol itikasa da strategias,

da aqvs, an yovel SemTxvevaSi unda hqondes, saTanado ufl ebamosil eba da unari maT cxovrebaSi gasatarebl ad.

pol iciis yvel a xel mZRvanel i piri val debul ia uzrunvel yos, rom mis daqvebdebarebaSi myofma pol iciel ebma efeqturad, kanonis dacviTa da humanuri damokidebul ebiT Seasrul on maTze dakisrebul i moval eobebi. am mizniT, pol iciis xel mZRvanel obas moeTxoveba maRal i profesional izmiT warmaros da gaakontrol os xel qveiTebis muSaoba. amasTanave, pol iciis xel mZRvanel obam unda gaiTval iswinos, rom is garemo, romel Sic pol iciuri saqmianoba warimarTeba, ucvl el i ar aris da, aqedan gamomdinare, aucil ebel ia axal i garemoebebisa da moTxovnebis mudmivad gaTval iswineba.

dRes evropis zogierT qveyanaSi radikal uri pol itikuri, social uri da ekonomikuri Zvrebimimdinareobs. es rTuli da xangrZlivi gardamavali procesi saxel mwifos yvel a uwyebas da, kerZod, pol icias seriozul amocanebs uyenebs. amave dros, sxva qveynebsac, roml ebic marTal ia amgvar dramatul gardaqmnebs ar ganicdian, mainc uwevt mimdinare pol itikuri, social uri Tu ekonomikuri procesebis gaTval iswineba. gardamaval etapze myof qveynebsi pol iciis organoebisa da yvel a sxva saxel mwifo samsaxurs gansakuTrebit maRal i standartebit muSaoba marTebT da umkacresad SezRudul i biuj etis pirobebSi uwevt saqmianoba.

dRes evropis yvel a qveyanaSi mosaxl eoba moitXovs sxvadasxva saxis danaSaul obisa da social uri areul obebisagan ufro efeqtur dacvas. sazogadoebis didi nawili, maT Soris am sferoSi Rmad Caxedul i da avtoritetul i bevri adamiani miCnevs, rom pol icia ufro kanonmorcil i da humanuri unda gaxdes. dRes yvel gan gaismis dacvis meti efeqturobisa da pol iciel Ta qcevis ufro maRal i standartebis moTxovna, rac pol iciuri saqmianobis xarixobrivi Secvl asa da gaumj obesebas iTval iswinebs. yovel ive amas esaWiroeba pol iciel Ta samsaxurSi ayvanisa da momzadebis, maTi praqtikul i saqmianobis Sefasebis, dawinaurebisa da waxal isebis sxva formebs, zedamxedvel obis, discipl inis gaumj obesebis, pol iciel Ta samarTl ebrivi da sazogadoebrivi pasuxismgebl obis amaRl ebis saSual ebaTa daxvewa da Semdgomi gaumj obeseba.

yovel ive es miuTitebs, Tu ra xasiaTisa da masStabis cvl il ebaTa ganxorciel ebas moitXovs pol iciis xel mZRvanel obisagan sazogadoebaSi mimdinare procesebi da im xal xis mol odini, roml is samsaxurSic pol icia imyofeba. pol iciis xel mZRvanel oba saTaveSi unda edges iseTi sakiTxebis wamovevasa da gadaWras, rogoricaa strategiul i dagegmva, reformirebisa da ganvitarebis procesebis warmarTva, muSaobis Sedegianobis Sefaseba, pol itikisa Tu samoqmedo gegmebis koreqtireba dasaxul i miznebis miRwevis uzrunvel sayofad da sxva.

strategiul i dagegmvis procesi SemuSavebul i pol itika da samoqmedo gegmebi unda emyarebodes pol iciuri saqmianobis yvel a sferoSi dagrovil warmatebul gamocdil ebas da adamianis ufl ebaTa dacvis, pol itikuri demokratiisa da kanonis uzenaesobis principebs. warmatebul i saqmianobis standartebis gansazRvra SeiZl eba pol iciis sxva uwyebebis mier gamoyenebul i meTodebisa da saSual ebebis Seswavl isa da Sefasebis, agreTve Tavadi im pol iciuri uwyebis saqmianobis detal uri gaanal izebis meSveobit, romel ic strategiul i dagegmvis process axorciel ebs. saxel mZRvanel o principebis mTavar wyarod gamoyenebul unda iqnes adamianis ufl ebaTa dacvis, demokratiisa da kanonis uzenaesobis qveynis kanonmdebl obit aRiarebul i principebi. Tumca, umj obesia am procesi moSvel iebul iqnes agreTve is saerTaSoriso standartebi, roml ebic adamianis ufl ebaTa dacvis sxvadasxva iuridiul aqtebsa da konvenciis organoTa dadgenil ebebSia Camoyal ibebl i.

es xel s Seuwyobs pol iciis saqmianobis ukeT warmarTvas, pol iciel Ta profesikul i codnis amaRl ebas, qcevis ufro maRal i moTxovnebis danergvasa da sazogadoebis interesebis yovel mxriv gaTval iswinebas. amasTanave, saWiroa iseTi profesikul i

kul turis Camoyal ibeba da ganmtkiceba, romel ic emyareba damsaxurebisa da maRal i disciplinianobis jero van dafasebasa da waxal ise bas da miuRebl ad miiCnevs am Rirebul ebaTa ugul vebel yofasa da diskreditacias. mxol od aseTi midgoma uzrunvel yofs pol iciel Ta mier samsaxurebrivi qcevis iseTi norme bis SeTvisebas, roml e bic upasuxeb s azogadoebisa da saxel mwifoibrivi interese bis moTxovnebs da roml is gareSec veranairi WeSmariti cvl il eba ver ganxorciel deba.

am procesis warmarTvaSi pol icii s xel mZRvanel obis yvel a rgol s Tavisi gansakuTrebuli roli akisria. am roli s gansazRvra strategiuli dagegmvis umniSvnel ovanesi amocanaa. pol icii s xel mZRvanel obis did nawil s gacnobierebul i aqvs Tavisi moval eobebis udidesi mniSvnel oba da sirtul e da kargad esmis, rom aRniSnuli cvl il ebebis gatareba mra val i winaaRmdogobis daZl evasTanaa dakavSirebul i.

saWiroa, rom aseTive Segneba arsebobdes pol itikosebs, sazogadoebis wevrebsa da im adamianebs Sorisac, roml e bic pol icii s saqmianobis miznebisa da standarte bis gansazRvraSi iReben monawil eobas. maTi moval eobaa dabej iTebiT moiTxovon aucil ebel i cvl il ebebis gatareba da amiT pirveli nabiji gadadgan maTi ganxorciel ebis gzaze. aucil ebel ia im pirovnebebis gamovl ena da mxardaWera, romel Tac Zal uZT am procesis gaZRol a. aseTi mxardaWera gul isxmobs maTTvis daxmarebis gawevas saWiro codnis miRebisa da unarebis gamomuSavebis, saTanado resursebiT uzrunvel yofisa da gamocdil ebis gaziarebis Tval sazrisiT. amasTanave, arc erTi wuTiT ar unda Sesustdes reformebis gagrZel ebis moTxovna.

pol icii s xel mZRvanel obis pasuxismgebl oba adamianis ufl ebaTa dacvasTan dakavSirebiT martivad SeiZl eba ganisazRvros – maT unda uzrunvel yon pol iciuri saqmianobis procesi adamianis ufl ebaTa ganuxrel i pativiscema da dacva.

aseve martivad SeiZl eba Camoyal ibdes am mizniT gansaxorciel ebel i upirveli esi amocanebi – saWiroa pol icii s xel mZRvanel obam uzrunvel yos, rom yvel a pol iciel i kargad icnobdes maTTvis miniWebul ufl ebebsa da am ufl ebebis kanoniT dawesebul SezRudvebs da mkacrad icavdes kanonis moTxovnebsa da moral is normebs. yovel ive es pol iciel Ta saTanado momzadebasa da maT saqmianobaze mudmivi kontrol isa da zedamxedvel obis ganxorciel ebas moiTxovs. saWiroa im pol iciel Ta jero vani dafaseba da waxal ise ba, vinc maRal i profesional izmiTa da pasuxismgebl obiT asrul ebs Tavisi moval eobebs, xolo maTze, vinc ar icavs qcevis saval debul o wesebs, unda ganxorciel des Sesabamisi zemoqmedeba rCevebisa da special uri instruqtajis meSveobiT, an Tu saxezea danaSaul ebrivi qmedeba an disciplinuri gadacdoma, damnaSavis samarTal Si micemisa an Sesabamisi disciplinuri sasjel is dawesebis gziT.

Tumca yovel ive es mxol od aucil ebel i pirveli nabije ba. imisaTvis, rom adamianis ufl ebaTa pativiscema da dacva pol icii s saqmianobis ganuyofeli nawil i da misi Rirebul ebiTi sayrdeni gaxdes, aucil ebel ia, rom adamianis ufl ebebi pol iciuri kul turis, Segnebisa da qcevis normadiqces. es ki xangrZl iv da mizanmimarTul Zal isxmevasa da xel Sewyobas moiTxovs.

kanonisa da adamianis ufl ebebis sruli pativiscema maT mier, vis moval eobasac kanonisa da adamianis ufl ebebis dacva warmoadgens evropuli ojaxis saerto Rirebul ebaTa real izaciis aucil ebel i pirobaa.

adami ani s ufl ebebi da pol icia

praqt i kul i kur si „ZiriTadi dokumentebi“

adami ani s ufl ebaTa dacvis sfer oSi mi Rebul i samar TI ebr i vi aqt ebi :

adamianis ufl ebaTa sayovel Tao dekl aracia

adamianis ufl ebaTa evropul i konvencia

wamebis da araadamianuri an Rirsebis Seml axavi mopyrobis an sasj el is aRkveTis evropul i konvencia

dekl aracia wamebis da sxva sastiki, araadamianuri an Rirsebis Seml axavi mopyrobis an sasj el isgan yovel i adamianis dacvis Sesaxeb

wamebis da sxva sastiki, araadamianuri an Rirsebis Seml axavi mopyrobis an sasj el is sawinaaRmdego konvencia

evropis sabWos dekl aracia pol iciis Sesaxeb

samarTal damcavi sferos moxel eTa qcevis kodeqsi, miRebul i gaerTianebul i erebis organizaciis mier

ZiriTadi principebi samarTal damcavi sferos moxel eTa mier Zal isa da cexl sasrol i iaraRis gamoyenebis Sesaxeb

arakanonierad, TviTneburad da erTpirovnul ad sikvdil iT dasj is aRkveTisa da gamoZiebis principebi

principebis krebul i nebismieri formiT dakavebul an dpatimrebul pirTa dacvis Sesaxeb

dekl aracia rasobrivi diskriminaciis yovel gvare formis aRmofxvris Sesaxeb

konvencia rasobrivi diskriminaciis yovel gvare formis aRmofxvris Sesaxeb

konvencia qal Ta yovel gvare diskriminaciis aRmofxvris Sesaxeb

dekl aracia nebismieri saxis Seuwynarebl obisa da rel igiis an rwmenis safuZvel ze diskriminaciis aRmofxvris Sesaxeb

adami ani s ufl ebebi da pol i ci a

pr aqt i kul i kur si

danarTi a: adami ani s ufl ebaTa evropul i
komisiis da adami ani s ufl ebaTa
evropul i sasamarTI os daskvnebi da
gadawyvetil ebebi

Tavi 1 – adamianis ufl ebaTa dacvis saerTaSoriso sistema

I loul esis saqme – (seria A No. 3, 1 EHRR 15)

sasamarTI o miicnevs, rom me-15 muxl is konteqstSi frazis „sxva sagangebo vitareba, romel ic sazogadoebis cxovrebas uqmnis safrTxes” mniSvel oba sakmarisad naTel ia da „gul isxmobs iseT gansakuTrebul vitarebas an krizisul situacias, romel ic saxifaToa mTel i mosaxl eobisatvis da emuqreba sazogadoebis organizebul cxovrebas”.

saqme saber ZneTis wi naaRmdeg – (dania, norvegia, SvedeTi da niderl andebi saberZneTis wi naaRmdeg. 3321-33232/67; 3344/67. moxseneba 25.1 76. 12 Yearbook)

am saqmeSi komisi am moiSvel ia sasamarTI os mier I loul esis saqmeze miRebul gadawyvetil ebaSi gamoTqmuli mosazreba terminis „sxva sagangebo vitareba, romel ic sazogadoebis cxovrebas uqmnis safrTxes” ganmartebasTan dakavSirebiT da damatebiT miuTiTa, rom „amgvari sagangebo vitareba, kerZod, Semdeg niSnebs unda Seicavdes:

1. igi real urad arsebul i an gardauval i unda iyos.
2. misi Sedegebi sazi ano unda iyos mTel i mosaxl eobisatvis.
3. safrTxe unda eqmnebodes sazogadoebis organizebul cxovrebas.
4. unda arsebobsdes gansakuTrebul i saSiSroeba an krizisul i vitareba, romel ic ufro mkacri sagangebo zomebis SemoRebas moiTxovs, vidre es sazogadoebrivi usafrTxoebis, j anmrTel obisa da wesrigis dacvis mizniT konvenciiT gaTval iswinebul i SezRudvis wesebiTaa daSvebul i.”

saqme gaerTianebul i samefos wi naaRmdeg – (irl andia gaerTianebul i samefos wi naaRmdeg. seria A No. 25, 2 EHRR 25)

imasTan dakavSirebiT, Tu vin unda daadginos arsebobs Tu ara saxel mwifoSi iseTi “sagangebo vitareba, romel ic sazogadoebis cxovrebas uqmnis safrTxes”, sasamarTI om ganaxada, rom saxel mwifom, romel sac „sazogadoebis cxovrebaze” pasuxismgebl oba akisria, upirvel es yovl isa Tavad unda gansazRvros emuqreba Tu ara mas „sagangebo vitarebiT” warmoqmnil i safrTxe da Tu es asea, ramdenad radikal uri zomebis miRebaa aucil ebel i am safrTxis dasaZl evad. vinaidan xel isufl ebas mudmivad uxdeba mimdinare probl emebis gadaWra, mas saerTaSoriso mosamarTI eze ukeT Zal uZs gansazRvros arsebobs Tu ara qveyanaSi amgvari sagangebo vitareba da ra xasiaTisa da masStabis sagangebo zomebis miRebaa aucil ebel i mis asacil ebl ad. am sakiTxSi 15.1 muxl i saxel mwifos Tavisufal i Sefasebis farTo ares aniWebs.

amasTanave, saxel mwifoebi am sakiTxSi gadawyvetil ebis ganusazRvrel i Tavisufl ebiT ar sargebl oben. sasamarTI o, romel ic komisiastan erTad mowodebul ia uzrunvel yos

saxel mwofota mier nakisri val debul ebebis Sesrul eba (muxl i 19), ufl ebamosil ia daadginos xom ar miuria saxel mwifos aseT viTarebaSi aucil ebel ze mkacri zomebi. amdenad, saxel mwifos moqmedeba misi Tavisufal i Sefasebis fargl ebSi konvenciis organoTa zedamxedvel obas eqvemdebareba.

br eni gani sa da makbr ai di s saqme – (brenigani da makbraidi gaerTianebul i samefos winaarmdeg 5/1992/350/423-424, 26 maisi, 1993 wel i)

am saqmeze miRebul gadawyvetil ebaSi sasamarTI om moiSvel ia gaerTianebul i samefos winaarmdeg zemoxsenebul saqmeSi gamoTqmuli mosazreba terminis „Tavisufal i Sefasebis fargl ebi“ ganmartebastan dakavSirebiT da daamata, rom „sasamarTI om saxel mwifos mier miRebul i gadawyvetil ebis martebul obis Sefasebisas jerovani yuradReba unda dauTmos iseT mniSvnel ovan faqtorebs, rogoricaa im ufl ebaTa buneba, romel Tac gadaxveva Seexo, garemoebebi, ramac sagangebo situacia gamoiwvia da aRniSnul i situaciis xangrZl ivoba“.

sasamarTI os gadawyvetil ebaSi aRniSna, rom „Crdil oet irl andiaSi terorizmis seriozul i safrTxis, gadaxvevis SezRudul i xasiaTisa da misi aucil ebl obis dasasabutebl ad warmodgenil i argumentebis Sefasebis safuZvel ze, agreTve imis gaTval iswinebiT, rom arsebobda ZiriTadi garantiebi ufl ebamosil ebis borotad gamoyenebis Tavidan asacil ebl ad, sasamarTI om miicnia, rom mTavroba ar gascdenia diskreciul i ufl ebamosil ebis fargl ebs, rodesac miicnia, rom gadaxveva aucil ebel i iyo mwvave aucil ebl obidan gamomdinare“.

[SeniSvna: termini „Tavisufal i Sefasebis fargl ebi“ SemdgomSi gamoyenebul iqna da konceptual urad daixveva sxva saqmeebSi, maT Soris „kvi prosis saqmeebSa“ (ix. komisiis moxseneba №. 176/56 saCivarTan dakavSirebiT, romel ic kunZul kvi prosze gaerTianebul i samefos mTavrobis mier sagangebo zomebis SemoRebas Seexeboda) da loul esis saqmeSi].

Tavi 2 – sicocxl is ufl eba

stiuart is saqme – (ketl in stiuarti gaerTianebul i samefos winaarmdeg ganacxadi №. 10044/82. D.R. 39/162)

stiuartis saqmeSi adamianis ufl ebaTa evropul ma komisiam ganixil a araganzrax mkvl el obis faqtebtan konvenciis me-2 muxl is mimartebis sakiTxebi da, kerZod, imsj el a aucil ebl obisa da Tanazomierebis principebis dacvis mniSvnel obaze. mocemul i saqme exeboda momCivanis axal gazrda vaJis mkvl el obas xel ketebiT SeiaraRebul jariskacebtan momxdari Setakebis dros, rodesac armia cdil obda CaexSo amboxi Crdil oet irl andiaSi.

komisiam aRniSna, rom konvenciis me-2 muxl i gansazRvravs ara im SemTxvevebs, rodesac nebadarTul ia pirovnebis sicocxl is ganzrax xel yofa, aramed iseT SemTxvevebs, rodesac dasaSvebia Zal is gamoyeneba, rasac SeiZl eba Sedegad mohyves sicocxl is mospoba winaswari ganzraxvis gareSe.

komisiam ganacxada, rom miRebul i zomebis „aucil ebl obis“ Sesafasebl ad unda dadgindes iyo Tu ara konvenciiT gaTval iswinebul ufl ebaSi Careva im kanonieri miznebis Tanazomieri, romel sac es Careva emsaxureboda; amisaTvis mxedvel obaSi unda iqnes miRebul i Tu ra mizans isaxavda miRebul i zomebi, ra saSiSroebas uqmnida mocemul i situacia adamianebis sicocxl es da ramdenad savaraudo iyo Zal is gamoyenebiT Catarebul i operaciis sasikvdil o SedegIT dasrul eba.

komisiis sabol oo gadawyvetil ebaSi naTqvamia, rom me-2 muxl is darRvevas adgil i ar hqonia, vinaidan sikvdil i Sedegad mohyva „amboxis CasaxSobad Zal is kanonier gamoyenebas“, romel ic ar gascdenia absol uturi aucil ebl obis fargl ebs.

makkenis saqme – (makkeni da sxvebi gaertianebul i samefos winaarmddeg 17/1994/464/545)

makkenis saqmis ganxil visas adamianis ufl ebaTa evropul ma sasamarTl om sxva garemoebTan erTad Seiswavi a policiis mier teroristuli aqtis dagegmvasi ewvmitanili jgufis wevrebis dasapatimrebl ad ganxorciel ebuli operaciis organizaciisa da kontrolis sakiTxebi.

momCivanebi iyvnen britaneTis armiis specialuri danayofis jariskacebis mier kviras, 1988 wl is 6 marts gibraltarSi mokluli irlandiis respublikuri armiis (IRA) erT-erTi jgufis wevrebis natesavebi. britaneTisa da espaneTis Sesabamisi uwyebebisTvis 1987 wl is noemberSi cnobili gaxda, rom ira gegmavda teroristuli aqtis mowyobas gibraltarSi. miRebul iqna gadawyvetil eba britaneTis, gibraltarisa da espaneTis samsaxurebis erTobliვი Zal ebit teroristTa gauvnebel yofis operaciis momzadebis Taobaze.

1988 wl is martisTvis dazvervis monacemebiT gamovlinda, rom teroristebis samizne unda yofil iyo gibraltaris mTavar moedanze samefo polkis guSagTa Sevlis ceremonia, romelic yovel samSabaTs dilis 11 saatze imarTeboda. arsebuli informaciiT, asafeTqebel i nivTierebit datvirTuli manqana dayenebuli iqneboda moednis mimdebare teritoriaze da savaraudod distanciuri martvis meqanizმის მეშვეობით მოხდებოდა მისი აფეთქება ცერემონიის მსვლიეობისას.

6 marts ira-s (IRA) sami wevri: daniel makkeni, Son sevj i da mairad farel i (samive ukve iyo warsuli nasamarTl evi teroristuli aqtebsi monawilebisTvis), gadavidnen gibraltarSi. SemuSavebuli gegმის Tanaxmad matze xorciel deboda mudmivi Tval Tval i, რომლის დროსაც გამოვლინდა, რომ erT-erTმა terroristმა manqana არნისული moednis axლოს დააყენა. terroristების დაკავება დაეწიდა უსისროების danayofis oTx jariskაც (S.A.S.), რომელმაც მიეცა სათანადო მითითებები, მათ სორის informacia imis Taobaze, რომ terroristები ცეცხლსასროლი იარაღითა და asafeTqebel i nivTierebis მოყმედასი მომყვანი distanciuri martvis მომყობილებით იყვნენ SeiaraRebuli.

erT-erTi jariskაც ცენებით, იგი quCის gaswvრივ misdevda makkensa da farel s, rodesac makkenმა მანიშნა, „რომ იგი მიხვდა“ ვინ იყო jariskაცი და რა საფრTხეს warmoadგენდა იგი. ამის Semdeg, მან ისეტი მოZრაობა გააქედა, რომელიც, jariskაცის azრიT, მანიშნებდა, რომ makkenი distanciuri martvis მომყობილების ამოყმედას აპირებდა. მეორე jariskაცმა განაცხადა, რომ მან ამის Semdeg დაინახა farel ის ასეტივე saeWvo მოZრაობა, რომელიც მის anal ogიურ ganzraxvaze მიუთითებდა. yovel ive ამის გამო jariskაცებმა ცეცხლი გაუხსნეს terroristებს და სასიკვდილო ვრთილები მიყენეს მათ. operaciaSi monawile დანარცენმა orმა jariskაცმა, gaigones რა makkenისა და farel ის winaarmddeg სროლის xმა, ცეცხლი გაუხსნეს და მოკლეს სავაი, radganac, მათი azრიT, მისი მოZრაობები ბაღებდა ewvs, რომ იგი ასევე ცდილობდა detonatorის ამოყმედას.

სროლის Semdeg არმოცნდა, რომ terroristებს distanciuri martvis მომყობილები არ hqondaT და არც SeiaraRebuli იყვნენ. მათ manqანასი ასევე არ არმოცნდა asafeTqebel i nivTiereბა. Tumca, asafeTqebel ebit datvirTuli manqანა მოგვიანებით napovნი iqna espaneTis erT-erTi kurortის მაქლიბლად.

mokvl evam daadgina, რომ samive terroristის მკვლელობა კანონიერი იყო. aman gardacvლილთა ojaxebis ukmayofil eba gamoiwvia და mas Semdeg, რაც მათ რანდენjerme warumatebl ad scades sakiTxis dayeneბა gaertianebuli samefos sasamarTl oebის winase, მათ კონვენციის მე-2 მუხლის დარვევავზე საცივრიT მმართველად ამიანიის ufl ebaTa evropul komიას.

1993 wl is 3 seqtemბის komიამ განაცხადი დასაშვებად გამოაცხადა. 1994 wl is 4 marts komიამ გააქედა მოხსენება, რომელიც მიუთითა, რომ კონვენციის მე-2 მუხლის დარვევას ადგილი არ hqonia.

gadawyvetil eბის gamotanისას ამიანიის ufl ebaTa sasamarTl om არნისნა, რომ მე-2

muxl i konvenciis erT-erTi umniSvnel ovanesi muxl ia da rom igi gansazRvravs ara im SemTxvevebs, rodesac nebadarTul ia pirovnebis sicocxl is ganzrax xel yofa, aramed iTval iswinebs iseT garemoebes, rodesac dasaSvebia Zal is gamoyeneba, rasac winaswari ganzraxvis gareSe sicocxl is mospoba SeiZl eba mohyves. amasTanave, sasamarTI om miuTiTa, rom am muxl is (a), (b) da (g) punqtebSi CamoTvl il i miznebis misaRwevad Zal is gamoyeneba ar unda gascdes absol uturi aucil ebl obis fargl ebs.

sasamarTI om aseve gamoTqva azri, rom aRniSnul i qmedebebis Sefasebisas aucil ebel ia ara mxol od Catarebul i antiteroristul i operaciis ganxil va, aramed misi dagegmvisa da marTvis aspeqtebis gaTval iswinebac.

qveynis kanonmdebl obisa da praqtikis evropul konvenciasTan Sesabamisobis sakiTxis Taobaze sasamarTI om ganacxada, rom Sidasaxel mwifoebri kanonmdebl oba mkacrad unda gansazRvravdes im SemTxvevebs, rodesac dasaSvebia saxel mwifos warmomadgenel Ta mier adamianis sicocxl is mospoba. saxel mwifom unda uzrunvel yos, rom yvel am, visac Zal is gamoyenebis samsaxurebri ufl ebamosil eba aqvs, unda gaiaros saTanado momzadeba da yovel i operacia, romel ic iaraRis gamoyenebiT mimdinareobs, umkacresi kontrol iT unda xorciel debodes.

sasamarTI os winaswar mosazrebebSi naTqvamia, rom gaerTianebul i samefos mTavrobis winaSe urTul esi amocana idga. mas, erTi mxriv, unda daecva xal xis (maT Soris samxedro personal is) sicocxl e gibraltarSi da, amave dros, minimumamde SeeZRuda eWvmitanil Ta winaaRmdel Zal is gamoyeneba. aRniSna, rom Sesabamisi organoebisTvis cnobil i iyo mxol od is, rom ira teroristul i aqtis ganxorciel ebas gegmavda, magram isini ar fl obdnen faqtobriv informacias, ris gamoc iZul ebul ni iyvnen antiteroristul i operacia mxol od hipotezis safuZvel ze moemzadebinaT.

amdenad, imisaTvis, rom Sefasebina ganxorciel da Tu ara Zal is gamoyeneba konvenciis me-2 muxl is darRveviT, sasamarTI os mouxda daedgina ara mxol od is, iyo Tu ara teroristul i Tavdasxmisagan xal xis dacvis mizniT samxedroebis mier gamoyenebul i Zal a mkacrad Tanazomieri dasaxul i amocanisa, aramed isic, moxda Tu ara antiteroristul i operaciis dagegmva da warmarTva ise, rom SeiZl ebisdagvarad Semcirebul iyo iaraRis gamoyenebis aucil ebl oba.

operaciaSi monawil e jariskacebis moqmedebaTa Sefasebisas, samarTI om miiCnia, rom maT mier miRebul i informaciis safuZvel ze jariskacebs gul wrfel ad sj erodaT, rom aucil ebel i iyo teroristTa gauvnebel yofa, raTa xel i SeeSal aT maTTvis manqanis afeTqebaSi da Tavidan aecil ebinaT xal xis msxverpl i. sasamarTI om ganacxada, rom gadawyvetil eba Zal is gamoyenebis Sesaxeb SeiZl eba gamarTI ebul i iyos, Tu igi emyareba mocemul momentSi misi gamoyenebis aucil ebl obis gul wrfel rwmenas, Tumca mogvianebiT es rwmena usafuZvl o SeiZl eba aRmoCndes. sasamarTI om miiCnia, rom TavadjariskacTa moqmedeba ar warmoadgenda konvenciis me-2 muxl is darRvevas.

operaciis organizebisa da warmarTvis sakiTxTan dakavSirebiT sasamarTI om aRniSna is faqti, rom ar moxda sami eWvmitanil is sazRvarzeve dakaveba, Tumca es gibraltaris mosaxl eobis usafRTxoebas exeboda. aseTi gadawyvetil eba an imiT aixsneboda, rom xel mZRvanel obisaTvis Tavidanve iyo cnobil i manqanaSi bombis ararsebobis Sesaxeb (Tumca es versia sasamarTI om Tavidanve usafuZvl od miiCnia), an imiT, rom seriozul i Secdomebi iqna dasvebul i operaciis momzadebisas. yovel ive aman praqtikul ad xel i Seuwyo movl enebis iseT ganvitarebas, rodesac Zal is gamoyeneba ara mxol od savaraudo, aramed gardauval ic ki iqneboda.

sasamarTI om aRniSna, rom uSiSroebis danayofis (S.A.S.) oTx jariskacs xel mZRvanel obisgan miRebul i hqonda informacia, rom teroristul i aqti manqanis afeTqebiT unda ganxorciel ebul iyo. antiteroristul i operaciis Catarebaze pasuxismgebel ma pirebma ramdenime mniSvnel ovani versia Camoayal ibes. kerZod, maTi varaudiT, teroristebi ar gamoiyenebdnen saTadarigo manqanas (asafeTqebel ebiT

datvirTul i manqanisaTvis dasayenebel i adgil is rezervirebisaTvis); bombis detonacia moxdeboda distanciuri marTvis mowyobil obiT, romel ic amoqmeddeboda Ril akze daWerIT; amasTanave, safrTxis SemTxvevaSi mosal odnel i iyo, rom eWvmitanil ebi maSinve moyvandnen moqmedebaSi asafeTqebel mowyobil obas; rom isini SeiaraRebul i iqnebodnen da dapirispirebis SemTxvevaSi gamoeyenebdnen iaraRs.

operaciis dagegmvisTvis mniSvnel ovani yvel a es varaudi, garda Tavad teroristul i aqtis mowyobis ganzraxvisa, mcdari aRmoCnda. sxva SesaZI o versiebis saTanado damuSaveba ki ar momxdara. magal iTad, vinaidan manqanis afeTqeba igegmeboda mxol od ori dRis Semdeg, anu 8 marts, rodesac guSagTa Secvl is ceremonia unda gamarTul iyo, srul iad SesaZI ebel i iyo, rom sami teroristi winaswari dazvervis misiIT yofil iyvnen Camosul ebi gibraltarSi. marTal ia aseTi versia wamoyenebul iqna, magram, rogorc Cans, igi sakmarisad damaj erebl ad ar iqna miCneul i.

vinaidan damatebiTi versiebi jerovnad ar iqna gaTval iswinebul i da operacia warimarTa im gadaumowmebel i informaciis safuZvel ze, rom manqanaSi namdvil ad iyo damontaJebul i asafeTqebel i mowyobil oba, roml is detonacia SeiZI eboda Ril akze xel is daWerIT, jariskacebs samuSao varaudi miwodat utyuari faqtis saxiT, ris gamoc Zal is gamoyeneba praqtikul ad gardauval i gaxda.

amas daemata jariskacebisTvis micemul i miTiTebac, rom cecxli is gaxsnis SemTxvevaSi maT srol a eWvmitanil ebis ganadgurebamde unda gaegrZel ebinaT. xel is ufl eba val debul i iyo pativiscema gamoeCina eWvmitanil Ta sicocxl is ufl ebis mimarT da sagul dagul od Seemowmebina mis xel T arsebul i informacia, vinaidan operaciisas cecxli sasrol i iaraRis gamoyeneba uTuod sasikvdil o SedegIT dasrul deboda.

imis gaTval iswinebiT, rom ar iqna miRebul i gadawyvetil eba sazRvarzeve daekavebinaT eWvmitanil ebi da ar daeSvaT maTi Sesvl a gibraltarSi; jerovnad ar iqna gaTval iswinebul i, rom dazvervis monacemebi SeiZI eba, garkveul i Tval sazrisiT mainc, arazusti yofil iyo; da, rom jariskacebis mier cecxli is gaxsna aucil ebl ad sasikvdil o SedegIT unda dasrul ebul iyo, sasamarTI o mivida im daskvnamde, rom sami teroristis mkvl el oba Sedegad mohyva terorizmisagan adamianebs dacvis mizniT (muxli 2.2.a.) absol uturad aucil ebel ze meti Zal is gamoyenebas. Sesabamisad, adgil i hqonda konvenciis me-2 muxli is darRvevas.

saqme gul eki Turqetis wi naaRmdeg – (54/1997/838/1044)

es saqme Seexeboda saprotesto demonstraciis daSl isas Turqetis uSiSroebis Zal ebis mier 15 wl is biWis mkvl el obas. momCivani iyo mokl ul i biWis mama.

1991 wl is 4 marts aRmosavl eT TurqetSi, sirnakis provinciis qal aq idil Si gamarTul i unebartvo, spontanuri demonstraciebis dros adgil i hqonda sxvadasxva sazogadoebriv Senobebze Tavdasxmas. areul obebis dros daiRupa ori adamiani, maT Soris momCivanis vaJi, TxuTmeti wl is ahmet gul eki, da daiWra Tormeti adamiani.

mTavrobis ganxadebiT, ahmet gul eki gardaicval a SeiaRarebul i demonstrantebis mier JandarmebisaTvis nasrol i tyviIT, xol o momCivani ki amtkicebda, rom misi vaJi mokl ul i iyo uSiSroebis Zal ebis mier, rodesac maT demonstraciis gafantvis mizniT j avSniani manqanidan cecxli i gauxsnes SeuiaraRebel adamianebs.

