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moraluri ziani da misi anazRaurebis problema

sadisertacio naSromi samarTlis doqtoris akademiuri xarisxis
mosapoveblad samoqalaqo samarTalSi

samecniero xelmZRvaneli: samarTlis doqtori,
profesori gia liluaSvili

Tbilisi
2011

§ 5.3. piradi xel Seuxebl obis dacva

Sesavali

morali sazogadoebaSi adamianis qcevis normatiuli regulaciis erT-erTi ZiriTadi saSualeba, sazogadoebrivi cnobierebis gansakuTrebuli forma da sazogadoebrivi urTierTobebis saxea. morali (laTinurad "moralis"- zneobrivi) moicavs zneobriv Sexedulebebs da grZnobebs, cxovrebiseul orientacias da principebs, qcevebisa da urTierTobebis mizans da motivs, zRvars avlebs sikeTesa da borotebas, Rirsebas da uRirsobas, samarTlianobas da usamarTlobas, sindisierebasa da usindisobas, gulmowyalebas da sisastikes Soris.

Tanamedrove filosofosi frensis fukuiama morals ganmartavs, rogorc sazogadoebis sicocxlisunarianobis donis ganmsazRvrel socialur kapitals.[1]

morali adamianis fsiqikis, sulieri Rirebulebebis ganmsazRvreli kategoriebis erTobliobaa. pirovnebis azrovnebis, socialuri orientaciis, sazogadoebrivi individis arsebobis safuZveli da qvakuTxedia. morali da moraluri Rirebulebebi gansazRvravs mis sulier arsebobas, dabadebidan sicocxlis dasasrulamde, ganapirobebs socialur statuss, pirovnul ideologias, rasac safuZvlad rogorc wesi xSirad religiuri Sexedulebebi, erovnuli tradiciebi, sazogadoebrivi urTierTobebis da ganwyobis istoriuli dinamika ganapirobebs.

Tavisi arsebiT morali, rogorc urTierTobebis sazogadoebrivi regulatori ufro Zveli warmonaqmnia, vidre samarTali, romelic dawerili da saxel mwifoebrivi iZulebiT uzrunvelyofili moraluri normebis erTobliobaa. samarTlis normad qceuli yvela wesi moraluri unda iyos, magram yvela moraluri kriteriumi kanonSi ver aisaxeba da civiluri urTierTobebisTvis arc arsebobs amis aucilebloba. adamianebi, rogorc wesi, valdebulebisa da raime gansakuTrebuli danawesis gareSe icaven, pativs cemen da ufrTxildebian erTmaneTs. miuxedavad imisa, rom "bunebrivi samarTali" moralis saxiT adamianis cxovrebis mudmivi Tanamgzavria,

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[1] http//ru.wikipedia.org/wiki.moral.//

rogorc Cans, igi ar aRmoCnda sakmarisi sazogadoebrivi urTierTobebis imgvari regulaciisaTvis, romelic Tavisufali da erudirebuli adamianis yofna-ganviTarebis harmoniuli arsebobis garantia iqneboda. amitom kacobriobis ganviTarebis istoria dRemde ara marto omebisa da kataklizmebis, aramed adamianis pirovnebis, misi sulieri Rirebulebebis ganviTarebis, urTierTobebis ukeT mowyobisa da damkvidrebis istoriaa.

samarTlis ganviTarebis istoria imis dasturia, rom uxsovari droidan sazogadoebis moazrovne nawili imave sazogadoebis politikuri xelisuflebis sawinaaRmdegod Tu saamebrad fiqrobda, qmnida, eZebda adamianTa Tanacxovrebis ukeTes models, wess, zogjer utopiurs, zogjer realurs adamianis ganviTarebis da fizikuri arsebobis ukeT mosawyobad.

es normaTSemoqmedeba, Zieba, fasdaudebeli Rirebulebebis deklarireba saxelmwifoTa Soris Tu saxelmwifoebriv doneze dRasac grZeldeba da albaT momaval Sic gagrZeldeba. amis dasturia bolo ori saukunis manZilze da uaxloes warsul Si Seqmnili adamianis uflebaTa da Tavisuflebaa dacvis sferoSi Seqmnili kanonSemoqmedebis nimuSebi: adamianis vrebis

qmediTi politikuri demokratiiTa da, meore mxriv, adamianis uflebaTa saerTo gagebiTa da uzrunvelyofiT, rasac isini eyrarebian;" [2]

adamianis Tavisuflebis, fizikuri da sulieri harmoniuli ganviTarebis sawindari deklaraciasa da konstituciaSi zemoT miTiTebuli uzenaesi Rirebulebebis ara mxolod dafiqsireba, aramed maTi dacvis da realurad ganxorcielebis efeqturi da qmediTi meqanizmebis Seqmnaa. nebismieri uflebis Tu Tavisuflebis aRiarebis aucilebloba misi xelyofis problemam warmoSva. samarTlis funqcia uflebis darRvevis prevenciasTan erTad xelyofili uflebis aRdgena, misi restituciaa, romelic samarTlis sxvadasxva dargis normebiT xorcieldeba. samarTal darRvevis Sedegad damdgari Sedegebis kompensacia samarTlebrivi pasuxismgeblobis sxvadasxva saSualebebiT warmoebs. sisxlis samarTal Si sasjelis SefardebiT, administraciuli samarTal darRvevisas administraciuli saxdelis dakisrebiT, samoqalaqo samarTal Si zianis anazRaurebiT.

qarTuli kanonmdeblobis siaxlea is, rom samoqalaqo kodeqsiT da sxva normatiuli aqtebiT damkvidrda samoqalaqosamarTlebrivi pasuxismgebloba piradi araqonebrivi uflebebis xelyofisas moraluri zianis miyenebisaTvis, rac sabWouri kanonmdeblobis dros ar arsebobda.

moraluri kategoriebi, romel zec zemoT visaubreT, pirvel rigSi moicavs sayovelTaod deklarirebul pirad uflebebs, amitom samarTal darRvevis Sedegad maTi xelyofa aRiqmeba, rogorc moraluri Rirebulebebis xelyofa da Sesabamisad moraluri zianis dakisrebisa da anazRaurebis samarTlebrivi safuZveli.

adamianis uflebaTa da ZiriTad TavisuflebaTa dacvis konvenciiTa da konstituciiT garantirebuli pirovnebis uflebaTa darRveva, rogorc wesi, materialurTan erTad moraluri zianis anazRaurebis safuZvelia. konvenciiT garantirebuli, daculi da aRiarebulia pirovnebis sakuTrebis dacva (muxli l), sicocxlis ufleba (muxli 2), ganaTlebis ufleba (muxli 2, oqmi 1), wamebis akrZalva (muxli 3), mimosvlis Tavisufleba (muxli 2, oqmi 4), monobis

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[2] adamianis uflebaTa da ZiriTad TavisuflebaTa dacvis konvencia, 1950
weli, 04 noemberi, romi. preambula, Tbilisi, 2004 weli.

da iZulebiTi Sromis akrZalva (muxli 4), Tavisuflebisa da usafrTxoebis ufleba (muxli 5), piradi da ojaxuri daculobis ufleba (muxli 8), azris, sindisisa da religiis Tavisufleba (muxli 9), azris gamoxatvis Tavisufleba (muxli 10), diskriminaciis akrZalva (muxli 14), diskriminaciis saerTo akrZalva (muxli 1 oqmi 12).

amasTan, adamianis uflebaTa evropis sasamarTlo aRiarebs, rom ar arsebobs moralisa da zneobis gansazRvris erTiani evropuli standartebi. yoveli saxelmwifo gansazRvravs am cnebebs mocemuli qveynis kulturuli da istoriuli faseulobebis safuZvelze. Sesabamisad, sxvadasxva saxelmwifo gansxvavebul kriteriumebs flobs, romelTa safuZvel zec SezRudvis gansxvavebul standarti dgindeba. Tumca evropuli sasamarTlo mzad aris Caerios Tu amgvari SezRudva zedmetad farToa.[3]

saqarTvelos konstituciiT aRiarebuli da dacdia adamianTa uflebebi da Tavisuflebebi, kerZod, sicocxlis (muxli 15), pativisa da Rirsebis (muxli 17), sityvis, azris, sindisis, aRmsareblobisa da rwmenis Tavisuflebis (muxli 19), piradi cxovrebis, piradi saqmianobis adgilis, piradi Canaweris, mimoweris, satelefono da sxva teqnikuri saSualebiT saubris, sacxovrebeli binis da sxva mflobelobis xelSeuxeblobis (muxli 20), sakuTrebis da memkvidreobis (muxli 21), TavisufTmOblobx92 reZis( )-15ocxetq0.000azrissatele

"kerZo samarTliT daculi individis "pirovnuli uflebebi" aris absoluturi uflebebi, romlebic adamianis pirovnebis pativiscemisa da misi individualurobis (identobis) gamomxatvelia. es uflebebi adamianis, kerZosamarTlebrivi urTierTobebis subieqtis, statuss ganamtkiceben. "[5]

"TiToeuli adamiani TavisTavad warmoadgens gansakuTrebul fenomens, romelsac aqvs ufleba individualobaze. araqonebrivi uflebebi ki xazs usvamen pirovnebis gansakuTrebul obas, icaven mis TviTmyofadobas da ganumeoreblobas. marTalia, TiToeul pirovnebas gaaCnia Tavisi qonebrivi uflebebic, magram araqonebriv uflebebsac mniSvnelovani adgili uWiravs adamianis individualobis gaRrmavebaSi." [6]

"adamianSi humanuroba iSveba imis proporciulad, Tu rogor aqcevs igi sasikvdilo Seuracxyofebs samoqalaqo saxis davebad, imis proporciulad, Tu rogor iqceva dasja gamo3sworebadis gamosworebisa da borotis xelaxali aRzrdis gzad."[7]

"Tanamedrove samarTali ar sjerdeba mxolod adamianis fizikurad xelSesaxebi sikeTeebis dacvas. marTalia, samoqalaqo samarTalSi istoriulad mniSvnelovan rols qoneba da qonebrivi sikeTeebi asruleben, magram adamianis, rogorc ara mxolod simdidris Semqmneli arsebis, aramed Rirsebis mqone pirovnebad gacnobierebis aucilebloba udevs safuZvlad samoqalaqo samarTalSi piradi araqonebrivi uflebisjer aRiarebas, xolo Semdeg ki mis dacvas." [8]

"samoqalaqo brunvis ganxorcieleba gulisxmobs ara mxolod subieqtebis garkveuli samoqalaqo uflebebis aRiarebas, aramed maTi saimedo samarTlebrivi dacvis uzrunvel yofasac. samoqalaqo uflebaTa dacvis saSualebebSi igulisxmeba kanonmdeblobiT gaTvaliswinebuli saSualebebi, romelTa daxmarebiTac SeiZleba miRweul iqnes uflebis darRvevis aRkveTa, aRmofxvra an danakargebis

[5] daviT kereseliZe, "kerZo samarTlis uzogadesi sistemuri cnebebi,"gv. 131.
[6] . .
[7] Eemanuel levina, "rTuli Tavisufleba," samarTali safrangeTSi, Tbilisi, 2001 weli.
[8] l. Wanturia "Sesavali saqarTvelos samoqalaqo samarTlis zogad nawilSi", Tb. 1997, gv. 189.

Semdeg _ es im araqonebriv sikeTeTa arasruli CamonaTvalia, romel Tac icavs kanoni xel yofisagan.

"saqarTvelos samoqalaqo kodeqsis me-18 muxlis CamonaTvali ar unda CaiTvalos amomwuravad. igi awesrigebs pirovnuli uflebebis ramdenime mniSvnelovan saxes. Sesabamisad, SesaZlebelia, uSualod adamianis Rirsebis dacvidan gamomdinare, calkeul SemTxvevaSi pirovnebis Tavisufali ganviTarebis uflebasTan urTierTkavSirSi, sxva pirovnuli uflebebic CaiTvalos analogiuri samarTlebrivi dacvis mqoned. saqarTvelos samarTalSi mizanSewonilia moxdes zogadi pirovnuli uflebis aRiareba. igi zogadad unda moicavdes saqarTvelos konstituciiT gaTvaliswinebul adamianis uflebebsa da Tavisuflebebs da maTgan gamomdinare calkeul faseulobas."[11]

dacvis saSualebebad kanoni miiCnevs xelmyofisaTvis moqmedebis Sewyvetis an masze uaris Tqmis, pativis, Rirsebis, piradi cxovrebis saidumloebis, saqmiani reputaciis Semlaxveli cnobebis uaryofis dakisrebas xelmyofisaTvis misi bralis miuxedavad, xolo braleuli xelyofis SemTxvevaSi materialuri da moraluri zianis anazRaurebas.

piradi araqonebrivi uflebis samoqalaqosamarTlebrivi dacvis mizniT, saWiroa misTvis fizikuri da inteleqtualuri xelSeuxeblobis miniWeba, aseve fizikuri pirebis SemTxvevaSi pirovnebis Sinagani samyaros xelSeuxeblobis uzrunvelyofa, raTa mas hqondes gansazRvruli damoukidebloba, rogorc sazogadoebasa da socialuri garemosagan, agreTve saxel mwifosagan. yovelive es SesaZlebelia pirisaTvis Tavisuflebisa da xelSeuxeblobis miniWebiT, rogorc piradi, ise ojaxuri saidumlos uzrunvelyofiT.[12]

aRsaniSnavia, rom kanonmdeblobasa da iuridiul literaturaSi

ucxouri qveynebis kanonmdeblobis mimoxilva gvarwmunebs, rom piradi araqonebrivi uflebebis Sesaxeb normebi samoqalaqo kodeqsebSi naklebad an saerTod ar gvxvdeba, magram am uflebaTa dacvis sfero swored sasamarTlo praqtikis safuZvelze viTardeba.

qarTul samarTalSi iseTi piradi araqonebrivi uflebis, rogoricaa pativi, Rirseba, saqmiani reputacia, sakuTari gamosaxuleba da a.S. sakanonmdeblo wesiT ganmtkiceba am sakiTxze swored sasamarTlo praqtikis wyalobiT dasavleTis qveynebis samoqalaqo samarTalSi dagrovilma didma gamocdilebam ganapiroba. imis gaTvaliswinebiT, rom samoqalaqo kodeqsi jer sakmaod "axal gazrdaa," 13 wlis manZilze, arcTu ise mcire sasamarTlo praqtika dagrovda, rac Zalian mniSvnelovania moraluri zianisaTvis kompensaciis sakiTxis analizisa da problemis ganxilvisaTvis. winamdebare naSromSi gaanalizebulia ucxouri, kerZod, kontinenturi da saerTo samarTlis qveynebis gamocdileba piradi araqonebrivi uflebebis samoqalaqo samarTlebrivi dacvis sferoSi, moraluri zianis anazRaurebis safuZvlebi da kompensaciis Taviseburebebi zogierTi piradi araqonebrivi uflebis magaliTze.

vinaidan moraluri zianisTvis kompensaciis gansazRvris kriteriumebis damdgeni "kanonmdebeli" sasamarTlo praqtikaa, naSromSi savsebiT Segnebulad mniSvnelovani yuradReba eTmoba, rogorc qarTuli sasamarTlo praqtikis analizs, ise evropis adamianis uflebaTa sasamarTlo praqtikis mimoxilvas, romlis roli da zemoqmedeba saqarTvelos erovnul kanonSemoqmedebasa da sasamarTlo praqtikaze sul ufro izrdeba. adamianis uflebaTa da ZiriTad TavisuflebaTa dacvis evropis konvencia (miRebulia evropis sabWos wevrebis mier romSi 1950 wlis 4 noembers Semdegi cvlilebebiTa da damatebebiT) adamianis uflebaTa Ddacvis sferoSi umniSvnelovanesi da uprecedento saerTaSoriso dokumentia. 1999 wlidan, rac saqarTvelo am konvencias miuerTda igi saqarTvelosTvis savaldebulo gaxda rogorc saerTaSoriso, ise erovnul doneze. strasburgis precedentuli samarTalis mzardi mniSvneloba sul ufro met gavlenas axdens erovnuli sasamarTloebis mier miRebul gadawyvetilebebze. "im SemTxvevaSi, Tu erovnuli sasamarTlos