1993 wl is 16 marts batonma gul ekma adamianis ufl ebaTa evropul komisiaSi Seitana ganaxadi konvenciis me-2 muxli is darRvevis Taobaze. igi Svil is sikvdil Si adanaSaul ebda uSiSroebis Zal ebs da Cioda, rom mas ar mieca Turqetis sixli is samarTI is saqmeTa sasamarTI oSi sarCel is Setanis SesaZI ebl oba, radganac administraciul ma organoebma Jandarmeriis wevrTa wi naaRmdeg aRZrul i saqme daxurul ad gamoacxades.

adgil ze gamoZiebis Catarebisa da strasburgSi zepiri mosmenis Sedegad gamotanil i daskvnebis safuZvel ze komisiam daadgina, rom demonstraciis monawil eTa gasafantavad

mTavar quCaze, sadac saprotesto gamosvl a mimdinareobda, j avSniani manqanidan ganxorciel da srol a haerSi da miwis mimarTul ebiT. ahmet gul eks moxvda am dros miwidan an kedl idan rikoSetiT asxl etil i tyviis natexi. komisiis daskvniT, avtomaturi iaraRi ar iyo gamoyenebul i demonstraciis monawil eTa fizikuri ganadgurebis ganzraxviT. komisiam ganaxxada, rom aRniSnul i demonstraciis xasiaTidan gamomdinare SeiZl eboda misi kval ifikacia rogorc „amboxisa“, am terminis konvenciis me-2 muxl iT gaTval iswinebul i mniSvnel obiT, magram aseve aRniSna, rom avtomaturi sabrZol o iaraRis gamoyeneba demonstraciisas wesrigis dasamyarebl ad ver iqneboda miCneul i adekvatur RonisZiebad.

1994 wl is 30 agvistos komisiam misaRebad scno saCivari da gamoTqva azri, rom adgil i hqonda me-2 muxl is darRvevas.

adamianis ufl ebaTa evropul ma sasamarTI om Seafasa komisiis moxsenebaSi aRweril i faqtebi da saeWvod ar miiCnia maTi WeSmariteba. sasamarTI om gaiziara is azri, rom demonstracia namdvil ad ar iyo mSvidobiani, rasac adasturebda qal aqSi sxvadasxva obieqtebisatvis miyenebul i ziani da zogierTi Jandarmis mier miRebul i sxel is dazianebebi. imisaTvis, rom aRekveTaT Zal adoba, arasakmarisi Zal ebiT warmodgenil ma uSiSroebis Zal ebma moiTxoves gaZl iereba, ristvisac sul mcire ori j avSniani manqana mainc iqna gagzavnil i areul obis adgil ze.

erT-erTi am manqanis mZRol is CvenebiT, srol a mxol od haerSi iqna ganxorciel ebul i. Tumca, ramdenime movmem ganaxxada, rom srol a xal xis mimarTul ebiT warmoebda. mTavrobam uaryo aRniSnul i bral deba, magram is faqti, rom TiTqmis yvel a daSavebul i demonstranti fexebSi iyo daWril i, amis sawinaaRmdegod miuTitebda. ufro l ogikuria, rom aseTi Wril obebi qvemo traeqtoriit nasrol i tyviebis rikoSetiT asxl etis Sedegad yofil iyo miyenebul i.

sasamarTI om, iseve rogorc komisiam, miiCnia, rom areul obis aRsakveTad Zal is gamoyeneba gamarTI ebul ad SeiZl eba CaTvl il iyo me-2 muxl is 2.g. punqtis Sesabamisad, magram xazgasmit aRniSna dasaxul mizansa da mis misaRwevad Catarebul operacias Soris Tanazomierebis dacvis aucil ebl oba. Jandarmebi ar iyvnen aRWurvil i xel ketebiT, farebiT, wyl is Wavl is manqaniT, rezinis tyviebiTa Tu cremi sadeni gaziT, ris gamoc maT demonstraciis dasaSl el ad sabrZol o iaraRi gamoiyenes. sasamarTI om ganaxxada, rom amgvari aRWurvil obis arqona gansakuTrebit gaugebari da miuRebel i iyo im garemoebis gaTval iswinebit, rom, rogorc mTavrobam aRniSna, im regionSi sadac sirnakis provincia imyofeba, gamocxadebul i iyo sagangebo mdgomareoba da amdenad areul oba mou odnel i ar unda yofil iyo.

sasamarTI om miiCnia, rom saqmis garemoebidan gamomdinare, demonstraciis monawil eTa gasafantavad gamoyenebul i Zal a, rasac ahmet gul ekis daRupva mohyva, aRemateboda me-2 muxl iT gaTval iswinebul i absol uturi aucil ebl obis fargl ebs.

Turqetis Sesabamisi organoebis mier am saqmeze Catarebul gamoZiebasTan dakavSirebit sasamarTI om aRniSna, rom saxel mwifo struqturebis warmomadgenel Ta mier adamianis sicocxl is yovel gvani TviTnebuli xel yofis akrZal va, romel ic konvenciis me-2 muxl Sia Camoyal ibebul i, ver Sesrul deba, Tu ar arsebobs am struqturebis mier Zal is gamoyenebis kanonierebis dadgenis procedura. sicocxl is ufl ebs dacvis val debul eba, konvenciis 1-l muxl Si mocemul saxel mwifos zogad val debul ebasTan erTad „Tavisi iurisdicqis fargl ebSi yvel a adamianisTvis uzrunvel yos konvenciiT dadgenil i ufl ebebiTa da Tavisufl ebebiT sargebl oba“, moiTxovs rom saxel mwifos warmomadgenel Ta mier Zal is gamoyenebis sasikvdil o SedegiT dasrul ebs SemTxvevaSi unda moxdes saqmis oficial uri da efeqturi gamoZieba.

konvenciis me-2 muxl iT garantirebul i sicocxl is ufl ebs procesual uri dacva gul isxmobs saxel mwifo struqturebis warmomadgenel Ta pasuxismgebl obas im Sedegebeze, romel ic maT mier Zal is gamoyenebas mohyva. unda arsebobs saTanado

procedurebi, romel Ta meSveobiTac obieturad da yvel a garemoebis gaTval iswinebiT dadgindeba iyo Tu ara mocemul SemTxvevaSi gamarTI ebul i Zal is gamoyeneba.

Turqetis Sesabamisi organoebis mier Catarebul i mokvl evis Semowmebisa da masSi sxvadasxva xarvezebis aRmoCenis Semdeg, sasamarTI om ganacxada, rom samxreT-aRmosavl eT TurqetSi arsebul i daZabul i situaciis gamo adamiანis msxverpl i aq, samwuxarod, xSiri movl ena iyo. magram arc SeiaraRebul i Setakebebisa da arc adamiანTa msxverpl is maRal i donis gaTval iswinebiT, ar SeiZl eboda me-2 muxl iT gansazRvrul val debul ebaTa ugul ebel yofa. yovel Tvis, rodesac samarTal damcavi struqturebis moqmedebas, maT Soris Tundac ukanono da agresiul i gamosvl ebis dros sazogadoebrivi wesrigis damyarebis mcdel obas, vinmes sicocxl is mospoba mohyveba, aucil ebel ia yovel mxrivi damoukidebel i gamoZiebis Catareba.

sasamarTI om daadgina, rom Zal is araTanazomieri gamoyenebisa da momCivანis valis daRupvis gamomwvevi mizezebis araj erovani gamoZiebis gamo adgil i hqonda konvenciis me-2 muxl is darRvevas.

saqme ergi Turqetis wi naaRmdeg – (66/1997/850/1057)

am saqmeze momCivani iyo Turqetis qurTi warmomavl obis moqal aqe muharem ergi, romel mac Tavisi gardacvl il i dis, misi axal gazrda qal iSvil isa da sakuTari saxel iT komisiaSi Seitana ganacxadi 1993 wl is 29 seqtembers momxdari incidentis Taobaze, romel ic misi dis hava ergis sikvdil is mizezi gaxda.

1994 wl is 25 marts komisiisTvis wardgenil saCivarSi batoni ergi iSvel iebda konvenciis me-2, me-8, me-13, me-14, me-18 da 25-e muxl ebs da acxadebda, rom misi da ukanonod iqna mokl ul i samxedroebis mier.

vinaidan mopasuxe mxarem eWvis qveS daayena saqmesTan dakavSirebul i is garemoebebi, romel Tac momCivani emyareboda, komisiამ mxareTa daxmarebiT Caatara damatebiTi gamoZieba, moipova dokumenturi mtkicebul ebebi da agreTve oTxi mowmis sityvieri Cveneba. 1995 wl is 2 marts komisiამ saCivari dasaSvebad scno. 1997 wl is 20 maisis moxsenebaSi komisiამ gamoTqva azri, rom uSiSroebis Zal ebis operaciis dagegmvisa da ganxorciel ebis Tval sazrisiT arsebul i darRvevebis, agreTve momCivანis dis daRupvis faqtis araj erovani gamoZiebis gamo adgil i hqonda me-2 muxl is darRvevas; me-8 da me-13 muxl ebis darRvevis sakiTxi cal ke ar ganxil ul a; me-14 da me-18 muxl ebis darRvevas adgil i ar hqonia; da rom Turqetma daarRvia 25-e muxl iT gansazRvrul i val debul ebebi.

adamiანis ufl ebaTa evropul ma sasamarTI om aRniSna, rom arsebobda momCivანis dis sikvdil is gamomwvev garemoebaTa erTmaneTisgan gansxvavebul i versiebi. momCivani amtkicebda, rom igi uSiSroebis Zal ebis mier sofl is mcxovrebtა winaaRmdeg ganxorciel ebul i sadamsj el o operaciis Sedegad daiRupa, xol o xel isufl eba ki acxadebda, rom sofel Tan adgil i hqonda uSiSroebis Zal ebsa da (PKK) qurTebis saxal xo partiis warmomadgenl ebs Soris Sej axebas da tyvia, romel sac momCivანis da emsxverpl a, samxedroebis mxridan ar iyo nasrol i.

sasamarTI om aRniSna, rom komisiis azrit, warmodgenil i masal a ar iyo sakmarisi imis dasadgenad, rom 1993 wl is 29 seqtembris operacia marTI a sadamsj el o xasiaTs atarebda da ar warmoadgenda uSiSroebis Zal ebsa da qurTebis saxal xo partiis Casafrebul razms Soris momxdar SeiaraRebul Setakebas. ver moxerxda agreTve imis dadgenac, rom tyvia, romel mac hava ergi imsxverpl a namdvil ad uSiSroebis Zal ebis mier iyo nasrol i. komisiამ miiCnia, rom mas Zal ze mwiri faqtobrivi masal a gaaCnda imis Taobaze, Tu ra moxda sinamdvil eSi 1993 wl is 29 seqtembris Rames. sasamarTI om aseve aRniSna, rom ar arsebobda sakmarisi safuZvel i imisa, rom danamdvil ebiT dadgenil iyo uSiSroebis Zal ebis mier momCivანis dis ganzrax mkvl el obis faqti.

amis Semdeg, sasamarTI om imsj el a uSiSroebis Zal ebis mier Catarebul i operaciis dagegmvisa da warmarTvis sakiTxebeze da kidev erTxel aRniSna, rom konvenciis me-2

muxl i gansazRvrvs ara im SemTxvevebs, rodesac nebadarTul ia pirovnebis sicocxl is ganzrax xel yofa, aramed im SemTxvevebs, rodesac dasaSvebia „Zal is gamoyeneba“, rasac SeiZl eba Sedegad mohyves sicocxl is mospoba winaswari ganzraxvis gareSe. termini „absol uturad aucil ebel i“ iTval iswinebs ufro mkacr kriteriუმებს, vidre Cveul ebriv gamoiyeneba xol me imis Sefasebisas iyo Tu ara saxel mwifos esa Tu is qmedeba „aucil ebel i demokratiul sazogadoebaSi“ konvenciis me-8 – me-11 muxl ebis me-2 punqtis moTxovnaTa Sesabamisad. kerZod, Zal is gamoyeneba mkacrad Tanazomieri unda iyos me-2 muxl is (a), (b) da (g) qvepunqtebSi Camoyal ibebul i miznebis misaRwevad gansazRvrul i amocanebisa.

demokratiul sazogadoebaSi am muxl is moTxovnaTa udidesi mniSvnel obis gaTval iswinebiT, evropul ma sasamarTI om gul dasmiT, yovel mxriv da srul yofil ad unda ganxil os sicocxl is xel yofis SemTxvevebi, gansakuTrebiT Tu adgil i aqvs saxel mwifos mxridan Zal is gamiznul gamoyenebas. gaTval iswinebul i unda iqnes ara mxol od im pirTa qmedebebi, vinc uSual od monawil eobda ganxil ul operaciaSi, aramed yvel a garemoeba, romel Tac mniSvnel oba aqvT saqmის sworad gadawyvetisTvis, maT Soris aRniSnul i operaciis dagegmvisa da warmarTvis sakiTxebi. amasTan erTad, me-2 muxl is fargl ebSi, konvenciis 1-l muxl Tan erTad, saxel mwifos SeiZl eba moeTxovos garkveul i zomebis miReba sicocxl is ufl ebis efeqturi dacvis uzrunvel sayofad.

am mosazrebaTa gaTval iswinebiT sasamarTI o daeTanxma komisiას, rom yovel i samarTal damcavi operaciis dagegmvisas saxel mwifo pasuxismgebel ia gaiTval iswinos usafrTxoebis yvel a aucil ebel i zoma, raTa Tavidan iqnes acil ebul i, an ukidures SemTxvevaSi, minimumamde dayvanil i moqal aqeTa SemTxveviTi msxverpl i.

amdenad, Tumca ar moxerxda imis dadgena, rom tyvia, romel mac hava ergis sikvdil i gamoiwvia namdvil ad uSiSroebis Zal ebis mier iyo nasrol i, sasamarTI om ganxil a gakeTda Tu ara yvel aferi uSiSroebis Zal Ta operaciis ise Casatarebl ad, rom sofl is mcxovrebaTa sicocxl es safrTxე ar Seqmnoda ara mxol od uSiSroebis Zal ebis moqmedebaTa Sedegad, aramed maT winaaRmdeg mebrZol i qurTebis saxal xo partiis wevrebis mxridanac, an es safrTxე maqsimal urad yofil iyo Sencirebul i.

sasamarTI om aRniSna, rom faqtobrив monacemebze dayrdnobiT komisiამ დაადგინა, რომ uSiSroebis Zal ebi namdvil ad imyofebodnen sofl is samxreTiT. am pirobebSi arsebobda seriozul i safrTxე, რომ sofl is mosaxl eoba SeiZl eba moxvedril iyo uSiSroebis Zal ebsa da Crdil oETidan an Crdil o-aRmosavl eTidan moaxl ovebul teroristებს Soris urTierTsrol aSi. aseT SemTxvevaSi, maSinac ki Tu uSiSroebis Zal ebi am dapirispirebaSi udides sifrTxil es gamoiCendnen, ar SeiZl eboda imis varaudi, რომ aseTive sifrTxil iT imoqmedebdnen teroristებic. ar arsebobda imis damadasturebel i informacia, რომ miRebul iqna usafrTxoebis raime zomebi sofl is mcxovrebaTa dasacavad da ubeduri SemTxvevebis Tavidan asacil ebl ad. agreTve, operaciis dagegmvisa da warmarTvaSi monawil e Jandarmebis CveneBaTa ararsebobis gamo, komisiას ar hqonda saTanado safuZvel i daedgina, რომ operacia zemoaRniSnul i moTxovnebis dacviT ganxorciel da.

komisiის დასკვნების გაTval iswinebiT da sakuTari Sefasebis safuZvel ze, sasamarTI om savsebiT Sesazl ebl ad miCnia, რომ tyvia, romel mac hava ergis sicocxl e imsxverpl a, nasrol i yofil iyo samxreTidan an samxreT-aRmosavl eTidan, sadac uSiSroebis Zal ebi iyvnen ganl agebul i da miuTiTa, რომ arsebobda imis real uri safrTxე, რომ mosaxl eoba uSiSroebis Zal ebsa da qurTebis saxal xo partiis warmomadgenl ebs Soris urTierTsrol aSi moxvedril iyo. vinaidan mopasuxe saxel mwifos sasamarTI osTvis ar warudgenia aRniSnul i antiteroristul i operaciis dagegmvisa da warmarTvis sakiTxebTan dakavSirebul i masal ebi sapirspiros dasamtkicebl ad, sasamarTI om komisiასTan SeTanxmეbiT დაადგინა, რომ mosaxl eobis sicocxl is dasacavad ar iqna miRebul i adekvaturi winaswari zomebi.

amasTan erTad, sasamarTI om aRniSna konvenciis me-2 muxl iT gaTval iswinebul i procesual uri garantiebis gansakuTrebul i mniSvel oba. sasamarTI om moiSvel ia mis wina gadawyvetil ebebSi asaxul i debul eba, rom konvenciis me-2 muxl iT gansazRvrul i sicocxl is ufl ebis dacva, 1-l muxl Si Camoyal ibebul saxel mwifos zogad val debul ebasTan erTad „Tavisi iurisdicqciis fargl ebSi yvel a adamianisTvis uzrunvel yos konvenciit dadgenil i ufl ebebiTa da Tavisufl ebebiT sargebl oba“, moiTxovs, rom Tu saxel mwifos warmomadgenel Ta mier Zal is gamoyenebas adamianis gardacval eba mohyveba, unda Catardes saqmis yovel mxrivi oficial uri gamoZieba. es moval eoba ar Semoifargl eba mxol od im SemTxvevebiT, rodesac adamianis mkvl el oba saxel mwifos moxel eTa qmedebiTaa gamowveul i. gadamwyveti ar aris arc is, mimarTes Tu ara gardacvl il is ojaxis wevrebma an sxva pirebma kompetentur sagamoZiebo organos saqmis aRZvraze oficial uri moTxovniT. Tavadi is, rom xel isufl ebisTvis cnobil i iyo pirovnebis daRupvis faqti, konvenciis me-2 muxl is Tanaxmad aval debul ebda mas, rom Caetarebina efeqturi gamoZieba sikvdil is gamomwvevi mizezebis da garemoebis dasadgenad.

sasamarTI om Seamowma saqmesTan dakavSirebiT Catarebul i mokvl evis masal ebi da, iseve rogorc komisiამ, miiCnia, rom xel isufl ebas ar Caetarebia im garemoebaTa yovel mxrivi gamoZieba, roml ebsac mniSvel oba hqondaT hava ergis sikvdil is mizezebis dasadgenad. sasamarTI om aRniSna, rom miuxedavad imisa, rom samxreT-aRmosavl eT TurqetSi Seqmnil i arastabil uri mdgomareobis gamo adamianTa tragikul i daRupvis faqtebi aq gavrcel ebul i movl ena iyo, arc SeiaraRebul i Setakebebis da arc adamianTa daRupvis SemTxvevebis maRal i maCvenebel i ar aTavisufl ebs mas me-2 muxl iT gansazRvrul i val debul ebisagan uzrunvel yos efeqturi damoukidebel i gamoZieba yvel a im SemTxvevaSi, rodesac uSiSroebis Zal ebis monawil eobiT mimdinare operacia adamianis msxverpl iT mTavrdeba. es miT ufro mniSvel ovania iseT SemTxvevebSi, rodesac, mocemul i saqmis msgavsad, mraVal i garemoeba bol omde naTel i ar aris.

aRniSnul i mosazrebebis gaTval iswinebiT, sasamarTI om daadgina, rom uSiSroebis Zal ebis operaciis dagegmvasa da ganxorciel ebaSi arsebul i xarvezebis, agreTve mkvl el obis araj erovani gamoZiebis gamo, Turqetis xel isufl ebam ver uzrunvel yo hava ergis sicocxl is ufl ebis dacva. amdenad, adgil i hqonda konvenciis me-2 muxl is darRvevas.

sasamarTI om aucil ebl ad ar miiCnia ganexil a konvenciis me-8 muxl Tan dakavSirebiT hava ergis qal iSvil is saxel iT Semosul i saCivari, rom dedis mkvl el oba misi ojaxuri cxovrebis xel Seuxebli obis ufl ebis darRvevas warmoadgenda. sasamarTI om daadgina me-13 muxl is (efeqturi samarTI ebrivi dacvis ufl eba) darRveva. aRniSnul sakiTxTan dakavSirebiT sasamarTI os mier Camoyal ibebul i mosazrebebi moyvanil ia am danarTis me-11 TavSi. sasamarTI om miiCnia, rom me-14 da me-18 muxl ebis darRvevas adgil i ar hqonia, magram daakmayofil a momCivანის pretenzia 25-e muxl is darRvevasTan dakavSirebiT (rom xel isufl eba xel s uSl ida mas komisiisadmi mimarTvis ufl ebis gamoyenebaSi).

saqme osmani gaerTianebul i samefos winaaRmdeg – (87/1997/871/1083)

am saqmeze momCivanebi iyvnen LondonSi mcxovrebi britaneTis ori moqal aqe: qal batoni mal ki osmani [dab. 1948 wel s k. kviprosze] da misi vaJisvil i ahmet osmani [dab. 1972 wel s ingl isSi]. 1988 wl is 7 marts qal batoni osmanis meuRl e, batoni al i osmani, mokl ul i iqna homerton hausis skol aSi misi vaJis yofil i pedagogis, baton pol paj et-l uisis mier. srol is dros daiWra ahmet osmanic.

saCivari exeboda xel isufl ebis umoqmedobas da im seriozul i safrTxis uyuradRebod datovebas, romel ic ahmet osmanisa da misi ojaxis fizikur usafrTxoebas

emuqreboda da roml is niSnebic, momCivanTa TqmiT, aSkara iyo pol paj et-l uisis saqciel idan. kerZod, mas ganuviTarda „profesiul i Tval sazrisiT miuRebel i“, „araj ansaRi grZnobebi“ ahmet osmanis mimarT. marTal ia, fsiqiatriuI ma Semowmebam ar daadastura, rom paj et-l uisi fsiqiuRad iyo daavadedul i an hqonda avadmyofuri midrekiI eba agresiisadmi, igi Tavisi saqciel iT mosvenebas ar aZl evda osmanebis oj axs da axdenda maT mudmiv terorizebas.

1988 wl is 7 marts paj et-l uisma iaraRis gasrol iT mokl a al i osmani da mZimed daWra misi Svil i ahmeti, ris Semdegac igi mivida baton perkinsTan (homerton hausis skol is direqtoris moadgil esTan) saxl Si, cecxI sasrol i iaraRiT daWra igi da mokl a misi vaJi.

paj et l uisma damnaSaved scno Tavi daqveiTebul i nebel obis mizeziT. 1988 wl is 28 oqtomers sasamarTI om mas gamamtyunebel i ganaCeni gamoutana orive mkvl el obis bral debasTan dakavSirebiT da 1983 wl is Seuracxaobis aqtis 41-e muxl is Sesabamisad miusaj a mas uvadod iZul ebiTi mkurnal oba mkacri reJimis fsiqiatriuI dawesebul ebaSi.

1989 wl is 28 seqtembers qal batonma mal ki osmanma da misma vaJiSvil ma sarCel i aRZres l ondonis pol iciis komisris winaarMdeg, romel sac isini danaSaul ebriv gaufrTxil ebl obaSi sdebden bral s. sarCel is Tanaxmad, miuxedavad imisa, rom pol iciisaTvis ukve 1987 wl is maisidan cnobil i iyo paj et-l uisis saSiSi saqciel i, maT ar daukavebiaT da ar daukiTxavT igi, ar gauCxrekiAT misi saxl i da ar wauyenebiaT mistvis aranairi bral deba. 1992 wl is 7 oqtomers saapel acio sasamarTI om daadgina, rom pol iciisTvis miniWebul i imunitetis safuZvel ze, qveynis precedentul i samarTal i ar iTval iswinebda gamoZiebis procesSi gamoCenil i windauxedaobis, an danaSaul is ver aRkveTis mizeziT pol iciis TanamSromel Ta samarTal Si micemas.

SemdegSi, qal batonma mal ki osmanma da misma vaJiSvil ma ganacxadi Seitanes adamianis ufl ebaTa evropul komisiaSi. isini iTxovdnen konvenciis me-2 (sicocxl is ufl eba), me-8 (piradi da oj axuri cxovrebis pativiscemis ufl eba), 6.1 (sasamarTI o ganxil vis ufl eba) da me-13 (efeqturi samarTI ebrivi dacvis ufl eba) muxl ebiT garantirebul i ufl ebebis darRvevis faqtis dadgenas.

1996 wl is 17 maiss komisiAm misaRebad scno saCivari. 1997 wl is 1 ivl isis moxsenebaSi komisiAm gamoTqva azri, rom konvenciis me-2 da me-8 muxl ebis darRvevas adgil i ar hqonia; darRveul iqna 6.1 muxl i; xol o me-13 muxl is darRvevis sakiTxi cal ke ar ganxil ul a.

SemdegSi saqme gadaegzavna adamianis ufl ebaTa evropul sasamarTI os, romel mac Tavisi gadawyvetil eba 1998 wl is 28 oqtomers gamoitana. konvenciis 6.1 da me-13 muxl ebis darRvevasTan dakavSirebul i saqmis masal ebi da sasamarTI os mosazrebebi mocemul ia am danarTis me-5 TavSi. me-8 muxl Tan dakavSirebul i masal ebi ki SegiZl iaT ixil oT me-6 Tavis saqmeebSi.

sicocxl is ufl ebasTan dakavSirebiT saCivris ganxil visas, sasamarTI om aRniSna, rom 2.1 muxl is pirvel i winadadeba saxel mwifos ara mxol od ukrZal avs sicocxl is ganzrax da ukanono xel yofas, aramed moiTxovs misgan Sesabamisi zomebis miRebas, raTa man real urad uzrunvel yos misi iurisdicqis qveS myofi yvel a adamianis sicocxl is dacva. es val debul eba xorciel deba efeqturi sixl is samarTI ebrivi saSual ebebiT danaSaul obasTan brZol is, maT Soris kanondarRvevaTa Tavidan acil ebis RonisZiebebisa da Cadenil i danaSaul isaTvis sasj el is dakisrebis meSveobiT. amgvarad, konvenciis me-2 muxl i garkveul , mkafi od gansazRvrul SemTxvevebSi, SeiZl eba iTval iswinebdes agreTve xel isufl ebis pozitior val debul ebas ganaxorciel os prevenciul i xasiaTis operatiul i RonisZiebebi, roml ebic mimarTul i iqneba Tavidan aicil os adamianis sicocxl is danaSaul ebrivi xel yofa.

sasamarTI os azriT, pol iciuri saqmianobis Tanmxl ebi sirTul eebis, adamianis qcevis winaswari gaTvl is SeuZl ebl obisa da operatiul i gadawyvetil ebebis miRebisas

prioritetebisa da arsebul i resursebis gaTval iswinebis aucil ebl obis gamo, xel isufli ebis es val debul eba ar SeiZl eba gul isxmobdes SeuZl ebel i an zedmetad mZime tvirtis dakisrebas samarTal damcavi organoebisaTvis. Sesabamisad, konvencia ar iTxovs operatiul i aRmkveTi RonisZiebebis Catarebas yovel Tvis, rodesac vinmes miaCnia, rom misi sicocxl e safrTxis qveS imyofeba.

kidev erTi mniSvnel ovani moTxovnaa, rom danaSaul is kontrol isa da Tavidan acil ebis mizniT sxvadasxva RonisZiebebis gatarebisas, pol iciam ganuxrel ad daicvas Sesabamisi procesual uri da sxva samarTI ebrivi moTxovnebi, maT Soris konvenciis me-5 da me-8 muxl ebit gansazRvrul i garantiebi, roml ebic garkveul moval eobebs akisrebs pol icias danaSaul is gamoZiebisa da eWmitaniL Ta samarTal Si micemis procesSi.

samarTI om aRniSna, rom yovel Tvis, rodesac ganacxadi xel isufli ebis mier sicocxl is ufl ebis dacvis pozitiuri val debul ebis Seusrul ebl obas exeba, unda danamdvil ebit dadgindes, rom mocemul momentSi mistvis namdvil ad iyo cnobil i an mas aucil ebl ad unda scodnoda im real uri da pirdapiri safrTxis Sesaxeb, romel ic aRniSnul i piris an pirebis sicocxl es emuqreboda mesame mxaris danaSaul ebrivi qmedebebis Sedegad, da rom mas Tavisufl eamosil ebis fargl ebSi ar miuRia aucil ebel i zomebi, romel Tac SeeZl oT aseTi saSiSroebis Tavidan acil eba.

samarTI om ar gaiziara mTavrobis azri, rom mocemul i momentisaTvis cnobil i garemoebebis gaTval iswinebit adamianis sicocxl isaTvis arsebul i safrTxis arasaTanadod Sefaseba, an mis Tavidan asacil ebl ad saWiro RonisZiebebis gautarebl oba danaSaul ebrivi gaufrTxil ebl obisa da sicocxl is dacvis moval eobis uxeSi ugul ebel yofis tol fasia. amgvvari xisti midgoma SeuTavsebadi iqneboda konvenciis 1-l i muxl is moTxovnasTan, rom saxel mwifoebma unda uzrunvel yon konvenciiT, maT Soris me-2 muxl iT, dadgenil i ufl ebebisa da Tavisufl ebebis real uri da efeqturi dacva.

samarTI os azrit, konvenciis me-2 muxl iT dacul i ufl ebis bunebidan da misi mniSvnel obidan gamomdinare, sakmarisia momCivanma aCvenos, rom xel isufli ebam ar miRo yvel a is zoma, rac mas obieqturad moeTxoveboda sicocxl is im real uri da pirdapiri safrTxis Tavidan asacil ebl ad, roml is Sesaxebac igi informirebul i iyo, an val debul i iyo rom scodnoda. amis dadgena ki mxol od TiToeul i konkretul i SemTxvevis garemoebebaTa srul i da yovel mxrivi Semowmebit aris SesaZl ebel i.

samarTI om miicnia, rom momCivanma mxarem ver daasabuTa, rom romel ime etapze im movl enaTa jaWvSi, romel ic tragikul i mkvl el obiT dasrul da, pol iciam icoda, an unda scodnoda im real uri da pirdapiri safrTxis Sesaxeb, romel ic osmanebis ojaxs emuqreboda paj et-l uisis mxridan. marTal ia ganmcxadebl ebi miuTitebdnen im gamouyenebel SesaZl ebl obebze, roml ebic saSual ebas miscemda pol icias moexdina paj et-l uisisagan momdinare safrTxis ganeitral eba (magal iTad, misi saxl is gaCxreka ama Tu im samxil is aRmoCenis mizniT; 1983 wl is Seuracxaobis aqtis safuZvel ze misi dakaveba, an misi gauCinarebis faqtis ufro gul dasmit gamoZieba), ar SeiZl eba imis danamdvil ebit mtkiceba, rom es RonisZiebebi real ur Sedegs gamoiRebda, an rom samarTI o warmodgenil i mtkicebul ebebis safuZvel ze pasuxisgebaSi miscemda paj et-l uisiss an fsiqiatრიul saavadmyofoSi izul ebit mkurnal obas dauwesebda mas.

rogorc samarTI om ukve aRniSna, pol iciam Tavisufl moval eobebs Susrul ebis as udidesi yuradReba unda dauTmos adamianis ufl ebebisa da Tavisufl ebebis dacvas. mocemul i saqmis garemoebaTa gaTval iswinebit, ar SeiZl eba pol iciais gamtyuneba imisaTvis, rom man angariSi gauwia udanaSaul obis prezumfcias, an, rom ar ganaxorciel a dakaveba, Cxreka da mtkicebul ebaTa amoReba, vinaidan miicnia, rom mocemul i momentisaTvis mas ar hqonda sakmarisi safuZvel i ganaxorciel ebina aRniSnul i moqmedebebi, an efiqra, rom es RonisZiebebi real ur Sedegs gamoiRebda.

yvel a am mosazrebis gaTval iswinebit samarTI om daadgina, rom konvenciis me-2 muxl is darRvevas adgil i ar hqonia.

Tavi 3 – wamebisa da aramarTebul i mopyrobis akrZal va

saqme saber ZneTis wi naaRmdeg – (dania, norvegia, SvedeTi da niderl andebi saberZneTis winaaRmdeg. 3321-33232/67; 3344/67. moxseneba 25.1 76. 12 Yearbook)

es saqme sayuradReboa mraval i Tval sazrisiT, maT Soris im mniSvel ovani mosazrebebis gamo, roml ebic evropul ma komisiam gamoTqva adamianis ufl ebaTa evropul i konvenciis me-3 muxl Si gamoyenebul i terminol ogiis ganmartebasTan dakavSirebiT.

komisiam ganacxada, rom wameba yovel Tvis araadamianur da Rirsebis Seml axav mopyrobas gul isxmobs, xol o araadamianuri mopyroba amave dros Rirsebis Seml axavicaa. aseve iTqva, rom araadamianuri mopyroba iseTi mopyrobaa, romel ic „gamiznul ad ayenebs adamians mZime fsiqur an fizikur tanj vas“, xol o pirovnebisadmi mopyroba an dasja Rirsebis Seml axavia, Tu igi „uxeSad Seuracxyofs mas sxvebis winaSe da ubiZgebs sakuTari nebis an sindisis sawinaaRmdego moqmedebisken“.

komisiam wameba gansazRvra, rogorc „araadamianuri mopyroba, romel ic informaciis an aRiarebiTi Cvenebis mopovebis, an sasj el is mizniT xorciel deba da [igi], sazogadod, araadamianuri mopyrobis umZimes gamovl inebas warmodgens“.

saqme gaerTianebul i samefos wi naaRmdeg – (irl andia gaerTianebul i samefos winaaRmdeg. seria A No. 25, 2 EHRR 25)

adamianis ufl ebaTa evropul i konvenciis me-3 muxl Si gamoyenebul i terminol ogiis ganmartebasTan dakavSirebiT sayuradRebo mosazrebebi iqna gamoTqmul i aseve gaerTianebul i samefos winaaRmdeg saqmeSi, roml is ganxil vaSic konvenciis orive organo _ adamianis ufl ebaTa komisia da sasamarTl o _ iRebden monawil eobas. saqme, kerZod, exeboda dakiTxvis dros e.w. „dezorientaciis“, anu „sensorul i deprivaciis“, xuTi meTodis gamoyenebas. esenia: kedel Tan dgomis iZul eba, Tavze tomris Camocma, smeniTi gaRizianeba, Zil is warTmeva da sakvebis SezRudva.

adamianis ufl ebaTa evropul ma komisiam erTxmad miicnia, rom vinaidan maTi gamoyeneba iwvevs grZnobaTa organoebis Cveul i funqcionirebis moSI as da mZimed zemoqmedebs pirovnebis fizikur da fsiqur mlgomareobaze, aseTi meTodebiT dakiTxva wamebas warmoadgens.

sasamarTl o ar daeTanxma komisiis am mosazrebas da xmaTa umravl esobiT daadgina, rom dakiTxvis aRniSnul i xuTi saSual ebis gamoyeneba „araadamianur da Rirsebis Seml axav mopyrobas“ warmoadgens, radganac maTi zemoqmedeba ar iwvevs iseTi xarisxisa da sisastikis tanj vis miyenebas, rogoric sityva „wamebaSi“ igul isxmeba. Tavisi gadawyvetil ebis dasabuTebisas sasamarTl om moiSvel ia wamebis akrZal vis Sesaxeb dekl araciis 1.2 muxl i, roml is Tanaxmadac wameba aris gansakuTrebiT sastiki, araadamianuri da Rirsebis Seml axavi mopyrobis an sasj el is mizanmimarTul i gamoyeneba. Tumca sasamarTl om xazgasmiT aRniSna, rom dakiTxvis am xuTi meTodis gamoyeneba, rogorc „araadamianuri da Rirsebis Seml axavi mopyroba“, nebis mier SemTxvevaSi me-3 muxl is darRvevas warmoadgens.

tomasis saqme – (tomasi safrangeTis winaaRmdeg. seria A No 241, 15 EHRR 1)

am saqmeze momCivani iyo safrangeTis moqal aqe, romel ic or sxva pirovnebasTan erTad daakaves mkvl el obis, iaraRis ukanono mfl obel obisa da ramdenime sxva mZime bral debiT. gamoZiebisa da sasamarTl o procesis dasrul ebis Semdeg, rasac 5 wel i da 7 Tve dasWirda, igi udanaSaul od iqna miCneul i. mTel i am drois ganmavl obaSi batoni tomasi patimrobaSi imyofeboda.

Tavis ganacxadSi igi asaCivredda pol iciel Ta ukanono qmedebas, roml ebic, misi mtkicebiT, scemdenen da uxeSad epyrobodnen mas. amasve adasturedda pol iciaSi dakavebis momdevno dReebSi oTxi sxvadasxva eqimis mier mis sxel ze aRmoCenil i msubuqi

dazianebebi, roml ebic, maTi TqmiT, Seesabameboda patimris mier gamoTqmul bral debeps.

adamianis ufl ebaTa evropul ma sasamarTI om ganixil a ganmcxadebl is saCivari mis mimarT konvenciis 3, 5.3 da 6.1 muxl ebis darRvevaze. me-3 muxl Tan (wameba da aramarTebul i mopyroba) dakavSirebiT sasamarTI om miiCnia, rom warmodgenil i samedicino Semowmebis daskvnebi da Tavad ganmcxadebl is saCivari miuTitebda, rom es Wril obebi misi pol iciaSi yofnis dros iqna miyenebul i. sasamarTI om agreTve aRniSna, rom sapirispiro ganacxadi ar gamoTqmul a. yovel ive es sakmarisad iqna miCneul i imis dasadgenad, rom sxeul is dazianebebsa da pol iciaSi dakavebis periods Soris mizez-Sedegobrivi kavSiri arsebobda.

kerZod, sasamarTI om aRniSna, rom „sxvadasxva eqimebis mier erTmaneTisgan srul iad damoukidebl ad Catarebul i samedicino Semowmebis daskvnebi adastureben batoni tomasis mimarT fizikuri Zal is gamoyenebis faqtsa da dartynebis siZl ieres“. maTi Sefasebis Sedegad sasamarTI om miiCnia, rom adgil i hqonda araadamianur da Rirsebis Seml axav mopyrobas. amasTan dakavSirebiT sasamarTI om xazi gausva, rom „danaSaul is, kerZod terorizmis winaarmdog brZol is saqmeSi arsebul ma udavo siZnel eebma ar SeiZl eba gamoiwvios pirovnebis fizikuri xel Seuxebl obis SezRudva“.

saqme aksoi Turqetis winaarmdog – (100/1995/606/694)

am saqmeze momCivani iyo Turqetis samxreT-aRmosavl eTSi mcxovrebi Turqetis moqal aqe zeki aksoi, romel ic uSiSroebis Zal ebma daapatimres 1992 wl is noembris bol os da dakavebul i hyavdaT igi 10 dekembrade. 1994 wl is 16 april s zeki aqsoi mokl es, ris Semdegac mis mier aRZrul i saqme mamamisma gaagrZel a.

1995 wl is martsa da april Si adamianis ufl ebaTa evropul ma komisiam moismina mowmeTa Cvenebebi Turqetis qal aqebSi diarbakirsa da ankaraSi. garda amisa, strasburgSi 1994 wl is oqtomberSi gamarTul sxdomaze komisiam ganixil a sakiTxi ganacxadis dasaSvebobis Sesaxeb, xol o 1995 wl is ivl isSi ki Sedga saqmis samsj avro ganxil va. mxareTa mosmenisa da dokumenturi masal ebis Sefasebis Sedegad, komisiam faqtebTan dakavSirebiT Semdegi daskvna gamoitana:

a. Tumca ver moxerxda zeki aksois dakavebis zusti TariRis dadgena, srul iad naTel ia, rom igi daapatimres araugvianes 1992 wl is 26 noembrisa. b-ni aksoi ganTavisufl ebul iqna 1992 wl is 10 dekembers, Sesabamisad igi patimrobaSi imyofeboda sul mcire ToTxmeti dRis ganmavl obaSi.

b. 1992 wl is 15 dekembers batoni aksoi saavadmyofoSi moaTavses ormxrivi radial uri dambl is diagnoziT. 1992 wl is 31 dekembers man Tavisi nebiT datova saavadmyofo da ar dausrul ebia mkurnal obis srul i kursi.

g. ar arsebobs cnoba imis Taobaze, rom dakavebamde mas raime daavadeba awuxebda, an rom igi ubeduri SemTxvevis msxverpl i gaxda im xuTi dRis ganmavl obaSi, romel ic pol iciidan ganTavisufl ebis Semdeg mis saavadmyofoSi moTavsebamde gavida.

d. komisiam aRniSna, rom warmodgenil i samedicino daskvnis Tanaxmad, momCivans sxeul is dazianebebi sxvadasxva mizeziT, maT Soris mkl avebiT Camokidebisas miRebul i travmiT, SeiZl eba yofil iyo gamowveul i. amasTanave, samedicino praqtikaSi orive mkl avis radial uri dambl a gavrcl ebul i movl ena ar aris, Tumca savsebiT SesaZl ebl ia igi ganvitarde iseti sastiki mopyrobis Sedegad, romel ic „pal estinuri dakidebis“ saxel iTaa cnobil i.

e. komisiis wevrebma Cveneba Camoartves erT-erT pol iciel s, romel ic batoni aqsois dakiTxvas awarmoebda. mowmis saxiT Cveneba misca agreTve saxel mwifo prokurorma, romel ic ganTavisufl ebande cota xniT adre esubra patimars. orive maTgani amtkicebda, rom warmoudgenel i iyo adgil i hqonoda raime ukanono zemoqmedebas momCivans mimarT. komisiam sarwmunod ar miiCnia maTi Cvenebebi, radganac iqmneboda STabeWdil eba, rom aRniSnul i saxel mwifo moxel eebi arc ki uSvebdnen pol iciel Ta mxridan aseTi

marTI sawinaaRmdego qmedebis SesaZI ebl obas.

v. momCivanis sxeul is dazianebaTa warmoSobis Taobaze mTavrobas raime sxva axsna-ganmarteba ar warmoudgenia.

z. sakmarisi mtkicebul ebebis ararsebobs gamo, komisiam ver miRo gadawyvetil eba momCivanis mier misi el eqtronul i SokiT wamebisa da cemis Sesaxeb wamoyenebul bral debebTan dakavSirebiT. Tumca, rogorc komisiam ganacxada, naTel i iyo, rom mas erTadgil ian sakanSi amyofebdnen or sxva dakavebul Tan erTad da Tval axveul s uwyobdnen dakiTxvas.

adamianis ufl ebaTa evropul ma sasamarTI om miRo gadawyvetil eba saqmis ganxil visas exel mZRvanel a komisiis mier dadgenil i faqtebiT. amave dros, sasamarTI om ganacxada, rom Tu policiaSi miyvanisas dakavebul i piri janmTel ia, xol o ganTavisufl ebisas mas aReniSneba sxeul is dazianebebi, saxel mwifo val debul ia warmoadginos sarwmuno axsna-ganmarteba am dazianebebis gamomwvevi mizezebis Taobaze. winaaRmdeg SemTxvevaSi aSkarad dgeba sakiTxi konvenciis me-3 muxl is savaraulo darRvevasTan dakavSirebiT.

rogorc sasamarTI os araerTxel aRuniSnavs, me-3 muxl iT garantirebul i ufl ebebi demokratiul i sazogadoebis erT-erT umTavres Rirebul ebas warmoadgens. yvel aze rTul situaciebSic ki, magal iTad, terorizmsa da organizebul i danaSaul is winaaRmdeg brZol isas, konvencia upirobod krZal avs wamebas, araadamianur mopyrobasa da dasj as. konvenciaTa da misi No.1 da No.4 oqmebiT aRiarebul i sxva material uri ufl ebebisagan gansxvavebiT, me-3 muxl i ar iTval iswinebs gamonaki isebis da me-15 muxl is Tanaxmad dauSvebel ia am val debul ebisagan gadaxveva sazogadoebisaTvis saSiSi sagangebo viTarebis drosac ki.

imis dasadgenad, warmoadgens Tu ara ama Tu im formis aramarTebul i mopyroba wamebas, sasamarTI om mxedvel obaSi unda miRos "wamebis" cnebasა da "araadamianur an Rirsebis Seml axav" mopyrobas Soris arsebul i is gansxvaveba, romel ic konvenciis me-3 muxl iTaa gaTval iswinebul i. rogorc ukve aRiniSna, amgvari gamij vna gul isxmobs, rom „wamebis“ kval ifikacia unda mieces mxol od iseT araadamianur mopyrobas, roml is mizania gansakuTrebiT mZime da sastiki tanj vis miyeneba.

sasamarTI om gaiTval iswina komisiis mier dadgenil i faqtebi, kerZod is, rom momCivanis mimarT adgil i hqonda iseT ukanono zemoqmedebas, rogoricaa „pal estinuri dakideba“, anu igi gaaSiSvl es, xel ebi zurgs ukan Seukres da mkl avebiT Camokides.

sasamarTI os azrit, aseTi mopyroba mxol od winaswari ganzraxvit SeiZI eba yofil iyo ganxorciel ebul i da, amasTanave, is garkveul momzadebasa da Zal isxmevasac saWiroebda. rogorc Cans, amgvari zemoqmedeba momCivanisgan aRiarebiTi Cvenebis an informaciis mopovebas isaxavda miznad. saqmeSi warmodgenil i samedicino masal ebi cxadyofen, rom im uZI ieresi tkivil is garda, romel sac momCivani am dros ganctida, mas orive mkl avis droebiti dambli a ganuvitarda. sasamarTI om daadgina, rom aseTi mZime Sedegebis mqone da sastiki mopyroba SeiZI eba Sefasdes mxol od rogorc wamebis aqti.

aRniSnul i darRvevis seriozul obidan gamomdinare, sasamarTI om aRar miCnia aucil ebl ad ganxil a momCivanis mier wamoyenebul i bral debebi mis mimarT zemoqmedebis sxva formebis gamoyenebis Taobaze da daadgina konvenciis me-3 muxl is darRveva.

SeniSvna: konvenciis me-5 da me-13 muxl ebis darRvevasTan dakavSirebiT saqmis masal ebi mocemul ia Sesabamisad am danarTis me-4 da me-11 TavebSi.

saqme sel muni safrangeTis winaaRmdeg – (ganacxadi # .25803/94)

am saqmeze momCivani, niderl andebisa da marokos moqal aqe ahmed sel muni policiam daakava 1991 wl is 25 noembers, raTa daekitxa igi narkotikul i nivTierebebis kontrabandasTan dakavSirebiT. ahmed sel munma policiaSi 29 noembrande dahyo. 1992

wl is 2 dekembers sisxl is samarTI is saqmeTa sasamarTI om mas 15 wl iT Tavisufl ebis aRkveTa miusaj a. pol iciaSi patimrobisas ahmed sel muns ramdenj erme Cautarda samedicino Semowmeba. samarTal Si micemis stadiaze mosamarTI is moTxovniT Catarebul i damatebiTi samedicino gamokvl evis daskvnaSi CamoTvl il i iyo baton sel munis sxeul ze aRmoCeniI i xil ul i dazianebebi, roml ebic eqimi-eqspertebis azriT momCivanis pol iciaSi dakavebis periodSi iqna miyenebul i.

1993 wl is 1 Teberval s ahmed sel munma sasamarTI os mimarTa sasarCel o gancxadebiT, romel Sic igi pol icias uCioda fizikuri Seuracxyofisa da Zal adobisaTvis, ramac misi organizmis dazianeba da samudamo inval idoba (kerZod, Tval is dakargva) gamoiwvia; ahmed sel muni aseve Cioda, rom igi gaupatiures ori Tanamonawil is xel SewyobiT. aRniSnul bral debebTan dakavSirebiT ramdenime pol iciel is mimarT aRiZra sisxl is samarTI is saqme. sabol ood, maTi bral eul oba dadginda da maT Tavisufl ebis aRveTa miesaj aT.

1992 wl is 28 dekembers batonma sel munma damianis ufl ebaTa evropul komisiaSi Seitana saCivari mis mimarT konvenciis me-3 muxl is (wamebis da aramarTebul i mopyrobis akrZal va) da 6.1 muxl is (sasamarTI oSi saqmis „saTanado vadebSi“ ganxil vis ufl eba) darRvevis Taobaze. es ukanasknel i Seexeboda pol iciiis ukanono qmedebebTan dakavSirebiT misi saCivris ganxil vis gaWianurebas safrangeTis sasamarTI oebis mier. 1998 wl is 16 marts komisiAm saqme adamanis ufl ebaTa evropul sasamarTI os gadaugzavna. amave saqmeze saCivriT evropul sasamarTI os mimarTa agreTve niderl andebis mTavrobamac.

konvenciis me-3 muxl is daRvevasTan dakavSirebiT sasamarTI om aRniSna, rom arsebobda ramdenime samedicino daskvna, roml ebSic detal uri da urTierTSesatyvisi informacia iyo gadmocemul i. amave dros mTavrobas ar warmoudgenia damaj erebel i ganmarteba imasTan dakavSirebiT, Tu ram gamoiwvia momCivanis sxeul ze aRniSnul i dazianebebis warmoSoba. sasamarTI os azriT, SeiZl eboda sarwmunod miCneul iyo agreTve batoni sel munis sxva bral debebic (gaupatiurebisa da mxedvel obis nawil obrivi dakargvis bral debebis garda), roml ebic ar dasturdeboda samedicino daskvnebiT.

sasamarTI om miiCnia, rom sxvadasxva samedicino Semowmebis daskvnebiSi aRweril i sxeul is dazianebebi da momCivanis Cvenebebi pol iciiis ganyofil ebaSi mis mimarT aramarTebul i mopyrobis Taobaze, adasturebda pol iciiis TanamSroml ebis mier Taviani moval eobebis Sesrul ebisas batoni sel munisaTvis fizikuri da fsiqikuri tanj vis miyenebis faqts, rac misgan aRiarebiTi Cvenebebis mopovebas isaxavda miznad.

imis dasadgenad, warmoadgens Tu ara ama Tu im formis aramarTebul i mopyroba wamebas, sasamarTI om mxedvel obaSi unda miiRos „wamebis“ cnebasa da „araadamanur an Rirsebis Seml axav“ mopyrobas Soris arsebul i is gansxvaveba, romel ic konvenciis me-3 muxl iTaa gaTval iswinebul i. rogorc sasamarTI om adre ukve aRiniSna, amgvari gamij vna gul isxmobs, rom „wamebis“ kval ifikacia unda mieces mxol od iseT araadamanur mopyrobas, roml is mizania gansakuTrebiT mZime da sastiki tanj vis miyeneba. es gansxvaveba mocemul ia aseve wamebisa da sxva sastiki, araadamanuri an Rirsebis Seml axavi mopyrobis an sasjel is winaaRmdeg gaeros mier miRebul konvenciaSic (ix. muxl ebi 1 da 16).

pol iciiis aRniSnul i qmedebebi gamiznul i iyo patimarSi gamoewvia SiSis, daTrgunul obisa da arasrul fasovnebis SegrZneba, rac Seuracxyofda mas da dauqveiTebda sakuTari mdgomareobis kritikul i Sefasebisa da fizikuri Tu moral uri winaaRmdegobis gawevis unars. es argumentebi sasamarTI om sakmarisad miiCnia imisaTvis, rom mocemul i qmedebebi araadamanur da Rirsebis Seml axav mopyrobad yofil iyo Sefasebul i.

rac Seexeba baton sel munisaTvis miyenebul i tkivil isa da tanj vis „simwvaves“ (gaeros wamebis sawinaaRmdego konvenciis 1-I muxl sa da adamanis ufl ebaTa evropul i konvenciis me-3 muxl Si mocemul i mniSvnel obiT), sasamarTI om miiCnia, rom igi fardobiTi mcnebaa da misi Sefaseba damokidebul ia yovel i saqmis konkretul i garemoebebeze,

rogoricaa, magal iTad, zemoqmedebis xangrZI ivoba, misi gavl ena pirovnebis fizikur Tu sul ier mdgomareobaze, da sxva. zogier SemTxvevaSi mniSvel oba aqvs agreTve dazaral ebul is sqess, asaksa da misi janmrTel obis mdgomareobas.

am mosazrebaTa Camoyal ibebisas sasamarTI om aRniSna, rom adamiანis ufl ebaTa da ZiriTad Tavisufl ebaTa dacvis sferoSi sul ufro maRal i standartebis damkvidrebis aucil ebl oba met simkacresa da principul obas saWirobebs demokratiul i sazogadoebis ZiriTad Rirebul ebaTa xel yofis faqtebis Sefasebisas.

sasamarTI om sarwmunod miicnia, rom batoni sel muni araerTxel iqna nacemi da aRniSna, rom aseTi intensivobis dartyebi ZI ier tkivil s miayenebda nebismier adamiანს, miuxedavad misi janmrTel obis mdgomareobisa. amasTanave, yovel i dartyma sxელ ze xil ul kval s ar tovebs, xol o batoni sel munis samedicino Semownebis daskvnebsi ki aRniSnul i iyo, rom Zal adobis kval i mas mTel sxeul ze SeeniSneboda. sasamarTI om aseve aRniSna, rom momCivanis mimarT ganxorciel ebul i zogierTi qmedeba sastiki da damancirebel i iqneboda nebismieri adamiანისათვის, miuxedavad misi mdgomareobisa.

sasamarTI om aRniSna, rom batoni sel munis mimarT pol iciis aRniSnul i qmedebebi ar ganxorciel ebul a drois romel ime konkretul monakveTsi, rodesac aseTi eqscesebi daZabul obisa da emociebis gamZafrebas SeiZl eba gamoewvia - Tumca es aranairad ar gaamarTI ebda maT. aSkara iyo, rom im ramdenime dRis ganmavl obaSi, rodesac pol iciaSi batoni sel munis dakiTxva mimdinareobda, igi mudmivad ganicdida uxeS fizikur da fsiqikur Seuracxyofas.

yvel a am garemoebis gaTval iswinebiT sasamarTI om daadgina, rom momCivanis mimarT gansakuTrebul i sisatikiT ganxorciel da „mwvave“ tkivil isa da tanj vis gamomwvevi fizikuri da fsiqikuri zemoqmedeba, rac wamebis aqtad iqna miCneul i.

garda amisa, sasamarTI om miicnia, rom ar iqna dacul i konvenciis 6.1 muxl iT gansazRvrul i „saTanado vadebi“ da amrigad adgil i hqonda me-6 muxl is darRvevasac.

Tavi 4 - Tavisufl ebisa da pirovnebis xel Seuxebl obis ufl eba

saqme kvi prosi Turqetis winaarmddeg – (ganacxadi №. 8007/77)

es saqme aRiZra kvi prosis mier Turqetis winaarmddeg wardgenil i mesame ganacxadis safuZvel ze, romel ic Crdil oET kvi prosSi ganl agebul i Turqetis SeiaraRebul i Zal ebis qmedebes Seexeboda. momCivani mxare (kvi prosis mTavroba) Turqetis bral s sdebda konvenciis me-5 da me-8 muxl ebis, agreTve konvenciis №.1 oqmis pirvel i muxl is darRvevaSi.

konvenciis me-5 muxl Tan dakavSirebiT kvi prosis mTavroba acxadebda, rom j er kidev dakargul ad iTvl eboda daaxl oebiT 2000 kvi prosel i berZeni, roml ebic ukanasknel ad cocxal i ixil es kvi prosis okupirebul teritoriaze, sadac Turqetis jarebis gadasxmisa da maT mier kvi prosis Crdil oET nawil is dakavebis Sedegad faqtiuri Zal aufl eba Turqetis samxedro Zal ebis xel Si gadavida. vinaidan Turqeti kvl avac xel s uSl ida gamoZiebis warmarTvas imis gamosarkvevad, Tu ra bedi ewiaT dakargul ebs da radganac arsebobda udavo mtkicebul ebebi, rom sabrZol o moqmedebes Sewyvetis Semdeg moxda mraVal i pirovnebis dapaTimreba, roml ebic amJamad dakargul ad iTvl ebodnen, kvi prosis mTavroba miicnevda, rom adgil i hqonda konvenciiT garantiRebul ufl ebaTa, maT Soris, me-5 muxl is moTxovnaTa darRvevas.

gamoZiebul i xuTi saqmidan komisiამ sam SemTxvevaSi daadgina da mraVal saqmeSi sakmarisi mtkicebul ebebi aRmoacina, rom 1974 wel s aRniSnul i pirebi dakavebul i iqnen Turqi samxedroebis mier. komisiამ miicnia, rom yovel ive es Turqetis xel isufl ebas akisrebda pasuxismgebl obas dakargul i kvi prosel i berZnebis bedze da gamoTqva SeSfoTeba, rom Turqetis mxares ar warmoudgenia amasTan dakavSirebul i informacia.

komisiam aRniSna, rom dapatimrebul Ta oj axis wevrebma daaxl oebiT cxra wl is ganmavl obaSi araferi icodnen maTi dakargul i naTesavebis Sesaxeb imis gamo, rom Turqetis mTavroba ar iZl eoda ganmartebas imasTan dakavSirebiT, Tu ra bedi ewiaT maT. komisiam miiCnia, rom aseTi gaurkvevel i mdgomareoba umZimes tanj vas ayenebda dakargul Ta oj axis wevrebs, roml ebsac konvenciis Tanaxmad ufl eba hqondaT mieRoT informacia maTi axl o naTesavebis mdgomareobis Sesaxeb.

komisiam ganaxxada, rom me-5 muxl is 1-l i punqtis meore winadadebaSi, me-3 punqtis pirvel winadadebasa da me-4 punqtSi Camoyal ibebul i moTxovnebis Tanaxmad, Tavisufl ebis aRkveTis nebismieri SemTxveva unda eqvemdebarebodes kontrol s da, rom dakavebul i piriS Sesaxeb cnobebis ararseboba me-5 muxl is gansakuTrebiT mZime darRvevad unda iqnes miCneul i.

imis gamo, rom komisiam sam SemTxvevaSi daadgina da mraVal saqmeSi sakmarisi mtkicebul ebebi aRmoaCina, rom aRniSnul i kviprosel i berZnebi 1974 wel s Turqi samxedroebis mier iqnen ukanonod dakavebul i da, radganac Turqetis mxares ar warmoudgenia informacia imasTan dakavSirebiT, Tu ra bedi ewiaT maT, komisiam miiCnia, rom Turqetis mxridan adgil i Hqonda konvenciis me-5 muxl is darRvevas.

I loul esis saqme – (seria A № 3, 1 EHRR 15)

am saqmeze momCivani daakaves sagangebo ufl ebamosil ebaTa aqtis safuZvel ze da evropul sasamarTl os unda daedgina warmoadgenda Tu ara aseTi dakaveba konvenciis me-5 muxl is pirvel i (dapatimrebis kanoniereba) da mesame (mosamarTl is winaSe dauyovnebl ad wardgenis ufl eba) punqtibus sawinaRmdego qmedebas.

sasamarTl om miiCnia, rom 5.3 muxl is moTxovnebi aseve vrcel deba am muxl is 1.g. qvepunqtSi CamoTvl il i SemTxvevebis, kerZod, „danaSaul Si monawil eobis dasabuTebul i eWvis” safuZvel ze, an „danaSaul is aRkveTis mizniT” pirovnebis dakavebis an dapatimrebis mimarTac. am muxl is me-3 punqti moiTxovs, rom 1.g. qvepunqtis debul ebaTa Sesabamisad dakavebul i yvel a adamiani aucil ebl ad unda iqnes wardgenil i mosamarTl is an kompetenturi sasamarTl o organos winaSe, „winaaRmddeg SemTxvevaSi, SeiZl eba moxdes danaSaul is ganzraxvaSi eWvmitanil i nebismieri adamianis dapatimreba da ganuszRvrel i droiT dakaveba mxol od aRmasrul ebel i organos mier gamotanil i gadawyvetil ebis safuZvel ze”.

radganac I loul esis dapatimreba ar momxdara misi kompetenturi sasamarTl o organos winaSe wardgenis mizniT da dakavebis periodSi igi ar iqna saTanado vadebSi wardgenil i mosamarTl is winaSe, adgil i hqonda me-5 muxl is 1.g. qvepunqtisa da me-3 punqtis darRvevas.

sasamarTl om komentari gaakeTa aseve me-5 muxl is 1.b. qvepunqtTan dakavSirebiT, romelic iTval iswinebs pirovnebis kanonier dapatimrebas an dakavebas sasamarTl os gadawyvetil ebis daumorcil ebl obisaTvis, an kanoniT gansazRvrul i romel ime val debul ebis Sesrul ebis uzrunvel sayofad. kerZod, sasamarTl om ganaxxada, rom „saxel mwifo ministris brZanebiT I loul esis dakaveba im mizeziT, rom igi sazogadoebrivi wesrigisa da saxel mwifos uSiSroebisaTvis saSiS QqmedebebSi iyo eWvmitanil i, ar SeiZl eba CaiTval os „kanoniT gansazRvrul i moval eobis Sesrul ebis uzrunvel yofis mizniT” ganxorciel ebul RonisZiebad, vinaidan 1.b. qvepunqti exeba dakavebas an dapatimrebas kanoniT dadgenil i konkretul i moval eobebis darRvevisaTvis da ara sazogadoebrivi wesrigis an saxel mwifos uSiSroebis dasacavad”.

vemhofi s saqme – (seria A №. 7, 1 EHRR 55)

es saqme Seexeboda pirovnebas, romelic daakaves mindobil obiT miniWebul i ufl ebamosil ebis borotad gamoyenebis bral debiT. gansasjel is saqmis sasamarTl o ganxil va daiwyo misi dapatimrebidan 3 wl is Semdeg da 5 TveSi igi damnaSaved iqna

cnobil i. mTel i am drois ganmavl obaSi igi cixeSi imyofeboda.

adamianis ufl ebaTa evropul ma sasamarTI om ganxil a batoni vemhofis ganacxadi konvenciis 5.3 muxl is (mosamarTI i winaSe dauyovnebl iv wardgenis/ saTanado vadebSi misi saqmis sasamarTI o ganxil vis/sasamarTI omde ganTavisufl ebis ufl eba) darRvevasTan dakavSirebiT da Camoayal iba ramdenime mniSvnel ovani mosazreba winaswari patimrobis xangrZl ivobasa da sasamarTI o ganxil vamde gansasj el is ganTavisufl ebis Sesaxeb:

a. „yovel i gansasj el is winaswari patimrobis mizanSewonil oba unda gadawydes konretul ad misi saqmis garemoebaTa Sefasebis safuZvel ze.”

b. „...sasamarTI om imsj el a, Tu ramdenad safuZvl iani da sakmarisi argumentebi warmoadgina mopasuxe mTavrobam imis dasasabuTebI ad, rom winaswari patimrobis gagrZel eba mizanSewonil i iyo da ar warmoadgenda konvenciis 5.3 muxl is sawinaaRmdego qmedebas. am mizniT, sasamarTI om ganxil a is faqtebi da garemoebebi, romel Tac iSvel iebda orive mxare samarTal warmoebis yvel a ganvl il etapze.

g. 5.3 muxl is daskvniTi winadadeba miuTiTebS, rom Tu winaswari patimrobis erTaderT mizezad gamoZiebisa da sasamarTI osagan bral debul is mimal vis SiSi rCeba, igi ganTavisufl ebul unda iqnes sasamarTI o procesamde, Tuki SesaZl ebel ia sasamarTI o da sagamoZiebo organoebSi misi gamocxadebis garantiis (piradi val debul eba, Tavdeboba) mopoveba.

saqme X germani is federaci ul i respubl i ki s wi naaRmdeg – (ganacxadi №. 8098/77, 16 D.R.111)

am saqmeze momCivani, pol iciis ufrosi TanamSromel i daakaves, radganac arsebobda eWvi, rom igi ucxo qveynis uSiSroebis samsaxurebTan TanamSroml obda. igi uCioda mis mimarT konvenciis me-5 muxl is ramdenime punqtis darRvevas.

am muxl is me-2 punqtTan dakavSirebiT (romel ic moiTxovs, rom yvel a daptimrebul pirs dauyovnebl ad unda ecnobos misi daptimrebis mizezebi), komisi am ganacxada: „me-5 muxl is me-2 punqti iTval iswinebs, rom pirovnebam unda icodes, Tu ratom daakava igi pol iciam. aRniSnul i garantiis erT-erTi umniSvnel ovanesi mizania SesaZl ebl oba misces dakavebul pirovnebas uaryos mis winaRmdeg arsebul i eWvis safuZvl ianoba, radganac es ukanasknel i 5.1.g. muxl is Sesabamisad misi dakavebis aucil ebel pirobas warmoadgens.”

komisi am agreTve ganacxada, rom dakavebul pirs sakmarisi ganmarteba unda mieces im faqtebisa da mtkicebul ebebis Taobaze, romel Ta safuZvel zec iqna miRebul i gadawyvetil eba misi dakavebis Sesaxeb. kerZod, mas unda mieces SesaZl ebl oba daeTanxmos an uaryos mis mimarT waynebul i bral debebi.

am saqmeSi komisi as ar daudgenia me-5 muxl is romel ime debul ebis darRveva.

saqme X germani is federaci ul i respubl i ki s wi naaRmdeg – (ganacxadi №. 8819/79, 24 D.R.158).

am saqmeze miRebul gadawyvetil ebaSi adamianis ufl ebaTa evropul ma komisi am daadgina, rom Tavisufl ebis aRkveTas ar hqonda adgil i, roca pol iciis ganyofil ebaSi ori saaTis ganmavl obaSi mimdinareobda aTi wl is gogonas dakiTxva qurdobis faqtebTan dakavSirebiT, magram am dros igi ar iyo Caketil i.

komisi am aRniSna, rom marTal ia Tavis wina gadawyvetil ebebSi man ganacxada, rom 5.1 muxl is moTxovnebi vrcel deba Tavisufl ebis Zal ian mcire xniT aRkveTis SemTxvevebzec, magram mocemul saqmeSi bavSvebi „mxol od dakiTxnen da Semdeg icdidnen Ria oTaxSi saxl Si wayvanamde. maTi pol iciis ganyofil ebaSi miyvanis mizani iyo dakiTxva da ara maTi dakaveba an daptimreba”.

makveigi s saqme – (makveigi gaerTianebul i samefos winaaRmdeg. ganacxadi №. 8022/77. D.R.25, 1982).

am saqmeSi irl andiidan Camosul i sami pirovneba daapatimres gaerTianebul samefoSi moqmedi sagangebo antiteroristul i kanonmdebl obis safuZvel ze. isini ormocdaxuTi saatis ganmavl obaSi iyvnen dakavebul i pol iciis ganyofil ebaSi, sadac isini gaCxrikes, auRes TiTis anabeWdebi, moaxdines maTi fotografireba da dakiTxes, rogorc amas aRniSnul i kanonmdebl oba iTval iswinebda.

komisiam miiCnia, rom 5.1.b. muxl is konteqstSi aRniSnul i zomebis miReba dasaSvebia da mocemul SemTxvevaSi isini gamarTI ebul ad SeiZI eba CaiTval os, vinaidan Semowmebis gavl a aRniSnul pirebze dakisrebul i konkretul i, kanoniT gansazRvrul i val debul eba iyo. amrigad, usafrTxoebis mizniT Semowmebis ganxorciel eba SeiZI eba CaiTval os me-5 muxl is 1.b. qvepunctiT gaTval iswinebul val debul ebad.

vi n t e r v e r p i s saqme – (seria A №. 33)

sagangebo procedurisa da Semdgom raionul i sasamarTI os gadawyvetil ebis Sesabamisad, niderl andebis moqal aqe vinterverpi iZul ebiT mkurnal obas gadioda fsiqiatრიul saavadmyofoSi. warmodgenil i samedicino daskvnebis safuZvel ze raionul i sasamarTI o yovel wl iurad axdenda am gadawyvetil ebis gadasinj vas. Tavis ganacxadSi batoni vinterverpi asaCivrelda sxvadasxva procesual ur darRvevebs da kerZod acxadebda, rom sasamarTI os arasodes mousmenia piradad misi CvenebebisaTvis da ar Seutyobinebia mistvis miRebul i gadawyvetil eba; rom mas ar hqonda saSual eba esargebl a advokatis daxmarebiT, an gaesaCivrebina samedicino daskvnebis siswore.

vinterverpi adamianis ufl ebaTa evropul i sasamarTI osagan iTxovda daedgina konvenciis 5.1, 5.4 da 6.1 muxl ebis darRveva.