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gadaswyvetilebiT dairRva konvencia, evropuli sasamarTlos

naTesavebis dakargvasTan dakavSirebiT, aqtiuri sazogadoebrivi cxovrebis gagrZelebis SeuZleblobis gamJRavnebaSi, fizikuri piris pativis, Rirsebis, piradi cxovrebis saidumloebis, piradi xelSeuxeblobis an saqmiani reputaciis Semlaxavi sinamdvilis

a.S.) an romelic arRvevs mis pirad araqonebriv uflebebs_saxelis gamoyenebis ufleba, avtorobis ufleba da sxva aramaterialur uflebebs an moqalaqeTa qonebriv uflebebs."[26]

"filosofiis gagebiT moraluri ziani subieqtisaTvis miyenebuli da mis mier gacnobierebuli borotebaa."[27]

moraluri zianis cnebasTan dakavSirebiT mosazreba yvela am sakiTxze momuSave mecniers aqvs gamoTqmuli, magram yvela maTganis ZiriTad amosaval wertils mainc moraluri zianis, rogorc fizikuri da zneobrivi tanjvis ganmarteba warmoadgens. Tumca, sxvadasxva mosazrebas gamoTqvamen TviT terminTan dakavSirebiT.

magaliTad m.n. maleina ixilavs ra moralur zians, rogorc araqonebrivi sikeTeebis dacvis erT-erT saSualebas gamoTqvams mosazrebas, rom ufro xel say1sro

negatiuri cvlileba adamianis organizmSi, rac xels uSlis mis
normalur biologiur funqcionirebas. fizikuri ziani materialuria
da amave dros araqonebrivi. negatiur cvlilebebs romelic xdeba
adamianis organizmSi mivyavarT an SeiZleba migviyanos pirovnebis
fsiqikuri janmrTelobis da qonebrivi keTil dReobis sferos negatiur
cvlilebamde. Sesabamisad fizikuri ziani SeiZleba anazRaurdes

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urTierTdakavSirebulia da moraluri zianis dayofis an sxva saxelwodebis darqmevis nebismieri modeloba dausabuTebelia."[37]

zemoaRniSnulidan gamomdinare, saeWvoa, rom nebismieri termini ufro gamoxatavdes moraluri zianis arss da xelsayreli iyos "moralur zianTan" SedarebiT, romelic ukve sakmaod myarad damkvidrda moqmed kanonmdeblobaSi. garda amisa terminologiis cvlileba sadaos gaxdis mTeli rigi terminebis Sinaarsac da Sesabamisad moiTxovs sakmaod seriozuli koreqtivebis Setanas moqmed kanonmdeblobaSi. kanonmdebelma ukve gadaWra es problema airCia da ganamtkicara termini, romelic vfiqrobT yvelaze ufro axlosaa da kargad gamoxatavs mocemuli institutis arss.

aRiarebuli Sexedulebis Tanaxmad adamiani ori substanciisgan Sedgeba: sulisa da sxeulisagan. "da gamosaxa ufalma Rmer Tma adami miwis mtvrisagan da STabera mis nestoebs sicocxlis sunTqva, da iqmna kaci cocxal arsebad". (dab.27). "suli, fsiqika-es aris adamianis gonebisTvis miuwvdomeli, auxsneli macocxlebeli Zala, romelic adamians RvTisgan mieca. wminda werilSi es sawyisi iwodeba xan samSvinvelad _ "fsiqi"(berZ), "anima" (laT), xan sul ad_"pnevma" (berZ), "spiritus" (laT)."[38] adamianis sulieri mdgomareobis ganmsazRvreli misi fsiqikuri mdgomareobaa. fsiqikis xelyofa sulieri sferos tkivilad aRiqmeba. migvaCnia, rom sociologiaSi, filosofiasa Tu religiaSi damkvidrebuli Sexedulebebis sawinaaRmdego ar iqneba Tu vityviT, rom fsiqikuri tanjva, rasac samarTali pirovnebis emociuri, fsiqikuri sferos xelyofas ukavSirebs sulieri tanjvis gamomxatvelia

damkvidrebuli termini "moraluri ziani" da misi ganmarteba miTiTebuli mizezebis gamo CvenTvis misaRebia, magram vTvliT, rom ufro swori definicia iqneboda **moralur zianad migveCnia marTlsawinaaRmdego qmedebis Sedegad kanoniT dacvli sikeTeebis xelyofiT gamowveuli piris sulieri tanjva.**

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[37]   ,   ,   ,
                ,   , 2000.
[38] qeTi WeliZe,

piradi ufl ebebis definiciac ki Campoayal iba: „samarTl is subieqts aqvs Tavisi individual obis, rogorc aseTis, aRiarebis ufl eba".[42]

adamianis cxovrebis aramaterialuri sferos: sicocxlis, janmrTelobis, pativis, Rirsebis dacvis tendencia. jer kidev XII tabulis kanonebSi udaod iyo ara marto janmrTelobisaTvis miyenebuli zianis, aramed dazaraleblisTvis miyenebuli tanjvis materialuri kompensaciis mcdeloba. sxvisi araqonebrivi uflebebis darRvevisaTvis damnaSaves ekisreboda jarima, dazaralebulis sasargeblod.

$ 2.1. moraluri ziani

ganviTarebis uflebidan bunebrivad gamomdinared miiCneva. Tumca paralelurad xdeba kanoniT zogierTi pirovnuli uflebis dacvac, rogorebicaa, magaliTad, saxelis ufleba da gamosaxulebis ufleba.[44]

zianis miyenebis Sedegad warmoSobili urTierTobebis maregulirebel saerTo normas warmoadgens germaniis samoqalaqo kodeqsis $823. Tumca $823-is pirveli abzaci nebas iZleva aRiZras sarCelebi braleuli qmedebebis Sedegad miyenebuli zianis gamo. es moqmedebebi unda gamoixatebodes sxeulis daSavebaSi, janmrTel obisaTvis zianis miyenebaSi da Tavisuflebis Selaxvasi. magram aq dacul ia individis mxolod fizikuri arseboba.[45] mocemul abzacSi saubari ar aris individis Rirsebis da misi kerZo cxovrebis sferos dacvaze ukanono Carevisagan. miuxedavad imisa, rom XIX saukunis mravali cnobili mecnieri saval debul od miiCnevda deliqturi samarTlis normebiT "pirovnebis zogadi uflebebis" gansakuTrebiT pativis, Rirsebis da piradi cxovrebis xel Seuxebl obis uflebis dacvas. germaniis samoqalaqo kodeqsma ar gaiziara maTi rekomendaciebi. mxolod $12-Sia miTiTebuli, rom pirs, romlis saxelsac meore piri unebarTvod iyenebs, ufleba aqvs mosTxovos mas amgvari qmedebisgan Tavis Sekaveba.[46] "saxel ze ufleba "sxva uflebis" saxiT aRiarebulia $823-is pirveli abzaciT. sasamarTloebi samarTlebrivi dacviT xSirad uzrunvel yofen sakuTar gamosaxulebaze uflebas. germaniis amJamindel ZiriTad kanonSi, (konstituciaSi) aRniSnuli Rirebulebebi dafiqsirda pirvel da meore muxlebSi. federalurma sasamarTlom 1954 wlis gadawyvetilebaSi pirvelad aRiara pirovnebis ufleba "sxva uflebad" germaniis samoqalaqo kodeqsis $823 pirveli abzacis SinaarsiT, anu misi zogadi xasiaTi."[47] am gadawyvetilebas mohyva sxvebi, romlebmac piradi araqonebrivi uflebebi germanul samarTalSi samoqalaqosamarTlebrivi dacvis, kerZod, deliqtursamarTlebrivi dacvis obieqtad aqcies.

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[44] daviT kereseliZe, "kerZo samarTlis uzogadesi sistemuri cnebebi," gv. 139.
[45] konrad cvaigerti, hain kotci "Sedarebi Ti samarTal mcodneobis Sesaval i kerZo samarTlis sferoSi," tomi II, Tb. 2001, gv. 380.
[46] germaniis samoqalaqo kodeqsi (**BGB**), Tbilisi, 2010 weli, gamomcemloba "siestk

fsiqikuri sasicocxl o procesebis darRvevas. sasamarTl o praqtika

gareSe. msgavsi moqmedebebiT miyenebul ma tanjvam SeiZleba warmoqmnas ful adi kompensaciis moTxovnis ufleba.

"1907 wels miRebul saavtoro kanonis teqstSi pirdapir Caiwera, rom „gamosaxulebis" gamoqveyneba an gavrceleba anda gamofena SeiZleba mxolod im piris TanxmobiT, visi gamosaxulebac unda gamoqveyndes an Tu is gardacvlilia, misi memkvidreebis TanxmobiT. gamonakliss am wesidan Seadgens im pirTa gamosaxulebebis gamoqveyneba, romlebic e.w. istoriul pirovnebebs ganekuTvnebian. maTi

miyenebis Sedegad tanjvis ararsebobis faqti mxedvelobaSi mcired miiReboda."[56]

Semdgom gfr federalurma sasamarTlom uari Tqva am Tvalsazrisze da mivida im daskvnamde, rom sasamarTlom unda Seamciros kompensaciis odenoba zianis miyenebisaTvis im SemTxvevaSi, Tuki moxda pirovnebis sruli dacema. amasTan dazaralebulis SesaZleblobas, ganecada tanjva da gaecnobierebina Tavisi mdgomareoba arsebiTi mniSvneloba eniWeboda aramaterialuri zianis miyenebisaTvis kompensaciis odenobis gansazRvrisas. msgavs SemTxvevebSi, roca garemomcveli viTarebis mgrZnobelobiTi, emociuri an racionaluri aRqmis SesaZleblobis dakargviT dazaralda dazaralebulis pirovneba, sasamarTloebi gansakuTrebul yuradRebas uTmobdnen eqspertebis daskvnebs. maSinac ki, roca pirovnebis dacema saTanado wesiT mtkicdeboda, sasamarTloebi arc Tu didi enTuziazmiT amcirebdnen kompensaciis odenobas simbolur Tanxamde.[57]

"situacia, romlis drosac ufro did aramaterialur zians (ZiriTadad jamrTelobisaTvis miyenebuli didi ziani) SeeZlo gamoewvia kompensaciis ufro mcire odenoba eqceoda mTeli rigi germaneli samarTal mcodneebis kritikis qveS, ris Sedegadac dResdReobiT damokidebuleba kompensaciis funqcionaluri daniSnulebisa da aramaterialuri zianis mimarT Seicvala da dazaralebulis mier sxeulis dazianebis Sedegad garemomcveli mgrZnobelobiTi da (an) racionaluri aRqmis dakargva ganixileba rogorc garemoeba, romelic iwvevs kompensaciis odenobis gazrdas, romelic am SemTxvevaSi ganixileba, rogorc kompensacia ara gadatanili tanjvisa, aramed uSualod sasicocxlo sikeTeebis xelyofisaTvis."[58]

[56] konrad cvaigerti, hain kotci "SedarebiTi samarTal mcodneobis Sesavali kerZo samarTlis sferoSi," tomi II, Tb. 2001, gv. 289.
[57] Lorenz, Privacy end the Press. The German Experience, 1990. 148.
[58] konrad cvaigerti, hain kotci "SedarebiTi samarTal mcodneobis Sesavali kerZo samarTlis sferoSi," tomi II, Tb. 2001, gv. 290.

pasuxismgebl oba warmoiSoba mxol od uSual od dazaral ebul is mimarT. aseTad miiCneva yovel i, roml is sikeTeebsac miadga ziani, Tuki es ziani imyofeba adekvatur mizezobriv kavSirSi aramarTal zomier qmedebasTan. dazaral ebul ad SeiZl eba miCneul iqnas SemTxvevis yovel i TviTmxil vel ic, romel mac miiRo nervul i Soki.[64] Tumca sasamarTl o praqtika uSvebs gamonakl iss, Tuki SemTxvevis TviTmxil vel i axl o urTierTobaSi imyofeba dazaral ebul Tan. am SemTxvevaSi TviTmxil vel i aseve miiCneva dazaral ebul ad uSual od samarTal darRvevis e.w. distanciuri zemoqmedebisagan da iZens kompensaciis ufl ebas. zogierTi germanel i samarTal mcodnis azriT kanonmdebl oba da sasamarTl o praqtika unda Seicval os imgvarad, rom dazaral ebul is axl obl ebs mieniWoT kompensaciis ufl eba dazaral ebul is gardacval ebiT gadatanil i tanj visaTvis.

$ 2.2. moral uri zianis Sesaxeb moZRvrebis ganviTarebisa da kompensaciis sakiTxi frangul kanonmdebl obaSi

safrangeTSi, jer kidev revol uciamde didi xniT adre 1789w. gvxvdeboda sasamarTl o gadawyvetil ebebi, roml ebic dazaral ebul s usazRvravda ful ad anazRaurebas moral uri tanj visaTvis. zneobrivi tanj vis anazRaurebis Cveul ebriv SemTxvevebs warmoadgenda Seuracxyofa da cil iswameba zepiri da sityvieri formiT, sxvis sacxovrebel Si SeWra, janmrTel obisaTvis zianis miyeneba, Tavisufl ebis ukanono aRkveTa. axl obl is sikvdil isaTvis moral uri zianis anazRaureba SeeZl oT moeTxovaT mSobl ebs, Svil ebs, debs da Zmebs. amasTan ar iyo aucil ebl oba, rom isini yofil iyvnen qonebis memkvidreebi, sakmarisi iyo zianis arsebobis damtkiceba. zneobrivi ziani warmoadgenda imis safuZvel s, rom dazaral ebul i gamosul iyo sa

gaaxmovanos misi Sinaarsi. adr e es wesi ef uZneboda "Cumi SeTanxmebis"

gavrcelebuli informacia mis mier zedmiwevniT iyo gadamowmebuli da gavrcelebuli kanonieri mizniT.[72]

"dazaralebulis sikvdilis SemTxvevaSi frangul i sasamarTl o praqtika aRiarebs axlobelebis uflebas moraluri zianis kompensaciaze. moraluri zianis qveS igulisxmeba dazaralebulis sikvdilis uaryofiTi zemoqmedeba axlobelebis grZnobebze. sasamarTlo praqtikaSi gansazRvrulia im pirTa wre, romlebic miekuTvnebian "axlobelis" kategorias moraluri zianis kompensaciis mizniT. es is

klasifikaciis Tanaxmad, "piradi sferos samarTali" oTx jgufs awesrigebs: sivrcobriv ganmartoebaSi SeWras, samarcxvino Tu arasasiamovno faqtebis unebarTvo gamoqveynebas, mesame pirebis winaSe pirze araswori warmodgenis Seqmnas, sxvisi saxelisa da gamosaxulebis unebarTvo gamoyenebas.[75] miuxedavad, imisa, rom am gziT pirovnuli uflebebis klasifikacia da farTo speqtris adeqvaturi dacva iqna miRweuli, uSualod "pirovnulobis" cnebas aSS-is samarTalSi skeptikuri TavSekavebiT Sexvdnen.[76]

qveyana romelmac metnaklebad aiTvisa moraluri zianis anazRaurebadobis principi aris inglisi. inglisuri samarTali zianis anazRaurebisas ar akeTebs aranair gansxvavebas materialur da aramaterialur zians Soris. yovel zians ekuTvnis anazRaureba Tu igi namdvili da seriozulia.

ramdenadac inglisi msxvili koloniuri saxelmwifo iyo, anglosaqsonuri sistemis principebi mraval qveyanaSi iyo gavrcelebuli. "inglisur da aSS samarTalSi arsebobs moraluri zianis gansazRvris mravali varianti: fsiqologiuri ziani, fsiqiatriuli ziani, nervuli Soki, Cveulebrivi Soki. nervul Soks inglisis iuridiul literaturaSi Cveulebriv uwodeben fsiqikur zians, romelic warmoiSoba gaufrTxileblobiT miyenebuli zianis Sedegad."[77] Tumca msgavsi terminologia moZvelebulad iTvleba,

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gamoixateba "Cveulebriv" mwuxarebaSi, ramdenadac mwuxareba ganisazRvreba rogorc Cveulebrivi adamianuri reaqcia da ara rogorc raime saxis ziani.