Tavisufl ebis aRkveTis „kanoniT gansazRvrul procesual ur moTxovnebtan Sesabamisobis“ ganxil visas evropul ma sasamarTI om ganacxada, rom si tyvebi „kanoniT gansazRvrul i procesual uri moTxovnebi“ arsebiTad qveynis kanonmdebl obas exeba da miuTitebs kanoniT dadgenil i saTanado procedurebis dacvis aucil ebl obaze.

amasTanave, qveynis kanonmdebl oba unda Seesabamebodes konvenciaSi gamoxatul principihsa da mis saerTo sul iskveTebas. zemoxsenebul i termini gul isxmobs samarTI ian da saTanado proceduras, romel ic uzrunvel yofs, rom pirovnebis Tavisufl ebis yovel gvare SezRudva xorciel debodes mxol od Sesabamisi ufl ebamosil ebis mqone organos mier da araviTar SemTxvevaSi TviTneburad“.

am saqmesTan dakavSirebiT sasamarTI om daadgina, rom momCivani „kanoniT gansazRvrul i procesual uri moTxovnebis Seabamisad“ iyo dakavebul i.

guzar di s saqme – (guzardi italiis winaaRmdeg. seria A № 39. 3 EHRR 333)

am saqmeze momCivans, romel ic mafiasTan kavSirSi iyo eWvmitanil i, sasamarTI om iZul ebiTi RonisZiebis saxiT miusaja 3 wl is ganmavl obaSi meTval yureobis qveS patara kunZul ze cxovreba. im teritoriis farTi, roml idan gasvl ac mas ekrZal eboda, 2.5 kvadratul kil ometrs warmoadgenda. sasamarTI os es gadawyvetil eba emyareboda sakanonmdebl o aqts, roml is Tanaxmadac saSiSi pirebis, maT Soris mafiis wevrebis mimarT sasamarTI os SeeZI o gamoetana gansazRvrul adgil ze saval debul o dasaxl ebis dadgenil eba.

momCivans ganacxadi Seexeboda konvenciis ramdenime muxl is darRvevas. evropul ma sasamarTI om daadgina, rom mocemul SemTxvevaSi aRniSnul i iZul ebiTi RonisZiebis gamoyeneba warmoadgenda dakavebis kanonierebasTan dakavSirebiT 5.1 muxl is moTxovnaTa darRvevas da gamoTqva ramdenime mniSvel ovani mosazreba zogadad am muxl Tan dakavSirebiT:

a. „Tavisufl ebis ufl ebis aRiarebisas 5.1 muxl i moiazrebs pirovnebis fizikur Tavisufl ebas; misi mizania imis uzrunvel yofa, rom arcerTi adamianis Tavisufl eba ar iqnes TviTneburad SezRudul i. 5.1 muxl i ar exeba mxol od „gadaadgil ebis Tavisufl ebis SezRudvas“. es ukanasknel i me-4 oqmis me-2 muxl iT regul irdeba”.

b. „ 5.1. muxl is (e) qvepunqti ar iTval iswinebs mafiis wevrebis dakavebas. mawanwal ebis garda am qvepunqtsi moxsniebul i arian agreTve sul iT avadmyofi pirebi, l oTebi da narkomanebi. konvencia dasaSvebad miCnevs social urad araadaptirebul i am adamianebis dakavebas ara mxol od im mizeziT, rom zogierT SemTxvevaSi isini saSiSroebas SeiZl eba warmoadgendnen, aramed imitomac, rom zogjer dakavebis aucil ebl oba maTsave interesebidan SeiZl eba gamomdinareobdes.

g. „5.1. muxl is (a) qvepunqti iTval iswinebs pirovnebis dakavebas mxol od im SemTxvevaSi, Tu kanoniT gansazRvrul i wesiT dadginda, rom man Caidina marTI sawinaaRmdego bral eul i moqmedeba - sisxl issamarTI ebrivi danaSaul i an, zogierT SemTxvevaSi, discipl inuri gadacdoma.

d. „5.1. muxl is (b) qvepunqtsi sityvebi „kanoniT gansazRvrul i val debul ebis Sesrul ebis uzrunvel sayofad“ exeba mxol od iseT SemTxvevebs, rodesac pirovneba Tavs aridebs garkveul i, kanoniT gaTval iswinebul i val debul ebis Sesrul ebas da misi dapetimreba am val debul ebis Sesrul ebis uzrunvel sayofad kanoniTaa nebadarTul i.

e. „batoni guzardis dakaveba ar SeiZl eba gamarTI ebul iqnes 5.1. muxl is (g) qvepunqtis safuZvel ze. am ukanasknel is Tanaxmad, pirovnebis dakaveba...dasaSvebia, Tu es „aucil ebl ad aris miCneul i mis mier danaSaul is Cadenis Tavidan asacil ebl ad“, magram am debul ebis gamoyeneba ar SeiZl eba zogadad samarTal darRvevaTa prevenciis mizniT im kategoriis pirTa, magal iTad, mafiis wevrebis winaaRmdog, roml ebic danaSaul is Cadenis mudmiv safrTxes warmoadgenen. 5.1. muxl is (g) qvepunqti exeba konvenciaSi monawil e saxel mwifoebis mier mxol od konkretul i danaSaul is aRkvetisTvis aucil ebel i iZul ebiTi RonisZiebis gamoyenebas”.

brougeni s saqme – (brougeni gaerTianebul i samefos winaaRmdog. seria A №. 145 B)

am saqmeze momCivani oTxi pirovneba daapatimres qveyanaSi moqmedi sagangebo antiteroristul i aqtis safuZvel ze. oTxive maTgans dakavebis kanoniT gansazRvrul i 48 saatiani vada gaugrZel daT pol itikuri piris (Crdil oeT irl andiis saxel mwifo mdivnis) mier gacemul i brZanebis safuZvel ze.

Sedegad, aRniSnul i pirebi dakavebul i iyvenen xuTi dRisa da TerTmeti saatIs, eqvsi dRisa da Teqvsmetnaxevari saatIs, oTxi dRisa da eqvsi saatIs da oTxi dRisa da TerTmeti saatIs ganmavl obaSi. isini daikiTxnen konkretul teroristul qmedebebTan dakavSirebit, magram arc erT maTgans ar wayenebia raime bral deba da dakavebul ebis saqme ar gadagzavnil a sasamarTI oSi. Taviant ganacxadSi brougeni da sxvebi Ciodnen, rom maTi dakaveba konvenciis 5.3 muxl is moTxovnaTa darRveviT ganxorciel da.

komisiam daadgina, rom darRvevas adgil i hqonda ori _ xuT da eqvsdRiani dakavebis SemTxvevaSi, magram darRveva ar momxdara danarCen or, ufro xanmokl e droiT dakavebis SemTxvevaSi. sasamarTI om ar gaiziara es gadawyvetil eba.

sasamarTI om aRniSna, rom mas srul ad aqvs gacnobierebul i teroristul i aqtebis gamoZiebis mniSvnel oba da masTan dakavSirebul i gansakuTrebul i sirTul eebi. aqedan gamomdinare, sasamarTI o iziarebs sxvadasxva sagangebo zomebis, maT Soris, mkacri samsaxurebrivi kontrol is, parl amentis mier sagangebo kanonmdebl obis miRebisa da misi ganxorciel ebis zedamxedvel obis aucil ebl obas. garda amisa, sasamarTI o iTval iswinebs im garemoebasac, rom terorizmis gansakuTrebul i safrTxe Crdil oeT irl andiaSi SeiZl eba zogierT SemTxvevaSi ganapirobebdes mosamarTI is an kompetenturi sasamarTI o organos winaSe dakavebul i piris dadgenil vadaSi wardgenis garkveul Seferxebasac.

miuxedavad amisa, sasamarTI om miicnia, rom gasacivrebul i oTxi SemTxveidan kanonieri dakavebis vadis yvel aze xanmokl e gadacil ebac ki (oTxi dRe da eqvsi saaTi) ar akmayofil ebda konvenciIT gansazRvrul mkacr moTxovnebs. sasamarTI om daadgina, rom dakavebis Semdeg arcerTI momCivani ar iqna „dauyovnebl iv“ ganTavisufl ebul i an „dauyovnebl iv“ wardgenil i mosamarTI is winaSe.

foqsi s, kempbel isa da hartl is saqme – (seria A No. 182, 13 EHRR 157)

am saqmeze momCivani sami pirovneba daakaves Crdil oeT irl andiaSi Seqmnil vitarebasTan dakavSirebiT miRebul i sagangebo antiteroristul i aqtis safuZvel ze, roml is Tanaxmadac pol icia ufl ebamosil i iyo daepatimrebina terorizmSi eWvmitanil i nebismeri adamiani. aRniSnul i ufl ebamosil ebis ganxorciel eba, qveynis Sida sasamarTI o xel isufl ebis mier micemul i ganmarTEbiT, emyareboda patiosani rwmenis safuZvel ze moqmedebis subieqtur kriteriums da ara dasabuTEbul i eWvis arsebobis obieqtur moTxovnas.

TavianT ganacxadSi foqsi, kempbel i da hartl i, roml ebic pol iciam daakava da dakiTxvis Semdeg gaanTavisufl a, amtkicebdnen, rom kanonmdebl obiT pol iciisaTvis amgvari ufl ebamosil ebis miniWeba ewinaaRmdegeboda me-5 muxl is 1.g. qvepunqtis moTxovnas da, rom maTi dakaveba ar emyareboda maTi bral eul obis dasabuTEbul i eWvis arsebobas.

adamianis ufl ebaTa evropul ma sasamarTI om aRniSna, rom konvenciis me-5 muxl is 1.g. qvepunqtIT gaTval iswinebul i eWvis „dasabuTEbul obis“ moTxovna TviTnebur i dpatimrebisa da dakavebisagan dacvis mniSnel ovani garantiaa. igi daeTanxma komisiis mier gamoTqmul mosazrebas, rom „dasabuTEbul i eWvis“ qona gul isxmobs iseTi sarwmuno faqtebisa da informaciis arsebobas, romel Ta safuZvel zec obieqturi damkvirvebel i miicnevda, rom mocemul pirs SeeZl o Caedina aRniSnul i danaSaul ebrivi qmedeba. amasTanave, sasamarTI om aRniSna, rom eWvis safuZvl ianobis dadgenisas unda gaTval iswinebul iqnes yvel a arsebul i garemoeba da dasZina, rom terorizms gansakuTrebul i bunebidan gamomdinare, terorizmSi eWvmitanil Ta dasapatimrebl ad eWvis safuZvl ianoba „SeiZl eba yovel Tvis imave kriteriumebiT ar Sefasdes, rac sxva xasiaTis danaSaul obaTa SemTxvevaSi gamoiyeneba“.

amave dros, sasamarTI om moiSvel ia Tavisi gadawyvetil eba brougenis saqmesTan dakavSirebiT da ganacxada, rom „ar SeiZl eba am mizeziT gamarTI ebul i iyos eWvis safuZvl ianobis cnebis imgvari viwro gageba, rom arsebiTad dairRves pirovnebis Tavisufl ebisa da xel Seuxebl obis me-5 muxl is 1.g. qvepunqtIT uzrunvel yofil i garantiebi.“

foqsis, kempbel isa da hartl is saqmesTan dakavSirebiT komisi am daaskvna, rom mTavrobas ar warmoudgenia informacia, roml is safuZvel zec SeiZl eboda Tqma, rom momCivanTa winaaRmdeg obieqturad dasabuTEbul i eWvi arsebobda. am daskvnas daeTanxma sasamarTI oc. arc is faqti, rom warsul Si ori maTgani danaSaul ebriv qmedebaSi iyo mxil ebul i da arc mTavrobis mtkiceba, rom samive SemTxvevaSi dakaveba moxda iseTi informaciis safuZvel ze, roml is gamJRavnebac ar SeiZl eboda, ar iqna sakmarad miCneul i eWvis safuZvl ianobis dasadgenad. amdenad, sasamarTI om miicnia, rom adgil i hqonda konvenciis 5.1 muxl is darRvevas.

momCivanni aseve iTxovdnen konvenciis 5.2 muxl is darRvevis faqtis dadgenas, radganac, maTi ganaxadebiT, dakavebisas maT ubral od uTxres, rom apatimrebden kanonis Tanaxmad rogorc terorizmSi eWvmitanil ebs. rogorc komisi am, ise sasamarTI om miicnies, rom es informacia ar iyo sakmarisi 5.2 muxl is moTxovnaTa dasakmayofil ebl ad, Tumca sasamarTI om dasZina, rom dakavebis Semdeg moxda maTi dakiTxva im konkretul danaSaul Tan dakavSirebiT, romel Sic isini iyvnen eWvmitanil i. sasamarTI os azriT es sakmarisi iyo imisaTvis, rom maT saTanado warmodgena SeqmnodaT pol iciis mier maTi dpatimrebis mizezebe da, Sesabamisad, aRniSnul i debul ebis darRvevas adgil i ar hqonia.

sasamarTI om ganacxada, rom „me-5 muxl is me-2 punqti Seicavs im el ementarul garantias, rom yovel ma dakavebul ma pirma icodes, Tu ratom moxda misi Tavisufl ebis aRkveTa. es moTxovna me-5 muxl iT gansazRvrul i dacvis meqanizmis ganuyofel i nawil ia... yvel a dakavebul pirs martiv, gasageb enaze unda ganemartos misi dakavebis iuridiul i da faqtobrivi safuZvel i, raTa mas hqondes saSual eba, Tuki amas saWirod miiCnevs, sasamarTI oSi gaasaCivros misi dakavebis kanoniereba.. Tumca dakavebul pirs misi dakavebis safuZvel i „dauyovnebl iv“ unda ecnobos..., es moTxovna ar gul isxmobs, rom mas dakavebis momentSive srul ad unda mieces aseTi axsna-ganmarteba uSual od im moxel is mier, vinc misi dakavebis operacias axorciel ebs. is, Tu ramdenad srul yofil ad da droul ad iqna miwodebul i es informacia, unda Sefasdes yovel i cal keul i SemTxvevis konkretul garemoebaTa gaTval iswinebiT.“

kemaCi s saqme №. 3 – (kemaCi safrangeTis winaaRmdeg. seria A №. 296, 19 EHRR 349)

baton kemaCs bral ad edeboda yal bi banknotebis gavr cel eba. misi saCivari exeboda konvenciis 5.1 muxl is darRvevas (dakavebis kanonierebasTan dakavSirebiT).

sasamarTI om daadgina, rom darRvevas adgil i ar hqonia, Tumca sasamarTI os gadawyvetil ebaSi aRniSnul ia, rom „konvenciis Tanaxmad Tavisufl ebis yovel gvare aRkveTa „kanonieri“ unda iyos“, rac „gul isxmobs qveynis material uri da procesual uri samarTI is normebTan da, agreTve, konvenciis me-5 muxl is miznebtan Sesabamisobas, pirovnebis TviTnebobisagan dacvis uzrunvel sayofad. demokratiul sazogadoebaSi, romel ic kanonis uzenaesobas emyareba, aranairi TviTneburi dakaveba ar SeiZl eba CaiTval os kanonierad.“

saqme I ukanovi bul gareTis wi naaRmdeg – (25/1996/644/829)

am saqmeze momCivani iyo bul gareTis moqal aqe, yofil i ministri, SemdgomSi premier-ministris moadgile da 1990 wel s ki bul gareTis premier-ministri batoni I ukanovi. im dros, rodesac saqmeSi aRniSnul i movl enebi viTardeboda, igi bul gareTis erovnul i asambl eis wevri iyo.

1992 wl is 1 ivl iss bul gareTis general urma prokurorma erovnul asambl eas mimarTa TxovniT Tanxmoba mieca batoni I ukanovis winaaRmdeg sisxl is samarTI is saqm is aRZvris Taobaze. baton I ukanovs bral ad edeboda bul gareTis sisxl is samarTI is kodeqsis ramdenime muxl is darRveva, roml ebic saxel mwifo da kerZo saxsrebis ukanono gankargvas Seexeboda. kerZod, aRniSnul i bral deba exeboda 1986-1990 wl ebSi, premier-ministris moadgil is Tanamdebobaze yofnis periodSi, batoni I ukanovis monawil eobas zogierTi ganvitarebadi qveynisTvis daxmarebisa da sesxis saxiT didi odenobIT Tanxis gacemaze miRebul gadawyvetil ebebSi.

1992 wl is 7 ivl iss erovnul ma asambl eam baton I ukanovs mouxsna sapaarl amento imuniteti da Tanxmoba ganacxada mis winaaRmdeg sisxl is samarTI is saqm is aRZvrasa da aRkveTis RonisZiebis saxiT mis dapetimrebaze. 9 ivl iss baton I ukanovs waeyena bral deba saxel mwifo da kerZo saxsrebis aramiznobriv gamoyenebasTan dakavSirebiT da igi daapatimres.

1992 wl is 29 dekembers bul gareTis erovnul ma asambl eam Secval a Tavisi 7 ivl isis gadawyvetil eba, roml iTac man Tanxmoba misca batoni I ukanovis dapetimrebaze da 30 dekembers prokuroris brZanebiT igi TavdebiT iqna ganTavisufl ebul i winaswari patimrobidan.

1999 wl is 1 seqtembers batonma I ukanovma ganacxadi Seitana adamianis ufl ebaTa evropul komisiaSi. igi miiCnevda, rom misi dakaveba da aRkveTis RonisZiebis saxiT misi winaswari dapetimreba SeuTavsebel i iyo konvenciis 5.1 muxl is moTxovnebtan, radganac ar arsebobda dasabuTebul i eWvi danaSaul Si misi monawil eobis Sesaxeb,

yovel ive amis gaTval iswinebiT, sasamarTI om ar miiCnia sarwmunod mTavrobis gancxadeba, rom bul gareTis kanonmdebl obis Tanaxmad batoni l ukanovis qmedebebi sisxl is samarTI is danaSaul s warmoadgenda. aqedan gamomdinare, sasamarTI om mistvis Tavisufl ebis aRkveTa ar miiCnia danaSaul is Cadenis „dasabuTebul i eWvis“ safuZvel ze gancxorciel ebul „kanonier dakavebad“. aqedan gamomdinare, sasamarTI om aRar CaTval a saWirod ganexil a, SeiZl eboda Tu ara batoni l ukanovis dapetimreba CaTvl il iyo aucil ebel RonisZiebad mis mier danaSaul ebrivi saqmianobis gagrZel ebis, an marTI msaj ul ebisgan damal vis aRsakveTad. sasamarTI o daeTanxma komisias, rom me-18 muxl Tan dakavSirebiT cal ke msjel obis safuZvel i ar arsebobda.

saqme k-f germani is winaaRmdeg - (144/1996/765/962)

am saqmeze momCivani iyo germaniis moqal aqe k.f., romel mac 1991 wl is maisSi meuRI esTan erTad iqirava dasasvenebel i bina. 4 ivl iss binis mepatrone qal batonma pol iciaSi ganacxada, rom batoni k.f. da misi meuRI e qiris gadauxdel ad apirebdnen gangzavrebas. pol icia mivida adgil ze da saRamos 9 saaTsa da 45 wuTze daakava k.f. da misi meuRI e, ris Semdegac isini miiyvanes pol iciis ganyofil ebaSi maTi piradobis dadgenisa da dokumentebis Semowmebis mizniT.

23 saaTsa da 30 wuTze Sedgenil oqmSi pol iciam ganacxada, rom maT hqondaT seriozul i eWvi, rom batoni da qal batoni k.f. apirebdnen binis mepatronis motyuebas da arsebobda maTi mimal vis saSiSroeba. maTi dakiTxva mimdinareobda kidev saaTi da TxuTmeti wuTis ganmavl obaSi da kvl av ganaxl da dil as, 5 ivl iss (8 saaTisa da 30 wuTidan 9 saaTsa da 40 wuTamde). 9 saaTsa da 25 wuTze saxel mwifo prokurorma Seatyobina pol icias, rom igi ar gascemda dakavebis orders da 10 saaTsa da 30 wuTze batoni da qal batoni k.f. gaanTavisufl es. 13 seqtembers saxel mwifo prokurorma miiRo gadawvyetil eba batoni k.f.-sa da misi meuRI is winaaRmdeg sisxl is samarTI is saqmis daxurvis Taobaze.

1992 wl is 6 april s batonma k.f.-m sasarCel o gancxadebiT mimarTa kobl encis saapel acio sasamarTI os, romel Sic igi uCioda pol iciel ebs misi iZul ebis mcdel obisa da arakanonieri dapetimrebisaTvis da iTxovda maT samarTal Si micemas. 1992 wl is 21 maiss saapel acio sasamarTI om uari ganacxada sarCel is dakmayofil ebaze im mizeziT, rom ar arsebobda sakmarisi safuZvel i pol iciel Ta winaaRmdeg sisxl is samarTI is saqmis sawarmoebl ad. 1993 wl is 7 oqtomers batonma k.f.-m xel axal i sarCel i warudgina kobl encis saapel acio sasamarTI os, roml is dakmayofil ebazec man amave mizeziT miiRo uari 1993 wl is 30 noembers, Tumca sasamarTI os dadgenil ebaSi aRniSnul i iyo, rom sisxl is samarTI is saproceso kodeqsis Tanaxmad, piradobis dadgenis mizniT dakavebul i pirisaTvis Tavisufl ebis aRkveTis xangrZl ivoba ar SeiZl eba aRematebodes Tormet saaTs. xol o batoni k.f. da misi meuRI e dapetimres 4 ivl isis 21 saaTsa da 45 wuTze da gaanTavisufl es 5 ivl isis 10 saaTsa da 30 wuTze, anu isini dakavebul i hyavdaT Tormet saaTze meti xnis ganmavl obaSi.

1993 wl is 14 dekembers batonma k.f.-m adamianis ufl ebaTa evropul komisiaSi Seitana ganacxadi konvenciis 5.1 muxl is (da sxva muxl ebis) darRvevaTa Taobaze. 1996 wl is 16 ianvars komisiam saCivari dasaSvebad gamoacxada 5.1 muxl Tan mimarTebiT, xol o danarCeni muxl ebis darRvevebTan dakavSirebiT ganacxadi dasabuTebul ad ar iqna miCneul i.

pirvel rigSi, adamianis ufl ebaTa evropul ma sasamarTI om ganixil a arsebobda Tu ara safuZvl iani eWvi pol iciis mier momCivanis dapetimrebisa da dakavebisaTvis. amasTan dakavSirebiT, sasamarTI om kidev erTxel aRniSna, rom pirovnebis dasapatimrebl ad eWvis safuZvl ianobis moTxovna, TviTneburi dakavebisa da dapetimrebisagan dacvis 5.1 muxl is (g) qvepunqtiT uzrunvel yofil i mniSnel ovani garantiaa. „dasabuTebul i eWvis“ qona gul isxmobs iseTi sarwmuno faqtebisa da

informaciis arsebobas, romel Ta safuZvel zec obieqtur damkvirvebel i miicnevda, rom mocemul pirs SeeZI o Caedina aRniSnul i danaSaul ebrivi qmedeba. Tumca, am SemTxvevaSi ar aris aucil ebel i iseTive mamxil ebel i faqtebisa da mtkicebul ebebis arseboba, romel Tac unda emyarebodes sixl is samarTI is procesis Semdgomi etapebi, rogoricaa Tundac bral debis wayeneba an sasamarTI os mier gamamtyunebel i ganaCenis gamotana.

rogorc sasamarTI om gamoarkvia, binis mepatrone qal batonma Seatyobina pol icias, rom misi mdgmurebi batoni da qal batoni k.f. apirebdnen mis motyuebas da saxl idan qiris gadauxdel ad gangzavrebas. mas Semdeg, rac winaswarma mokvl evam gamoavl ina, rom batoni da qal batoni k.f.-ebis mier miTiTebul i misamarTI mxol od safosto ganyofil ebis yuTis nomeri iyo, xol o batoni k.f. warsul Si ukve iyo eWvmitanil i TaRI iTobaSi, pol iciam gadawyvita daekavebina wyvil i da waeyvana isini pol iciis ganyofil ebaSi maTi zusti vinaobis dasadgenad. maTi dakavebis dRes, 23 saaTsa da 30 wuTze Sedgenil moxsenebiT baraTSi pol icia acxadebda rom maT hqondaT seriozul i eWvi, rom batoni da qal batoni k.f. apirebdnen binis mepatronis motyuebas da arsebobda maTi mimal vis saSiSroeba.

sasamarTI om gaiTval iswina aRniSnul i garemoebebi da ganaxxada, rom mistvis gasagebi iyo is argumentebi, roml ebsac emyareboda kobl encis saapel acio sasamarTI os 1992 wl is 21 maisisa da 1993 wl is 30 noembris gadawyvetil ebebi. orive am gadawyvetil ebis Tanaxmad kobl encis sasamarTI om gamarTI ebul ad CaTval a pol iciis eWvi batoni k.f.-s TaRI iTobisa da misi mimal vis saSiSroebasTan dakavSirebiT. aqedan gamomdinare, adamianis ufl ebaTa evropul ma sasamarTI om miicnia, rom momCivani dapetimrebul iqna mis mier danaSaul is Cadenis dasabuTebul i eWvis safuZvel ze, me-5 muxl is 1.g. qvepunqtis moTxovnaTa Sesabamisad.

amave debul ebis Tanaxmad, pirovnebis dapetimreba da dakaveba unda ganxorciel des misi kompetenturi sasamarTI o organos winaSe wardgenis mizniT. amasTan dakavSirebiT evropul ma sasamarTI om miuTiTa, rom TavisTavad is faqti, rom batoni k.f.-s mimarT ar yofil a wayenebul i oficial uri bral deba da misi saqme ar gadagzavnil a sasamarTI oSi, ar niSnavs, rom batoni k.f.-s dakaveba me-5 muxl is 1.g. qvepunqtis darRveviT moxda. amgvani miznis arseboba an ararseboba unda ganxil ul iqnes imisgan damoukidebl ad moxda Tu ara misi ganxorciel eba. Sesabamisad, 5.1 muxl is (g) qvepunqti ar gul isxmobs, rom pol icia val debul i iyo moepovebina sakmao mamxil ebel i mtkicebul ebebi k.f.-s pasuxisgebaSi misacemad misi dakavebis momentisaTvis an sanam igi pol iciaSi imyofeboda.

evropul ma sasamarTI om ganaxxada, rom ar arsebobda raime garemoeba, romel ic mianiSnebda, rom mokvl eva arakeTil sindisierad iqna Catarebul i pol iciel Ta mier, an, rom momCivanis dakaveba emsaxureboda raime sxva mizans, garda misi piradobis Semowmebisa da mis winaaRmdeg Semosul i saCivris gamoZiebisa.

aqedan gamomdinare, sasamarTI om miicnia, rom mocemul SemTxvevaSi Tavisufl ebis aRkveTa 1.g. qvepunqtiSi miTiTebul mizans emsaxureboda.

bol o sakiTxad sasamarTI om ganixil a, iyo Tu ara momCivanis dapetimreba „kanonieri“ 5.1 muxl is moTxovnaTa gaTval iswinebiT da ganxorciel da Tu ara igi „kanoniT gansazRvrul i procesual uri moTxovnebis dacviT“. sasamarTI om kidev erTxel aRniSna, rom konvenciis es debul eba moiTxovs Sidasaxel mwifoebriw kanonmdebl obasTan, anu qveynis material uri da procesual uri samarTI is normebTan Sesabamisobas, magram amasTanave moiTxovs, rom pirovnebis Tavisufl ebis aRkveTis nebismeri RonisZieba unda Seesabamebodes konvenciis me-5 muxl is, saxel dobr, pirovnebis TviTnebobisgan dacvis miznebs. am sakiTxis gadasawyvetad sasamarTI om ganixil a is argumentebi, roml ebic mTavrobam daasaxel a momCivanis dakavebis gasamarTI ebl ad.

am sakiTxis ganxil visas sasamarTI om ganaxxada, rom dro, roml is ganmavl obaSiC igi pol iciaSi iyo dakavebul i, aRemateboda sixl is samarTI is saproceso kodeqsiT

dadgenil maqsimal ur vadas da aRniSna, rom igive azri iyo gamoTqmul i kobl encis saapel acio sasamarTI os 1993 wl is 30 noembris gadawvyetil ebaSi.

amasTan dakavSirebiT adamianis ufl ebaTa evropul ma sasamarTI om kidev erTxel miuTiTa, rom 5.1 muxl Si Camoyal ibebul i Tavisufl ebis ufl ebiT sargebl obis dasaSveb SezRudvaTa CamonaTval i amomwuravia da aseTi gamonakl isebis mxol od mkacri interpretacia aris dasaSvebi me-5 muxl is miznebis dasakmayofil ebl ad, raTa ar moxdes arc erTi adamianis Tavisufl ebis TviTneburi aRkveTa. marTal ia, sasamarTI os zogierT SemTxvevaSi gauTval iswinebia, rom dakavebul i piris ganTavisufl eba SeiZl eba garkveul i, mcire droiT gaWianurdes. Tumca, aseT SemTxvevebSi dakavebis maqsimal uri vada kanonmdebl obiT ar iyo gansazRvrul i da eWvmitanil is ganTavisufl ebis Sesaxeb gadawvyetil eba sasamarTI os unda mieRo. sasamarTI oSi saqmeTwarmoebis procesual uri moTxovnebis da kanoniT gansazRvrul i sxva procedurebis gaTval iswinebiT, aseTi gadawvyetil ebis gamotanasa da aRsrul ebas garkveul i dro SeiZl eba dasWirdes.

mocemul saqmeSi kanoni mkacrad gansazRvravda, rom piradobis dadgenis mizniT dakavebul i pirisaTvis Tavisufl ebis aRkveTis xangrZl ivoba ar unda yofil iyo Tormet saatze meti. vinaidan dakavebis maqsimal uri vada winaswar iyo cnobil i, pol icia val debul i iyo mieRo yvel a saWiros zoma, raTa ar daeSva am vadis gadacil eba. igive exeba batoni k.f.-s piradi monacemebis dadgenasac, rac misi piradobis dadgenis mizniT kanonieri dakavebis periodSi unda ganxorciel ebul iyo am mizniT gatarebul sxva RonisZiebebTan erTad.

aRniSnul i faqtorebis gaTval iswinebiT sasamarTI om daadgina, rom vinaidan momCivani dakavebul i iyo kanoniT gansazRvrul maqsimal ur vadaze met xans, adgil i hqonda me-5 muxl is 1.g. qvepunctis darRvevas.

saqme aksoi Turqetis wi naaRmdeg– (100/1995/606/694)

am saqmeze momCivani iyo Turqetis samxreT-aRmosavl eTSi mcxovrebi Turqetis moqal aqe zeki aksoi, romel ic uSiSroebis Zal ebma daapatimres 1992 wl is noembris bol os da dakavebul i hyavdaT igi 10 dekembrade. 1994 wl is 16 april s zeki aqsoi mokl es, ris Semdegac mis mier aRZrul i saqme mamamisma gaagrZel a.

1995 wl is martsa da april Si adamianis ufl ebaTa evropul ma komisiom moismina mowmeTa Cvenebebi Turqetis qal aqebSi diarbakirsa da ankaraSi. garda amisa, strasburgSi 1994 wl is oqtomberSi gamarTul sxdomaze komisiom ganixil a sakiTxi ganacxadis dasaSvebobis Sesaxeb, xol o 1995 wl is ivl isSi ki Sedga saqmis arsebiTi ganxil va. mxareTa mosmenisa da dokumenturi masal ebis Sefasebis Sedegad, komisiom sxva faqtebTan erTad daadgina, rom:

„Tumca ver moxerxda zeki aksois dakavebis zusti TariRis dadgena, srul iad naTel ia, rom igi daapatimres araugvianes 1992 wl is 26 noembrisa. batoni aqsoi ganTavisufl ebul iqna 1992 wl is 10 dekembers, Sesabamisad igi patimrobaSi imyofeboda sul mcire ToTxmeti dRis ganmavl obaSi.“

komisia daeTanxma momCivanis gancxadebas, rom misi dakaveba konvenciis 5.3 muxl is darRveviT ganxorciel da. SemdgomSi, adamianis ufl ebaTa evropul ma sasamarTI om moiSvel ia Tavisi gadawvyetil eba saqmeze „brougeni da sxvebi gaerTianebul i samefos winaRmdeg“, rom oTxi dRisa da eqvsi saatis ganmavl obaSi sasamarTI o kontrol is gareSe dakaveba ar akmayofil ebda 5.3 muxl iT gansazRvrul mkacr moTxovnebs. aqedan gamomdinare, srul iad naTel ia, rom batoni aksois dakaveba aranakl eb ToTxmeti dRis ganmavl obaSi mosamarTI isa an sxva sasamarTI o moxel is winaSe misi wardgenis gareSe, ar SeiZl eba CaiTval os 5.3 muxl is moTxovnaTa Sesabamisad.

aRniSnul i Sefasebis miuxedavad, mTavroba amtkicebda, rom 5.3 muxl is darRvevas adgil i ar hqonia, ramdenadac konvenciis me-15 muxl is Tanaxmad Turqeti sargebl obda Tavisi val debul ebebidan gadaxvevis ufl ebiT.

sasamarTI om miuTiTa, rom xel isufli eba ar SeiZI eba sargebl obdes ganuszRvrel i Tavisufli ebiT imis dadgenisas, arsebobs Tu ara qveyanaSi sagangebo viTareba da ramdenad mkacri zomebis miRebaa saWiro amgvani viTarebis dasaZI evad. evropul i sasamarTI o ufl ebamosil ia situaciis konkretul i moTxovnebidan gamomdinare gansazRvros „mkacrad aucil ebel i“ iyo Tu ara aseT SemTxvevaSi saxel mwifos mier ganxorciel ebul i RonisZiebebi. amdenad, saxel mwifos Tavisufal i Sefasebis fargl ebi konvenciis organoTa zedamxedvel obas eqvemdebareba. am funqciis Sestrul ebisas evropul ma sasamarTI om j erovani yuradReba unda dauTmos iseT mniSvnel ovan faqtorebs, rogoricaa im ufl ebaTa buneba, romel Tac gadaxveva Seexo; garemoebebi, roml ebmac sagangebo situaciis Seqmna gamoiwvia da ramdeni xani gagrZel da aRniSnul i situacia.

sasamarTI om miiCnia, rom samxreT-aRmosavl eT TurqetSi gavrצל ebul i terorizmis safrTxe udavod qmnida „sazogadoebisaTvis saSiS sagangebo viTarebas“ am regionSi.

evropul ma sasamarTI om xazgasmIT aRniSna me-5 muxl iT aRiarebul i Tavisufli ebis ufl ebis gansakuTrebul i mniSvnel oba konvenciis sxva muxl ebiT garantirebul ufl ebaTa Soris. me-5 muxl i icavs adamianis erT-erT ZiriTad ufl ebas ar moxdes misi Tavisufli ebis TviTnebuli aRkveTa saxel mwifos mier. am Tval sazrisiT, pirovnebis dakavebis SemTxvevaSi saval debul o sasamarTI o kontrol is moTxovna am muxl is me-3 punqtiT uzrunvel yofil i garantiebis umniSvnel ovanesi nawil ia. igi gamiznul ia maqsimal urad SezRudos yovel gvani TviTneboboda da ganamtkicos kanoniereba. amasTanave, sasamarTI os droul Carevas SeuZI ia gamoaaSkaraos da aRkveTos Tavisufli ebaaRkveTil i pirebisadi aramarTebul i mopyrobis SemTxvevebi.

aqsois saqmis ganxil visas sasamarTI om kidev erTxel aRniSna, rom mas srul ad aqvs gacnobierebul i is gansakuTrebul i sirTul eebi, romel sac xel isufli eba awydeba teroristul i aqtebis gamoZiebisas. miuxedavad amisa, man miuRebl ad miiCnia eWwmitanil is ToTxmeti dRiT dakaveba sasamarTI os Sesabamisi gadawyvetil ebis gareSe, radganac mTel i am drois ganmavl obaSi igi daucvel i rCeboda ara mxol od misi Tavisufli ebis ufl ebis xel yofis, aramed wamebis SesaZI ebl obisganac. garda amisa, mTavrobas evropul i sasamarTI osaTvis ar warudgenia saTanado axsna-ganmarteba imasTan dakavSirebiT, Tu ratom unda SeeSal a xel i samxreT-aRmosavl eT TurqetSi terorizmis winaaRmdeg brZol as sasamarTI os winaSe batoni aqsois droul ad wardgenisaTvis.

Turqetis mTavrobam xazi gausva, rom rogorc me-5 muxl is moTxovnebidan gadaxveva, ise qveynis kanonmdebl oba iTval iswineboda momCivanis ufl ebebis da kanonieri interesebis dacvis saTanado garantiebs. amasTan dakavSirebiT evropul ma komisiar ganaxxada, rom Turqetis procesual ur-samarTI ebrivi sistema ar uzrunvel yofda dakavebul Ta ufl ebebis adekvatur dacvas. saxel dobr, ar iyo mkafiod gansazRvrul i iseTi mniSvnel ovan garantiebis samarTI ebrivi aRsrul ebis meqanizmebi, rogoricaa *habeas corpus* principi (Tavisufli ebaaRkveTil i piris ufl eba mimarTos sasamarTI os misi dakavebis kanonierebis dasadgenad da sasamarTI os ufl eba Seamowmos ramdenad kanonieria moqal aqis Sepyroba da dapatimreba) da advokatis ayvanis, samedicino Semowmebis, megobarTan an naTesavTan dakavSirebis ufl ebebi.

sasamarTI om aseve miiCnia, rom momCivanis ufl ebebis dacva ar iyo saTanadod uzrunvel yofil i misi xangrZI ivi dakavebis periodSi. is, rom mas ar mieca advokatTan, eqimTan, naTesavTan an megobarTan Sexvedrisa da sasamarTI os mier misi dapatimrebis kanonierebis Semowmebis real uri SesaZI ebl oba, niSnavda, rom misi bedi mTI ianad imaT xel Si iyo, vinc igi daakava.

evropul ma sasamarTI om mxedvel obaSi miiRo terorizmis is udavod seriozul i safrTxe, romel ic samxreT-aRmosavl eT TurqetSi arsebobda da is sirTul ebi, roml ebsac xel isufli eba awydeboda mis winaaRmdeg qmediTi RonisZiebebis gatarebis Tval sazrisiT. miuxedavad amisa, sasamarTI om gaumarTI ebl ad miiCnia momCivanis izol irebul i patimroba ToTxmeti dRis ganmavl obaSi mosamarTI is an sxva sasamarTI o moxel is winaSe misi

wardgenis gareSe. Sesabamisad, sasamarTI om daadgina, rom adgil i hqonda konvenciis 5.3 muxl is darRvevas.

SeniSvna: amave saqmis masal ebi konvenciis me-3 da me-13 muxl ebi darRvevasTan dakavSirebiT mocemul ia Sesabamisad am danarTis me-3 da me-11 TavebSi.

Tavi 5 – samarTI iani sasamarTI o ganxil vis ufl eba

engel i s saqme – (engel is da sxvebi niderl andebis winaarmdeg. seria A №. 22)

am saqmeSi niderl andebis SeiaraRebul Zal ebSi gawveul i ramdenime jariskaci, roml ebmac sasjel i moixades disciplinuri wesdebis sxvadasxva gadacdomisTvis, acxadebda, rom maT mimarT dairRva konvenciis me-6 muxl iT gaTval iswinebul i moTxovnebi, vinaidan niderl andebis kanonmdebl obis Sesabamisad maTi qmedebebi kl asificirebul i iyo rogorc disciplinuri darRvevebi da ara rogorc sisxl is samarTI is danaSaul i.

amasTan dakavSirebiT adamianis ufl ebaTa evropul ma sasamarTI om ganaxxada: „konvenciaSi monawile saxel mwifoebis rom SeeZl oT Tavisi Sexedul ebisamebr samarTal darRvevis disciplinarul gadacdomad da ara sisxl is samarTI is danaSaul ad kval ificireba, me-6 da me-7 muxl ebi ZiriTad debul ebaTa gamoyeneba maT suverenul neba-survil ze iqneboda damokidebul i da amas SeiZl eba „konvenciis miznebtan da moTxovnebtan SeuTavsebel i Sedegebi mohyol oda“. marTal ia, sasamarTI om mniSvnel ovrad miiCnia samarTal darRvevis kl asificireba saxel mwifos mier, magram amave dros miuTiTa, rom gadamwyvet faqtorad gvevl ineba Tavad danaSaul is arsi da miyenebul i sasjel is xasiaTi da simkacre.

am kriteriumebis safuZvel ze momCivanTa winaarmdeg wayenebul i sxvadasxva bral debebis Sefasebias, sasamarTI om daadgina, rom zogierT SemTxvevaSi adgil i hqonda me-6 muxl is darRvevas.

barberas, mesege da xabardos saqme – (seria A № 146)

am saqmeze momCivani sami pirovneba daakaves teroristebis mier ganxorciel ebul mkvl el obasTan dakavSirebiT. policiis ganyofil ebaSi maT xel i moaweres Cvenebas, roml iTac isini aRiarebdnen mkvl el obaSi monawileobas. sasamarTI os gamwesrigebel sxdomaze ki maT uari Tqves micemul Cvenebaze da ganaxxades, rom dakiTxvisas adgil i hqonda maTze zemoqmedebis ukanono zomebis gamoyenebas, ris gamoc isini izul ebul i iynen miecaT cru aRiarebiti Cveneba. SemdgomSi, sasamarTI o procesze, romelic mxol odertidRe gagrZel da, samive maTganis winaarmdeg gamotani i qna gamamtyunebul i ganaCeni _ orni bral eul ad iqnen miCneul i mkvl el obis CadenaSi, xolo mesame ki nakl ebad mZime danaSaul Si.

TavianT ganaxxadSi barbera, mesege da xabardo Ciodnen, rom maTi saqmis sasamarTI o ganxil va ar iyo samarTI iani da ar Seesabameboda evropul i konvenciis moTxovnebs. amasTan dakavSirebiT, rogorc adamianis ufl ebaTa evropul ma komisiam, ise evropul ma sasamarTI om gansakuTrebul i yuradReba dauTmes saqmis gadawyvetisTvis mniSvnel ovrani mtkicebul ebebis mopovebisa da Tavad sasamarTI o ganxil vis procesis Sefasebas. sasamarTI os mraval i SekiTxva gauCnda gamoziebisa da samarTal warmoebis procesis warmarTvis sakvanZo sakiTxebTan, maT Soris bral debul Ta mier danaSaul is aRiarebasTan dakavSirebiT, roml ebmac aseTi Cveneba misces advokatebis dauswrebl ad, xangrZl ivi drois ganmavl obaSi maTi izol irebul i patimrobis dros.

am da sxva faqtorebis gaTval iswinebiT sasamarTI om daadgina, rom adgil i hqonda me-6 muxl is pirvel i punqtiT garantirebul i samarTI iani da saj aro sasamarTI o ganxil vis ufl ebi darRvevas.

baard -maihofis saqme – (ensl ini, baaderi da raspe germaniis federaciul i respuhl ikis winaaRmdeg. ganacxadebi 7572,7586 da 7587/76, Yearbook XXI,1978)

am saqmeSi, germaniaSi moqmedi teroristul i daj gufebis ramdenime wevri, roml ebic sisxl is samarTI is pasuxisgebaSi iqnen micemul i, asaCivrebdnen winaswari gamoZiebis masal ebis gaxmaurebisa da sxva garemoebibis Sedegad maT mimarT konvenciis me-6 muxl is me-2 punqtIT gaTval iswinebul i udanaSaul obis prezumfciiis principis darRvevas.

adamianis ufl ebaTa komisiyam msvl el oba ar misca aRniSnul saqmes da ganacxada, rom sasamarTI o procesis garSemo atexil i xmauri da usafrTxoebis gansakuTrebul i zomebis miReba Tavad gansasj el Ta gancxadebebiTa da saqciel iT iyo ganpirobebul i da, nebismier SemTxvevaSi, es faqtorebi zegavl enas ar moaxdendnen profesional i mosamarTI is obieqturobaze.

keni s saqme – (ganacxadi №. 9300/81 D.R. 35)

am saqmeze momCivani acxadebda, rom mas Semdeg, rac igi daakaves xanZris ganzrax mowyobis bral debiT, mas daaxl oebiT sami Tvis ganmavl obaSi ar mieca saSual eba mowmis gareSe Sexvedroda Tavis advokats, ris gamoc man ver moaxerxa saTanadod daecva Tavi sasamarTI o ganxil visas.

komisiyam aRniSna, rom „...momCivanma moitXova nebarTva marto Sexvedroda Tavis advokats, razec man uari miiRo. aRniSnul i garemoebibis gaTval iswinebiT, komisiyam dasaSvebad miiCnia Semosul i ganacxadi konvenciis me-6 muxl is me-3 punqtis darRvevasTan dakavSirebiT...”

adamianis ufl ebaTa komisiis azriT, marTal ia advokatTan urTierTobis ufl eba konvenciaSi pirdapir ar aris miTiTebul i, es ufl eba gamomdinareobs bral debul is ufl ebidan hqondes dacvis momzadebis...saSual eba (muxl i 6.3.b.) da isargebl os advokatis momsaxurebiT (muxl i 6.3.g.).

komisiyam daadastura, rom bral debul is ufl ebaa hqondes advokatTan urTierToba da daamata, rom vinaidan es ufl eba konvenciit uSual od ar aris gansazRvrul i, igi garkveul i SezRudvebs SeiZl eba daeqvemdebaros.

saqme X hol andi is winaaRmdeg – (ganacxadi №. 8361/78, 27 D.R. 43)

am saqmeze momCivani acxadebda, rom qonebis miTvisibis bral debiT mis winaaRmdeg mimdinare gamoZiebis procesSi adgil i hqonda konvenciis me-6 muxl is darRvevas. kerZod, igi miiCnevda, rom saxel mwifo prokuroris mier erT-erT tel egadacemaSi gakeTebul i gancxadeba misi udanaSaul obis prezumfciiis ufl ebis (6.2 muxl i) darRvevas warmoadgenda.

Tavis wina gadawvyetil ebebSi adamianis ufl ebaTa komisiyam daadgina, rom aRniSnul i ufl ebis darRvevas saxel mwifo moxel eebis mxridan SeiZl eba adgil i hqondes, Tu isini sasamarTI os mier saTanado gadawvyetil ebis gamotanamde bral s sdeben ama Tu im pirovnebas danaSaul is CadenaSi.

komisiyam miiCnia, rom mocemul SemTxvevaSi konvenciis 6.2. muxl i ar darRveul a, magram amasTanave dasZina, rom „xel is ufl ebis warmomadgenl ebma, gansakuTrebil ki maT, visac sisxl is samarTI is danaSaul obaTa gamoZiebasa da samarTal warmoebasTan aqvT kavSiri, gansakuTrebil i sifrTxil e unda gamoiCinon an saerTod Tavi Seikavon sagamoZiebo saqmeebTan da Tavad eWvmitanil pirebTan dakavSirebiT saj aro gancxadebebis gakeTebisas, raTa maqsimal urad gamoiricxos sazogadoebis mier maTi si tyvebis araswori interpretacia da ar moxdes bral debul is udanaSaul obis prezumfciiis darRveva.”

kostovski s saqme – (seria A №.166)

am saqmeze momCivani iyo ramdenj erme nasamarTI evi pirovneba. misi cixidan gaqcevis

periodSi igi dainaxa orma mowmem, roml ebmac ganacxades, rom igi bankis gaZarcvaSi iRebda monawil ebas. SurisZiebis SiSiT, orive mowmem arCia ar gaexmaurebinaT TavianTi vinaoba da ar misces CveneBa sasamarTI o procesze. miuxedavad amisa, sasamarTI o daeyrdno maT mier pol iciisa da gamomZiebl isaTvis anonimurad micemul CveneBebs da gamamtyunebel i ganaCeni gamoutana gansasj el s.

rogorc adamianis ufl ebaTa komisiam, ise sasamarTI om erTxmad daadgines, rom mocemul saqmeSi adgil i hqonda konvenciis me-6 muxl is 3.d. punqtis darRvevas, romel ic gansasj el is mier dakiTxvis Suamdgoml obis aRZvrisa da bral debis mowmeTa sasamarTI oze gamoZaxebis ufl ebas iTval iswinebs.

komisiam ganacxada, rom „rogorc man Tavis erT-erT wina gadawyvetil ebaSi aRniSna, me-6 muxl is 3.d. punqti ar aZl evs gansasj el s sasamarTI oSi mowmeTa gamoZaxebisa da maTi jvaredini dakiTxvis moTxovnis SeuzRudav ufl ebas, vinaidan pol iciis informators, roml is cnobebsac gamoZieba emyareba, SeiZl eba srul iad kanonieri interesi hqondes, rom ar moxdes misi vinaobis gaxmaureba. aseT anonimurobaze uaris Tqmisa da sasamarTI oSi saval debul o gamocxadebis moTxovnis SemTxvevaSi, sakmaod didi informacia, romel ic danaSaul Si eWvmitanil Ta samarTal Si micemistvisaa aucil ebel i, gamoZiebamde aRar mividoda.“

komisiam agreTve miuTita, rom „nebismieri saqmisaTvis aucil ebel ia, rom moxdes sxvebis monayol ze agebul i arapirdapiri mtkicebul ebebis gadamowmeba da maTi sxva mowmeTa CvenebebiTa da nivTier i mtkicebul ebebiT, an Tavad bral debul is aRiarebiT dadastureba.“

sasamarTI om ganmarta, rom yvel a mtkicebul eba warmodgenil i unda iqnes gansasj el is TandaswrebiT, Ria sasamarTI o sxdomaze, raTa mas SesaZl ebl oba mieces sawinaaRmdego argumentebiT gaabaTil os isini. sasamarTI om agreTve ganacxada, rom igi „j erovnad afasebs organizebul i danaSaul is winaaRmdeg brZol is mniSvnel obas, magram amave dros miicnevs, rom marTI msaj ul ebis samarTI iani ganxorciel ebis ufl ebas imdenad gadamwyveti rol i akisria Tanamedrove demokratiul sazogadoebaSi, rom dauSvebel ia am ufl ebis sxvadasxva praqtikul i mosazrebebiT SezRudva. konvencia ar krZal avs gamoZiebis etapze anonimur mowmeTa Cvenebebisa da axsna-ganmartebis gamoyenebas. Tumca, sasamarTI os mier aseTi Cvenebebis sakmaris mtkicebul ebad miCneva gansasj el is bral eul obis dasadgenad, rogorc es mocemul saqmeSi moxda, zRudavs gansasj el is ufl ebebs da amdenad SeuTavsebel ia me-6 muxl Si Camoyal ibeblu garantiebTan.“

vi ndi Si s saqme – (vindiSi avstriis winaaRmdeg. seria A №. 186)

am saqmeze momCivani samarTal Si iqna micemul i binis gatexis bral debiT. danaSaul idan cota xnis Semdeg pol icias mimarTa orma qal batonma, roml ebmac maTi vinaobis anonimurobis dacvis garantiit ganacxades, rom danaSaul is adgil is maxl obl ad maT dainaxes ori mamakaci. erT-erT maTgans saxeze cxvirsaxoci hqonda afarebul i.

SemdegSi, pol iciam daakava vindiSi da Caatara farul i dapirispireba. orive qal batonma aTi metris daSorebiT mdgomi manqanidan amoicnes vindiSi, romel sac am dros saxeze cxvirsaxoci hqonda afarebul i.

vindiSis saqmis sasamarTI o ganxil vaze qal batonebi mowmed ar gamosul an.

saCivris ganxil visas adamianis ufl ebaTa evropul ma sasamarTI om ganacxada, rom „sazogadoebasTan TanamSroml obas udavod didi mniSvnel oba aqvs pol iciisaTvis danaSaul Tan brZol is saqmeSi. amasTan dakavSirebiT sasamarTI o AaRniSnavs, rom konvencia ar krZal avs gamoZiebis etapze anonimuri mowmeebis CveneBaTa gamoyenebas, Tumca sxva sakiTxia sasamarTI os mier anonimuri wyarodan miRebul i informaciis ZiriTad mtkicebul ebad gamoyeneba gamamtyunebel i ganaCenis gamotanas.“

sasamarTI om kvl av daadastura, rom „marTI msaj ul ebis samarTI iani ganxorciel ebis ufl ebas imdenad gadamwyveti rol i akisria Tanamedrove demokratiul

sazogadoebaSi, rom dauSvebel ia am ufl ebis SezRudva" da daadgina, rom momCivani mimarT adgil i hqonda konvenciis me-6 muxl is 1-l i da 3.d. punqtebis darRvevas.

saqme dorsoni ni derl andebis wi naaRmdeg – (54/1994/501/583)

am saqmeze momCivani iyo niderl andebis moqal aqe. 1987 wl is agvistoSi prokuraturam daiwyo amsterdamSi narkotikebis gamsaRebel Ta winaaRmdeg brZol is aqcia. daaxl oebiT 150 narkomans amocnobis mizniT uCvenebdnen narkotikul i saSual ebebis ukanono gavrcel ebaSi eWvmitanil Ta fotosuraTebis. SurisZiebis SiSiT, narkomanTa umravl esoba Tanxmdeboda Cvenebis micemaze mxol od im SemTxvevaSi, Tu maTi vinaoba ucnobis darCeboda narkotikebit movaWreTaTvis.

naCveneb fotoTagan erT-erTze udanaSaul o pirovneba iyo gamosaxul i. im gamokiTxul Ta Cvenebebi, roml ebmac miuTiTes masze, rogorc narkotikebis gamavrcel ebel ze, arasarwmunod iqna miCneul i da, Sesabamisad, mxedvel obaSi ar yofil a miRebul i.

1987 wl is seqtemberSi pol iciam anonimuri wyarodan miRo informacia, rom momCivani narkotikebit vaWrobas eweoda. dorsonis foto, romel ic 1985 wel s iyo gadaRebul i, sxva eWvmitanil Ta suraTebSi iqna Setanil i, ris Semdegac ramdenime narkomanma miuTiTa masze, rogorc narkotikebis gamsaRebel ze. am narkomanTagan eqvis vinaoba ar gaxmovanebul a da pol icia maT koduri dasaxel ebit moixseniebda. kidev ori mowmis vinaoba ki cnobil i iyo.

1988 wl is 12 april s dorsoni daakaves rogorc narkotikebis gavrcel ebaSi eWvmitanil i, xol o Semdgom igi moaTavses winaswar patimrobaSi da misi saqme gamoZiebas gadaeca. ramdenime sasamarTI o sxdomis Semdeg, 1988 wl is 13 dekembers, amsterdamis raionul ma sasamarTI om igi narkotikebit ukanono vaWrobaSi damnaSaved scno da miusaja 15 TviT Tavisufl ebis aRkveTa. dorsonma ganaCeni gaasaCivra amsterdamis saapel acio sasamarTI oSi, romel mac ramdenime mosmenis Semdeg, 1990 wl is 6 dekembers, gaaugma raionul i sasamarTI os 1988 wl is 13 dekembris gadawyvetil eba, radganac miCnia, rom saqmesTan dakavSirebul i mtkicebul ebebi sxva kuTxiT unda ganxil ul iyo. saapel acio sasamarTI om daadgina, rom dorsoni damnaSave iyo heroinisa da kokainis ganzrax gasaRebaSi da miusaja mas TxuTmeti TviT Tavisufl ebis aRkveTa. sasamarTI o ganxil visas gansakuTrebul i yuradReba daeTmo imaze msjel obas, Tu ramdenad sando SeiZl eba yofil iyo anonimuri narkomani mowmeebis Cvenebebeze damyarebul i mtkicebul ebebi.

amis Semdeg, dorsonma sakasacio saCivrit mimarTa uzenaes sasamarTI os, romel mac 1992 wl is 24 marts uari uTxra mas saCivris dakmayofil ebaze.

1992 wl is 27 ivniss dorsonma ganacxadi Seitana adamanis ufl ebaTa evropul komisiaSi, romel Sic igi iTxovda konvenciis me-6 muxl is 1-l i da 3.d. punqtebis darRvevaTa dadgenas, radganac mis winaaRmdeg gamamtyunebel i ganaCenis gamotanisas sasamarTI o daeyrdno im mowmeTa Cvenebebs, roml ebic ar dakiTxul an misi Tandaswrebit da mas ar hqonda saSual eba piradad daesva SekiTxvebi maTTvis; radganac saapel acio sasamarTI om anonimur mowmeTa Cvenebebi gamoiyena im mosamarTI is Suamdgoml obis safuZvel ze, romel mac miRo gadawyvetil eba misi winaswari patimrobis vadis gagrZel ebis Taobaze; da radganac saapel acio sasamarTI om uari ganacxada daekiTxa dacvis mxaris mier mowveul i eqsperti, Tumca mousmina bral debis mier mowveul eqsperts. momCivani agreTve acxadebda, rom dairRva misi piradi cxovrebis pativiscemis 8.1 muxl iT garantirebul i ufl eba, radganac misi fotosuraTi yovel gvare kanonieri safuZvl is gareSe aCvenes gareSe pirebs.

1993 wl is 29 noembers komisi am ganacxadi dasaSvebad gamoacxada me-6 muxl is 1-l i da 3.d. punqtebis nawil Si, xol o danarCen muxl ebTan mimarTebaSi ganacxadi ar iqna dasaSvebad miCneul i. amave dros, Tavis moxsenebaSi komisi am gamoTqva azri, rom me-6 muxl is 1-l i da 3.d. punqtebis darRvevas adgil i ar hqonia.

adamianis ufl ebaTa evropul ma sasamarTI om gadawyvita erTad ganexil a saCivari 1-l i da 3.d. punqtelis darRvevasTan dakavSirebiT, ramdenadac me-6 muxl is me-3 punqtis moTxovnebi am muxl is 1-l i punqtiT garantirebul i samarTI iani sasamarTI o ganxil vis ufl ebis kerZo aspektad unda iqnes ganxil ul i.

sasamarTI om kidev erTxel aRniSna, rom mtkicebul ebis gamoyenebis wesi uwinares yovl isa Sidasaxel mwifoebriვი kanonmdebl obiT ganisazRvreba da misi Sefasebac, rogorc wesi, qveynis sasamarTI oebis prerogativaა. konvenciis Tanxmad, evropul i sasamarTI os amocanaa ara imis gadawyvita, Tu ramdenad kanonieri iyo mowmeTa Cvenebebis mtkicebul ebad gamoyeneba an maTi Sefaseba, aramed imis dadgina, Tu ramdenad samarTI ianad warimarTa mTel i sasamarTI o procesi, maT Soris mtkicebul ebaTa Segrovebis Tval sazrisiT.

sasamarTI o daeTanxma komisiას, rom konvenciis darRvevis sakiTxi ar wamoWril a im faqtTan dakavSirebiT, rom raionul ma mosamarTI em momCivanis advokatis gareSe dakiTxa ori anonimuri mowme, radganac Semdgom saapel acio sasamarTI oSi saqmის ganxil visas igive mowmeebi daikiTxnen momCivanis advokatis TandaswrebiT.

rogorc sasamarTI om wina saqmeebis ganxil visas miuTiTa, konvencia ar krZal avs gamoZiebis etapze anonimur mowmeTa Cvenebebisა da axsna-ganmartebis gaTval iswinebas. Tumca gansasjel is bral eul obis dadgenisas sasamarTI os mier aseTi Cvenebebis mTavar mtkicebul ebad gamoyeneba SeiZl eba ewinaaRmdegebodes konvenciis moTxovnebs. amave dros, rogorc kostovskის saqmidan Canda, es yovel Tvis ase araa.

evropul ma sasamarTI om ganacxada, rom me-6 muxl i pirdapir ar ayal ibebs Cvenebebis misacemad gamoZaxebul mowmeTa da, kerZod, dazaral ebul Ta interesebis dacvis moTxovnas. Tumca, Sesazl ebel ia safrTxe emuqrebodes maT sicocxl es, Tavisufl ebasა da usafrTxoebas da agreTve il axebodes zogadad konvenciis me-8 muxl iT gaTval iswinebul i maTi interesebi. mowmeTa da dazaral ebul Ta ufl ebebsა da kanonier interesebs icavs konvenciis sxva saval debul o material ur-samarTI ebrivi debul ebebi, romel Ta Sesabamisadac konvenciaSi monawil e saxel mwifoebma sisxl is samarTალ warmoeba unda warmarTon am ufl ebebsა da interesebis srul i gaTval iswinebiT. amasTanave, Tavad samarTI iani sasamarTI o ganxil vis principi moTxovs, rom dacvis mxarisa da Cvenebebis misacemad gamoZaxebul mowmeTa da dazaral ebul Ta interesebi sasamarTI os mier saTanadod iyos dabal ansebul i Sesabamის procesual uri moqmedebebiT.

evropul ma sasamarTI om miiCnia, rom mocemul saqmeSi aRniSnul i ori mowმის CvenebaTa safuZvel ze mopovebul i mtkicebul ebebis mnisVnel obisa da Sesazl o SurisZiebisagan maTi dacvis aucil ebl obis gaTval iswinebiT, sakmarის safuZvel i arsebobda am ori mTavari mowმის anonimurobis SesanarCunebl ad. marTალ ia, aRniSnul mowmeTa vinaobis gaumJRavnebl obam dacvis mxares iseTi siZnel eebi Seuqmna, rogoric Cveul ebriv ar unda warmoiSvebodes sisxl is samarTI is procesSi, miuxedavad amisa, evropul ma sasamarTI om ganacxada, rom „6.1 muxl is 6.3 muxl Tan erTad darRvevas adgil i ar eqneba, Tu sasamarTI o daadgens, rom is sirTul ebi, razec dacvis mxare miuTitebda, Sesabamის procesual uri moqmedebebiT iqna dabal ansebul i.“

apel aciis etapze mosamarTI em, roml isTvisac cnobil i iyo orive mowმის vinaoba, bral debul is advokatis TandaswrebiT dakiTxa isini, Tumca dacvis mxarისTvis mowmeTa vinaoba ar gaumJRavnebiaT. Tavis gadawyvetil ebaSi mosamarTI em miuTiTa is garemoebეbi, romel Ta safuZvel zec saapel acio sasamarTI om daadgina aRniSnul mowmeTa Cvenebebis sarwmunooba. am mxriv, xazi unda gaesvas gansaxil vel i saqmის gansxvavebas kostovskის saqmისgan. mocemul SemTxvevaSi, advokati ara mxol od eswreboda dakiTxvas, aramed Sesazl ebl obac hqonda daesva mowmeTaTvis bral debul is dacvis მიზნიდან გამომდინარე ნებისმერი SekiTxva, garda iseTისა, romel sac maTi vinaobის გამJRavna SeiZl eba gamoewwia. damcvel is arc erTi SekiTxva upasuxod ar darCenil a.

evropul ma sasamarTI om ganacxada, rom marTალ ia Cveul ebriv sasurvel ia mowმის mier amocnoba ganxorციელ des მისTvis ewმითანილ is პირადად wardgeniT, magram aseve

aRniSna, rom mocemul SemTxvevaSi orive anonimur ma mowmem igi amoicnes im fotosuraTidan, romel zec, eWvmitanil isve gancxadebiT, namdvil ad igi iyo gamosaxul i. garda amisa, orive mowmes winaswar eTxova aRewera eWvmitanil is garegnoba da tansacmel i.

am garemoebaTa gaTval iswinebiT, evropul ma sasamarTI om miicnia, rom mocemul SemTxvevaSi anonimur mowmeTagan Cvenebebis miReba saTanadod iqna „dabal ansebul i” sasamarTI os mier da dacvis mxares miaca sakmarisi SesaZl ebl oba, rom wamoeyenebina Sesagebel i argumentebi da eWvqveS daeyenebina anonimuri mowmeebis Cvenebeze damyarebul mtkicebul ebaTa sandooba. amis dasturia isic, rom bral debul is dacvam, magal iTad, yuradReba gaamaxvil a imaze, rom orive anonimuri mowme narkomani iyo.

yovel ive zemoaRniSnul Tan erTad, evropul ma sasamarTI om ganacxada, rom maSinac ki, rodesac dacvis ganxorciel ebisTvis araxel sayrel i pirobebi saTanado procesual uri qmedebebiT kompensirdeba, sasamarTI om gamamtyunebel i ganaCeni ar unda gamoitanos mxol od, an umTavresad, anonimur Cvenebeze dayrdnobiT. es moTxovna mocemul saqmeSi ar darRveul a, ramdenadac naTel i iyo, rom gansasj el is bral eul obis dadgenisas sasamarTI os erTaderTi an mTavari mtkicebul eba ori anonimuri mowmis mier micemul i Cvenebebi ar yofil a.

sasamarTI om aseve miuTiTa, rom iseT pirobebSi mopovebul mtkicebul ebaTa Sefaseba, rodesac bral debul s ezRudeba konvenciIT gaTval iswinebul i dacvis SesaZl ebl obebi, unda gansakuTrebul i sifrTxil iT ganxorciel des. sasamarTI om miicnia, rom mocemul saqmeSi es moTxovna ar darRveul a, rac naTI ad Cans saapel acio sasamarTI os gancxadebidanac, rom man orive mowmis Cvenebebi „sagangebo yuradRebiTa da sifrTxil iT” ganixil a.

evropul ma sasamarTI om gaiTval iswina sasamarTI o procesis sxva mxareebic, maT Soris erT-erTi mowmisgan miRebul i axsna-ganmartebis gamoyeneba mtkicebul ebad, Tumca obieqturi mizezebis gamo ver moxerxda am mowmis procesze gamocxadeba. vinaidan aRniSnul i Cveneba gadamowmebul i iyo da dasturdeboda sxva mtkicebul ebebiT, evropul ma sasamarTI om miicnia, rom raimo usamarTI obas adgil i ar hqonia. sasamarTI om aseTive daskvna gamoitana imasTan dakavSirebiTac, rom saapel acio sasamarTI om uari ganacxada daekiTxa dacvis mxaris mier mowveul i eqsperti, Tumca mousmina bral debis mier mowveul eqsperts. Tavis gadawyvetil eba saapel acio sasamarTI om imiT daasabuTa, rom dacvis mier gamoZaxebul i eqsperti ver miscemda ganmartebes saqmisaTvis arsebiT faqtebTan dakavSirebiT da mas mxol od zogadi Cvenebis micema SeeZl o pol iciis mier narkomanebisgan mopovebul i cnobebis sarwmunoobasTan dakavSirebiT. bral debis Suamdgoml obiT gamoZaxebul i eqsperti ki iyo pol iciis TanamSromel i, romel mac axsna-ganmarteba misca sasamarTI os imasTan dakavSirebiT, Tu rogor ganxorciel da narkomanebis mier pol iciisaTvis Cvenebebis micema da ra zomebi iqna miRebul i imis uzrunvel sayofad, rom es informacia maqsimal urad sarwmuno da obieqturi yofil iyo.