"sainteresoa e.w. "kvercxis naWuWis Tavis qalis wesi" romelic gamoiyeneba inglisisa da amerikis sasamarTloebis mier. es wesi imaSi mdgomareobs, rom Tuki pirovnebas manqaniT an sxva saSualebiT

calke aRniSvnis Rirsia danaSauliT miyenebuli fsiqikuri zianis kompensaciis problema, ramdenadac umravles SemTxvevaSi dazaralebulma SeiZleba arc Seitanos sarCeli samoqalaqo samarTal warmoebis wesiT, aramed mimarTos danaSauliT miyenebuli zaralis kompensaciisaTvis kanoniT gaTvaliwinebul sqemas. Tuki danaSaulis Cadena gamoixateba sxeulis dazianebaSi, maSin fsiqikuri zianisaTvis kompensacia gadaxdili iqneba arasadao wesiT. inglisSi msgavsi moTxovnebis gansaxilvelad Seqmnilia komisia danaSauliT miyenebuli kompensaciis sakiTxebze. kompensaciebis sqema ZalaSi Sevida 1994 wlis 1 agvistodan da mas Semdeg ganicdis modificirebas. dReisaTvis moqmedebsis satarifo sistema rom

uzrunvel yofs **right of privacy**-is xel yofis gamo sarCelis Setanis gziT."[83]

"inglisur sasamarTlo praqtikas piradi sferos dacvis sakiTxSi aseTi zogadi ufleba jer ar SeumuSavebia. amitom pativis garda sxva piradi uflebebis dacvisas inglisuri sasamarTlo mimarTavs **libel** da **slander**-is deliqtebis ufro farTo interpretacias. zogadad deliqti difamacia gulisxmobs adamianis prestiJis, misi pativisa da sazogado aRiarebis xelyofas im gziT, rom mesame piris gamonaTqvamebi amcirebs adamianis imijs Tanamoqal aqeebis winaSe, sasacilos xdis mis avtoritets, uaryofiT ganwyobas uqmnis garSemomyofT am adamianis

sneul ebebs.[86] mopasuxe pasuxs agebs ara marto daudevrobis, aramed SemTxveviTobis drosac. igi Tavisufl deba pasuxismgebl obisagan Tu daamtkicebs bralis ararsebobas. mopasuxes SeuZlia bralis ararseboba amtkicos maSinac, Tu igi monawilea mosarCelis mimarT

pasuxismgeblobis aucilebel safuZvels warmoadgens Seuracxmyofeli cnobebis dazaralebulisadmi mikuTvneba. Tuki SetyobinebaSi dasaxelebulia dazaralebulis saxeli, maSin ar aris saWiro imis mtkiceba rom zianis mimyenebls swored am dazaralebulis Sesaxeb surda cnobebis gavrceleba. cnobebi mosarCelis saxelis Semlaxvel ad miiCneva im SemTxvevaSic, roca publikaciaSi ar aris miTiTebuli misi saxeli da TviT publikacia ar Seicavs aranair niSans, rac SesaZlebl obas miscemda mkiTxvels gavrcelebuli cnobebi daekavSirebina mosarCelis pirovnebasTan. aseT SemTxvevaSi cnobebi miiCneva pirovnebasTan dakavSirebul ad, Tuki nafici msajulebi CaTvlian, rom saSualo donis saRad moazrovne adamiani, gaTviTcnobierebuli saqmis gansakuTrebul garemoebaSi am cnobebs mosarCelesTan dakavSirebul ad CaTvlida.[90] cnobebis gavrcelebis qveS inglisuri samarTali gulisxmobs mis Setyobinebas dazaralebulis garda, sul mcire, erTi adamianisaTvis. piris saxelis gamtexi cnobis

saSual ebebi bralis miuxedavad pasuxs ageben saxelis gamtexi cnobebis gavrcelebisaTvis."[92]

Tuki dazaralebuli Tanxmobas iZleva cnobebis gavrcelebaze, cnobebis gamavrcelebeli pasuxs ar agebs, maT Soris im SemTxvevaSic, Tuki aRmoCndeba, rom zogierT pirs SeeZlo ganemarta es cnobebi. ivaraudeba rom, dazaralebuls unda moefiqrebina aseTi Sedegebis dadgomis SesaZlebloba, vidre Tanxmobas miscemda mis gavrcelebaze.

zianis mimyenebeli Tavisufldeba pasuxismgeblobisagan, saxelis gamtexi cnobebis gavrcelebisaTvis, Tuki daamtkicebs maT WeSmaritebas maSin, roca dazaralebuli ar aris valdebuli amtkicos sapirispiro. pasuxismgebloba sinamdvilis Sesabamisi cnobis gavrcelebisaTvis ar dadgeba, imisda miuxedavad surda Tu ara pirs aseTi gavrcelebiT tanjvis miyeneba.

zogierT SemTxvevaSi saxelis gamtexi Setyobineba SeiZleba Seicavdes ramdenime faqts. difamaciis Sesaxeb kanonis V muxliT dadgenilia, rom ramdenime erTimeoresTan dakavSirebuli faqtidan erT-erTis sinamdvilesTan Seusabamoba ar iwvevs pasuxismgeblobas

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erT-erTi palatis gankargulebiT. 3. mosazreba gamoTqmuli mosamarTlis, advokatis, an mxareebis mier sasamarTlo sxdomebis

pirvel i instanciis sasamarTl os mier dadgenil odenobas miiCnevs gadaWarbebul ad an araadekvaturad.

"xel Sekrul ebis Seusrul ebl obis SemTxvevaSi miyenebul i fsiqikuri zianisaTvis kompensaciis saerTo principi mdgomareobs dazaral ebul is iseT mdgomareobaSi CayenebaSi, romel Sic is aRmoCndeboda, Tuki xel Sekrul eba saTanadod Sesrul deboda. fsiqikuri zianis kompensaciisaTvis aucil ebel ia, rom misi warmoqmna iyos bunebrivi da gaTval iswinebadi. sakontraqto samarTl is Tanaxmad kompensacia emociuri gancdisaTvis ar daekisreba, Tuki janmrTel obisaTvis zianis miyeneba, mxol od xel Sekrul ebis darRveviT ar iyo gamowveul i an Tu emociuri gancda ar warmoadgens misi darRvevis savaraudo Sedegs."[97]

fsiqikuri zianis miyenebisaTvis, pasuxismgebl obis sazRvrebi ingl isSic da amerikaSic ZiriTadad erTnairia. vinaidan amerikis yovel Stats gaaCnia sakuTari samarTl ebrivi sistema, fsiqikuri zianis kompensaciisadmi damokidebul eba gansxvavebul ia da zogierT SemTxvevaSi sakmaod arsebiTic. Tumca pasuxismgebl obis safuZvl ebis gansazRvris kriteriumebi saerToa yvel a StatisaTvis.[98]

Tuki fsiqikuri ziani miyenebul ia gaufrTxil ebel i qmedebiT da Tan axl avs sxeul is dazianeba igi eqvemdebareba kompensacias. Tu marTl sawinaaRmdego gaufrTxil ebel i qmedeba dazaral ebul s ayenebs mxol od fsiqikur zians es ziani, rogorc wesi, kompensacias ar eqvemdebareba. "sasamarTl oebi Tvl ian, rom gaufrTxil ebl obiT fsiqikuri zianis mimyenebel ze pasuxismgebl obis dakisreba unda moxdes, mxol od im SemTxvevaSi, Tuki dazaral ebul ze ganxorciel ebul i fizikuri zemoqmedeba gamovl inda fizikuri aSl il obis (gul is Seteva, momatebul i wneva, aRzneba da a.S.) amerikis sasamarTl o praqtikis anal iziT, vl indeba am wesidan gamonakl isi SemTxvevebis ricxvis zrdis tendencia. am misniT sasamarTl oebi afarToeben dazaral ebul ebze fizikuri zemoqmedebis cnebas da rTaven iseT obieqtebze zemoqmedebas, rogoricaa: dazaral ebul is tansacmel i, xel Si myofi sagani, manqana romel Sic is ijda, saxl i romel Sic eZina.

[97] White, Tort Law in America, An Intellectual histori, 1980.(410)
[98] iqve, 410.

fizikuri zemoqmedebis qveS aseve gulisxmoben gazis afeTqebas, eleqtroenergiis zemoqmedebas."[99]

sxeulis nebismieri dazianeba SeiZleba aRmoCndes emociuri gancdisTvis fuladi kompensaciis uflebis warmoSobis sakmarisi safuZveli. mTlianobaSi SeiZleba iTqvas, rom amerikuli samarTali, sakmaod bevr winaaRmdegobebs iTvaliswinebs mosarCelisaTvis, romelic cdilobs daakisros mopasuxes kompensacia ubralo gaufrTxileblobiT gamowveuli fsiqikuri zianisaTvis.[100]

gansxvavebuli situaciaa ganzrax an uxeSi gaufrTxileblobiT gamowveuli fsiqikuri zianis kompensaciasTan dakavSirebiT. xSirad im SemTxvevaSi roca darRveulia absoluturi ufleba dazaralebuls am uflebis dacvis garda SeuZlia moiTxovos samarTal darRveviT gamowveuli emociuri gancdebis kompensacia. am SemTxvevaSi mosarCeles gacilebiT naklebi winaaRmdegoba xvdeba kompensaciis miRebisaTvis. mxareTa Soris saxel Sekrulebo urTierTobebis arsebobisas xelSekrulebis arasaTanadod Seusruleblobit miyenebuli fsikuri ziani anazRaurebas ar eqvemdebareba Tuki ziani ganzrax ar aris miyenebuli an arsebobs garemoeba, romelic miuTiTebs, rom zneobrivi tanjva SeiZleba iyos xelSekrulebis arasaTanadod Sesrulebis bunebrivi da savaraudo Sedegi. sadao sakiTxi, xelSekrulebis

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warCinebul TaTvis bunebrivi iyo Seuracxyofaze duel Si gamowveviT epasuxaT da ara fuladi anazRaurebis moTxovniT. miyenebuli Seurcxyofis sanacvl od fulis gadaxdis moTxovna mas samudamod dauxuravda maRali sazogadoebis kars. amasTan wyenis cneba, rogorc aseTi, moicavda ara marto piradi uflebebis darRvevas, aramed uxeS SeWras sxvis qonebriv sferoSi." [104] saxel mwifo xelisuflebis momZl avrebasTan erTad, Tavad saxel mwifom daiwyo swrafva moqalaqis pativisa da Rirsebis dacvisaTvis. aniWebda ra, qonebrivi zianis anazRaurebis uflebas dazaralebuls, mxedvelobidan arc araqonebrivi zianis anazRaurebis SesaZleblobas uSvebda. "moral uri zianis anazRaurebis idea gvxvdeba ivane 111 da ivane 1V-is samarTal Si. agreTve aleqsi mixeilis-Zis 1649 wlis sjulisdebaSi, romelSic gaTvaliswinebuli iyo mTeli rigi normebi, romelic exeboda "Seuracxyofis" anazRaurebas." [105] Tumca anazRaurebis zoma damokidebuli iyo dazaralebulis sazogadoebriv mdgomareobasa da sqesze. "zemoT xsenebuli sjulisdeba adgenda anazRaurebis kriteriumebsac, xolo Tuki aseTi kriteriumebi ar iyo SemoRebuli, pirdapir miuTiTebda fuladi sazRauris odenobas. saqmis individual uri garemoebebis gaTvaliswinebiT mosamarTl es winaswar unda hqonoda xelT kanonmdeblis mier SemuSavebuli tabulebi da tarifebi." [106] kanonebi "Seuracxyofis" anazRaurebis Taobaze Sevsebuli saxiT XV111 saukuneSic moqmedebdnen, SemdgomSi roca wodebebsa da klasebs Soris waSla iwyo mkveTrma zRvarma, dRis wesrigSi dadga miyenebuli zianisaTvis sisxlis samarTlis da samoqalaqo samarTlis pasuxismgebl obis gamijvnis sakiTxi.

1917 wlis revoluciis Semdeg, rusuli sazogadoebis mentalititeti arsebiTad Seicvala, upiratesoba mieniWa mosazrebas amgvari anazRaurebis dauSveblobis Sesaxeb. revoluciis Semdgom ruseTis kanonmdebloba aRiTvaliswinebda arc moraluri zianis cnebas da arc misi anazRaurebis SesaZleblobas.[107] sasamarTlo praqtika

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[104] Sal va CikvaSvili "moral uri ziani samoqalaqo samarTal Si," Tb. 1998 w. gv. 34.
[105] iqve, gv. 36.
[106] iqve, gv. 54.
[107]

Ggv

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gabatonebuli doqtrinis Sesabamisad gamoirCeoda stabilurobiT da mosamarTleebi uars ambodnen moraluri zianis fuladi anazRaurebis Sesaxeb iSviaTad warmodgenili sarCelebis dakmayofilebaze. moraluri zianis anazRaurebis principi ganixileboda rogorc socialisturi samarTal SegnebisaTvis klasobrivad ucxo instituti.

sabWoTa periodis ganmavlobaSi, romelic 74 wels moicavda, kanonmdebloba ar cnobda fizikur da zneobriv qcevaTa fuladi anazRaurebis SesaZleblobas. miuxedavad imisa, rom sasamarTlo praqtikaSi zogjer gvxvdeboda saCivrebi moraluri zianis anazRaurebis moTxovniT, msgavsi saCivrebi arasodes dakmayofilebula, vinaidan iTvleboda rom moraluri zianis anazRaureba ucxo iyo socialisturi Segnebisa da samarTlisaTvis. miuxedavad msgavsi uaryofiTi damokidebulebisa moraluri zianis anazRaurebis institutis mimarT ara erTi Teoretikosi da praqtikosi gamoTqvamda azrs miyenebuli zianis materialuri formiT anazRaurebis aucileblobis Sesaxeb. maTi azriT, moraluri zianis anazRaurebis ararseboba warmoadgenda mniSvnelovan xarvezs kanonmdeblobasa da praqtikaSi. "dazaralebulisaTvis ara materialuri zianis anazRaurebaze uaris Tqma niSnavda samoqalaqo samarTlisa da

ganisazRvra rogorc "fizikuri da moraluri tanjva".[109] rusuli kanonmdebloba ganviTarda moraluri zianis Sesaxeb normebis sxvadasxva sakanonmdeblo aqtebSi Setanis gziT. moraluri zianis anazRaurebis Sesaxeb normebi gaTvaliswinebuli iqna agreTve ruseTis federaciis samoqalaqo kodeqsSi. "[110]

moraluri zianis anazRaurebis cnobili mkvlevaris a. erdelevskis azriT ruseTis federaciis kanonmdeblobiT da sasamarTlo praqtikis ASesabamisad ar arsebobs zustad Camoyalibebuli kriteriumebi da kompensaciis odenobis dadgenis saerTo wesi, sasamarTloebi arian mZime mdgomareobaSi da uWirT swori gadawyvetilebis gamotana. ruseTis federaciis uzenaesi sasamarTlos plenumis arcerTi dadgenileba ar Seicvas zust miTiTebas Tu rogori wesiT unda moxdes kompensaciis odenobis gansazRvra. vinaidan samoqalaqo kodeqsiT dadgenili kompensaciis odenobis ganmsazRvreli kriteriumebi atareben metad zogad xasiaTs saWiroa kodeqsSi miTiTebuli kriteriumebis safuZvelze miRebul iqnes maTi gamoyenebis saerTo meTodi.[111]

$ 2.5. moraluri zianis Sesaxeb moZRvrebis ganviTarebisa da kompensaciis sakiTxi qarTul kanonmdeblobaSi

qarTul samarTalSi araqonebrivi zianis fuladi kompensacia sruliad bunebrivi yofila. ufro metic. "Zveli samarTlis Zeglebi gamoirCeodnen TviT araqonebrivi zianisa da misi kompensaciisaTvis saWiro Tanxis (Tu ekvivalentad gamoyenebuli sxva erTeulis) erTob sruli konkretizaciiT, rac sasamarTlo praqtikas uadvilebda gadawyvetilebis miRebas. Zveli qarTuli samarTali brunvis monawilis araqonebriv faseulobebs gansakuTrebul pativs scemda. araqonebriv

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[109]

[110]   - . 1996 .

[111] l evan doRonaZe "moraluri zianis anazRaureba", 2010 weli, gv.124.

si:keT

sityvieri SeuracxyofiT xel myofs, aiZul ebda ara marto sisxlis samarTlebrivi jarimis gadaxdas, aramed bodiSis moxdasac. danaSaulis monaniebisa da bodiSis moxdis es gansakuTrebuli saxeoba iyo sworeg "Sexuewa".[114] aqve unda aRiniSnos, rom qarTul feodalur

warmarTni, msaxiobebi da a.S. "Tumca nel-nela Cndeboda azric, rom aradidgvarovanTa Soris mravalni Rirseulebad unda CaTvlil iyvnen da mTel rig SemTxvevaSi, mdgomareobis mxedvelobaSi miuRebladac yuradRebas aqcevdnen adamianis erovnul, sarwmunoebriv da saojaxo pativsa da Rirsebas. msgavs situacias hqonda adgili giorgi brwyinvales samarTlis wignSic, romlis mixedviTac adamianis pativi da Rirseba, misi socialuri fasi, gamoixateboda mis "sisxlSi" e.i. sisxlis fasSi. Tumca sainteresoa isic, rom aRniSnul wignSi xdeba wesisa da gvaris erTimeoris gverdiT moxsenieba, rac imas niSnavs, rom TiToeul gvars, Tavisi sakuTari wesi aqvs. e.i. Tavisi gvaris wevrebisaTvis SemuSavebuli qcevis wesebi, TavianTi gankerZoebuli pativi da Rirseba gaaCndaT, rasac sasamarTlo garkveul wiladi angariSs uwevda."[116]

amrigad, Zveli sakanonmdeblo Zeglebis da qarTuli samarTlis wignebis mixedviT ikveTeba, pativisa da Rirsebis Seuracxyofis miyenebisaTvis dadgenili sasjelis saxeebi. sajelis ZiriTad saxes warmoadgenda bodiSis moxda da jarima. sityvieri SeuracxyofisaTvis sajelad ufardebdnen aseve enis nemsebiT daCxvletasac.

mZime sityvieri da fizikuri SeuracxyofisaTvis sasjeli mxolod fuladi jarimiT ar Semoifargleboda. damnaSaves sakmaod mZime sasjeli, sajarod bodiSis moxda uxdeboda da garda amisa, kompensaciac fuladi jarimis saxiT unda gadaexada. sasjelis Semamsubuqebeli garemoeba iyo Cadenili danaSaulis gulwrfeli monanieba. Seuracxyofilis winaSe bodiSis moxda, Sendobisa da mitevebis gamoTxova. fuladi jarima Seuracxmyofels unda gadaexada Seuracxyofilis winaSe dedis vedrebiT da davrdomiTa. fiqrobdnen, rom aseTi sasjeli xels Seuwyobda Seuracxyofilis pativisa da Rirsebis aRdgenas. Seuracxmyofelis ase mraval mxriv kompleqsuri

[116] giorgi nadareiSvili _adamianis pativisa da Rirsebis dacva qarTuli feodaluri samarTlis Zeglebisa da sasamarTlo praqtikis gamocdilebis mixedviT_qarTuli samarTlis istoriis sakiTxebi. 2000 weli, #14, saia, gv. 56.

dasjis faqti miuTiTebs kanonmdeblis mxriv adamianis pativisa da Rirsebis cnebis SedarebiT maRal doneze aRqmas.[117]

Tavi 3. samoqalaqo samarTlebrivi pasuxismgeblobis safuZveli moraluri zianisaTvis, kompensaciis gansazRvris principebi da problemebi kanonmdeblobasa da sasamarTlo praqtikaSi

"iuridiuli pasuxismgebloba dgeba samarTal darRvevis SemTxvevaSi. samoqalaqosamarTlebrivi pasuxismgebloba iuridiuli pasuxismgeblobis erT-erTi saxea, amitom mas axasiaTebs rogorc specifikuri, ise saerTod iuridiuli pasuxismgeblobisaTvis damaxasiaTebeli niSnebi."[118]

samoqalaqo samarTal darRveva _ moqmedeba an umoqmedoba, romelic iwvevs cvlilebebs obieqtur samyaroSi SeiZleba gamoixatos pirovnebis keTildReobis Semcirebasa Tu ganadgurebaSi, qonebrivi an araqonebrivi xasiaTis garkveuli uaryofiTi Sedegebis dadgomaSi, rasac logikurad unda mohyves maTi aRdgena, amitomac kanoni akisrebs samarTal damrRvevs pasuxismgeblobas sakuTari marTlsawinaaRmdego qmedebisa da am qmedebiT gamowveuli SedegebisaTvis. amaSi mdgomareobs pasuxismgeblobis socialuri Sinaarsi _ ganicado piradi an qonebrivi danakllisi Cadenili samarTal darRvevisaTvis. pasuxismgebloba warmoiSoba subieqturi uflebis darRvevis momentSi anu, sxva sityvebiT, sxvisi subieqturi uflebis yovelgvari darRveva warmoadgens pasuxismgeblobis safuZvels.

"samoqalaqo samarTlebrivi pasuxismgebloba-es aris iseTi xasiaTis sanqcia, romelic iwvevs gansazRvruli saxis qonebriv Tu

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[117] giorgi nadareiSvili _adamianis pativisa da Rirsebis dacva qarTuli feodaluri samarTlis ZeglebÎsa da sasamarTlo praqtikis gamocdilebis mixedviT _ qarTuli samarTlis istoriis sakiTxebi. 2000 weli, #14, saia, gv. 57.

[118] Mzia dundua "deliqturi pasuxismgeblobisa da saxel SekrulÍebo pasuxismgeblobis Tanafardoba." samarTlis Jurnali, Tsu, #1, 2009 weli, gv. 52.

miuxedavad imisa, rom adamiani sakmaod xSirad ganicdis fizikur
Tu zneobriv tanjvas, yovel Tvis rodi warmoeSoba moral uri zianis
anazRaurebis ufleba. mocemuli ufleba gulisxmobs kanoniT
gaTvaliswinebuli pirobebis an moral uri zianis miyenebisaTvis

daekisros "mxolod namdvili tanjvisa da zianisaTvis, romelic imsaxurebs yuradRebas da aRiarebas".[125]

mosarCelis ganmartebani imis Taobaze, rom man fizikuri an zneobrivi tanjva ganicada moraluri zianis miyenebis faqtis pirdapiri mtkicebaa, zogjer ki erTaderTic, vinaidan dazaralebuli yovelTvis rodi mimarTavs eqims daxmarebisaTvis, aramed Tavad mkurnalobs sakuTar fizikur Tu suluer tkivils an mxardaWerisaTvis axloblebs da naTesavebs mimarTavs. mowinaaRmdege mxares _ zianis mimyenebels xSir SemTxvevaSi ara aqvs saSualeba waradginos tanjvis ararsebobis pirdapiri mtkicebulebebi zianis mocemuli saxis specifiurobis gamo, vinaidan is mxolod dazaralebulis cnobierebaSi

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e. v. smirenskaia Tvlis, rom moraluri zianisaTvis kompensaciis odenobis gansazRvris meTodikis SemoReba marTalia originaluria,

swored uflebis Semi axavi cnobebis gavrcel ebaze da am cnobebis
gamavrcel ebl is moval eobaze daemtki cebina maTi sinamdvil esTan

misaRebi, rom aseTi cnobebis Setyobineba im pirisaTvis, romel sac isini exeba, ar SeiZl eba miCneul iqnes cnobebis gavrcel ebad.[133]

saxel is gamtexi cnobebis gavrcel ebis tradiciul i formebia oficial uri an piradi xasiaTis weril ebi, saubrebi nacnobebTan, maT Soris tel efoniT. sssk-is 102-e muxl is Tanaxmad, cnobebis gavrcel ebis faqtis mtkicebis val debul eba ekisreba mosarCel es.

saxel is gamtexia sinamdvil is Seusabamo iseTi cnobebi, rom ebic Seicavs mtkicebas fizikuri an iuridiul i piris mier moqmedi kanonmdebl obis da moral uri principebis darRvevis Sesaxeb (SromiT kol eqtivSi, yofa-cxovrebaSi upatiosno saqciel is, araswori moqmedebis Cadenis Sesaxeb da sxva cnobebi, rom ebic l axaven saqmianobas, saqmian reputacias da a.S.), rom ebic l axaven fizikuri piris pativsa da Rirsebas an fizikuri da iuridiul i piris saqmian reputacias.

amrigad, saxel is gamtex cnobebs miekuTvneba cnobebi, rom ebic Seicavs sazogadoebis samarTl ebrivi da moral uri Tval sazrisiT uaryofiTad Sefasebul informacias. Tu cnobebi neitral uri xasiaTisaa, e.i. ar l axavs piris pativs, Rirsebas an saqmian reputacias, maSin maTi uaryofis moTxovna samoqal aqo kodeqsis me–18 muxl iT dadgenil i wesiT usafuZvl o iqneba. amasTan, saxel is gamtex cnobebSi asaxul i informacia unda exebodes mosarCel is qcevis konkretul faqtebs da misi saqmianobis nebismier sferos.

sinamdvil is Seusabamoa gancxadebebi (cnobebi), rom ebic Seicavs informacias im faqtebisa da garemoebebis Sesaxeb, romel Tac saerTod ar hqoniaT adgil i; anda, maTSi mTl ianobaSi, marTal ia, asaxul ia iseTi movl enebi, faqtebi da garemoebebi, romel Tac hqondaT adgil i, magram isini warmodgenil ia yal bi saxiT; anda, srul ad da zustad aris asaxul i informacia movl enebisa da garemoebebis Sesaxeb, magram mocemul ia maTi uaryofiTi Sefaseba.[134]

moral uri zianis miyenebisaTvis pasuxismgebl obis warmoSobis Semdeg pirobas warmoadgens marTl sawinaaRmdego qmedebasa da damdgar

[133] m.Todua, S.qurdaZe "cal keul i kategoriis samoqal aqo saqmeze gadawyvetil ebaTø b MSQ go da aTs(1i sRkR k

zians Soris mizezobrivi kavSiris arseboba. mizezobrivi kavSiri filosofiuri kategoriaa, romlis gansazRvrac civilistebs jer kidev me-19 saukunis bolos da me-20 saukunis dasawyisSi ainteresebdaT. rogorc p.n. gusakovski miuTiTebda "nebadaurTvel i qmedeba iwvevs

dasakisrebeli fuladi Tanxis gazrdaze. rTulia mtkiceba, rom daavadeba romelic warmoeSva dazaralebuls da masTan erTad warmoqmnili fizikuri tkivili Tu fsiqologiuri gancdebi dakavSirebulia swored samarTal darRveviT gamowveul zneobriv tanjvasTan. savsebiT dasaSvebia, rom aseT SemTxvevaSi saWiro gaxdes sasamarTlo-samedicino, sasamarTlo-fsiqiatriuli Tu sasamarTlo_fsiqologiuri eqspertizis daskvna. amasTan dakavSirebiT gansakuTrebul yuradRebas imsaxurebs Tanamedrove gamokvlevebi fsiqologiaSi e.w. posttramvuli sindromis SeswavlasTan dakavSirebiT. aRwerilia fsiqologiuri daavadebebi, maT Soris iseTebic, romlebic warmoadgenen adamianis tramvul situaciaSi Cavardnis Sedegs. mocemuli mimarTulebis upiratesoba mdgomareobs samarTal darRvevasa da daavadebas Soris kavSiris damtkicebis gamartivebaSi, rameTu ukve TviT posttramvuli sindromis diagnozi iZleva aseTi kavSiris arsebobis mtkicebis saSualebas.[138]

moraluri zianis miyenebisaTvis pasuxismgeblobis dadgomis kidev erT aucilebel pirobas warmoadgens zianis mimyeneblis brali. xSirad, zianis mimyeneblis bralis xarisxi warmoadgens anazRaurebis odenobis gansazRvris erT-erT kriteriums. samoqalaqo kanonmdeblobaSi bralis saxeebis gansazRvrisaTvis SeiZleba gamoyenebul iqnes sisxlis samarTlis kanonmdeblobaSi arsebuli bralis formebis ufro detaluri klasifikacia. "moqmedi sisxlis samarTlis kodeqsiT ganzraxva da gaufrTxileblloba ar warmoadgens bralis formebs, aramed isini qmedebis subieqturi Semadgenlobis elementebia. es niSnavs, rom qmedebis Semadgenlobis dadgenis dros ganzraxva da gaufrTxileblloba dgindeba faqtobrivi garemoebebis codnisa da survilis saxiT, xolo rac Seexeba marTl winaaRmdegobis Segnebas, romelic aseve ganzraxvis komponentia, dgindeba bralis etapze."[139]

brali, anu zianis mimyeneblis fsiqikuri damokidebulebamis mier Cadenil marTlsawinaaRmdego qmedebasa da am qmedebiT gamowveuli

[138] " , " : - ", .2009. www.dissercat.com.
[139] merab turava-sisxlis samarTlis zogadi nawilis mimoxilva, 2010 weli, merve gamocema. Tbilisi, gv. 53.

Sedegebisadmi SeiZleba gamoixatos ganzraxvisa da gaufrTxilebl obis saxiT. amave dros samoqalaqo kanonmdebl obaSi arsebobs mTel i rigi SemTxvevebi, roca moral uri zianis anazRaureba SesaZl ebel ia zianis mimyenebl is bral is miuxedavad. bral is saxeebis Sesaxeb detal urad miTiTebul ia, qvemoT, naSromis meeqvse TavSi.

kanonmdebl obaSi SeiZleba gamoiyos moral uri zianisaTvis ful adi anazRaurebis dakisrebis ori gansakuTrebul i SemTxveva: 1. anazRaurebis dakisreba moral uri zianis miyenebisaTvis zianis mimyenebl is bral is miuxedavad. 2. moral uri zianis miyenebisaTvis anazRaurebis dakisreba ara zianis mimyenebel ze, aramed pirebze, roml ebic material urad arian pasuxismgebel ni mimyenebl is qmedebisaTvis. ganvixil oT orive SemTxveva detal urad: moral uri zianis anazRaurebas adgil i SeiZleba hqondes zianis mimyenebl is bral is miuxedavad, roca: ziani miadga adamianis sicocxl es da janmrTel obas mometebul i safrTxis wyaroTi; ziani miadga moqal aqes, misi sisxl issamarTl ebriv pasuxismgebl obaSi ukanono micemis, ukanono dakavebis an mis mimarT administraciul i saxdel ebis ukanono Sefardebis Sedegad; ziani miyenebul ia pativis, Rirsebis da saqmiani

miyeneba dakavSirebulia pirovnebis iseTi ZiriTadi uflebebis darRvevasTan, rogoricaa Tavisufleba da piradi xelSeuxebloba.