Tavis gadawyvetil ebaSi sasamarTI om ganacxada, rom momCivannis mier dasaxel ebul i arc erTi mizezi ar izl eoda imis safuZvel s, rom dadgenil iyo misi saqmis samarTI iani sasamarTI o ganxil vis ufl ebis darRveva. yvel a zemoaRniSnul i mizezis erTad ganxil vis SemTxvevaSic ki, evropul ma sasamarTI om ar CaTval a, rom sasamarTI o procesi mTI ianobaSi usamarTI o iyo. Sesabamisad 6.1 muxl is 6.3.d. muxl Tan erTad darRvevas adgil i ar hqonia.

saqme osmani gaerTianebul i samefos winaarmdeg – (87/1997/871/1083)

am saqmeze momCivanni iynen I ondonSi mcxovrebi britaneTis ori moqal aqe: qal batoni mal ki osmani [dab. 1948 wel s k. kviprosze] da misi vaJiSvil i ahmet osmani [dab. 1972 wel s ingl isSi]. 1988 wl is 7 marts qal batoni osmanis meuRI e, batoni al i osmani,

mokl ul i iqna homerton hausis skol aSi misi vaJis yofil i pedagogis, baton pol paj et-l uisis mier. srol is dros daiWra ahmet osmanic.

saCivari exeboda xel isufl ebis umoqmedobas da im seriozul i safrTxis uyuradRebod datovebas, romel ic ahmet osmanisa da misi oj axis fizikur usafrTxoebas emuqreboda da roml is niSnebic, momCivanTa TqmiT, aSkara iyo pol paj et-l uisis saqciel idan. kerZod, mas ganuviTarda „profesiul i Tval sazrisiT miuRebel i“, „araj ansaRi grZnobebi“ ahmet osmanis mimarT. marTal ia, fsiqiatriul ma Semowmebam ar daadastura, rom paj et-l uisi fsiqikurad iyo daavadedul i an hqonda avadmyofuri midrekil eba agresiisadmi, igi Tavisi saqciel iT mosvenebas ar aZl evda osmanebis oj axs da axdenda maT mudmiv terorizebas.

1988 wl is 7 marts paj et-l uisma iaraRis gasrol iT mokl a al i osmani da mZimed daWra misi Svil i ahmeti, ris Semdegac igi mivida baton perkinsTan (homerton hausis skol is direqtoris moadgil esTan) saxl Si, cecxl sasrol i iaraRiT daWra igi da mokl a misi vaJi.

paj et l uisma damnaSaved scno Tavi daqveiTebul i nebel obis mizeziT. 1988 wl is 28 oqtomers sasamarTI om mas orive mkvl el obis bral debasTan dakavSirebiT gamoutana gamamtyunebel i ganaCeni da 1983 wl is Seuracxaobis aqtis 41-e muxl is Sesabamisad miusaj a mas uvadod iZul ebiTi mkurnal oba mkacri rejimis fsiqiatriul dawesebul ebaSi.

1989 wl is 28 seqtembers qal batonma mal ki osmanma da misma vaJiSvil ma sarCel i aRZres l ondonis pol iciis komisris winaarMdeg, romel sac isini danaSaul ebriv gaufrTxil ebl obaSi sdebden bral s. sarCel is Tanaxmad, miuxedavad imisa, rom pol iciisaTvis ukve 1987 wl is maisidan cnobil i iyo paj et-l uisis saSiSi saqciel i, maT ar daukavebiaT da ar daukiTxavT igi, ar gauCxrekiat misi saxl i da ar wauyenebiaT misTvis aranairi bral deba. 1992 wl is 7 oqtomers saapel acio sasamarTI om daadgina, rom pol iciisaTvis miniWebul i imunitetis safuZvel ze, qveynis precedentul i samarTal i ar iTval iswinebda gamoZiebis procesSi gamoCenil i windauxedaobis an danaSaul is ver arKveTis mizeziT pol iciis TanamSromel Ta samarTal Si micemas.

SemdegSi, qal batonma mal ki osmanma da misma vaJiSvil ma ganacxadi Seitanes adamianis ufl ebaTa evropul komisiaSi, romel Sic isini iTxovdnen konvenciis me-2 (sicocxl is ufl eba), me-8 (piradi da oj axuri cxovrebis pativiscemis ufl eba), 6.1 (sasamarTI o ganxil vis ufl eba) da me-13 (efeqturi samarTI ebrivi dacvis ufl eba) muxl ebiT garantirebul i ufl ebebis darRvevis faqtis dadgenas.

1996 wl is 17 maiss komisiom dasaSvebad scno saCivari. 1997 wl is 1 ivl isis moxsenebaSi komisiom gamoTqva azri, rom konvenciis me-2 da me-8 muxl ebis darRvevas adgil i ar hqonia; darRveul iqna 6.1 muxl i; xol o me-13 muxl is darRvevis sakiTxi cal ke ar ganxil ul a.

Semdeg saqme gadaegzavna adamianis ufl ebaTa evropul sasamarTI os, romel mac Tavisi gadawyvetil eba 1998 wl is 28 oqtomers gamoitana. konvenciis me-2 muxl is darRvevasTan dakavSirebul i saqmis masal ebi da sasamarTI os mosazrebebi mocemul ia am danarTis me-2 TavSi. me-8 muxl Tan dakavSirebul i masal ebi ki SegiZl iaT ixil oT me-6 Tavis saqmeebSi.

konvenciis 6.1 muxl Tan dakavSirebiT qal batoni osmani da misi Svil i acxadebdnen, rom am muxl is moTxovnaTa darRveviT saapel acio sasamarTI om ar miRo maT mier pol iciis gaufrTxil ebl obis Taobaze Setanil i sarCel i, ris gamoc SeizRuda maTi sasamarTI osTvis mimarTvis ufl eba.

evropul ma sasamarTI om miuTiTa, rom 6.1 muxl is Tanaxmad, yvel a adamians aqvs Tavisi samoqal aqo ufl ebebis da moval eobebis sasamarTI o wesiT dadgenis ufl eba. amdenad, es muxl i moicavs yovel i adamianis mier Tavisi kanonieri interesebis sasamarTI oSi dacvis ufl ebas, roml is erT-erT aspeqtsac warmoadgens „sasamarTI osTvis mimarTvis“, anu sasarCel o ganaxadebis Setanis ufl eba, rac sasamarTI os mier sarCel is miRebisa da ganxil vis val debul ebasac gul isxmobs.

Tumca es ufl eba absol uturi ar gaxl avT da igi cal keul SezRudvebs SeiZl eba daeqvemdebaros. konvencia uSvebs aseTi SezRudvebis dawesebas, Tumca pirdapir ar miuTiTebS maTze da Sefasebis garkveul Tavisufl ebas aniWebs saxel mwifoebS aRniSnul i sakiTxis regul irebaSi. amasTanave, sabol oo gadawyvetil ebas imasTan dakavSirebiT, dakmayofil ebul ia Tu ara konvenciis moTxovnebi, Rebul obs evropul i sasamarTI o. magal iTad, igi daadgens xom ar izRudeba sasamarTI osTvis mimarTvis ufl eba im SemTxvevebSi, roca sarCel is miRebaze uaris Tqma kanoniTaa daSvebul i. nebismieri aseTi SezRudva, Tu igi ar emsaxureba kanonier mizans da ar icavs Tanazomierebis prinsips, winaaRmdegobaSi modis 6.1 muxl is moTxovnebTan.

am sakiTxTan dakavSirebiT evropul ma sasamarTI om gancxada, rom momCivanTa sasarCel o moTxovna sasamarTI os arsebiTad ar ganuxil avs da ar miuRia gadawyvetil eba sadavo saqmeze. sasamarTI om uari ganacxada sarCel is miRebaze, radganac miCnia, rom igi miekuTvneboda precedentul i samarTI iT gansazRvrul im gansakuTrebul SemTxvevas, rodesac saqme mis ganxil vas ar eqvemdebareboda.

pol iciis ganTavisufl eba maT mier gamoCenil i gaufrTxil ebl obis Taobaze Semosul i sarCel is sasamarTI o wesiT ganxil va-gadawyvetisagan emyareba im mosazrebas, rom pol icia ukeT icavs mTI ianad sazogadoebis interesebs, Tu misi saqmianobis efeqturoba danaSaul is winaaRmdeg brZol is saqmeSi ar izRudeba imiT, rom pol iciis operatiul i gadawyvetil ebebi sasamarTI oSi mudmivi garCevis sagani SeiZl eba gaxdes.

evropul ma sasamarTI om miCnia, rom marTal ia aseTi imunitetis dawesebis mizani kanonierad SeiZl eba yofil iyo ganxil ul i, vinaidan igi iTval iswinebda pol iciis saqmianobisa da, Sesabamisad, uwesrigobisa da danaSaul is winaaRmdeg mimarTul RonisZiebaTa efeqturobis gazrdas, magram, amave dros, igi aucil ebl ad unda yofil iyo Sefasebul i Tanazomierebis pricipis moTxovnaTa gaTval iwinebiTac. maSin, rodesac mTavroba amtkicebda, rom pol iciis imuniteti absol uturi xasiaTisa ar iyo da misi gamoyeneba gansazRvrul pirobebs eqvemdebareboda, evropul i sasamarTI os azriT, mocemul saqmeSi saapel acio sasamarTI om iseTi midgoma gamoiCina, TiTqos pol icia srul i xel Seuxebl obiT sargebl obda da SeuZl ebel i iyo gamoZiebisa da danaSaul is aRkveTis procesSi pol iciel Ta qmedebebisa Tu umoqmedobis Taobaze kerZo bral debiT samoqal aqo saqmis aRZvra.

evropul ma sasamarTI om ganacxada, rom amgvari cal saxa midgoma da sxva sazogadoebrivi interesebis ugul ebel yofa ganusazRvrel imunitets aniWebs pol icias da aTavisufl ebs mas gamoZiebisa da danaSaul is aRkveTis procesSi Cadenil marTI sawinaaRmdego qmedebesba Tu umoqmedobaze pasuxismgebl obisagan, rac gaumarTI ebl ad zRudavs momCivanis ufl ebas mimarTos sasamarTI os pol iciis winaaRmdeg bral debis ganxil va-gadawyvetisaTvis.

amdenad, sasamarTI os azriT, pol iciis imuniteti unda Semoifargl ebodes sxva sazogadoebrivi interesebis saval debul o gaTval iwinebis moTxovniT, ris gareSec SeuZl ebel i iqneboda gaufrTxil ebl obis xarisxis, misi mizeziT gamowveul i zianisa Tu saqmisaTvis mniSvel ovani sxva garemoebebis jerovani Sefaseba. sasamarTI om gaiTval iswina isic, rom momCivanis gancxadebiT, pol iciel Ta windauxedaobis gamo ver moxerxda bavSvisaTvis sasikvdil o safrTxis Tavidan acil eba, rac maTi uxeSi daudevrobis da ara umniSvel o Secdomebis Sedegi iyo. momCivanTa TqmiT, pol iciam ganacxada, rom uzrunvel yofda maT usafrTxoebas. maTi umoqmedoba ki yvel aze saval al o SedegebiT dasrul da.

evropul i sasamarTI os azriT, yvel a aRniSnul i garemoeba unda ganxil ul iyo arsebiTad da gaumarTI ebel i iyo sarCel ze avtomaturad uaris Tqma aRniSnul sakiTxSi pol iciis imunitetze miTiTebiT. sasamarTI om damaj erebl ad ar CaTval a mTavrobis mier warmodgenil i argumenti, rom saapel acio sasamarTI os mier sarCel is dauSvebl obasTan dakavSirebiT gakeTebul i ganmarteba ar aniWebda pol icias avtomatur imunitets.

sasamarTI om aradamakmayofil ebl ad miiCnia aseve mTavrobis gancxadeba, rom kompensaciis misaRebad qal baton osmansa da mis vaJiSvil s SeeZI oT samarTI ebrivi dacvis sxva saSual ebaTa gamoyenebac. sasamarTI om miuTiTa, rom aseTi SesaZI ebl obis qona ar amsubuqebda im garemoebas, rom maT dakarges ufl eba sasamarTI o wesiT gaesaCivrebiNaT pol iciis mier gamoCeniI i gaufrTxil ebl oba da daemtkicebiNaT TavianiT bral debis simarTI e. arc paj et-l uisisa da arc fsiqiatris winaaRmdeg SetaniI i sarCel i ar miscemda maT saSual ebas mieRoT pasuxi im kiTxvaze, romel ic pol iciis winaaRmdeg maT samoqal aqo sarCel s edo safuZvl ad, anu ratom ar miiRo pol iciam droul i zomebi paj et-l uisis sasikvdil o SurisZiebis aRsakveTad. imisda miuxedavad, SeZI ebdnen Tu ara mosarCel eebi daerwmunebiNaT sasamarTI o pol iciis marTI sawinaaRmdego windauxedaobaSi, maT ufl eba hqondaT saqmis samsj avro sxdomaze mieRoT pol iciis axsna-ganmarteba maTi qmedebebisa da umoqmedobis Taobaze.

am argumentebis gaTval iswinebiT, sasamarTI om daadgina, rom mocemul saqmeSi gaumarTI ebl ad SeizRuda momCivanTa ufl eba miemarTaT sasamarTI osTvis. aqedan gamomdinare, adgil i hqonda konvenciis 6.1 muxl is darRvevas.

konvenciis me-13 muxl Tan dakavSirebiT qal batoni osmani da misi Svil i Ciodnen, rom maT ar hqondaT efeqturi Sida samarTI ebrivi dacvis saSual eba, romel ic uzrunvel yofda maTi saCivris ganxil va-gadawyvetas konvenciis me-2 muxl is darRvevasTan dakavSirebiT, ramdenadac isini miiCnevden, rom xel isufl ebam ar miiRo aucil ebel i zomebi al i da ahmet osmanebis sicocxl is dasacavad.

ganacxadSi naTqvami iyo, rom konvenciis me-2 muxl iT gaTval iswinebul i pozitiuri val debul ebiSeusrul ebl obisaTvis xel isufl ebi pasuxismgebl obis dadgenis erTaderTi efeqturi meqanizmi pol iciis winaaRmdeg samoqal aqo sarCel is aRZvra iyo. Tumca, maT waerTvaT es saSual eba, roca saapel acio sasamarTI om daakmayofil a pol iciis imunitetis Taobaze l ondonis pol iciis komisris Suamdgoml oba da uari ganacxada sarCel is ganxil vase.

komisiam miiCnia, rom vinaidan dadginda konvenciis 6.1 muxl is darRvevis faqti, saWiroeabas ar warmoadgenda me-13 muxl is sakiTxis cal ke ganxil va.

sasamarTI o daeTanxma komisiis mosazrebas da dasZina, rom me-6 muxl Tan SedarebiT me-13 muxl is moTxovnebi nakl ebad mkacria da mocemul SemTxvevaSi maT me-6 muxl is moTxovnebi gadafaravs.

sasamarTI om gadawyvita, rom saCivris ganxil va me-13 muxl Tan dakavSirebiT ar iyo aucil ebel i.

SeniSvna: konvenciis me-2 muxl is darRvevasTan dakavSirebul i saqmis masal ebi da sasamarTI os mosazrebebi mocemul ia am danarTis me-2 TavSi.

Tavi 6 – piradi da ojaxuri cxovrebi, sacxovrebl isa da korespodenciis xel Seuxebl obis ufl eba

saqme kvi prosi Turqeti swinaaRmdeg – (ganacxadi №. 8007/77)

es saqme aRiZra Turqetis jarebis mier Crdil oET kvi prosis okupaciasTan dakavSirebiT kvi prosis mier Turqetis winaaRmdeg SetaniI i mesame ganacxadis safuZvel ze. momCivani mTavroba (kvi prosi) bral s sdebdTurqetis konvenciis me-5 da me-8 muxl ebi, agreTve konvenciis №.1 oqmis pirvel i muxl is darRvevaSi.

konvenciis me-8 muxl Tan dakavSirebiT kvi prosis mTavroba acxadebda, rom Turqeti ar aZI evda Sin dabrunebis saSual ebas Crdil oET kvi prosSi mcxovreberZnebs, roml ebic Tavis droze iZul ebul i iyvnen daetovebiNaT TavianiT saxl -kari da samxreTisaTvis SeefarebiNaT Tavi. kvi prosis gancxadebiT aRniSnul i faqti me-8 muxl is darRvevas warmoadgenda.

komisiam miuTiTa, rom konvenciis me-8 muxl Tan mimarTebaSi adgil nacval i pirebis sakiTxi ganxil ul i iyo kvi prosis wina ganacxadebTan (№. 6780/74 da 6950/75) dakavSirebul moxsenebaSi, sadac, kerZod, iTqva rom „kvi prosel berZen I tol vil ebs warTmeul i aqvT Taviant saxl ebSi dabrunebis fizikuri SesaZl ebl oba, rac warmoadgens Turqetis mxridan maTi sacxovrebl is xel Seuxebl obis ufl ebaSi Carevas“ da ar SeiZl eba gamarTI ebul iqnes me-8 muxl is me-2 punqtSi gansazRvrul i romel ime mizeziT. komisiam daadgina, rom „170 000 kvi prosel i berZen I tol vil isaTvis Taviant saxl ebSi dabrunebaze uaris TqmiT, Turqeti kvl avac ganagrZobs konvenciis me-8 muxl is moTxovnaTa ugul ebel yofas.“

komisiam aseve ganacxada, rom sxvadasxva Sida SeTanxmebis safuZvel ze kvi prosel i berZnebis gadayvana samxreT kvi prosSi da maTTvis sakuTar saxl ebSi dabrunebis fizikuri SesaZl ebl obis warTmeva warmoadgens Turqetis mxridan maTi me-8 muxl is 1-1 i punqtIT gansazRvrul i sacxovrebl is xel Seuxebl obis ufl ebaSi Carevas, rac me-2 punqtIT gaTval iswinebul i arc erTi mizeziT ar SeiZl eba gamarTI des. komisiam daadgina, rom „sxvadasxva Sida SeTanxmebis safuZvel ze samxreTSi gadayvanil i ramdenime aTasi kvi prosel i berZenisaTvis Taviant saxl ebSi dabrunebaze uaris TqmiT, Turqeti kvl avac, iseve rogorc warsul Si, ugul ebel yofs konvenciis me-8 muxl is moTxovnebs.“

bol os, komisiam aRniSna, rom oj axis wevrTa gancal kevebis sakiTxi aseve ganxil ul ia kvi prosis wina ganacxadebTan dakavSirebul moxsenebaSi, sadac naTqvamia, rom:

„Turqetis mier berZenI mosaxl eobis Crdil oET kvi prosidan gamodevnis Sedegad moxda oj axis wevrTa erTmaneTisagan iZul ebiTi gancal keveba. adgil nacval i pirebisaTvis Crdil oETSi darCenil oj axis wevrebTan dabrunebis SesaZl ebl obis warTmeva, sademarkacio xazis sxvadasxva mxares moxvedril oj axis wevrTa xangrZl ivi gancal keveba da erTi da imave oj axis wevrebis sxvadasxva sapatimroebSi moTavseba warmoadgens maTi me-8 muxl is 1-1 i punqtIT aRiarebul i oj axuri cxovrebis pativiscemis ufl ebaSi Carevas da ar SeiZl eba gamarTI ebul iqnes am muxl is me-2 punqtSi amoyal ibebl i romel ime mizeziT.“

komisiam daadgina, rom Turqetis moqmedebebis, maT Soris didi raodenobIT xal xis TaviantI saxl ebidan iZul ebiTi gamodevnis Sedegad moxda kvi prosel berZenTa oj axebis gancal keveba, rac ewinaaRmdegeboda konvenciis me-8 muxl is moTxovnebs.

mocemul i saqmis ganxil visas komisiam damamZimebel faqtorad miicnia wina moxsenebis Semdeg aRniSnul i vitarebis ucvl el ad gagrZel eba da daadgina, rom 170 000 kvi prosel i berZenI tol vil isaTvis Taviant saxl ebSi dabrunebaze uaris TqmiT, Turqeti kvl avac agrZel ebda konvenciis me-8 muxl is moTxovnebis darRvevas.

komisiam aseve miicnia, rom oj axis wevrebis xangrZl ivi gancal keveba imis gamo, rom Turqeti uars acxadebda Crdil oETSi darCenil oj axis wevrebTan kvi prosel i berZnebis dabrunebaze, unda CaiTval os damamZiebel faqtorad da daadgina, rom kvi prosel berZenTaTvis Crdil oETSi darCenil oj axebTan dabrunebaze uaris TqmiT, Turqeti ganagrZobda konvenciis me-8 muxl is moTxovnebis darRvevas.

kl asis saqme – (seria A №. 28)

am saqmeze momCivani acxadebda, rom germaniis uSiSroebis samsaxuri awarmoebda misi satel efono saubrebis mosmenas, ris gamoc dairva misi piradi cxovrebis saiduml oebis ufl eba.

adamianis ufl ebaTa evropul ma sasamarTI om moiSvel ia komisiis mier gamoTqmul i mosazreba da ganacxada, rom „Tumca konvenciis me-8 muxl is 1-1 punqtSi satel efono saubrebi uSual od ar aris moxseniebul i, aseTi saubrebis saiduml os dacva „piradi cxovrebis“ da „korespondenciis“ xel Seuxebl obis garantiiTaa gaTval iswinebul i.“

sasamarTI om xazi gausva, rom xel Sekrul ebaSi monawil e saxel mwifoebis „ara

aqvT maTi urisdicciis qveS myof pirebze farul i Tval Tval is ganusazRvrel i ufl ebamosil eba. sasamarTI os miaCnia, rom kanoni, romel ic ar zRudavs saxel mwifos ufl ebamosil ebas awarmoos pirovnebaze saiduml o Tval yuris devneba Tundac im mizeziT, rom es demokratiis dasacavadaa aucil ebel i, safrTxes uqmnis Tavad demokratias da mis arsebobasac ki. amdenad, konvenciis mxareebis ara aqvT ufl eba j aSuSobisa da terorizmis winaaRmdeg brZol is saxel iT gamoiyenon pirovnebaze Tval yuris devnebis nebismieri saSual eba." sasamarTI om ganacxada, rom „imisda miuxedavad, Tu farul i Tval yuris devnebis ra wesebi moqmedebs saxel mwifoSi, yovel Tvis unda arsebobdes aRniSnul i ufl ebamosil ebis borotad gamoyenebisgan dacvis qmediTi garantiebi“.

sasamarTI om daadgina, rom mocemul saqmeSi me-8 muxl is darRvevas adgil i ar hqonia.

mel ouni s saqme – (seria A № 82)

am saqmeze momCivani iyo antikvarul i nivTebiT movaWre, romel ic samarTal Si iyo micemul i qonebrivi gamorCenis mizniT klientebis motyuebis bral debiT. gamoZiebis procesSi misi tel efoni gadayvanil iqna satel efono momsaxurebis mricxvel ur sistemaze (amgvari sistema axorciel ebs Semomaval i da gamaval i zarebis, saubris droisa da xangrZI ivobis aRricxvas, rac, amave dros, SeiZI eba gamoyenebul iqnes pol iciis mier pirovnebaze Tval yuris devnebis saSual ebad).

adamianis ufl ebaTa evropul ma sasamarTI om miicnia, rom satel efono saubrebis mosmenisa, Tu abonentis mricxvel is CvenebaTa pol iciisaTvis gadacemis faqti konvenciis me-8 muxl is darRvevas ar warmoadgenda. Tumca, am muxl is me-2 punqtSi „kanonTan Sesabamisobis“ moTxovnasTan dakavSirebiT sasamarTI om ganacxada:

„...termini „kanonTan Sesabamisoba“ gul isxmobs ara mxol od qveynis kanonmdebl obiT dadgenil samarTI ebriv normaTa Sesrul ebis aucil ebl obas, aramed Tavad kanonebis xarixsac, anu maT Sesabamisobas kanonis uzenaesobis principTan, romel ic sagangebod aris aRniSnul i konvenciis preambul aSi... me-8 muxl is debul ebaTa Sinaarsidan da miznebidan gamomdinare, qveynis kanonmdebl oba unda gansazRvrades konvenciit aRiarebul ufl ebebSi xel isufl ebis TviTneburi Carevisagan dacvis garantiebs... aseTi safrTxe gansakuTrebiT didia maSin, rodesac saqme aRmasrul ebel i xel isufl ebis diskreciul i ufl ebamosil ebis ganxorciel ebas exeba... ra Tqma unda, rogorc es mTavrobam srul iad marTebul ad aRniSna, gamoZiebis mizniT pol iciis mier satel efono saubrebis mosmenasTan dakavSirebiT konvenciis moTxovnebi kanonis ganWvretadobis Tval sazrisiT ar SeiZI eba iyos zustad igive, rogorc, magal iTad, im kanonebis mimarT, roml ebic adamianTa qcevis SezRudvebs aweseben. kerZod, am SemTxvevaSi kanonis ganWvretadobis moTxovna ar SeiZI eba niSnavdes, rom pirovnebas unda SeeZI os imis winaswar gansazRvra, Tu rod is apireben samarTal damcavi muSakebi misi saubrebis mosmenas, raTa man Sesabamisad Secval os Tavisi qceva. Tumca, kanonmdebl oba sakmarisad naTI ad da mkafiod unda gansazRvrades im mizezebsa da garemoebebs, rodesac saxel mwifo uwyebebi ufl ebamosil i arian ganxorciel on saiduml o da potenciurad saSiSi Careva piradi cxovrebisa da korespondenciis xel Seuxebl obis ufl ebaSi.“

ol soni s saqme – (seria A №. 130)

am saqmeze momCivani, roml is sam Svil s dauwesda sazogadoebrivi meurveoba, saxel mwifos adanaSaul ebda konvenciis me-8 muxl is darRvevaSi.

ganacxadis ganxil visas sasamarTI om Semdegi mosazreba gamoTqva am muxl is konteqstSi „kanonTan Sesabamisobis“ moTxovnasTan dakavSirebiT:

„...termini „kanonTan Sesabamisoba“ gul isxmobs ara mxol od qveynis kanonmdebl obiT dadgenil i moTxovnebis Sesrul ebis aucil ebl obas, aramed Tavad kanonebis xarixsac, anu maT Sesabamisobas kanonis uzenaesobis principTan; igi moITxovs, rom qveynis

kanonmdebl oba unda gansazRvravdes konvenciit, maT Soris me-8 muxl is 1-l i punqtiT aRiarebul ufl ebebSi xel isufl ebis TviTnebuli Carevisagan dacvis garantiebs..."

„kanoni, romel ic axdens diskreciul i ufl ebamosil ebis miniWebas, Tavistavad ar ewinaaRmdegeba kanonis ganWvretadobis moTxovnas, Tu aseTi ufl ebamosil ebis zRvrebi da misi gamoyenebis wesi kanonieri miznis misaRwevad saWiro qmedebelis ganxorciel ebisas sakmarisad naTI ad aris gansazRvrul i, raTa pirovnebas mieces xel isufl ebis TviTnebuli Carevisagan saTanadod dacvis saSual eba."

SeniSvna: „kanonTan Sesabamisobis" moTxovnasTan dakavSirebiT am saqmeSi gamoTqmul i mosazrebebi sasamarTI om moiSvel ia Capel is saqmeSi, romel ic Cxrekis sanqciis gacemisa da misi Catarebis sakiTxebis exeboda (ixil eT Capel is saqme, seria A №. 152 1990. 12 EHRR1)

hi uiti sa da harmenis saqme – (hiuti da harmeni gaertianebul i samefos winaaRmdeg, ganacxadi №. 12175/86 D.R. 67/88)

hiuti iyo samoqal aqo Tavisufl ebaTa erovnul i sabWos general uri mdivani, xol o harmeni ki amave sabWos iuristi. samoqal aqo Tavisufl ebaTa erovnul i sabWo xorciel ebs samoqal aqo da pol itikur ufl ebaTa dacvasa da monitorings gaertianebul samefoSi.

uSiSroebis samsaxuris erT-erTi ganyofil ebis yofil i TanamSroml is mier micemul i CvenebiT, rogorc hiutze, ise harmenze uSiSroebis samsaxuri farul Tval Tval s awarmoebda.

mocemul i saqmis ganxil visas komisiam konvenciis me-8 muxl is darRvevasTan dakavSirebiT Semdegi mosazrebebi Camoayal iba:

„...pol iciis saiduml o arqivSi pirovnebis pirad cxovrebasTan dakavSirebul i informaciis Senaxva warmoadgens konvenciis me-8 muxl is 1-l i punqtiT garantirebul i piradi cxovrebis pativiscemis ufl ebaSi Carevas..."

„aqedan gamomdinare, pirovnebis pirad cxovrebasTan dakavSirebul i informaciis Segrovebisa da mopovebul i masal ebis Senaxvis mizniT farul i Tval Tval is ganxorciel eba agreTve am ufl ebaSi Carevas warmoadgens."

ganmcxadebl ebi amtkicebdnen, rom maTze „arapirdapiri Tval Tval i" xorciel deboda, kerZod, mowmdeboda sxvebis satel efono saubrebi an korespondencia da xdeboda am gziT maT Sesaxeb mopovebul i informaciis Segroveba. aRniSnul Tan dakavSirebiT komisiam ganacxada, rom „amgvari informaciis mopoveba da Cawera, miuxedavad imisa, rom ar mimdinareobda maTze uSual o Tval Tval i, warmoadgens ganmcxadebel Ta piradi cxovebisa da korespondenciis saiduml oebis pativiscemis ufl ebaSi Carevas".

rac Seexeba imas, xorciel deboda Tu ara Tval Tval i „kanonis Sesabamisad", komisiam ganacxada, rom kanoni sakmarisad gasagebi unda iyos sazogadoebisTvis, anu moqal aqes unda hqondes saSual eba saTanado warmodgena iqonios im samarTI ebrivi wesebis Sesaxeb, roml ebic am sferoSi moqmedebs. amasTanave, „esa Tu is samarTI ebrivi norma ar SeiZl eba kanonierad iqnes miCneul i, Tuki igi sakmarisi sizusti ar aris formul irebul i imisaTvis, rom saSual eba misces moqal aqes moaxdinos Tavisi qcevis regul ireba. mas unda SeeZl os, saWiroebis SemTxvevaSi special istis rCevis moSvel iebiT, winaswar ivaraudos Tu ra Sedegebi SeiZl eba mohyves mis ama Tu im moqmedebas."

komisiam moixsenia mel ounis saqmeSi sasamarTI os mier kanonis ganWvretadobasTan dakavSirebiT gamoTqmul i mosazrebebi.

hiuti sa da harmenis saqmis ganxil visas komisiam aRniSna, rom uSiSroebis samsaxuris moqmedebeli emyareboda gankargul ebas, romel ic marTal ia gamoqveynebul i iyo, magram ar hqonda kanonis Zal a da ar ayal ibebda saTanado saaRsrul ebo wesebs. garda amisa, direktivaSi sakmarisad mkafiod ar iyo gansazRvrul i saxel mwifo organoebis diskreciul i ufl ebamosil ebis zRvrebi da am ufl ebamosil ebis gamoyenebis wesi

ixil oT me-5 Tavis saqmeebSi.

konvenciis me-8 muxl Tan dakavSirebiT qal batoni osmani da misi vaJi acxadebdnen, rom pol iciis umoqmedoba paj et-l uisis mier maTi oj axis Seviwroebisa da vandal izmis aRsakveTad da ahmet osmanis daSavebis Tavidan asacil ebl ad konvenciis me-8 muxl is darRvevas warmoadgenda.

sasamarTI om miuTiTa Tavis gadawvyvetil ebaze imasTan dakavSirebiT, rom man dadgenil ad ar miiCnia is faqti, rom pol iciam icoda an unda scodnoda im real uri da pirdapiri safrTxis Sesaxeb, romel ic ahmet osmanis sicocxl es emuqreboda paj et-l uisis mxridan. amdenad, mocemul i saqmis garemoebaTa gaTval iswinebiT pol iciis qmedebebi ar SeiZl eba CaiTval os SeuTavsebl ad konvenciis me-2 muxl iT dakisrebul sicocxl is ufl ebis dacvis moval eobasTan. sasamarTI os azriT, amave msjel obis safuZvel ze SeiZl eba gakeTdes daskvna, rom konvenciis me-8 muxl iT gaTval iswinebul i pozitiuri val debul ebis (ganmcxadebl is fizikuri xel Seuxeb obis dacva) darRvevas adgil i ar hqonia.

rac Seexeba ganmcxadebel Ta mtkicebas, rom pol iciam ar gamoizia maT saxl ze ganxorciel ebul TavdasxmaTa faqtebi, raTa wertil i daesva osmanebis oj axis winaaRmdeg warmoebul i Seviwroebis kompaniisTvis, sasamarTI om kidev erTxel miuTiTa, rom pol icias ar moepoveboda paj et-l uisis dadanaSaul ebisa da mis winaaRmdeg bral debis wayenebisaTvis sakmarisi mtkicebul ebebi.

aqedan gamomdinare, sasamarTI om daadgina, rom saqmis faqtobrivi masal ebiT ar dasturdeboda xel isufl ebis mier konvenciis me-8 muxl iT masze dakisrebul i pozitiuri val debul ebebis darRvevis faqti.