"moraluri zianis miyenebisaTvis zianis anazRaureba ekisreba ara TviT zianis mimyenebels, aramed sxva pirebs, romlebic kanonis ZaliT materialurad pasuxismgeblebi arian zianis mimyeneblis mier miyenebul zianze. aseT subieqtebs warmoadgenen: a) mcirewlovanTa mSoblebi (mSvileblebi) an meurveebi; b) saganmanaTleblo, aRmzrdelobiTi, samkurnalo an sxva dawesebulebebi, romlebic valdebulni arian meTval yureoba gauwion mcirewlovnebs, arasrulwlovnebs an im pirebs, romlebic saWiroeben meTval yureobas, Tuki es pirebi zians miayeneben am dawesebulebis meTval yureobis qveS yofnis dros; g) arasrulwlovanis mSoblebi (mSvileblebi) an mzrunveli, roca mas ara aqvs sakmarisi qoneba an Semosavali miyenebuli zianis asanazRaureblad; d) meurve an organizacia, romelic valdebulia meTval yureoba gauwios qmeduunarod cnobil pirs; e) iuridiuli piri an moqalaqe _ misi muSakis mier SromiTi movaleobis Sesrulebisas miyenebuli moraluri zianisaTvis; v) saxel mwifo _ saxel mwifo mosamsaxuris ukanono qmedebis Sedegad moyenebuli moraluri zianisaTvis; z) masobrivi informaciis saSualebebi _ maT mier sinamdviles Seusabamo cnobebis gavrcelebisas, ramac Selaxa moqalaqis pativi da Rirseba an miayena aramaterialuri ziani; T) mometebuli safrTxis wyaros mflobeli, roca ziani miyenebulia mometebuli safrTxis wyaroTi, romlis eqspluataciasac axdenda sxva piri misi mflobelis TanxmobiT."[140]

$ 3.2. kompensaciis gansazRvris principebi da problemebi kanonmdeblobasa da sasamarTlo praqtikaSi

samoqalaqo kodeqsis 413-e muxli adgens, rom „araqonebrivi zianisaTvis fuladi anazRaureba SeiZleba moTxovnil iqnes m nQq00880 595

unda iyos samoqalaqo brunvis stabilurobisa da wesrigis uzrunvelyofa, riTac kanonmdebelma erTgvari zRvari gaavlo qonebriv da araqonebriv zians Soris da erTmaneTisagan gamijna isini. kanoniT zustad gansazRvrul SemTxvevebSi ar igulisxmeba mxolod samoqalaqo kodeqsiT dadgenili SemTxvevebi, rogoricaa samoqalaqo kodeqsis me–18 muxli (romel zec detalurad qvemoT gveqneba saubari) Tu sxva. mxedvel obaSia aseve kerZo Tu sajaro samarTlebrivi xasiaTis sxva normatiuli aqtebi (kanonebi). mag: zogadi administraciuli kodeqsis 47-e muxli, (romlis Tanaxmad pirs ufleba aqvs sajaro dawesebulebis an sajaro mosamsaxuris gadawyvetilebis gauqmebis an Secvlis moTxovniT mimarTos sasamarTlos, agreTve moiTxovos qonebrivi da araqonebrivi zianis anazRaureba am muxliT gaTvaliswinebul SemTxvevebSi) "

qonebrivi zianis miyenebisas samoqalaqo-samarTlebrivi pasuxismgeblobis arsi mdgomareobs erTi piris (dazaralebulis) qonebrivi mdgomareobis aRdgenaSi meoris (samarTal damrRvevis) qonebis Semcirebis xarjze da pasuxismgeblobis zoma miyenebuli zianis proporciulia. magram Tuki samarTal darRvevis uaryofiTi Sedegebi dazaralebulis sulier tanjvasa da gancdebSi gamoixata, maSin samoqalaqo-samarTlebrivi pasuxismgeblobis arsi ver iqneba dazaralebulis qonebrivi sferos aRdgena, romelic SesaZloa arc kiiyos darRveuli. marTalia am SemTxvevaSic adgili eqneba samarTal damrRvevis qonebrivi mdgomareobis Semcirebas dazaralebulis sulieri Tu zneobrivi tanjvis kompensaciis xarjze, magram pasuxismgeblobis zoma am SemTxvevaSi ver iqneba zianis proporciuli. zianis zusti Sefaseba SeuZlebelia, radgan mas ara aqvs fuladi eqvivalenti. moraluri zianis anazRaureba, rogorc samoqalaqo-samarTlebrivi pasuxismgeblobis erT-erTi saxe warmoadgens fizikuri da zneobrivi tanjvis Semcirebisa da dazaralebulis sulieri wonaswrobis, emociur-fsiqologiuri mdgomareobis aRdgenis saSualebas.[143] Tumca es sakiTxi sakmao sirTuleebTan aris dakavSirebuli. kompensacia moraluri zianisaTvis ar ekisreba mopasuxes, Tu mis mier miyenebul ma tkivil ma ar gamoiwvia fizikuri an sulieri tanjva. moraluri zianis anazRaurebis odenoba damokidebulia mtkicebul ebebze, kerZod, samedicino daskvnaze.

miuxedavad amisa, tkivilis da tanjvis simZimis gansazRvra TiTqmis warmoudgenelia. konkretul da zust kriteriums aRniSnul sakiTxze moqmedi kanonmdebloba ar iZleva. moraluri zianisaTvis kompensaciis odenobis gansazRvra sasamarTlos mixedul ebazea damokidebuli. kanonis danawesi romelic gansazRvrul imperativs ar Seicavs. erTi mxriv mosamarTles aZlevs uflebas samosamarTlo samarTlis principebze dayrdnobiT ara marto kanonSemfardeblis, aramed garkveul wilad kanonSemoqmedis rolSi mogvevlinos da kanonze dayrdnobiT, Sinagani rwmeniTa da Tavisi Sexedulebbit, gonivrul ad da samarTl ianad gadawyvitos moraluri zianis anazRaurebis sakiTxi da kompensaciis odenoba, xolo meore mxriv arastabiluri da SedarebiT

[143] saqarTvelos samoqalaqo kodeqsis komentari, wigni mesame, Tb. 2001, gv. 473.

mwiri sasamarTlo praqtikis pirobebSi akisrebs mas udides

pasuxismgeblobas da Seicavs kanonieri, magram arcTu saxarbielo da

sasurveli "usamarTlo" gadawyvetilebis gamotanis saSiSroebas.

qonebrivi zianis miyenebis SemTxve003aS3(i)1,( )-1379(zi-3(as)-5(uxis

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danaSauli, gaTvaliswinebuli saqarTvelos sisxlis samarTlis kodeqsis 74-e muxliT _ TaRliToba, sxeulis ganzrax mZime xarisxis dazianeba, rasac mohyva adamianis sikvdili, kontrabanda (40 saxarato Carxis saqarTvelodan TurqeTSi ukanonod gatana), narkotikebis Senaxva da realizacia. aRniSnulma monaWorma uaryofiTad imoqmeda mosarCelis Rirsebaze, ramac garkveuli uaryofiTi gamoxatuleba hpova mis urTierTobebze rogorc sanaTesavo, samegobro wreSi, ise partniorebTan, vinaidan aris erT-erTi Sps-s partniori da direqtori.

aRqmiT, radgan zneobrivi gancdis gamomwvevi viTarebebi fasdeba sxvadasxvanirad), cnobebis gavrcelebis sfero (areali) mopasuxis qonebrivi mdgomareoba da a.S. moraluri zianis anazRaurebis moculobas sasamarTlo gansazRvravs mosarCelis moTxovnis safuZvelze, magram es moTxovna mosarCelis mxolod mosazrebaa da anazRaurebis moculobis gadawyveta sasamarTlos SexedulebiTaa gadasawyveti im principidan gamomdinare, rom fuladi kompensacia unda ganxorcieldes gonivruli da samarTliani anazRaurebis saxiT. moraluri zianis anazRaurebis gonivruloba da samarTlianoba unda gamoixatos im sociluri amocanebis ganxorcielebiT, romelsac miznad isaxavs deliqturi valdebulebis es saxe. gasaTvaliswinebelia is garemoeba, rom moraluri zianis anazRaurebas simboluri xasiaTi aqvs, magram fuladi simboluri sazRauriT xorcieldeba darRveuli pirovnuli uflebis aRiareba, zemoqmedeba pirovnuli uflebis xelyofaze mis mier Cadenili xelyofis simZimis mixedviT. prevenciuli funqciis gadametebam SesaZloa gamoiwvios fuladi kompensaciis odenobis uzomod gazrda da presis Tavisuflebis dausabuTebeli SezRudva. gasaTvaliswinebelia is garemoebac, rom gamoTqmuli azris sajarod uaryofa da zianis mimyeneblis gadaxdis dabal unarianoba amcirebs fuladi kompensaciis odenobas. zianis moculobis gansazRvrisaTvis aseve saWiroa imis dadgena, Tu ra sargeblia miRebuli pirovnuli uflebebis xelyofis gziT.

zemoT miTiTebuli garemoebebis gaTvaliswinebiT sakasacio sasamarTlos miaCnia, rom mocemul SemTxvevaSi moraluri zianis sakompensaciod dakisrebuli Tanxa _ 3000 lari, araadeqvaturia xelyofis simZimesTan mimarTebaSi, miTumetes im dros, roca xelmyofs dakisrebuli aqvs pirovnebis pativis da Rirsebis Semlaxveli cnobebis uaryofac, romelic kanonier ZalaSia Sesuli. am garemoebebis gaTvaliswinebiT sakasacio sasamarTlom miiCnia, rom moraluri zianis saxiT asanazRaurebel Tanxad gonivruli da samarTliani iqneba 100 laris dakisreba.[149]

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[149] saqarTvelos uzenaesi sasamarTlos gadawyvetilebani samoqalaqo saqmeebze, Tbilisi, 3k-783-02, 17.07.02.

rogori didic ar unda iyos kompensacia, igi mainc ver aRudgens dazaralebuls xel yofamde arsebul sul ier mdgomareobas. kompensaciis mizania mosarCel is gamarTl eba sazogadoebis Tval Si da moral uri zianiT gamowveul i tkivil is Semsubuqeba. kompensacia mimarTul ia uaryofiTi emociebis gasaqarwyl ebl ad. moral uri zianis anazRaurebis prevenciul i funqciis ganxorciel ebisaTvis mniSvnel oba eniWeba iseT faqtors, rogoricaa samarTal darRvevis ganmeorebis saSiSroeba zianis mimyenebl is mier, magram prevenciul i funqciis gadametebam SesaZl oa gamoiwvios ful adi kompensaciis uzomod gazrda da presis Tavisufl ebis dausabuTebel i SezRudva.

kompensaciis odenoba usaSvel od ar unda iyos gazrdil i da ar

reputaciis diskreditacias. aseT SemTxvevaSi, dairRva ra kritikis dasaSvebi fargl ebi, Sesabamisad, kritikis mimarT Tmenis val debul ebac Sewyda.

difamaciuri cnobebis Semdeg mis gamavrcel ebel s ekisreba samoqal aqo samarTl ebrivi pasuxismgebl oba, anu igi val debul ia daamtkicos maTi sinamdvil esTan Sesabamisoba.

mopasuxem ver SeZl o daemtkicebina am cnobebis sinamdvil esTan Sesabamisoba. kol egiam ver miiCnia gavrcel ebul i cnobebis sinamdvil esTan Sesabamisobis damadasturebel garemoebad, rom T.n-is korufciul danaSaul Si monawil eobis sakmarisi mtkicebaa is, rom igi Tavisi umoqmedobiT xel s uwyobs a/r xel isufl ebaSi arsebul danaSaul ebebs da, aseve, mosarCel is qonebriv dekl araciaSi arsebul i monacemebi ar Seesabameba mis real ur qonebriv mdgomareobas. mopasuxem ver warmoadgina Sesabamisi mtkicebul ebebi, rac mosarCel is danaSaul Si monawil eobas daadasturebda. aRniSnul Sefasebas eTanxmeba sakasacio sasamarTl oc.

sk-is me-18 muxl is mixedviT araqonebriv ufl ebaTa dacvis formebad miCneul ia: araqonebriv ufl ebaTa aRiareba, xel myofi moqmedebis Sewyveta an maTze uaris Tqma (gavrcel ebul i cnobebis uaryofa). dacvis es formebi umTavres miznad isaxavs dazaral ebul is ufl ebebis aRdgenas da maTi ganxorciel ebis moTxovna fizikur pirs SeuZl ia xel yofis bral eul obis miuxedavad. Tu piradi araqonebrivi ufl ebis xel yofa xorciel deba vinmes bral eul i moqmedebiT, fizikur pirs ufl eba aqvs moiTxovos moral uri zianis anazRaureba.

sakasacio sasamarTl o iziarebs saol qo sasamarTl os kol egiis mosazrebas, rom windaxedul obis normiT dacul i qcevis wesis darRveva sakmarisia samoqal aqo samarTl ebrivi bral is arsebobisaTvis, rasac mocemul SemTxvevaSi aqvs adgil i.

sakasacio pal atam miiCnia, rom marTal ia, mosarCel is pirovnul i ufl ebebis xel yofa seriozul ia, magram qveynis ekonomikuri mdgomareobis da mopasuxis qonebrivi mdgomareobis gaTval iswinebiT mosarCel is moTxovna gazrdil ia da ar Seesabameba real obas.

mopasuxis qonebrivi mdgomareobis (igi miuTiTebda, rom misi qonebrivi SesaZl ebl obebi aris sakmaod SezRudul i da es garemoeba

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ewinaaRmdegeba araqonebrivi ufl ebebis dacvis sferoSi saqarTvel os kanonmdebl obaSi ganmtkicebul princips moral uri zianis gonivrul i da samarTl iani anazRaurebis Sesaxeb.

"garemo ebebi, roml ebmac warmoSves sul ieri tanj va, xSirad sxvadasxva xasiaTis SeiZl eba iyos. amdenad dazaral ebul Ta mier erTnairad ver aRiqmebian da swored sasamarTl om unda misces maT obieqturi Sefaseba."[154] ismis kiTxva? ra saSual ebebi aqvs sasamarTl os Tavad gansazRvros miyenebul i zianis odenoba. pirvel rigSi procesual uri normebi, roml ebic gansaxil vel sakiTxze raime gansakuTrebul specifikas ar gvTavazobs. samoqal aqo saproceso kodeqsis 105-e muxl is Tanaxmad, sasamarTl osaTvis araviTar mtkicebul ebas ara aqvs winaswar dadgenil i Zal a. sasamarTl o afasebs mtkicebul ebebs Tavisi Sinagani rwmeniT, romel ic unda emyarebodes maT yovel mxriv, srul da obieqtur ganxil vas, ris Sedegadac mas gamoaqvs daskvna saqmisaTvis mniSvnel obis mqone garemoebebis arsebobis an ararsebobis Sesaxeb. miTiTebul i norma mtkicebul ebaTa Sinagani rwmeniT SefasebaSi gul isxmobs, ara mosamarTl is mier mtkicebul ebis pirovnul , intuiciur Sefasebas, aramed Sinagani rwmena _ es aris mtkicebul ebaTa yovel mxrivi, srul i da obieqturi gamokvl evis Sedegi. mxol od amgvari SefasebiT miiReba daskvna saqmisaTvis mniSvnel obis mqone garemoebebis arsebobis an ararsebobis Sesaxeb. kanonis danawesi mtkicebul ebaTa yovel mxrivi, srul i da obieqturi gamokvl evis Taobaze moiazrebs mtkicebul ebaTa Semowmebas ori Tval sazrisiT: I. ra Sinaarsisaa mtkicebul eba anu saqmisaTvis mniSvnel ovan ra informacias gvaZl evs da II. ra iuridiul i Zal a aqvs am mtkicebul ebas, ramdenad damaj erebel ia igi.

moral ur zians (sul ier da fizikur tanj vebs) SeiZl eba xangrZl ivi xasiaTi hqondesMan Tavi iCinos rogorc sarCel is wardgenisas, ise gadawyvetil ebis gamotanis Semdeg. avtorTa nawil i zianis odenobis gansazRvrisas sasamarTl o praqtikas sTavazobs anazRaurebisa da ekvival enturobis (Tanasworobis) princips. did moral ur zians didi odenobiT anazRaureba mohyveba da piriqiT. aris

154 . . " ," , 1995,
#10, gv. 112.

mosazreba, rom sisxlis samarTlis kodeqsis normebis maqsimaluri sanqciebis Tanafardoba yvelaze obieqturad asaxavs dacul faseul obaTa sazogadoebriv mniSvnelobas da mizanSewonili iqneba am TanafardobaTa gaTvaliswineba prezumirebuli moraluri zianis anazRaurebis odenobis gansazRvrisaTvis. amasTan zianis Sefasebis kriteriums SeiZleba warmoadgendes minimaluri xelfasi, qmedebis saxeobisa da simZimis xarisxis gaTvaliswinebiT.[155] a.erdelevskis mier warmodgenili mosazrebas kanondarRvevis simZimis xarisxidan gamomdinare minimaluri xelfasis kriteriumis saSualebiT moraluri zianis kompensaciis Taobaze gansazRvruli Sinaarsi aqvs da zogierTi avtori mizanSewonilad miiCnevs swored es meTodika iqnes aRiarebuli moraluri zianis fuladi anazRaurebis safuZvlad. "SesaZlebelia SemuSavebul iqnes garkveuli orientirebi romlebic xels Seuwyoben sasamarTlo organoebs miyenebuli moraluri zianis fuladi

SemTxvevebi, Sesabamisad sulieri da fizikuri tanjvis da misi erTgvari aRdgenis Tanafardobis da Sewonilobis sakiTxis dadgenaze raime saerTo kriteriumebis gamokveTa jerjerobiT Wirs.

sasamarTlo praqtikasa da doqtrinaSi anazRaurebis safuZvels swored rom samarTliani anazRaureba warmoadgens. "vinaidan moraluri ziani Tavisi formiT specifikuri movlenaa, SeuZlebelia aq anazRaurebis mizani iyos sruli kompensacia. Zalian xSirad damdgari Sedegebis gamosworeba Seuqcevadi movlenaa da rogori didic ar unda iyos kompensacia, igi mainc ver daabrunebs dazaralebuls warsul Si. kompensaciis mizania moraluri zianiT gamowveuli tkivilebis Semsubuqeba."[157] ucxouri sasamarTlo praqtikac imas mowmobs, rom fuladi kompensacia uaryofiTi emociebis gasaqarwylebladaa mimarTuli. amitomacaa, rom moraluri zianis odenobis gansazRvrisas, sasamarTlom mxedvelobaSi unda miiRos, rogorc dazaralebulis subieqturi damokidebuleba aseTi zianis simZimis mimarT, ise obieqturi garemoebani, riTac SeiZleba misi am kuTxiT Sefaseba, rogoricaa: xelyofili sikeTis (sicocxle, janmrTeloba, pativi da Rirseba, piradi Tavisufleba, binis xelSeuxebloba, nivTis faseuloba da a.S.) cxovrebiseuli mniSvneloba; samarTaldarRvevis SedegTa simZime (axlo naTesavis mkvleloba, sxeulis dazianeba, dazaralebulis dainvalideba, Tavisuflebis aRkveTa, samuSaos warTmeva da a.S.); yalbi da saxelis gamtexi cnobebis xasiaTi da misi gavrcelebis sfero; dazaralebulis cxovrebis pirobebi (samsaxurebrivi, saojaxo, yofiTi, materialuri, janmrTelobis mdgomareoba asaki da a.S.); zianis mimyeneblis bralis xarisxi, misi qonebrivi mdgomareoba da sxva pativsadebi garemoebani, rogoricaa:

subieqtebis urTierTobas aramaterialuri sikeTeebis gamo. es urTierTobebi mowesrigebulia samarTlis Sesabamisi dargis normebiT.

Cven ukve mivuTiTeT, rom sxva aramaterialur sikeTeebTan erTad samoqalaqo kodeqsis me-18 muxli am sikeTeebs miakuTvnebs pirovnebis saxels, Rirsebas, pativs, saqmian reputacias, piradi cxovrebis saidumloebas, pirad xelSeuxeblobas, uflebas gamosaxulebaze. "aRniSnuli obieqtebis Taobaze SeiZleba Camoyalibdes wminda piradi, araqonebrivi urTierToba, vinaidan igi saqonel gacvlis sagani ver gaxdeba. es sikeTeebi ganuyofelia adamianis pirovnebisagan da ver gadaecema sxva pirebs, verc Sewydeba raime safuZvelze."[164]

saintereso da qarTuli samarTlebrivi sivrcisaTvis gansxvavebuli damokidebuleba aqvT ucxoel avtorebs, roca pirad araqonebriv aramaterialur sikeTeebs piradi cxovrebis definiciis qveS aerTianeben.

edvard bloustaini Tvlis, rom individis piradi cxovrebis xelyofa anadgurebs individis Rirsebas, individualur Tavisuflebas da damoukideblobas. Aadamiani, romelic Tavisi cxovrebis yovel wuTs ziaruloebulia, icxovros gar0.0-2(ag73Pia)-340(s)-2adaca misi ag73(T)4cxonibl e

ziaruloebulia, icxovros gar0.0-2(ag73Pia)-340(s)-2adaca misi ag73(T)4cxonibl e

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al an vestini Tvlis, rom piradi cxovrebis xel Seuxebl obis oTxi ZiriTadi sferoa: a. martooba. b. intimuroba. g. anonimuroba. d. rezervi. igi miiCnevs, rom Tavisufal sazogadoebaSi gamonakl is SemTxvevebSi sazogadoebis gansakuTrebul i interesis garda piradi informacia SeiZl eba mxol od am piris Sexedul ebiT gaxdes cnobil i. amdenad, igi pirad cxovrebas ganmartavs, rogorc piris an pirTa jgufis pretenzias gansazRvron maTze arsebul i piradi informacia rodis, rogor da ra mocul obiT gaxdes cnobil i sxva pirTaTvis.[166]

rut gavisoni momxrea konfidencial obis SezRudvis aRiarebis, magram metismetad afarToebs am sferos. konfidencial obis SezRudvis gavisoniseul i Teoriis kritikosebis poziciiT konfidencial obis SezRudvis gafarToebiT izRudeba fizikur pirze nebismieri informaciis miRebis Ses bis gansakuTrebul i interesis gar[166]

cxovrebis saidumloebis Semlaxveli cnobebi gavrcelebulia masobrivi informaciis saSualebebiT, maSin maTi uaryofac unda moxdes amave saSualebebiT. Tu amgvar monacemebs Seicavs organizaciis mier gacemuli sabuTi, maSin es sabuTi unda Seicvalos da amis Sesaxeb ecnobos dainteresebul pirebs.

4. pirs, romlis pativisa da Rirsebis Semlaxveli cnobebic gamoqveynda masobrivi informaciis saSualebebSi, ufleba aqvs gamoaqveynos sapasuxo cnobebi informaciis imave saSualebebSi.

5. am muxlis pirvel da me-2 nawilebSi gaTvaliswinebuli moTxovnis ufleba aqvs pirs maSinac, roca misi gamosaxuleba (fotosuraTi, kinofilmi, videofilmi da a.S.) gamoqveyndeba misi Tanxmobis gareSe. piris Tanxmoba ar aris saWiro, roca fotogadaReba (videogadaReba da a.S.) dakavSirebulia mis sazogadoebriv aRiarebasTan, dakavebul TanamdebobasTan, marTlmsajulebis an policiis moTxovnebTan, samecniero, saswavlo an kulturul miznebTan, anda fotogadaReba (videogadaReba da a.S.) moxdxuc(7)-512(R)-4(ir)101orbT-4(a

mowesrigebulia, rogorc samoqalaqo kodeqsiT, ise kanoniT "mewarmeTa Sesaxeb."

samoqalaqo kodeqsi fsevdonimTan dakavSirebul urTierTobebs calke ar awesrigebs. romelic piris individualizebis mniSvnelovani da gavrcelebuli saSualebaa. "aRiarebuli Sexedulebis Tanaxmad, fsevdonimic iseTive samoqalaqo samarTlebriv dacvas imsaxurebs, rogorc samoqalaqo saxeli, Tuki konkretuli pirovnebis aRsaniSnavad igi sazogadoebaSi aRiarebulia."[173]

saxelis, iseve rogorc sxva piradi araqonebrivi uflebebis erT_erTi ganmsazRvreli kriteriumi isaa, rom SeuZlebelia misi gadacema sxva pirisaTvis, e.i. igi ganekuTvneba gadacemauunaro uflebaTa kategorias.

me-18 muxlis pirveli nawili erTmaneTisgan ganasxvavebs or SemTxvevas, romlebic SesaZloa safuZvlad daedos sasarCelo moTxovnebs saxelis uflebis dacvis Sesaxeb. pirveli, roca fizikur pirs saxels ecilebian da meore, roca fizikuri piris saxeliT sxva unebarTvod sargeblobs da amiT fizikuri piris interesebi ilaxeba.

"pirvel SemTxvevaSi sasarCelo moTxovnas aqvs ori faqtobrivi wanamZRvari: 1) sadavo saxeli ekuTvnis mosarCeles; 2) mopasuxe uaryofs mosarCelesaTvis sadavo saxelis kuTvnilebas. dava SeiZleba Seexebodes rogorc samoqalaqo saxels, ise fsevdonims an araoficialur saxels. sasarCelo moTxovnas mocemul SemTxvevaSi Seadgens mopasuxis mier mosarCelis kuTvnili saxelis aRiareba, kerZod, moTxovna Sesaferis SemTxvevebSi mosarCele ixv(eSni4(ovne)4(bo

pirovnebis faseul obas misi warmoSobiT gansazRvravdnen. pativisa da Rirsebis cneba imdenad axloa erTmaneTTan, rom xSirad SecdomiT erTi da igive azriTac gamoiyeneben. zogi Rirsebas mTlianad pativis cnebaSi aerTianebs. es cnebebi imdenad mWidrod arian dakavSirebuli, rom TiTqmis warmoudgenelia TiToeuli maTganis damoukidebeli arseboba, Tumca es srulebiTac ar niSnavs imas, rom isini unda gavaigivoT. pativsa da Rirsebas damoukidebeli, specifikuri, Tumca saerTo zneobriv kriteriumebze dafuZnebuli Sinaarsi aqvT.[179]

pativis, Rirsebis da saqmiani reputaciis cnebaTa zust gansazRvras, TiTqmis arcerTi qveynis kanonmdebloba ar Seicavs. samarTlebriv literaturaSi pativis, Rirsebis da saqmiani reputaciis araerTi ganmarteba arsebobs. terminebi "pativi" da "Rirseba" gamoiyeneba, rogorc literaturaSi, ise yovel dRiur cxovrebaSi sxvadasxva mniSvnelobiT, ufro xSirad "am terminiT aRniSnaven sazogadoebaSi pirovnebis qcevis Sefasebas, agreTve misi qcevis Sinagan motivebs da cxovrebis wess. amasTan Tuki warmodgena pirovnebis Rirsebis Sesaxeb gamomdinareobs, moralur sazogadoebaSi, yvela adamianis Tanasworobis principidan, maSin pativis cneba, piriqiT, diferencirebulad axasiaTebs adamianebs, rac asaxvas hpovebs maT reputaciaSi."[180]

"pativis dacva gulisxmobs adamianis uflebas, usamarTlod ar iqnes warm

Rirseba da saqmiani reputacia sabol oo jamSi emsaxureba adamianTa cxovrebis moTxovnil ebebs. amitom sazogadoeba unda zrunavdes imaze, rom mis nebismier wevrs hqondes Tavisi pativis, Rirsebis da saqmiani reputaciis dacvis real uri SesaZl ebl oba, roca mas miaweren iseT saqciel s, romel ic l axavs mis pativs, Rirsebas da saqmian reputacias sxvaTa Tval Si. amisTvis aucil ebel ia damuSavebul i sakanonmdebl o baza, rac samarTl ebrivi interesis dacvis efeqturobis aucil ebel i pirobaa.

"pirovnebis Tavisuf al i ganviTarebis uf l ebidan gamomdinareobs is, rom piri Tavad wyvets, ra saxiT wardges mesame pirebisa Tu sazogadoebis winaSe. aseve misi gadasawyvetia, Tu ramdenad xel misawvdomi iqneba misi pirovnebis Sesaxeb monacemebi sazogadoebisaTvis. masve ukavSirdeba cal keul SemTxvevaSi anonimurobis dacvis uf l ebac."[182]

$ 4.3. cnobil i adamianebis araqonebrivi
uf l ebebis dacva

pativisa da Rirsebis dacvis sakiTxi gansakuTrebul i specifikiT xasiaTdeba roca saqme exeba pol itikosebis, saxel mwifo_pol itikuri Tanamdebobis pirebis an sazogadoebisTvis cnobil i saj aro moxel eebis davas araqonebrivi uf l ebebis dasacavad. marTal ia kanoni raime gansakuTrebul daTqmas am subieqtTa pativisa da Rirsebis dacvasTan mimarTebaSi ar Seicavs, magram sasamarTl o praqtikaSi evropis adamianis uf l ebaTa saerTaSoriso sasamarTl o precedentebis gaTval iswinebiT gamoikveTa erTgvarovani tendencia msgavsi davebis gadasawyvetad.

sakasacio sasamarTl om ar daakmayofil a sarCel i, im safuZvl iT, rom adgil i hqonda saj aro pol emikas da miiCnia, rom mosarCel e val debul ia iTminos mopasuxisgan Seuracxmyofel i gamonaTqvamebi. sasamarTl om Semdegnairad daasabuTa Tavisi pozicia.

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[182] saqarTvel os uzenaesi sasamarTl os gadawyvetil ebani samoqal aqo saqmeebze, 2004 wel i, #9, gv. 2108

politikosebis da maTTan gaTanabrebuli sazogado moRvaweebis Sesaxeb presas SeuZlia informaciebisa da monacemebis gamoqveyneba, rasac mniSvneloba aqvs maTi pirovnebis sazogadoebrivi SefasebisaTvis, aseve daiSveba maTi Tavisufali kritika.

sakasacio palatam miiCnia, ro

da sajaro samsaxuris moxel eTa mier erTmaneTis mimarT gamoTqmuli kritikuli Sefasebebi, e.i. „dasaSvebi kritikis farglebi", SeiZleba ufro farToiyos, vidre Cveulebrivi individis (moqalaqis) mimarT. am

Zaladakargulad iqna cnobili saqarTvelos kanoni "presisa da masobrivi informaciis sxva saSualebebis Sesaxeb." axalma kanonma gansxvavebulad moawesriga bevri rogorc materialur-samarTlebrivi, ise procesualuri sakiTxi piris mimarT ciliswamebis, uxamsobis gavrcelebis SemTxvevaSi, ganmarta da daazusta sityvisa da gamoxatvasTan dakavSirebuli bevri termini, moaxdina azris, gancxadebis, gamoxatvis sagnis, ciliswamebis, saxelmwifo, piradi da komerciuli saidumloebis, absoluturi da kvalificiuri privilegiis definicireba.

"kanoni uzrunvelyofs politikuri sityvisa da debatebis Tavisuflebas, nebismieri informaciis moZiebis, miRebisa da gavrcelebis uflebas, cenzuris dauSveblobas, swavlis, xelovnebis, Semoqmedebis Tavisuflebas, gansazRvrulia yvela is SemTxveva roca dasaSvebia sityvisa da gamoxatvis Tavisuflebis SezRudva, es, pirvel rigSi, gamomdinareobs saxelmwifos demokratiuli wyobis mdgradobis interesebidan. Tu garkveuli gancxadebiT an mowodebiT SesaZlebelia, rom safrTxe Seeqmnas saxelmwifos uSiSroebas, sazogadoebriv usafrTxoebas, teritoriul mTlianobas, Seilaxos sxvaTa uflebebi da Rirseba, Tu es exeba, magaliTad, ciliswamebas, Seuracxyofas, muqaras, saxelmwifo, komerciul da profesiul saidumloebisa da misi wyaros dacvas da gansazRvravs pasuxismgeblobas saidumloebis gamxelisaTvis."[184]

normatiuli aqtebis Sesaxeb saqarTvelos kanonis me-7 muxlis me-8 nawilis Tanaxmad Tanabari iuridiuli Zalis mqone normatiul aqtebs Soris winaaRmdegobis SemTxvevaSi upiratesoba eniWeba ufro gvian miRebul normatiul aqts. gamomdinare aRniSnulidan samoqalaqo kodeqssa da "sityvisa da gamoxatvis Tavisuflebis Sesaxeb" saqarTvelos kanons Soris winaaRmdegobisas, vfiqrobT, upiratesoba am ukanasknels unda mieniWos.

samoqalaqo kodeqsis me-18 muxlis Sesabamisad, samoqalaqo saqmeTa aRZvras axasiaTebs rigi Taviseburebani, romlebic, pirvel yovlisa, dakavSirebulia dasacavi uflebis specifikurobasTan; meore

[184] mzia Todua, Salva qurdaZe "calkeuli kategoriis samoqalaqo saqmeze gadawyvetilebaTa miRebis Taviseburebani." Tbilisi, 2005 weli, gv. 49.