Tavi 7 - azris, sindisisa da religiis Tavisufl eba, azris gamoxatvis Tavisufl eba

azris, sindisisa da religiis Tavisufl eba

erousmitis saqme – (erousmiti gaertianebul i samefos winaaRmdeg D.R.19)

am saqmeze momCivani - pacifisturi moZraobis warmomadgenel i qal batoni - pasuxisgebaSi iqna micemul i gaertianebul i samefos SeiaraRebul Zal ebSi saagitacio furcl ebis gavrcel ebisTvis, roml ebic jarisj acebs mouwodebdnen uari eTqvaT samxedro samsaxurze Crdil oet irl andiaSi.

erousmiti acxadebda, rom adgil i hqonda misi sindisisa da rwmenis Tavisufl ebis konvenciis me-9 muxl iT aRiarebul i ufl ebis darRvevas. komisiam ganacxada, rom am muxl is debul ebebiT garantirebul i dacva pacifisturi fil osofiis mimdevrebzec vrcel deba, Tumca saagitacio furcl ebis gavrcel eba ar warmoadgens pacifisturi rwmenis gamovl enas, vinaidan termini „mimdevroba“, ra mniSvnel obiTac igi 9.1 muxl Si aris gamoyenebul i, „ar moicavs religiit an rwmeniT motivirebul an STagonebul nebismier qmedebas“. komisiam dasZina, rom:

„marTalia, saj aro pacifisturi mowodebebi da zogadad Zal adobis winaaRmdeg gamarTul i aqciebi pacifisturi rwmenis normal ur da misaReb gamovl inebad SeiZl eba CaiTval os, magram Tu pirovnebaTa qmedebebi rwmenis uSual o gamoxatvas ar warmoadgenen, isini ar SeiZl eba ganxil ul iqnen 9.1 muxl is fargl ebSi, maSinac ki rodesac aRniSnul i qmedebebi am rwmeniTa motivirebul i“.

kokinakisis saqme – (seria A №. 260-A)

am saqmeze momCivani iehovas mowme col -qmari gaasamarTI es saberZheTSi moqmedi kanonis safuZvel ze, romel ic krZal avda prozel itizms. orive maTganma gaasaCivra

pirvel i insatanciis sasamarTI os gadawyvetil eba, ris Semdegac col s moexsna pasuxismgebl oba, xol o qmris mimarT gamotanil i ganaCeni Zal aSi darCa.

adamianis ufl ebaTa evropul ma sasamarTI om ganixil a saberZneTis mTavrobis mier warmodgenil i argumenti, rom aRniSnul i kanoni emsaxureboda me-9 muxl iT gaTval iswinebul i kanonieri miznis miRwevas (sxvaTa ufl ebebisa da Tavisufl ebebis dacva). sasamarTI om aRniSna, rom „aRmsarebl oba“ gansxvavdeba „miuRebel i prozel itizmisagan“, romel ic xorciel deba „sjul is axal i mimdevrebis mopovebis mizniT material uri an social uri sargebl is SeTavazebiT, an ekonomikurad Tu sul ierad gaWirvebul adamianebeze miuRebel i zewol is ganxorciel ebiT“.

evropul ma sasamarTI om daadgina, rom batoni kokinakisis mimarT adgil i hqonda me-9 muxl is darRvevas, vinaidan miicnia, rom misi pasuxisgebaSi micema zedmetad mkacri zoma iyo aRniSnul i kanonieri miznis miRwevis Tval sazrisiT. saberZneTis sasamarTI oebis ar ganumartavT, Tu ra miuRebel gzebs mimarTavda igi Tavis sjul ze sxvebis mosaqcevad da, Sesabamisad, ra social uri aucil ebl obiT iyo ganpirobepul i mis mimarT gamotanil i ganaCeni.

sasamarTI om aseve miuTiTa, Tu raoden didi mniSvel oba aqvs aRniSnul i ufl ebis dacvas demokratiul sazogadoebaSi:

„me-9 muxl iT aRiarebul i azris, sindisis da rel igiis Tavisufl eba demokratiul i sazogadoebis safuZvel ia. rel igiuri Tval sazrisiT, es ufl eba morwmuneTa msofil mxedvel obisa da Rirebul ebaTa sistemis Camoyal ibebis erT-erTi umniSvel ovanesi el ementia. amave dros, igi uaRresad faseul ia aTeistebis, agnostikosebis, skeptikosebisa Tu miukerZoebel i Sexedul ebebis adamiantaTvis. demokratiul sazogadoebaSi pl ural izmis arseboba am ufl ebis ganxorciel ebaze aris damokidebul i.

rwmenis Tavisufl eba uwinares yovl isa pirovnebis sindisis Tavisufl ebis sakiTxia. amave dros igi gul isxmobs „[sakuTari] rwmenis gamovl enis“ Tavisufl ebasac...”

saqme kal aCi TurqeTis wi naaRmdeg – (61/1996/680/870)

am saqmeze momCivani iyo TurqeTis moqal aqe, samxedro-sahaero Zal ebis samxedro prokurori batoni faruk kal aCi.

1990 wl is 1 agvistos gadawyvetil ebiT uzenaesma samxedro sabWom discipl inuri darRvevebisa da Seuferebel i qcevisaTvis Tanamdebobidan gaanTavisufl a sami oficeri, maT Soris batoni kal aCi da ocdarva serJanti. aRniSnul gadawyvetil ebaSi, romel ic SeiaraRebul i Zal ebis saqmianobis maregul irebel sxvadasxva sakanonmdebl o aqtebs eyrdnoboda, batoni kal aCis saqmesTan dakavSirebiT, kerZod, naTqvami iyo, rom „misi saqciel i da damokidebul eba cxadyofda, rom igi ukanono, fundamental isturi Sexedul ebebis momxre iyo.“

1991 wl is 30 maiss SeiaraRebul i Zal ebis uzenaesma administraciul ma sasamarTI om oTxi xmit samis wi naaRmdeg daadgina, rom mis kompetenciaSi ar Sediada uzenaesi samxedro sabWos 1990 wl is 1 agvistos brZanebis gauqmebaze Semosul i sarCel is ganxil va, vinaidan konstituciis 125-e muxl is Tanaxmad uzenaesi samxedro sabWos gadawyvetil ebebi sabol oo iyo da ar eqvemdebareboda gasaCivrebas.

1992 wl is 13 ivl iss batonma kal aCma adamianis ufl ebaTa dacvis evropul komisas mimarTa saCivriT, rom igi samxedro prokuroris Tanamdebobidan daiTxoves misi rel igiuri mrwamsis gamo, rac ewinaaRmdegeboda konvenciis me-9 muxl is moTxovnebs. 1995 wl is 10 ianvars komisiam ganacxadi dasaSvebad gamoacxada da gamoTqva erTxma mosazreba, rom adgil i hqonda me-9 muxl is darRvevas.

mTavrobis gancxadebiT batoni kal aCis samsaxuridan ganTavisufl eba ar warmoadgenda Carevas misi sindisis, rel igiis an rwmenis Tavisufl ebaSi, aramed miznad isaxavda samxedro-iuridiul i samsaxuridan im pirovnebis CamoSorebas, romel mac uRal ata TurqeTis saxel mwifoebriwi safuZvl is – saero mmarTvel obis principis, roml is

dacvac SeiaraRebul Zal ebis moval eoba iyo. momCivani ukanono fundamental isturi Sexedul ebebiT cnobil i sul eimanis seqtis araoficial uri wevri iyo da monawil eobas Rebul obda mis saqmianobaSi. Turqetis mTavrobam sasamarTI os warudgina dokumenturi masal ebi, roml ebic cxadyofda, rom batoni kal aCi iuridiul daxmarebas uwevda aRniSnul seqtas, monawil eobda mis saswavl o SekrebebSi da xel s uwyobda seqtis wevrebis ayvanas samxedro samsaxurSi.

kal aCis saqmis ganxil visas adamianis ufl ebaTa evropul ma sasamarTI om kidev erTxel ganacxada, rom rwmenis Tavisufl eba uwinares yovl isa pirovnebis sindisis Tavisufl ebis sakiTxia. amave dros igi gul isxmobs sakuTari rwmenis gamovl enis Tavisufl ebasac ara mxol od TanamorwmunTa wreSi da saj arod, aramed mar to yofnisasac. me-9 muxl Si CamoTvl il ia rel igiis an rwmenis gamovl enis sxvadasxva formebi, kerZod ki swavl eba, mimdevroba, l ocva da wesebis aRsrul eba. miuxedavad amisa, me-9 muxl i ar icavs rel igiita da rwmeniT motivirebul an STagonebul yvel a qmedebas. garda amisa, sakuTari rel igiis gamovl enis Tavisufl ebiT sargebl obisas, pirovnebas SeiZl eba mouxdes misi profesiul i, Tu sxva mdgomareobisaTvis angariSis gaweva.

samxedro profesiis arCeviT batoni kal aCi nebayofl obiT daTanxmda damorCil eboda samxedro discipl inas, romel ic Tavisi bunebiT iTval iswinebs garkveul i SezRudvebis dawesebis SesaZl ebl obas SeiaraRebul i Zal ebis wevrTa ufl ebebsa da Tavisufl ebebze, rac samoqal aqo pirebze ar SeiZl eba gavrcel des. saxel mwifo ufl ebamosil ia miiRos SeiaraRebul i Zal ebis saqmianobis maregul irebel i discipl inuri wesebi, roml ebic krZal avs ama Tu im saxis qmedebes, magal iTad, arRvevs samxedro MmosamsaxureTa saval debul o qcevis momwesrigebel special ur normebs.

sasamarTI om sarwmunod miiCnia mTavrobis ganxadeba, rom samxedro wesdebiT gansazRvrul i moTxovnebi ar zRudavda momCivanis ufl ebas Seesrul ebina musl imanTaTvis saval debul o rel igiuri wesebi, magal iTad el oca dReSi xuTjer, Seenaxa marxva ramadanis TveSi da daswreboda sapaaraskeo namazs meCeTSi.

uzenaesi samxedro sabWos gadawyvetil eba ganpirobebul i iyo ara kapit an kal aCis rel igiuri Sexedul ebebiT, an imiT, Tu RvTismsaxurebis ra wesebs icavda igi, aramed misi profesiul i qceviTa da midgomiT, rac mTavrobis TqmiT, ewinaaRmdegeboda samxedro discipl inis moTxovnebsa da sekul arizmis prinsips.

aqedan gamomdinare, sasamarTI om daadgina, rom momCivanis daTxovna samxedro samsaxuridan ar warmoadgenda konvenciis me-9 muxl iT garantirebul mis ufl ebaSi Carevas, radganac aRniSnul i gadawyvetil eba ar iyo ganpirobebul i imiT, Tu rogor axdenda igi Tavisi rel igiuri rwmenis gamovl enas.

Tavisufal i azris gamoxatvis ufl eba

erousmitis saqme – (erousmiti gaerTianebul i samefos winaaRmdeg D.R.19)

am saqmeze momCivani - pacifisturi moZraobis warmomadgenel i qal batoni - pasuxisgebaSi iqna micemul i gaerTianebul i samefos SeiaraRebul Zal ebSi saagitacio furcl ebis gavrcel ebisTvis, roml ebic jarisj acebs mouwodebdnen uari eTqvaT samxedro samsaxurze Crdil oeT irl andiaSi.

adamianis ufl ebaTa evropul ma sasamarTI om miiCnia, rom mocemul i saqme exeboda me-10 muxl iT dacul i ufl ebiT sargebl obas, ramdenadac saagitacio furcl ebis gavrcel eba pol itikuri azris gamoxatul ebas warmoadgens. Tumca, saxel mwifo SeiZl eba Caerios am ufl ebis ganxorciel ebaSi „erovnul i uSiSroebis dacvisa“ da „areul obis Tavidan acil ebis“ mizniT, rogorc es am muxl is me-2 punqtiT aris gansazRvrul i. kerZod, sasamarTI om ganacxada:

„unda gaimij nos, erTi mxriv, Crdil oeT irl andiaSi arsebul i vitarebis da iq

samxedro Zal ebis gamoyenebis Sesaxeb pol itikuri azris gamoxatvis ufl eba da, meore mxriv, is, rasTanac mocemul SemTxvevaSi gvaqvs saqme. momCivani pasuxisgebaSi iqna micemul i ara Crdil oeT irl andiaSi britaneTis pol itikis mimarT gakeTebul i kritikul i gancxadebebisatvis, aramed imitom, rom igi daumorCil ebl obisken mouwodebda jariskacebs da amisaTvis konkretul sargebel s pirdeboda maT."

Tavi 8 - mSvidobiani Sekrebisa da gaerTianebris Tavisufl eba

saqme saber ZneTis wi naaRmdeg – (dania, norvegia, Svecia da niderl andebi saberZneTis winaaRmdeg 3321-33232/67; 3344/67; 3344/67. moxseneba 25.1.76. 12 Yearbook)

rogorc ukve aRiniSna (ix. me-3 Tavis saqmebi), es saqme sayuradReboa mraval i Tval sazrisiT, maT Soris im mniSvnel ovani mosazrebebis gamo, roml ebic evropul ma komisiამ gamoTqva Sekrebis Tavisufl ebasTan dakavSirebiT. kerZod, komisiამ ganaxxada, rom aRniSnul i ufl eba „yvel a qveynis pol itikuri da social uri cxovrebis mniSvnel ovani nawil i da pol itikur partiaTa saqmianobis aucil ebel i el ementia..."

„pl atforma eqimebi sicocxl isaTvis"-s saqme avstriis wi naaRmdeg _ (Plattform Arzte fur das Leben avstriis winaaRmdeg 44 D.R.65)

am saqmeze momCivani iyo abortis mowinaaRmdege eqimTa asociacia „pl atforma eqimebi sicocxl isaTvis" (Plattform Arzte fur das Leben), roml is mier mowyobil i ori demonstracia asociaciis saqmianobis mowinaaRmdegeTa j gufebma daarbies. pol icia, romel ic orive am SemTxvevas eswreboda, Caeria mxol od maSin, rodesac xel CarTul i Setakebis aSkara safrTxe Seiqmna. manamde, demonstraciis mowinaaRmdegeTa mier megafonebiTa da kvercxebis srol iT protestis gamoxatvaze policias araferi moumoqmedebia.

asociacia Cioda, rom xel isufl ebam ar miRo qmediTi zomebi maTi Sekrebis ufl ebis dasacavad, razec mTavroba acxadebda, rom me-11 muxl i ar akisrebda mas demonstraciebis dacvis pozitior val debul ebas.

saqmis arsebiTad ganxil visas komisiამ moixsenia amave ufl ebis Taobaze mis mier sxva saqmebTan dakavSirebiT gamoTqmul i mosazrebebi da ganaxxada: „komisias miaCnia, rom me-11 muxl is 1-1 i punqtiT aRiarebul i mSvidobiani Sekrebis ufl eba moicavs kontr-demonstrantebis Tavdasxmehisagan dacvis ufl ebasac, vinaidan mxol od amgvarad SeiZl eba am ufl ebiT sargebl obis uzrunvel yofa im social uri j gufebisaTvis, romel Tac surT uaRresad sakamato sakiTxebis mimarT TavianTi principul i damokidebul ebis gamoxatva."

adamianis ufl ebaTa evropul ma sasamarTI om gaiziara saxel mwifos val debul ebaTa amgvari farTo interpretacia da dasZina:

„demonstraciამ SeiZl eba gamoiwvios im adamiანTa gaRizianeba an Seuracxyofa, roml ebic winaaRmdegi arian wamoyenebul i ideebis an moTxovnebisა. miuxedavad amisa, aqciis monawil eebSesaZl ebl oba unda miecet Caataron demonstracia ise, rom maT ar eSinodeT mowinaaRmdegeTa mxridan fizikuri Tavdasxmehisა. winaaRmdeg SemTxvevaSi, sxvadasxva j gufebma Tu gaerTianebebma SeiZl eba ver gabedon TavianTi ideebisa da interesebis Riad gamoxatva sazogadoebaSi arsebul sadavo sakiTxebze. demokratiul saxel mwifoSi kontr-demonstraciis mowyobis ufl eba ar SeiZl eba gamoyenebul iqnes demonstraciis mowyobis xel SesaSI el ad.

mSvidobiani Sekrebis WeSmariti Tavisufl eba ar SeiZl eba gaigivdes mxol od saxel mwifos mxridan Caurevl obis moTxovnasTan. me-11 muxl is arsi da mizani scil deba saxel mwifos val debul ebas Tavi Seikavos amgvari moqmedehisagan. me-8 muxl is msgavsad, es muxl i zogierT SemTxvevaSi saxel mwifos qmediTi zomebis miRebasac aval debul ebs iseT sakiTxebSic ki, roml ebic adamiანTa Soris urTierTobis sferos ganekutvneba..."

mocemul SemTxvevaSi sasamarTI om ar daakmayofil a saCivari, radganac miiCnia, rom xel isufl ebis mxridan miRebul iqna saTanado zomebi.

amasTan dakavSirebiT sayuradReboa komisiis mier gamoTqmul i mosazreba xel isufl ebis strategiasa da taqtikasTan dakavSirebiT:

„is faqti, rom pol icia aqtiurad ar Caeria momCivani asociaciis mier mowyobil i demonstraciis sawinaaRmdego gamosvl ebSi, mTavrobam axsna imiT, rom igi Tanazomierebis principiT xel mZRvanel obda. pol iciis Careva, maTi TqmiT, gardauvl ad gamoiwvevda fizikur Sexl a-Semoxl as. mSvidobiani demonstraciis dacvis taqtikis gansazRvrisas, saukeTeso arCevani, al baT, iqneboda prevenciul i zomebis miReba fizikuri Zal adobis Tavidan asacil ebl ad, xol o Zal is gamoyeneba im SemTxvevaSi, rodesac areul obas aqvs adgil i. aseTi midgoma gansakuTrebiT mniSvnel ovania maSin, rodesac arsebobs real uri safrTxe, rom Zal adobis afeTqebis sababi Tavad pol iciis Careva SeiZl eba gaxdes. amdenad, ar SeiZl eba avstriis xel isufl ebis gamtyuneba imis gamo, rom man gaiTval iswina es safrTxe da mxol od maSin gafanta kontr-demonstrantebi, roca es Zal adobrivi dapirispirebis provocirebis gareSe gaxda SesaZl ebel i. xel isufl ebis mizani iyo Tavidan aecil ebina ufro farTo masStabis areul oba (muxl i 11.2). garda amisa, pol iciis Caurevl oba miznad isaxavda kontr-demonstraciis monawil eTa ufl ebebis, anu konvenciis amave debul ebiT gaTval iswinebul i „sxvaTa ufl ebebis“L dacvas da, amdenad, am mosazrebiTac SeiZl eba iqnes gamarTI ebul i. aRniSnul i garemoebebis gaTval iswinebiT, komisiam darRveul ad ar miiCnia momCivanTa Tavisufal i Sekrebis ufl eba da dausabuTebl ad CaTval a maTi saCivari, rom xel isufl ebam ar uzrunvel yo asociaciis mier mowyobil demonstraciaTa saTanado dacva.”

saqme Svei car i i s wi naaRmdeg _ (ganacxadi №. 8198/78. 17 D.R.93)

komisiis moxsenebaSi am saqmis dasaSvebobasTan dakavSirebiT naTqvamia (para. 3), rom mSvidobiani Sekrebis ufl eba „demokratiul i sazogadoebaSi adamianis ZiriTadi ufl ebaa“, romel ic moicavs „rogorc kerZo Sekrebebis, ise sazogadoebrivi TavSeyris adgil ebSi mitingebisa da msvl el obebis mowyobis Tavisufl ebas.”

saqme qristianebi rasi zmi sa da faSi zmi s wi naaRmdeg _ („qristianebi rasizmisa da faSizmisa winaaRmdeg“ gaerTianebul i samefos winaaRmdeg. ganacxadi №. 10126/82. 21 D.R.138)

am saqmeze momCivani organizacia acxadebda, rom sazogadoebriv msvl el obaTa mowyobis sayovel Tao orTviani akrZal vis gamo, romel ic pol iciam eqstremistul i pol itikuri partiis – nacional uri frontis mier sazogadoebrivi wesrigis darRvevebis sapasuxod daawesa, mas SeezRuda konvenciis me-11 muxl iT garantirebul i Sekrebis Tavisufl eba. aRniSnul i akrZal va SemoRebul i iyo sazogadoebriv uwesrigobaTa Semdgomi gamwvavebis aRsakveTad.

ganacxadis ganxil visas adamianis ufl ebaTa evropul ma komisiam miiCnia, rom akrZal va gamarTI ebul i iyo, magram amasTanave gamoTqva Semdegi SeniSvnebi:

„komisia iTval iswinebs, rom mSvidobiani Sekrebis Tavisufl eba vrcel deba ara mxol od krebebis, aramed sazogadoebrivi msvl el obebis Catarebazec. es Tavisufl eba exeba ara mxol od demonstraciis monawil e cal keul adamianebs, aramed am aqciaTa organizatorebsac, romel Ta Soris sxvadasxva gaerTianebebic SeiZl eba iyos.”

konvenciis 11.1 muxl is Tanaxmad mSvidobiani Sekrebis ufl eba aqvs yvel as, visac mSvidobiani demonstraciis mowyoba surs. komisiis azriT, agresiuul i kontr-demonstraciebis mowyobisa an eqstremistul i gamoxdomebis SesaZl ebl oba ar SeiZl eba am ufl ebis xel yofis mizezi gaxdes. im SemTxvevaSic ki, roca arsebobs real uri saSiSroeba, rom gareSe pirTa qmedebebis gamo sazogadoebrivi msvl el oba SeiZl eba areul obaSi gadaizardos, dauSvebel ia misi mxol od am mizeziT akrZal va. amasTanave,

nebismieri SezRudva, romel ic ama Tu im Sekrebas SeiZI eba Seexos, aucil ebl ad am muxl is me-2 punqtis moTxovnebis Sesabamisad unda ganxorciel des."

demonstraciis saerTod akrZal va mxol od im SemTxvevaSi SeiZI eba iyos gamarTI ebul i, Tu arsebobs misi areul obaSi gadazrdis real uri safrTxe, roml is Tavidan acil ebac SeuZI ebel ia sxva, nakl ebad mkacri zomebis gatarebiT. konvenciis 11.2 muxl is moTxovnaTa Sesabamisad, mitingebi da demonstraciebi mxol od im SemTxvevaSi SeiZI eba akrZal os, Tuki es usafrTxoebis mosazrebebiTaa gamarTI ebul i da misi gavrcel ebis teritoria da dro mkacrad aris SemosazRvrul i.

komisiam daadgina, rom mocemul SemTxvevaSi sazogadoebrivi msvl el obebis Catarebis saerTo akrZal va „aucil ebel i iyo demokratiul sazogadoebaSi" da akmayofil ebda konvenciis 11.2 muxl is pirobebs. amdenad misi gasaCivrebis safuZvel i ar arsebobda.

ezel ini ssaqme – (ezel ini safrangeTis winaarMdeg. seria A №. 202, 14 EHRR 362)

am saqmeze momCivani iyo gvadel upaSi momuSave frangi iuristi, romel ic gaamarTI es imisaTvis, rom man monawil eoba miRo mavnebl obis Sesaxeb miRebul i kanonis winaarMdeg gamarTul demonstraciaSi. demonstraciis monawil eebma kedl ebze saRebaviT waaweres sxvadasxva saprotesto mowodebebi da miuxedavad imisa, rom batoni ezel ini aRniSnul aqciaSi ar monawil eobda, sasamarTI om igi profesii i disciplinis darRvevaSi daadanaSaul a da sayveduri gamoucxada mas imisaTvis, rom igi ar gaemij na wesrigis damRvevebs.

sasamarTI om imsj el a imaze, warmoadgenda Tu ara aRniSnul i faqti konvenciis me-11 muxl is darRvevas da ganacxada:

„Tanazomierebis principi moitxovs, rom dacul i iqnes bal ansi 11.2 muxl Si CamoTvl il i miznebiT ganxorciel ebul SezRudvebsa da quCaSi an sazogadoebrivi TavSeyris adgil as SekrebiL Ta mier sityviT an Tundac mdumare aqciit sakuTari azris Tavisufl ad gamoxatvis ufl ebas Soris. samarTI iani bal ansis dacva gul isxmobs, rom ar SeiZI eba Seiqmnas iseTi vitareba, rodesac mosal odnel i disciplinuri sanqciebiT gamowveul i SiSi aiZul ebs adamianebs ar gamoamJRavnon sakuTari pozicia.

marTal ia, batoni ezel inis mimarT gamoyenebul iqna yvel aze msubuqi disciplinuri sasjel i... romel sac ZiriTadad moral uri zemoqmedebis Zal a hqonda da ar iTval iswinebda mistvis profesii i saqmianobis akrZal visa Tu advokatTa kol egiis wevrobis CamoTmevis, an Tundac garkveul i droiT SeCerebis sadamsjel o RonisZiebas. miuxedavad amisa, sasamarTI os miaCnia, rom kanonier demonstraciaSi monawil eobis ufl eba imdenad mniSvnel ovania, rom dauSvebel ia vinmesTvis (maT Soris advokatebisTvisac) am ufl ebis SezRudva, Tu igi am dros raime miuRebel qmedebas ar sCadis."

evropul ma sasamarTI om miicnia, rom sasjel i, romel ic baton ezel ins Seefarda ar SeiZI eba CaTvl il iyo „demokratiul sazogadoebaSi aucil ebel " RonisZiebad, ramdenadac igi ar akmayofil ebda Tanazomierebis principis moTxovnebs. amdenad, sasamarTI om daadgina, rom adgil i hqonda konvenciis 11.2 muxl is darRvevas.

gl i mer veni sa da hagenbeki s saqme – (gl imer veni da hagenbeki niderl andebis winaarMdeg. ganacxadebi №: 8348/78 da 8406/78. 18 D.R. 187)

am saqmeze momCivani ori pirovneba warmoadgendnen niderl andebis saxal xo erTobis partias, roml is mimarTac moqmedebda niderl andebis sasamarTI os mier dawesebul i SezRudvebi partiis mier sxvadasxva publ ikaciebis gamocemasa da saarCevno kampaniis warmarTvasTan dakavSirebiT. miuxedavad amisa, partiam gamouSva saagitacio furcel i, romel sic igi „arasasurveb ucxoel ebad" moixseniebda niderl andebSi mcxovrebel yvel a feradkanian adamians da iTxovda maT gaZevebas qveynidan.

adamianis ufl ebaTa evropul ma komisiam dasaSvebad ar scno saCivari konvenciis me-11 muxl is darRvevis Taobaze da ganaxada, rom adamianis ufl ebaTa evropul i konvenciIT garantirebul i Sekrebis Tavisufl eba ar SeiZl eba gamoyenebul iqnes iseTi aqciebis gasamarTI ebl ad, romel Ta mizania rasobrivi diskriminaciis waqezebis meSveobiT sxvaTa ufl ebebisa da Tavisufl ebebis xel yofa.

Tavi 9 – sakuTrebis ufl eba da qonebiT Tavisufl ad sargebl obis ufl eba

saqme kvi prosi Turqetis wi naaRmdeg – (ganaxadi №. 8007/77)

es saqme aRiZra kvi prosis mier Turqetis winaaRmdeg wardgenil i mesame ganaxadis safuZvel ze, romel ic Crdil oeT kvi prosSi ganl agebul i Turqetis SeiaraRebul i Zal ebis qmedebes Seexeboda. momCivani mxare (kvi prosis mTavroba) Turqetis bral s sdebda konvenciis me-5 da me-8 muxl ebis, agreTve konvenciis №.1 oqmis pirvel i muxl is darRvevaSi.

konvenciis №.1 oqmis pirvel muxl Tan dakavSirebiT kvi prosis mTavroba acxadebda, rom Turqetis jarebis mier Crdil oeT kvi prosis okupaciis Sedegad aq mcxovrebl kvi prosel berZnebs waerTvaT maTi kuTvnil i sacxovrebel i saxl ebi, sawarmoebi, saamqroebi da aTasobiT akri miwis farTi; sakuTrebis warTmeva ganxorciel da: sacxovrebel Si SeWrisa da misi dapatronebis; sasofl o-sameurneo miwebis, savaWro da samrewvel o sawarmoebis miTvisebis; Zarcvisa da yaCaRobis; sakuTrebis ganzrax ganadgurebis Sedegad, rac, kvi prosis mTavrobis ganaxadebiT, konvenciis №.1 oqmis pirvel i muxl is darRvevas warmoadgenda.

komisiam aRniSna, rom kvi prosis mTavrobis wina ganaxadebTan (№ 6780/74 da 6950/75) dakavSirebiT gakeTebul moxsenebaSi man miuTiTa, rom arsebobda imis mamxil ebel i mtkicebul ebebi, rom kvi prosel ma da kontinentidan gadmosul ma Turqebma miisakuTres kvi prosel i berZnebis saxl ebi da miwa; waerTves maT sasofl o-sameurneo, savaWro da samrewvel o obieqtebi; Turqetis jarebisa da kvi prosel i Turqebis mier ganxorciel da masiuri Zarcva, yaCaRoba da berZenTa qonebis ganzrax ganadgureba.

wina ganaxadebTan dakavSirebiT komisiam daadgina Turqetis bral eul oba kvi prosel i berZnebis aTvis sakuTrebis warTmevaSi, rac ar SeiZl eboda gamarTI ebul i yofil iyo konvenciis №.1 oqmis pirvel muxl Si aRniSnul i arc erTi mizeziT.

sakuTrebis ufl ebaSi Carevis axal i saCivris ganxil visas komisiam aRniSna, rom kvi prosel i berZnebis aTvis qonebis warTmevis faqts adasturebda ganaxadSi miTiTebul i „kanoni sacxovrebl iT, miwiTa da qonebiT Tanabrad uzrunvel yofis Sesaxeb“, romel ic 1977 wl is 16 agvistos iqna miRebul i. garda amisa, mas Semdeg, rac 1976 wl is 18 maiss komisiam Sewyvita gamoZieba kvi prosis mTavrobis pirvel or ganaxadTan dakavSirebiT, adgil i hqonda samxreT kvi prosSi sacxovrebl ad gadasul 7 000-mde kvi prosel i berZnis sakuTrebis ufl ebebSi Carevas. komisiam aRniSna, rom mopasuxe qveynis mTavroba ar uaryofda Crdil oeTSi mcovrebi kvi prosel i berZnebis qonebis dakavebisa da miTvisebis faqtebs.

komisiis azriT, iseTi kanonis miReba, romel ic ganamtkicebs ufl ebebs adre miTvisebul qonebaze, konvenciis №.1 oqmis pirvel i muxl is darRvevas warmoadgens. garda amisa, mopasuxe mTavroba ar uaryofda, rom komisiis wina moxsenebis Semdeg adgil i hqonda qonebis dapatronebis axal faqtebs.

komisiam daadgina, rom Turqetma daarRvia konvenciis №.1 oqmis pirvel i muxl i.

saqme I ozi du Turqetis wi naaRmdeg – (40/1993/435/514)

am saqmeze momCivani iyo qal batoni Crdil oeT kvi prosidan, romel ic 1972 wel s gaTxovda da meuRl esTan erTad niqoziaSi gadavida sacxovrebl ad. igi acxadebda, rom

kireniaSi fl obda miwis nakveTs, sadac Crdil oeT kviprosSi TurqETis jarebis Semosvl amde daiwyo sacxovrebel i korpusis mSenebl oba, roml is erT-erTi binaSic misi oj axi apirebda dasaxl ebas. qal batoni l ozidus gancxadebiT, TurqETis samxdroebma ar misces mas kireniaSi dabrunebisa da sakuTari qonebiT „Tavisufli ad sargebl obis“ SesaZl ebl oba, rac misi sakuTrebis ufl ebaSi Carevas warmoadgenda.

adamianis ufl ebaTa evropul ma sasamarTI om moiSvel ia komisiis gadawyvetil eba ganacxadis dasaSvebobis Sesaxeb, sadac naTqvamia, rom qal batoni l ozidus saCivari konvenciis No.1 oqmis pirvel i muxl is darRvevasTan dakavSirebiT ar Semoifargl eboda mxol od imiT, rom mas ar mieca sakuTari miwis nakveTze Casvl is SesaZl ebl oba. igi Cioda, rom TurqETi, romel ic „Teqvsmeti wl is ganmavl obaSi ar aZl evda mas kireniaSi dabrunebis nebarTvas da amit sul ufro asustebda mis, rogorc qonebis mesakuTris, ufl ebebs, arRvevda 1-l i muxl is moTxovnebs.“

marTal ia, iuridiul i Tval sazrisiT miwis kanonier mfl obel ad kvl av momCivani iTvl eboda, magram adamianis ufl ebaTa evropul i sasamarTI os azriT, vinaidan mas xangrZl ivi dros ganmavl obaSi ar SeeZl o am miwiT sargebl oba, man 1974 wl idan faqtobrivad dakarga Tavis sakuTrebase kontrol i da am sakuTrebis gamoyenebis yovel gvare SesaZl ebl oba. amgvare qmedeba sasamarTI om Seafasa, rogorc No.1 oqmis pirvel i muxl iT miniWebul ufl ebebSi Careva, vinaidan igi aSkarad warmoadgens am muxl is pirvel winadadebaSi Camoyal ibebl i „sakuTrebiT Tavisufli ad sargebl obis“ ufl ebis xel yofas. amastan dakavSirebiT, sasamarTI om miuTiTa, rom qonebiT sargebl obisaTvis fizikurad xel is SeSl a SeiZl eba konvenciis darRvevas warmoadgendes iseve, rogorc mistvis iuridiul i dabrkol ebis Seqmna.

sasamarTI om aRniSna, rom ar iqna warmodgenil i argumentebi imastan dakavSirebiT, Tu rogor SeeZl o TurqETis mier 1974 wel s kunZul is okupaciis Semdgom kvi prozel i Turqi l tol vil ebis axal adgil ebSi gansaxl ebis saWiroebas gaemartl ebina momCivani sakuTrebis ufl ebis srul i ugul ebel yofa, mistvis sakuTari qonebiT sargebl obaze uaris Tqma da qonebis usasyidl od eqspropriacia.

yvel a am garemoebis gaTval iswinebiT sasamarTI om daadgina, rom adgil i hqonda No.1 oqmis pirvel i muxl is darRvevas.