– dakavSirebulia imasTan, rom amgvar saqmeebze ar vrceldeba sasarCelo xandazmulobis vada, Tumca aRsaniSnavia "sityvisa da gamoxatvis Tavisuflebis Sesaxeb" kanoni, romlis me–19 muxliT,

yovel adamians aqvs esa Tu is TviTSefaseba, ase Tu ise warmoudgenia Tavisi adgili, mdgomareoba sazogadoebaSi. mas aqvs sakuTari warmodgena imis Sesaxeb, Tu rogori reputaciiT sargeblobs, amasTan, Taviseburad esmis Tavisi Rirsebebi da naklida is, Tu rogor SeiZleba Sefasdes es Rirsebebi da nakli sxva adamianebis, sazogadoebis mier. es aris swored adamianis Rirseba, e.i. sakuTari Tvisebebis (Rirsebis) Sinagani TviTSefaseba.

"adamianis garegani Sefaseba garSemomyofTa mier ki yovel Tvis rodi SeiZleba daemTxves adamianis mier Tavisi Rirsebebis da naklis Sinagan Sefasebas. sazogadoebaSi yalibdeba Sexeduleba ama Tu im sikeTis, faseulobis, maTi mniSvnelobis Sesaxeb, Sesabamisad, yalibdeba warmodgena konkretuli individis Rirsebebis (naklis) Sesaxeb, romelic yovel Tvis rodia adamianis sakuTari warmodgenis (Sefasebis) adekvaturi. sazogadoeba individis ama Tu im nakls SeiZleba moekidos ufro keTilganwyobilad. maSin, roca Tavad am adamianma SeiZleba es nakli Taviseburad Seafasos.

saqarTvelos moqmedi kanonmdeblobis analizidan gamomdinare, SeiZleba davaskvnaT, rom samarTlisaTvis mniSvneloba ara aqvs imas, ras fiqrobs adamiani sakuTar Tavze, rogor afasebs sakuTar Tavs, vidre ar dadgindeba sazogadoebis SefasebasTan TviTSefasebis Sesabamisoba. samarTlisaTvis mniSvneloba aqvs individis im TviTSefasebas, romelic ase Tu ise emTxveva mis sazogadoebriv Sefasebas. swored Tanxvedris es xarisxi eqvemdebareba dacvas, maT Soris, sasamarTlo wesiT dacvas.

faqtobrivad, gamodis, rom individis socialuri (garegani) Sefaseba dacvas eqvemdebareba sruli moculobiT, Sinagani Sefasebis dacva ki xdeba im doziT (im xarisxiT), riTac is emTxveva garegan Sefasebas, radgan misi dacva xdeba mxolod imdenad, ramdenadac swored aseve afasebs adamianis Tvisebebs (Rirsebas) sazogadoeba."[187]

pativis, Rirsebis, saqmiani reputaciis Sel axvis qveS igulisxmeba fizikuri an iuridiuli piris Sesaxeb iseTi cnobebis (gancxadebis)

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[187] mzia Todua, Salva qurdaZe "calkeuli kategoriis samoqalaqo saqmeze gadawyvetilebaTa miRebis Taviseburebani." Tbilisi, 2005 weli, gv. 51.

gavrcel eba, roml ebic Seicaven mtkicebas maT mier kanonis an moral is normebis darRvevis, uRirsi saqciel is Cadenis Sesaxeb.

fizikur da iuridiul pirTa pativis, Rirsebis da saqmiani reputaciis dacva es, pirvel yovl isa, maTi ufl ebebis dacvaa, raTa cnobebi maTi qcevis, saqmianobis Sesaxeb, rac gavl enas axl ens garSemomyofTa mier maT Sefasebaze, sinamdvil es Seesabamebodes.

me–18 muxl iT gaTval iswinebul i wesiT piris pativi, Rirseba, saqmiani reputacia sasamarTl os meSveobiT Sesabamis dacvas eqvemdebareba, Tu saxezea Semdegi garemoebani: Sel axul ia fizikuri an iuridiul i piris pativi, Rirseba an saqmiani reputacia; pativis, Rirsebis, saqmiani reputaciis Seml axvel i cnobebi gavrcel ebul ia; gavrcel ebul i cnobebi sinamdvil es ar Seesabameba an gavrcel ebul i informacia Seesabameba sinamdvil es, magram Sel axul ia miTiTebul i sikeTeebi da pirs aqvs samarTl iani mol odini da interesi, rom aseTi informaciis gavrcel eba ar unda moxdes. "sityvisa da gamoxatvis Tavisufl ebis Sesaxeb" saqarTvel os kanonis pirvel i muxl is mixedviT gancxadeba aris informacia, romel ic ganmcxadebel ma saj arod gaavrcel a an mesame pirs gaando, azri_SefasebiTi msj el oba, Tval sazrisi, komentari, agreTve nebismieri saxiT iseTi Sexedul ebis gamoxatvaa, romel ic asaxavs romel ime pirovnebis, movl enis an sagnis mimarT damokidebul ebas da ar Seicavs dadasturebad an uaryofad faqts.

kanonis pirvel i nawil is "e" punqti iZl eva cil iswamebis definicias. cil iswameba arsebiTad mcdari faqtis Semcvel i da pirisTvis zianis mimyenebel i, misi saxel is gamtexi gancxadebaa, uxamsoba ki iseTi gancxadeba, romel sac ara aqvs pol itikuri, kul turul i, saganmanaTl ebl o an samecniero Rirebul eba da romel ic uxeSad l axavs sazogadoebaSi sayovel Taod damkvidrebul eTikur normebs.

"pativis, Rirsebis, piradi cxovrebis saiduml oebis, piradi xel Seuxebl obis an saqmiani reputaciis Sel axvas adgil i aqvs maSin, roca gavrcel ebul ia cnobebi romel ic xel yofs piris miTiTebul araqonebriv sikeTeTagan erT_erTs an ramdenimes. cnobebis gavrcel ebis qveS igul isxmeba aseTi cnobebis gamoqveyneba presaSi,

televiziiT, radioTi, masobrivi informaciis sxva saSualebebiT, maT
Soris internetiT, cnobebis gadmocema sajaro gancxadebebSi,
gamosvlebSi; sityvierad Tu zepirad maTi miwodeba dawesebulebisa da
organizaciebisaTvis, erTi an ramdenime pirisaTvis."[188]

$ 4.4. sityvis, azris da gamoxatvis Tavisufleba

saqarTvelos konstituciis me_19.1 muxliT uSualod daculi
adamianis uflebaa "sityvis Tavisufleba", konstituciis 24_e muxlSi
ki saubaria adamianis uflebaze "gaavrcelos informacia".

"sityvisa da azris Tavisufleba demokratiuli sazogadoebis
erT-erTi arsebiTi safuZveli da demokratiuli sazogadoebis
progresisa da calkeuli adamianis ganviTarebis erT-erTi ZiriTadi
pirobaa. konvenciis me-10.2 muxliTs gaTvaliswinebiT, es ufleba Seexeba
ara marto iseT "informacias" an "ideas", romelsac saxel mwifo
keTilganwyobil pirebs, aramed iseTsac, romelic miuRebelia
xelisuflebis an mosaxleobis nawilisa

Sesabamisad, gamoxatvis (informaciis gavrcelebisa Tu sityvis) Tavisuflebasa da sxva dacul pirovnul uflebebs Soris konfliqtis SemTxvevaSi aucilebelia adekvaturi Tanafardobis dacva. [191]

mizanSewonilia gamoxatvis Tavisuflebis sxva pirovnuli uflebebis sasargeblod SezRudvis pirobad WeSmaritebis kriteriumis gamoyeneba. individis azris formirebisTvis mniSvnelovania da, Sesabamisad, samarTlebrivi dacvis Rirsia swori informaciis gavrceleba.

profesiiT Jurnalistma ganmcxadebelma g-Svilma gamoaqveyna statia gazeTSi `meridiani 44~, sadac gakritikebuli iyo mTavrobis warmomadgeneli, im droisaTvis parlamentis wevri batoni g. l-aZe. statia iwyeboda gazeTis pirvel gverdze, romel zec moTavsebuli iyo parlamentaris sazafxulo agarakis foto da aRwerili iyo batoni l-Zis qoneba. publikaciaSi aqcenti gakeTda iyo imaze, rom mas siZis daxmarebiT hqonda qoneba SeZenili. batonma l-aZem sarCeli Seitana sasamarTloSi Jurnalistisa da gazeTis redaqtoris winaaRmdeg. igi acxadebda, rom statiaSi moyvanili faqtebi simarTles ar Seesabameboda, razedac warmoadgina Sesabamisi dokumentacia (Sevsebuli qonebrivi deklaracia) da moiTxova mis winaaRmdeg gamoqveynebuli cilismwamebluri faqtebis sajarod uaryofa. erovnuli sasamarTloebis yvela instanciaSi dakmayofil da batoni l-aZis moTxovna. ganmcxadebel g-Svilis ganmartebiT difamaciis Taobaze sasamarTlo ganxilvam usamarTlod SezRuda Jurnalistis Tavisufleba, rac konvenciis me-10 muxlis darRvevas warmoadgens.

sasamarTlos amocanaa daadginos saWiro iyo Tu ara amgvari Careva demokratiuli sazogadoebis pirobebSi. zogadi principis mixedviT TviTgamoxatvis Tavisuflebis SezRudvis saWiroeba saTanadod unda iyos gansazRvruli. rodesac saqme exeba medias, diskreciis erovnuli zRvari ganpirobebulia demokratiuli sazogadoebis interesiT, uzrunvelyos da SeinaCunos Tavisufali presa. Sefasebisas aseTma interesma unda gadawonos, Tu ramdenad proporciuli iyo SezRudva rogorc es konvenciis me-10 muxlSia gansazRvruli. rac Seexeba ganmcxadeblis, rogorc Jurnalistis damokidebulebas, sasamarTlo ganmeorebiT acxadebs, rom demokratiul sazogadoebaSi presa umniSvnelovanes rols asrulebs. miuxedavad imisa, rom presa ar unda gascdes garkveul farglebs, misi valia gadasces informacia da mosazreba im sakiTxebze, romlebic warmoadgens sajaro interess.

sasamarTlom aRniSna, rom saqarTvelos uzenaesi sasamarTlos mier dadgenili Carevis masStabi vrceldeboda ara mTlian publikaciaze, aramed masSi moyvanil or frazaze: `...siZe daexmara simamrs; sxvagvarad es ukanasknel i ver SeZlebda sazafxulo agarakis

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mSeneblobis dasrulebas...~ da `SeiZleba mxolod vikiTxoT, I-aZe da misnairi adamianebi mxolod haeriT xom ar ikvebebian da amitomac xel fasis daxarjva aRar uwevT; sxvagvarad rogor SeiZleba amdenis dazogva?!~

aRniSnuli gamonaTqvamebi uzenaesi sasamarTlos mier miCneulia rogorc cilismwamebluri, vinaidan, isini simarTles ar Seesabameboda. sakiTxis Seswavlis gareSe (warmoadgenda Tu ara aRniSnuli frazebi subieqtur Sefasebas), uzenaesma sasamarTlom daaskvna, rom aRniSnuli gamonaTqvamebi warmoadgenda faqtis konstatacias. sarCelis Semotanisas, saqarTvelos kanonicilismwamebis Sesaxeb ar iZleoda sruli analizis Catarebis saSualebas. aRsaniSnavia, rom saqarTvelos samoqalaqo kodeqsis me-18 muxli ar gamoyofs subieqturi azrisa da faqtis konstataciis cnebebs, da adgens mxolod erT cnebas - `cnobebi~, da iTxovs aseTi cnobebis sisworis damtkicebas. mtkicebis tvirTi mopasuxes ekisreba. sityvis Sefasebis msgavsi midgoma, sasamarTlos azriT, SeuTavsebelia azris gamoTqmis Tavisuflebis uflebasTan, rac konvenciis me-10 muxlis fundamentur elements warmoadgens.

sasamarTlom miiCnia, rom am konkretul SemTxvevaSi gamonaTqvamebi, romlebic ar moiwona uzenaesma sasamarTlom warmoadgens mosazrebas, romelic warmoTqmulia provokaciul tonSi. sasamarTlos mier sarkastulad da cinikurad miCneuli ganmcxadeblis frazebi ar isaxavda miznad pirad Tavdasxmas parlamentarze, vinaidan gamonaTqvamebi ar iyo moklebuli faqtobriv safuZvels. sasamarTlom daaskvna, rom uzenaesi sasamarTlos mier gamoyenebuli standartebi SeuTavsebelia konvenciis me-10 muxlis debulebebTan, radgan ar Seicavs saTanado da sakmaris mizezebs romlebic gaamarTlebda sajaro interesis sakiTxebze ganmcxadeblis informaciisa da mosazrebebis gadacemis Tavisuflebis uflebaSi Carevas.

amdenad, sasamarTlom miiCnia rom Careva ar iyo aucilebeli demokratiul sazogadoebaSi. Sesabamisad, adgili hqonda konvenciis me-10 muxlis darRvevas da saqarTvelos saxelmwifos ganmcxadeblisaTvis

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miyenebuli moraluri zianis asanazRaurebl ad daakisra 1500 (aTas xuTasi) evros gadaxda.[193]

kanoni "sityvisa da gamoxatvis Tavisuflebis Sesaxeb", iZleva mTel rig sakanonmdeblo garantiebs, rom pirovnebis Tavisuflebis, piradi araqonebrivi uflebebis dacvis interesebma gaumarTlebl ad ar SezRudos gamoxatvis (azris, gancxadebis gavrcelebis) Tavisufleba.

sainteresoa uzenaesi sasamarTlos ganCineba, romliTac ar dakmayofil da sarCeli pativis, Rirsebisa da saqmiani reputaciis Semlaxveli cnobebis uaryofisa da moraluri zianis anazRaurebis Sesaxeb im motivaciiT, rom rodesac mosarCele Jurnalistur Sefasebebs pativisa da Rirsebis Semlaxvel ad miiCnevs, man unda miuTiTos, rom es Sefasebebi ar warmoadgenen im faqtebis Sesabamiss, romelic Jurnalistur gamoZiebaSia gamoyenebul i, an faqtobrivi monacemebi, romelic Jurnalistis mier ar aris motanili, ar Seesabameba sinamdvil es. ganCineba sayuradReboa gamoxatvis Tavisuflebisa da sazogadoebriv interess Soris konfliqtis SemTxvevaSi aucilebeli adekvaturi balansis dacvis Tval sazrisiT.

mosarCel eebma sarCeli aRZres Jurnalistisa da gazeT "rezonansis" winaaRmdeg pativis, Rirsebisa da saqmiani reputaciis Semlaxveli cnobebis uaryofisa da moraluri zianis anazRaurebis Sesaxeb, imsafuZ eb, ˚

saxiT mraval gzis aris gatarebuli. yovelive momxdars Jurnalisti afioras uwodebs.

uzenaesma sasamarTlom gadawyvetilebiT ar daakmayofila sarCeli Semdegi dasabuTebiT:

demokratiul sazogadoebaSi presis misiaa, gaavrcelos informacia da( )-14qne11(mad(d)4(ba4(bi)3(T)3( )-41711.22 Tmo.6itik)-4ur1711.buT)6Ja

sar xbs.   be-341( )-4171( )-14qne11Cei(s)-23((T)3( )-4.TQq0.000008871 0 595.32 841.92 reW*nB/F1 12 Tf1 0

politikoss, ra Tqma unda, aqvs misi reputaciis dacvis ufleba, magram amgvari dacvis moTxovnis sapirispiro da gamawonaSworebel garemoebas warmoadgens sazogadoebis moTxovnebi da interesebi politikur sakiTxebze Ria diskusiis mimarT.