Tavi 10 – Tavisufal i gadaadgil ebis ufl eba

raimondis saqme – (seria A No. 281-A)

am saqmeze momCivani mafiis wevrobaSi iyo eWvmitanil i. igi asaCivrebda mis mimarT pol iciis sagangebo zedamxedvel obis dawesebas, rac imaSi gamoixateboda, rom mas ekrZal eboda pol iciis gafrTxil ebis gareSe saxl is datoveba, moeTxoveboda dadgenil dReebSi pol iciaSi gamocxadeba, xol o saRamos 9 saatidan dil is 7 saatamde ar hqonda gareT gasvl is ufl eba, Tu igi winaswar ar warudgenda pol icias saTanado mizezebs aseTi aucil ebl obis dasasabuTebI ad.

evropul ma sasamarTI om daadgina, rom adgil i hqonda konvenciis No.4 oqmis me-2 muxl is darRvevas, magram ara Tavad iZul ebiTi RonisZiebebis gamoyenebis, aramed saTanado procesual uri moTxovnebis gauTval iswinebl obis gamo. sasamarTI om aRniSna, rom safrTxex, romel sac mafia warmoadgenda, sakmaris safuZvel s aZl evda xel isufli ebas, rom sazogadoebrivi wesrigis dacvisa da danaSaul is aRkvetis mizniT gamoeyenebina momCivani Tavisufal i gadaadgil ebis ufl ebis amgvare SezRudvebi.

Smidis saqme – (manfred Smidi avstriis winaarmdeg. No. 10670/83 D.R.44)

am saqmeze momCivani, romel ic ramdenime danaSaul Si, maT Soris SantaJis mcdel obaSi, TaRI iTobasa da Segnebul cil iswamebaSi iyo eWvmitanil i, daakaves 1982 wl is oqtomberSi. amave dros gacemul iqna sanqcia misi dpatimrebis Sesaxeb, radganac arsebobda saSiSroeba, rom igi miimal eboda da Seecdeboda xel i SeeSal a WeSmaritebis

dadgenisaTvis. 1982 wl is dekembris bol os mas gaugrZel da winaswari patimrobis vada, ris mizezadac dasaxel da gamoZiebisa da sasamarTI osagan misi damal vis SesaZI ebl oba.

1983 wl is april Si saapel acio sasamarTI om daakmayofil a batoni Smidis Txovna ganTavisufl ebis Sesaxeb im pirobiT, rom igi:

- a. icxovrelda miTiTebul misamarTze;
- b. sacxovrebel i adgil is Secvl is SemTxvevaSi Sesabamis organoebis acnobeabda Tavis axal misamarTs;
- g. gamocxaddeboda sasamarTI oSi or kviraSi erTxel ;
- d. Caabarebda Tavis pasportsa da marTvis mowmobas;
- e. giraod gadaixdida 700 000 avstriul Sil ings.

1983 wl is ivniSi pirvel i oTxi moTxovna (pasportis Cabarebis garda) moixsna. momCivani acxadebda, rom adgil i hqonda №.4 oqmis me-2 muxl is darRvevas, radganac TavdebqveS misi ganTavisufl ebis erT-erTi piroba ukrZal avda mas qveynis datovebas da mas CamoerTva qveynis SigniT gadaadgil ebisaTvis aucil ebel i dokumentebi.

komisiam daadgina, rom rodesac konvenciis 5.3 muxl is Sesabamisad sasamarTI o ganxil vamde ganTavisufl ebul i gansasjel is mimarT xorciel deba iseTi sagarantio xasiaTis RonisZiebebi, roml ebic zRudaven misi gadaadgil ebis Tavisufl ebas, amgvari Careva SeiZI eba CaiTval os danaSaul is aRkveTisaTvis aucil ebel iZul ebiT RonisZiebad.

par amanaTani s saqme – (paramanaTani germaniis federaciul i respubl ikis winaaRmdeg №. 12068/86 D.R.51)

am saqmeze momCivani iyo tamil ebis jgufis warmomadgenel i, romel ic germaniaSi droebiTi nebarTvis safuZvel ze imyofeboda. miRebul i miTiTebis Tanaxmad, mas ufl eba ar hqonda daetovebina qveynis erT-erTi raionis teritoria, sanam ar gadawydeboda qveyanaSi misi Semdgomi darCenis sakiTxi. momCivanma daarRvia aRniSnul i moTxovna, ris gamoc igi daapatimres.

komisiam ganaxxada, rom qveyanaSi ucxoel Ta yofnis „kanonierebis“ pirobebs saxel mwifo gansazRvavs. es niSnavs, rom cxovrebis nebarTvis misaRebad misi Txovnis dakmayofil ebamde qveyanaSi garkveul i pirobiT SemoSvebul i ucxoel i mxol od im SemTxvevaSi imyofeba „kanonierad“ saxel mwifos teritoriaze, Tu igi ar arRvevs aRniSnul pirobebs.

Tavi 11 – nawil i 1: darRveul i ufl ebebisa da Tavisufl ebebis efeqturi samarTI ebrivi dacvis ufl eba

efeqturi samarTI ebrivi dacvis ufl eba

kl asis saqme – (kl asisa da sxvebi germaniis federaciul i respubl ikis winaaRmdeg. seria A № 28)

am saqmeze momCivanebi acxadebdnen, rom germaniis kanonmdebl oba, romel ic saxel mwifos aniWebda pirovnebaze farul i Tval yuris devnebis ufl ebamosil ebas, ewinaaRmdegeboda konvenciis moTxovnebs. davis sagani iyo ara Tavad aRniSnul i ufl eba, aramed is kanoni, romel ic saxel mwifos mier mis gamoyenebas aregul irebda. kerZod, kanoni yovel Tvis ar aval debul ebda Sesabamis organoebis saiduml o operaciis dasrul ebis Semdeg ecnobebedinaT pirovnebisTvis mis mimarT ganxorciel ebul i Tval yuris devnebis faqti da ar iTval iswinebda aRniSnul i operaciis Catarebaze brZanebis gacemisa da misi Sesrul ebis kanonierebis sasamarTI oSi gasaCivrebis SesaZI ebl obas.

evropul ma sasamarTI om ganaxxada, rom pirs, romel sac miaCnia, rom ganxorciel da

konvenciiT dacul i misi ufl ebis xel yofa, unda SeeZl os Sidasaxel mwifoebri vi samarTl ebrivi dacvis meqanizmebiT am ufl ebis darRvevis faqtis dadgena da sakuTari interesebis dacva. amrigad, me-13 muxl is Tanaxmad saxel mwifo val debul ia uzrunvel yos, rom yvel a adamians hqondes konvenciiT aRiarebul i misi ufl ebebisa da Tavisufl ebebis efeqturi samarTl ebrivi dacvis SesaZl ebl oba.

evropul ma sasamarTl om daadgina, rom mocemul SemTxvevaSi me-13 muxl is darRvevas adgil i ar hqonia, ramdenadac momCivans sadavo ufl ebis dacvis germaniis kanonmdebl obiT garantirebul i sxvadasxva saSual ebebis erTobl ioba akmayofil ebda me-13 muxl is moTxovnebs.

sil veris saqme – (sil veri da sxvebi gaerTianebul i samefos winaarMdeg, seria A №. 61)

es saqme exeboda ganacxads konvenciiS me-6 (uari iuridiul i daxmrebiS miRebaze), me-8 (korespondenciis saiduml oebis darRveva), me-10 (azris gamoxatvis Tavisufl eba) da me-13 muxl ebis darRvevebze. konvenciiS me-13 muxl Tan dakavSirebiT adamians ufl ebaTa evropul ma sasamarTl om Semdegi principiS Camoayal iba:

1. konvenciiT dadgenil i ufl ebebis darRvevasTan dakavSirebiT argumentirebul i ganacxadi unda ganxil os da gadawyvtos xel isufl ebis kompetenturma organom da, saWiroebis SemTxvevaSi, uzrunvel yos Sesabamisi sanqciebis gatareba.

2. aucil ebel i ar aris, rom qveynis xel isufl ebas sasamarTl o warmoadgendes, magram aseT SemTxvevaSi mniSvel ovania, rom mocemul i administraciul i organos ufl ebamosil eba da is garantiS, romel sac igi aniWebs, uzrunvel yofdes aRniSnul ufl ebaTa efeqturi dacvas.

3. Tumca ama Tu im ufl ebis dacvis romel ime erTi saSual eba SeiZl eba sakmarisi ar iyos me-13 muxl is moTxovnaTa dasakmayofil ebl ad, am ufl ebis efeqturi dacvis SesaZl ebl obas SeiZl eba iZl eodes qveynis kanonmdebl obiT gaTval iswinebul i dacvis sxvadasxva saSual ebebis erTobl ioba.

4. konvencia ar gansazRvraS konkretul SidasamarTl ebriv meqanizmebs misi debul ebebis efeqturi ganxorciS ebis uzrunvel sayofad.

saqme ergi Turqetis winaarMdeg – (66/1997/850/1057)

am saqmeze momCivani iyo Turqetis moqal aqe, qurTi warmoSobis muharem ergi, romel mac Tavis gardacvl il i dis, misi axal gazrda qal iSvil isa da sakuTari saxel iT komisiaSi Seitana ganacxadi 1993 wl is 29 seqtembers momxdari incidentis Taobaze, romel ic misi dis hava ergis sikvdil is mizezi gaxda.

1994 wl is 25 marts komisiSaTvis wardgenil ganacxadSi, batoni ergi iSvel iebda konvenciiS me-2, me-8, me-13, me-14, me-18 da 25-e muxl ebs da Cioda, rom misi da ukanonod iqna mokl ul i samxedroebis mier. ufro vrcl ad am saqmis Sesaxeb masal ebi mocemul ia am danarTis me-2 TavSi.

me-13 muxl is darRvevasTan dakavSirebiT gamoTqmul i bral debis ganxil visas sasamarTl om kidev erTxel miuTiTa, rom aRniSnul i muxl i moiTxovs qveynis SigniT im aucil ebel i samarTl ebrivi meqanizmebis arsebobas, roml ebic uzrunvel yofen konvenciiT garantiSbul i ufl ebebisa da Tavisufl ebebis efeqturi dacvis SesaZl ebl obas. xol o is, Tu konkretul ad ra formiT ganxorciS deba aseTi dacva, ganisazRvrebba yovel i cal keul i qveynis Sidasaxel mifoebri vi kanonmdebl obiT.

amdenad, me-13 muxl i moiTxovs, rom konvenciiT dacul i ufl ebebis darRvevisa an SezRudvis SemTxvevaSi yvel a adamians unda hqondes saTanado samarTl ebrivi saSual ebebiT am ufl ebebis dacvisa da Sel axul i interesebis aRdgenis SesaZl eboba. amasTanave, konvencia garkveul Tavisufl ebas aniWebs saxel mwifoebis imis gansazRvrisas, Tu konkretul ad ra formiT ganxorciS deba maT mier am muxl is moTxovnaTa dakmayofil eba,

Tumca aRniSnul i Tavisufl ebis xarisxi damokidebul ia Tavad sadavo ufl ebis xasiaTze. nebismier SemTxvevaSi, garantirebul i unda iyos me-13 muxl iT gaTval iswinebul i samarTI ebrivi dacvis „efeqturoba“ rogorc praqtikul i, aseve samarTI ebrivi Tval sazrisiT, rac gul isxmobs, rom igi gaumarTI ebl ad ar unda izRudebodes mopasuxe saxel mwifos xel isufl ebis warmomadgenel Ta moqmedebebisa Tu umoqmedobis Sedegad.

sasamarTI om aRniSna, rom me-13 muxl is darRveva ganxil eba mxol od konvenciis ufl ebaTa xel yofis safuZvl iani saCivrebis mimarT. akmayofil ebda Tu ara am pirobas momCivani ganaxadi me-2 muxl is darRvevasTan dakavSirebiT unda ganxil ul iyo mocemul saqmeSi arsebul i konkretul i faqtebisa da samarTI ebrivi argumentebis gaTval iswinebiT. sasamarTI om mxedvel obaSi miRo saqmis mraval i garemoeba, maT Soris komisiis daskvna, rom gamoricxul i ar iyo tyvia uSiSroebis Zal ebis mier yofil iyo nasrol i da daadgina, rom sakmarisi safuZvel i arsebobda me-13 muxl is darRvevis gasasaCivrebl ad.

imasTan dakavSirebiT hqonda Tu ara adgil i am muxl is darRvevas, sasamarTI om aRniSna, rom sicocxl is ufl eba, roml is mimarTac momCivani ayenebda me-13 muxl is darRvevis sakiTxs, Tavisi gansakuTrebul i mniSvnel obidan gamomdinare iTval iswinebs dazaral ebul is naTesavebisaTvis gasaCivrebis Sesabamisi garantieb is arsebobis aucil ebl obas. kerZod, me-13 muxl Si mocemul i efeqturi samarTI ebrivi dacvis cneba Sesabamisi kompensaciis gadaxdis garda gul isxmobs damnaSaveTa gamovl enisa da dasj is mizniT yovel mxrivi gamoZiebis Catarebasa da sagamoZiebo procesSi dazaral ebul is naTesavebis efeqtur CarTvas. am Tval sazrisiT, konvenciis me-13 muxl iT gaTval iswinebul val debul ebaTa are ufro farToa, vidre me-2 muxl iT gaTval iswinebul i efeqturi gamoZiebis Catarebis moval eoba.

amasTan dakavSirebiT, sasamarTI om miuTiTa Tavis gadawyvetil ebaze, rom xel isufl ebas ar Cautarebia im garemoebaTa efeqturi gamoZieba, roml ebsac mniSvnel oba hqondaT hava ergis sikvdil is mizezebis dasadgenad, ris gamoc momCivansa da mis disSvil s ar miecaT SesaZl ebl oba gamoeyenebinaT Turqetis kanonmdebl obiT gansazRvrul i samarTI ebrivi dacvis saSual ebebi. Sesabamisad, sasamarTI om daadgina, rom adgil i hqonda me-13 muxl is darRvevas.

saqme aksoi Turqetis wi naaRmdeg- (100/1995/606/694)

am saqmeze momCivani iyo Turqetis samxreT-aRmosavl eTSi mcxovrebi Turqetis moqal aqe zeki aksoi, romel ic uSiSroebis Zal ebma daapatimres 1992 wl is noembris bol os da dakavebul i hyavdaT igi 10 dekembrade. 1994 wl is 16 april s zeki aqsoi mokl es, ris Semdegac mis mier aRZrul i saqme mamamisma gaagrZel a.

momCivani acxadebda, rom adgil i hqonda konvenciis sxvadasxva moTxovnebis, maT Soris me-3, me-5.3 da me-13 muxl ebis darRvevas.

1995 wl is martsa da april Si adamiანიs ufl ebaTa evropul ma komisiამ მოისმინა მოვმეTa Cvenebebi Turqetis qal aqebSi diarbakirsa da ankaraSi. garda amisa, strasburgSi 1994 wl is oqtomberSi gamarTul sxdomaze komisiამ ganxil a sakiTxi ganaxadis dasaSvebobis Sesaxeb, xol o 1995 wl is ivl isSi ki Sedga saqmis arsebiTi ganxil va.

saqmის garemoebaTa Sefasebisas sasamarTI om aRniSna, rom konvenciis 35-e muxl is Tanaxmad, sasamarTI o ufl ebamosil ia miRos ganaxadi mxol od mas Semdeg, rac darwmundeba, rom momCivani amowura sadavo ufl ebis samarTI ebrivi dacvis yvel a Sidasaxel mwifoebriვი saSual eba. amastanave, sasamarTI om miuTiTa, rom momCivans ar mieTxoveba mimarTos dacvis iseT saSual ebebs, roml ebic zogadad araefeqturi an Seusatyvisia. sasamarTI om agreTve miuTiTa, rom gansakuTrebul SemTxvevebSi momCivani, 35-e muxl Si moxseniebul i „saerTasoris samarTI is sayovel Tao wesebis“ Sesabamisad, SeiZl eba ganTavisufl des yvel a Sidasaxel mwifoebriვი samarTI ebivi dacvis saSual ebis amowurvis val debul ebisagan.

mTavrobis gancxadebiT, baton aksois SeeZI o mis mimarT aramarTebul i mopyrobis faqti ecnobebina saxel mwifo prokurorisTvis, romel sac igi 1992 wl is 10 dekembers Sexvda. Tumca arc maSin da arc am Sexvedris Semdgom mas aranairi gancxadeba ar gaukeTebia pol iciis mxridan masze raime ukanono zemoqmedebis Taobaze. mTavrobis TqmiT, garda imisa, rom baton aksois SeeZI o moeTxova sisxl is samarTI is saqmis aRZvra aRniSnul i bral debis gamosaZiebl ad, mas saSual eba hqonda aseve daecva Tavisi kanonieri ufl ebebi samoqal aqo an administraciul i samarTal warmoebis wesiT.

evropul ma sasamarTI om ganacxada, rom im SemTxvevaSic ki, Tu sasamarTI o miiCnevda, rom baton aksois marTI ac ar ganucxadebia prokurorisTvis pol iciis ganyofil ebaSi masze arakanonierad ganxorciel ebul i zemoqmedebis Sesaxeb, Sexvedris dros prokurors ar SeiZI eba ar daenaxa mis sxedul ze arsebul i dazianebebi. Tumca, aranairi mokvl eva aRniSnul i Wril obebis xasiaTis, simZimisa da warmoSobis mizezebis dasadgenad prokurors ar uwarmoebia, miuxedavad imisa, rom Turqetis kanonmdebl obis Tanaxmad es mis uSual o moval eobas warmoadgenda.

evropul ma sasamarTI om xazi gausva agreTve, rom prokurorma aseTi umoqmedoba gamoavl ina mas Semdeg, rac batoni aksoi sul mcire ToTxmeti dRis ganmavl obaSi imyofeboda pol iciaSi ise, rom mas ar mieca damcvel Tan Sexvedris an samedicino daxmarebis miRebis SesaZI ebl oba. dakavebis periodSi man miiRo sxedul is mZime dazianebebi, ris gamoc saavadmyofoSi mkurnal obas saWiroebda. mxol od es garemoebebic ki sakmarisi iyo imisaTvis, rom mas Tavi umweod da daucvel ad egrZno saxel mwifos warmomadgenel Ta winaSe da gasCenoda undobl obis grZnoba maT mimarT. srul iad gasagebia, rom rodesac prokurorma aranairi reagireba ar moaxdina mis Wril obebze, baton aksois daekarga yovel gvare rwmena, rom mas qveynis xel isufl ebis mxridan TanagrZnobis an dacvis imedi SeiZI eba hqonoda.

aqedan gamomdinare, sasamarTI om miiCnia, rom am saqmeSi arsebul i gansakuTrebul i garemoebebi aTavisufl ebda momCivans sadavo ufl ebis samarTI ebivi dacvis yvel a Sidasaxel mwifoebri vi saSual ebis amowurvis val debul ebisagan.

sasamarTI om aRniSna, rom me-13 muxl iT gaTval iswinebul i samarTI ebrivi dacvis „efeqturoba“ garantirebul i unda iyos rogorc praqtikul i, aseve samarTI ebrivi Tval sazrisiT, rac gul isxmobs, rom igi ar SeiZI eba gaumarTI ebl ad izRudebodes mopasuxe saxel mwifos xel isufl ebis warmomadgenel Ta moqmedebebisa Tu umoqmedobis Sedegad.

amasTanave sasamarTI om ganmarta, rom misi gadawyvetil eba imasTan dakavSirebiT, rom am saqmeSi arsebul i gansakuTrebul i garemoebebi aTavisufl ebda momCivans Sidasaxel mwifoebri vi samarTI ebivi dacvis yvel a saSual ebis amowurvis val debul ebisagan, ar unda yofil iyo gaigivebul i samxreT-aRmosavl eT TurqetSi arsebul i samarTI ebrivi dacvis saSual ebebis araefeqturobasTan.

sasamarTI om aRniSna, rom dazaral ebul iTvis gansakuTrebiT Znel ia daamtikos, rom igi marTI a awames pol iciaSi, Tu dakavebis periodSi igi izol irebul i iyo gare samyrosagan da warTmeul i hqonda eqimTan, damcvel Tan, oj axis wevrebTan Tu megobrebTan urTierTobis yovel gvare SesaZI ebl oba. aseTi mopyrobis Sedegad, rTul deba ara mxol od aucil ebel i mtkicebul ebebis warmodgena, aramed dazaral ebul ebs xSirad uqrebaT neba an survil ic damnaSaveTa winaaRmdeg sisxl is samarTI is saqmis warmoebis dasawyebad.

sasamarTI om miuTiTa, rom konvenciis me-3 muxl iT garantirebul i ufl ebis xasiaTi gansazRvra v am muxl Tan mimarTebaSi konvenciis me-13 muxl is interpretaciasac. wamebis akrZal vis gansakuTrebul i mniSvnel obisa da im daucvel i mdgomareobis gaTval iswinebiT, romel Sic wamebis msverpl ni imyofebian, me-13 muxl i saxel mwifos aval debul ebs wamebasTan dakavSirebul i TiToeul i saqmis gul dasmit da efeqturad gamoZiebis uzrunvel yofas.

kerZod, wamebasTan mimarTebaSi me-13 muxl Si mocemul i efeqturi samarTI ebrivi dacvis cneba, Sesabamisi kompensaciis gadaxdis garda, gul isxmobs damnaSaveTa gamovl enisa da dasj is mizniT yovel mxrivi da efeqturi gamoZiebis Catarebasa da momCivaniS CarTvas sagamoZiebo procesSi. miuxedavad imisa, rom gaeros mier 1984 wel s miRebul i wamebis da sxva sastiki, araadamianuri an Rirsebis Seml axavi mopyrobis an sasj el is sawinaaRmdego konvenciis me-12 muxl isagan gansxvavebiT, adamanis ufl ebaTa evropul i konvencia pirdapir ar moiTxovs „dauyovnebel i da obieqturi“ gamoZiebis Catarebas yovel Tvis, rodesac sakmao safuZvel i arsebobs imis savaraudod, rom adgil i hqonda wamebis faqts, sasamarTI o miiCnevs, rom aseTi moTxovna igul isxmeba me-13 muxl Si mocemul i „efeqturi dacvis“ cnebaSi.

Turqetis kanonmdebl obis Tanaxmad, mocemul saqmeSi prokurori val debul i iyo Caetarebina gamoZieba, miuxedavad imisa ganucxada Tu ara mas dazaral ebul ma pol iciis mier misi wamebis Sesaxeb. prokurorma ugul ebel yo aseTi wamebis xil ul i mtkicebul eba (dakavebul is sxeul ze arsebul i Wril obebi) da ar ganaxorciel a saTanado mokvl eva. sasamarTI os ar miuRia informacia mis mier raime sxva qmediTi RonisZiebebis gatarebis Taobazec, Tumca, rogorc aRiniSna, SeuZl ebel ia, rom prokurors ar daenaxa batoni aqsois sxeul ze arsebul i dazianebebi.

garda amisa, batoni aksois saqmis garemoebidan gamomdinare, sasamarTI om miiCnia, rom saxel mwifo prokuroris mier gamovl enil ma umoqmedobam momCivans mouspo rwmna dacvis sxva saSual ebaTa efeqturobasTan dakavSirebiTac.

Sesabamisad, sasamarTI om daadgina, rom momCivans ar mieca misi darRveul i ufl ebis efeqturi samarTI ebrivi dacvis SesaZl ebl oba da amdenad adgil i hqonda konvenciis me-13 muxl is darRvevas.

SeniSvna: amave saqmis masal ebi konvenciis me-3 da me-5 muxl ebis darRvevasTan dakavSirebiT mocemul ia Sesabamisad am danarTis me-3 da me-4 TavebSi.

Tavi 11 – nawil i 2: ufl ebebiTa da Tavisufl e-bebiTYdiskriminaciis gareSe sargebl obis ufl eba

bel gi is saqme enebis Sesaxeb – (seria A №.6)

es saqme exeboda bel giaSi frangul da fl amandur enebze swavl ebis zogierT sakanonmdebl o aspeqts. frangul enovan mSobel Ta j gufi acxadebda, rom maT mimarT adgil i hqonda konvenciis pirvel i oqmis me-2 muxl is (romel ic aRiarebs ganaTI ebis ufl ebas da moiTxovs, rom saxel mwifo pativs scemdes mSobel Ta ufl ebas uzrunvel yon Svil ebis ganaTI eba maTi rel igiuri da fil osofiuri Sexedul ebebis Sesabamisad) da konvenciis me-14 muxl is darRvevebs.

me-14 muxl Tan dakavSirebiT sasamarTI om aRniSna, rom am muxl iT uzrunvel yofil i garantia damoukidebl ad ar SeiZl eba arsebobdes, anu igi yovel Tvis dakavSirebul ia konvenciiT gansazRvrul i sxva ufl ebebiTa da Tavisufl ebebiT sargebl obasTan. meore mxriv, qmedeba, romel ic TavisTavad ar ewinaaRmdegeba konvenciis ama Tu im muxl is moTxovnebs, SeiZl eba amave dros arRvevdes kidec aRniSnul muxl s, Tuki es ukanasknel i me-14 muxl Tan kavSirSi ganixil eba, ramdenadac es qmedeba SeiZl eba diskriminaciul xasiaTs atarebdes.

amdenad, konvenciis pirvel i oqmis me-2 muxl i ar SeiZl eba ama Tu im saxel mwifos iurisdicciis qveS mcxovrebi pirebis mier gagebul iqnes rogorc xel isufl ebisaTvis garkveul i tipis saganmanaTI ebl o dawesebul ebis Seqmnis moTxovnis ufl eba; Tumca, saxel mwifom, romel mac Seqmna aseTi dawesebul eba, ar SeiZl eba SemoiRos moswavl eTa miRebis iseTi pirobebi, roml ebic diskriminaciul i iqneba me-14 muxl is moTxovnaTa Tval sazrisiT.

sasamarTI om ganaxada, rom saqm is garemoebaTa cal ke ganxil vis SemTxvevaSi SeiZl eba ar Candes romel ime ZiriTadi ufl ebis darRvevis faqti, magram aseTi darRveva SeiZl eba gamovl indes misi ganxil visas me-14 muxl Tan kavSirSi. amdenad, me-14 muxl i konvenciis TiToeul i im muxl is ganuyofel i nawil ia, roml ebSic ZiriTadi ufl ebebi da Tavisufl ebebia Camoyal ibebul i.

engel is saqme – (engel is da sxvebi niderl andebis winaarmdeg. seria A №. 22)

am saqmeze ganaxadi Semoitanes niderl andebis SeiaraRebul Zal ebSi gawveul ma sxvadasxva wodebis samxedro mosamsaxureebma, romel Tac maTi Sesabamisi meTaurebis brZanebiT erTmaneTisgan damoukidebl ad SeefardaT sasjel i discipl inuri wesdebis sxvadasxva gadacdomebisaTvis.

sxva sakiTxebTan erTad isini uCiodnen konvenciis 5.1 muxl is darRvevas me-14 muxl Tan kavSirSi, rac dpatimrebisa da dakavebisas sxvadasxva kategoriis samxedro mosamsaxureTa mimarT diskriminaciul mopyrobaSi gamoixateboda. amasTan dakavSirebiT, sasamarTI om ganaxada, rom SeiaraRebul i Zal ebi ierarqiul i struqturis mqone samsaxuria, romel Sic ufros-umcrosoba samxedro mosamsaxureTa Soris urTierTobaSi samxedro wodebebis sistemiT ganisazRvrebma. samsaxureobrivi mdgomareobisa da ufl eba-moval eobebis mixedvit samxedro mosamsaxureTa Soris arsebul i es gansxvaveba, Tavis mxriv ganapirobebs garkveul gansxvavebebs sxvadasxva kategoriis samxedro mosamsaxurTa discipl inur pasuxismgebl obaSic. aseTi gansxvavebebi tradiciul ad arsebobs konvenciaSi monawil e saxel mwifoebis SeiaraRebul Zal ebSi da ar ewinaaRmdegeba saerTaSoriso humanitarul i samarTI is normebs... am sakiTxSi evropul i konvencia saxel mwifoebis Tavisufal i Sefasebis farTo ares utovebs.

ear is saqme – (seria A №. 32)

am saqmeze momCivani irl andiel i qal batoni acxadebda, rom sxvadasxva mizezis, maT Soris imis gamo, rom sasamarTI o xarj ebis siZviris gamo man ver SeiZl o meuRI esTan gaSoreba, saxel mwifom ar aRmoucina mas aranairi dacva l oTi da agresiul i meuRI is fizikuri da fsiqikuri Zal adobisagan.

qal batoni eari miCnevda, rom adgil i hqonda konvenciis 6.1 muxl is darRvevas, ramdenadac mas faqtobrivad waerTva sakuTari interesebis sasamarTI oSi dacvis ufl eba, da me-14 muxl is darRvevas 6.1 muxl Tan kavSirSi, radganac sasamarTI os meSveobiT meuRI esTan gayra ufro iol i misaRwevi iyo maTTvis, visac hqonda Sesabamisi Tanxis gadaxdis SesaZl ebl oba.

evropul ma sasamarTI om daadgina 6.1 muxl is darRveva, ramdenadac momCivans ar hqonda real uri saSual eba esargebl a sasamarTI osTvis mimarTvis ufl ebiT.

me-14 muxl Tan dakavSirebiT sasamarTI om ganaxada, rom am muxl iT uzrunvel yofil i garantia damoukidebl ad ar SeiZl eba arsebobdes. igi konvenciIT aRiarebul i sxva ufl ebebiTa da Tavisufl ebebiT sargebl obis erT-erT aspeqts warmoadgens... am ufl ebebis da Tavisufl ebebis ganmsazRvrel i debul ebebi SeiZl eba dairRves cal ke an me-14 muxl Tan kavSirSi. Tu ganaxadi Seexeba konvenciis ama Tu im muxl is darRvevas rogorc cal ke, ise me-14 muxl Tan kavSirSi da sasamarTI o daadgens, rom adgil i ar hqonia am muxl is darRvevas, man mocemul i saqme aucil ebl ad unda ganxil os agreTve konvenciis me-14 muxl Tan mimarTebaSic. meore mxriv, Tu dgindeba romel ime ZiriTadi ufl ebis an Tavisufl ebis darRvevis faqti, aseT SemTxvaSi sasamarTI o Cveul ebriv miCnevs, rom me-14 muxl is darRvevis sakiTxis cal ke ganxil va aucil ebel i ar aris. Tumca, Tu saqmisaTvis arsebiTi mniSvnel oba aqvs imas, rom konvenciis esa Tu is debul eba diskriminaciul ad iqna gamoyenebul i, sasamarTI o aucil ebl ad ganxil avs me-14 muxl is darRvevis sakiTxsac.

aRniSnul i mosazrebebidan gamomdinare, daadgina ra konvenciis 6.1 muxl is darRveva,

sasamarTI om aucil ebl ad ar CaTval a mocemul i saqmis ganxil va me-14 muxl Tan mimarTebaSic.

saqme gaer TI anebul i samefos winaaRmdeg – (irl andia gaerTianebul i samefos winaaRmdeg, seria A №. 25)

am saqmeSi irl andiis mTavroba acxadebda, rom gaerTianebul samefoSi terorizmis winaaRmdeg brZol is mizniT miRebul i sagangebo ufl ebamosil ebaTa aqti diskriminaciul ad gamoiyeneboda. ganacxadSi, kerZod, naTqvami iyo, rom aRniSnul aqts xel isufl eba ZiriTadad iyenebda Crdil oeT irl andiaSi mcxovrebi kaTol ikeebis winaaRmdeg da amave dros ar exeboda protestantul mosaxl eobas, rasac warmodgenil i statistikuri monacemebic adasturebda. irl andia ar uaryofda, rom qveyanaSi arsebobda sagangebo viTareba, rac, konvenciis me-15 muxl is Sesabamisad, amarTI ebda konvenciis zogierTi moTxovnidan gadaxvevis aucil ebl obas.

rogorc komisiam, ise sasamarTI om miiCnies, rom me-5 muxl Tan (Tavisufl ebis xel yofa) kavSirSi me-14 muxl is darRvevas adgil i ar hqonia, iqidan gamomdinare rom gaerTianebul i samefo Sefasebis garkveul i Tavisufl ebiT sargebl obda. sasamarTI om ganacxada, rom nebismieri gansxvaveba im pirebis mimarT mopyrobaSi, vinc teroristul i aqtebis ganxorciel ebaSi monawil eobs, SeiZl eba gamarTI ebul iqnes im pirobiT, Tu igi kanonier mizans emsaxureba da gamoyenebul i saSual ebebi am miznis Tanazomieria.