politikuri Tanamdebobis pirebis qmedebaTa mkveTri Sefasebebi, romlebic arsebuli faqtobrivi garemoebebidan gamomdinareoben, ar SeiZleba iyos Jurnalistis pasuxismgeblobis safuZveli. Jurnalisturi Sefasebebi unda warmoadgendes mis xelT arsebuli faqtebis adekvaturs.

sasamarTlo Tvlis, rom gazeT „rezonansSi" miTiTebuli publikaciis gamoqveynebam xeli Seuwyo im problemebis sajaro ganxilvas, romlic sayovelTao interesis sagans warmoadgenda.

rodesac sagazeTo publikacia exeba Sinagan saqmeTa saministros

„lingensi avstriis winaaRmdeg",   „oberlSiki avstriis winaaRmdeg",
„sandi Taimsi" gaerTianebuli samefos winaaRmdeg".. [194]

veTanxmebiT avtors, romelic miiCnevs, rom dazustebas moiTxovs
wre, romlis mimarTac sasamarTlo afarToebs „dasaSvebi kritikis
farglebs". kerZod bundovania, Tu vin CaiTvleba, „politikosTan
gaTanabrebul sazogado moRvawed da Tanamdebobis pirad". sasurvelia
man moicvas rogorc politikosi, ise nebismieri sxva piri, romlis
mimarTac obieqturad SeiZleba arsebobdes sazogadoebis
gansakuTrebuli interesi. swored es interesi ganapirobebs aseTi
pirebis mimarT „dasaSvebi kritikis farglebis" gafarToebas".[195]

me–18 muxliT gaTvaliswinebuli wesiT dacvas ar eqvemdebareba
cnobebi, romlebsac fizikuri Tu iuridiuli piris Sesaxeb Seicaven
sasamarTlo gadawyvetilebebi, sagamoZiebo organoTa dadgenilebebi,
radgan am dokumentebis ganxilva eqvemdebareba saproceso
kanonmdeblobiT dadgenil wess. amasTan, pativis,Rirsebis, saqmiani
reputaciis dacvis samoqalaqo kodeqsiT gaTvaliswinebuli wesi
SesaZloa gavrceldes fizikuri Tu oficialuri pirebis im
daxasiaTebebsa Tu gancxadebebze, romlebic maT miawodes aRniSnul
organoebs konkretuli pirebis Sesaxeb. „sityvisa da gamoxatvis
Tavisuflebis Sesaxeb" kanonis me-6 muxlis me-3 nawilis Tanaxmad,
ciliswamebis Taobaze sasamarTlo davis sagani ar SeiZleba iyos
iseTi gancxadeba, romelic exeba pirTa ganusazRvrel jgufs an/da
romelSic mosarCele ar aris erTmniSvnelovnad identificirebuli.

samoqalaqo kodeqsis me-18 muxli iTvaliswinebs pativis, Rirsebis,
saqmiani reputaciis Selaxvis SemTxvevebSi mosarCelis uflebaTa
dacvis iseT formebs, rogoricaa: a) gavrcelebuli cnobebis uaryofa;
b) gavrcelebuli arasruli cnobebis Sevseba iseTi cnobebiT,
romlebic sinamdviles Seesabamebian da amasTan erTad, aqarwyleben
gavrcelebul arasrul, pativis, Rirsebis, saqmiani reputaciis
Semlaxav cnobebs; g) gavrcelebuli cnobebis uaryofa mediis imave
saSualebiT, romliTac isini gavrcelda; d) im sabuTis Secvla,

[194] daviT kereseliZe, „gamoxatvis Tavisufleba", Jurnali „qarTuli samarTlis
mimoxilva", 2002(5), 620.
[195] daviT kereseliZe, „kerZo samarTlis uzogadesi sistemuri cnebebi",
Tbilisi, 2009 weli. gv. 156.

romel ic sinamdvilis Seusabamo cnobebs Seicavda da gavrcel da ara fizikuri piris, aramed organizaciis mier.

roca piris pativis, Rirsebis, saqmiani reputaciis Seml axvel i cnobebi gamoqveynebul ia presaSi, sasamarTl os gadawyvetil ebis safuZvel ze am cnobebis uaryofa unda moxdes beWdviTi sityvis imave saSual ebiT, romel mac gamawbil ebel i cnobebi gaavrcel a. amasTan, uTuod angariSgasawevia mosarCel is moTxovna, Tu igi uaryofis gamoqveynebas gazeTis imave gverdze da iseTive SriftiT iTxovs, rogorc xel myofi cnobebis publ ikacia moxda.

sasamarTl o ufl ebamosil ia Tavisi gadawyvetil ebiT gansazRvros uaryofiT gamoqveynebis adeqvaturi SesaZl ebl obani. Tu pirovnebis gamawbil ebel cnobebs Seicavs ama Tu im organizaciis mier gacemul i dokumenti da isini sinamdvil es ar Seesabamebian, sasamarTl o ufl ebamosil ia organizacias daakisros dokumentis Secvl a, romel ic unda daegzavnos yvel a im dainteresebul pirs, visac Tavdapirvel i dokumenti miewoda.

samoqal aqo kodeqsis me-18.4 muxl i mediis saSual ebebiT sapasuxo

daevala axali Sida brZanebis gamocema, romel Sic aRniSnuli iqneboda Semdegi: imave bankis administraciis mier gamocemul Sida brZanebaSi gamoqveynebuli Semdegi Sefasebebi: "samsaxurebrivi movaleobis borotad gamoyeneba" da "fuladi resursebis gaflangva" ar exeba i. x-Svils; ss "saqarTvelos mikrosafinanso banks" daeki sra i. x-Svilis sasargeblod araqonebrivi (moraluri) zianis asanazRaurebIad 1000 laris gadaxda. sasamarTlom CaTvala, rom mopasuxe organizaciis Sida brZanebiT moxda i.x-Svilis pativis, Rirsebisa da saqmiani reputaciis Semlaxavi informaciis gavrceleba, romelic ecnoba ramdenime pirs. amitom misi saqmiani reputaciis, pativisa da Rirsebis Semlaxavi gamonaTqvamebis uaryofa unda moxdes mopasuxe organizaciis administr

Tavi V. piradi cxovrebis saidumloebis, piradi xel Seuxebl obis dacvis Sesaxeb aRZrul saqmeTa ganxil visa da moral uri zianisaTvis kompensaciis dakisrebis Taviseburebani, araqonebriv ufl ebaTa dacva gardacval ebis Semdeg da dazaral ebul Ta axl obel TaTvis da iuridiul i pirisaTvis moral uri zianis kompensaciis sakiTxi

$ 5.1. piradi cxovrebis saiduml oebis dacva.

pativis, Rirsebis, saqmiani reputaciis dacvasTan erTad sk-is me-18 muxl is me-2 da me-3 punqtebSi miTiTebul ia agreTve iseTi aramaterial uri sikeTeebis dacvaze, rogoricaa piradi cxovrebis saiduml oeba da piradi xel Seuxebl oba.

"sociol ogiur da iuridiul l iteraturaSi gavrcel ebul i ganmar tebis Tanaxmad „piradi cxovrebis saiduml oebis" qveS unda igul isxmebodes informacia, romel ic ar Seexeba pirovnebis sazogadoebriv cxovrebas da gamiznul ia pirTa gansazRvrul i wrisaTvis, an misi vinmesTvis gandoba saerTod ar Seadgens piris interess. Tu pativis, Rirsebis, saqmiani reputaciis dacvis dros kanoni icavs pirovnebis cxovrebis sazogadoebriv mxareebs, sinamdvil is Seusabamo cnobebis gaxd9axd9axd9ax4s cxovrebis

pirovnebis SefardebiTi avtonomizacia, rac saxel mwifosa da TviT pirovnebis mieraa uzrunvel yofili. [200]p

"intimuri sferos dacvaSi moiazreba gandobili azrebisa da gancdebis mesame pirisaTvis gadacemis akrZalva. aucilebeli winapirobaa, rom unda arsebobdes maTi saidumlod Senaxvis interesi. intimuri sferos dacvaSi eqceva magaliTad, germaniis sasamarTlo praqtikiT, adamianis janmrTelobis mdgomareoba an seqsualuri cxovreba, aseve avtoris survilis gareSe saidumlo werilebis an dRiuris Canawerebis gamoqveyneba.

piradi sferos dacvaSi igulisxmeba individis cxovrebis warmarTvis avtonomiuri sferos aRiareba, romel Sic igi sakuTar TavTan rCeba da sakuTar individualobas aviTarebs sxvaTa monawileobis gareSe. amerikul da germanul samarTalSi "sakuTar TavTan darCenis ufleba" piradi sferos dacvis uflebis konstruqciis gamovlinebaa. amasTan, amerikul samarTalSi igi sicocxlis uflebis

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moiTxovs kanoni, agreTve yvela is informacia da garemoeba, romel Tan dakavSirebiTac adamians aqvs kerZo cxovrebis xelSeuxeblobis gonivruli molodini. amave kanonis me-12 muxlis mesame nawiliT kerZo cxovrebis xelSeuxeblobisa da piradi saidumloebis dacvis motiviT ar SeiZleba SeizRudos gamoxatvis Tavisufleba im movlenasTan dakavSirebiT, romlis codnac aucilebelia adamianisaTvis

wesis, biografiis cal keuli faqtebis, naTesavebTan, megobrebTan urTierTobis da a.S. Sesaxeb. [203]

piradi cxovreba kompleqsurad samarTliTa da moraliT regulirdeba. piradi cxovrebis saidumloebis regulirebas ormxrivi daniSnuleba aqvs. erTi mxriv, igi gulisxmobs im Tanamdebobis pirebze da moqalaqeebze zemoqmedebas, romlebic floben informacias individis piradi cxovrebis Sesaxeb da meore mxriv, icaven miyenebuli zianisgan individs da sazogadoebis zneobas. piradi cxovrebis elementebs samarTali da morali gansxvavebulad aregulirebs, mag. megobroba, romelic piradi cxovrebis nawilia moraluri normebiT regulirdeba, siyvarulis da seqsualuri cxovrebis wesis dacvis dros samarTali upirates rols TamaSobs, morali ki_regulatoria. religiasTan mimarTebaSi samarTlisa da moralis normebi zogjer SeiZleba religiis nawilad mogvevlinos, zogjer izrdeba sakuTriv religiuri moralis zemoqmedeba, romelic potenciurad zrdis piradi cxovrebis sferoSi samarTal darRvevis SesaZleblobas. [204]

piradi araqonebrivi uflebebis dacvasTan mimarTebaSi, zogierTi mkvlevari gamohyofs or damoukidebel jgufs: piradi cxovrebis saidumlos, romel Sic is aerTianebs, samedicino saidumlos, saadvokato, sabanko saidumlos uflebas da piradi cxovrebis saidumlos uflebis sxva aspeqtebs. aseve piradi cxovrebis xelSeuxeblobas, romel Sic aerTianebs sacxovrebeli adgilis dokumentebis, satelefono da sxva saxis zaris, saxel mwifo Setyobinebis xelSeuxeblobas. [205]

imis gaTvaliswinebiT rom adamianis Tavisuflebis esa Tu is aspeqti, saboloo jamSi warmoadgens sakuTari Sinagani samyaros gamijvnas garegani Carevisagan, ar SeiZleba daveTanxmoT aseT klasifikacias. TiToeuli am uflebaTagan warmoadgens damoukidebel subieqtur uflebas, romel sac gaaCnia konkretuli mizani, Tavisi struqtura da Sinaarsi. TiToeul damoukidebel uflebas Seesabameba gamijvnis sakuTari principi. migvaCnia, rom Tanamedrove

[203]   „
        ",   , 2005. gv.59. www.dissercat.com
[204]   . .   „   ,"   , 1995, #10
[205] saqarTvelos kanoni „pacientis uflebebis dacvis Sesaxeb", 2000 weli, muxli 10.

finansuri monitoringis samsaxurs da im pirebs, romlebic

uflebamosilni arian aRasrulon "saaRsrulebo warmoebaTa Sesaxeb"

romelic Seadgens sabanko saidumlos, klients, visi uflebebic dairRva, ufleba aqvs miTxovos miyenebuli zianis (rogorc qonebrivi ise araqonebrivi) anazRaureba.

saqarTvelos konstituciis Sesabamisad TiToeul adamians aqvs kvalificiuri iuridiuli daxmarebis ufleba. rodesac pirovneba daxmarebisTvis mimarTavs advokats, awvdis mas garkveuli saxis informacias, romlis gaxmaurebaSic is SeiZleba dainteresebuli ar iyos. swored moqalaqis interesebis dacvas da misi piradi cxovrebis xelSeuxeblobis uzrunvelyofas emsaxureba mTeli rigi samarTlebrivi normebi, saoTl0eb2(e) TdW*nBafrob12SiTf1q0n0an 113saad84b2a ffn0 gSaGchomfme)3(bi)3(,

advokatTa Sesaxeb saqarTvelos kanonis Tanaxmad advokati valdebulia daicvas profesiuli saidumloeba, gasuli drois miuxedavad. klientis^Tanxmobis gareSe ar gaavrcelos saadvokato saqmianobis ganxorcielebis procesSi misgan miRebuli informacia.[209]

migvaCnia, rom saadvokato saidumlo Senaxvis valdebuleba, advokatebis garda ekisreba im pirsac, romelic SeiZleba arc iyos advokati, magram monawileobdes sasamarTlo sxdomaze, rogorc

kanonis Tanaxmad notariusi valdebulia saiduml od Seinaxos cnobebi, romlebic misTvis cnobili gaxda samsaxurebriv saqmianobasTan dakavSirebiT. es valdebuleba ZalaSia notariusis Tanamdebobidan gaTavisuflebis Semdegac.

notariusi sanotaro moqmedebis Sesaxeb cnobebs aZlevs mxolod im fizikur an iuridiul pirs, romlis TxovniTac an romlis mimarTac Sesrulda sanotaro moqmedeba, an mis warmomadgenels. sagamoZiebo organos an sasamarTlos moTxovniT notariusi gascems cnobebs sanotaro moqmedebis Sesaxeb im sisxlis samarTlis da samoqalaqo samarTlis saqmeebze, romlebic sagamoZiebo organos an sasamarTlos warmoebaSia. notariusi valdebulia, saTanado moTxovnis SemTxvevaSi, sagadasaxado organos warudginos cnoba im qonebis Rirebulebis Sesaxeb, romelic piris sakuTrebaSi gadavida. sagadasaxado organos ekrZaleba sasamarTlos gadawyvetilebis gamotanamde informaciis gadacema sxva pirebisaTvis, masobrivi informaciis saSualebebis CaTvliT, agreTve am informaciis gamoqveyneba sajaro gamosvlebSi. notariuss SeuZlia cnoba anderZis arsebobis an Sinaarsis Sesaxeb gaamxilos mxolod moanderZis gardacvalebis Semdeg.

pirs, romlis TxovniTac Sesrulda sanotaro moqmedeba, an mis uflebamonacvles an warmomadgenels SeuZlia werilobiTi Tanxmobis safuZvelze gaaTavisuflos notariusi sanotaro moqmedebis saidumloebis dacvis valdebulebisagan. Tu piri gardaicvala da mas uflebamonacvle ar hyavs an uflebamonacvlesTan dakavSireba SeuZlebelia, notariusi sanotaro moqmedebis saidumloebis dacvis valdebulebisagan SeiZleba gaaTavisuflos sasamarTlom. sasamarTlos SeuZlia notariusi gaaTavisuflos sanotaro moqmedebis saidumloebis dacvis valdebulebisagan agreTve sxva sapatio mizezebiT.

notariusi sanotaro moqmedebis Sesaxeb cnobebs „ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb" saqarTvelos kanoniT gaTvaliswinebuli garigebebis Taobaze awvdis saqarTvelos finansuri monitoringis samsaxurs aRniSnuli kanoniTa da Sesabamisi normatiuli aqtebiT dadgenili wesiT.

sanotaro moqmedebis Sesrulebisas, notariusisaTvis cnobili xdeba mravali faqti, adamianis piradi cxovrebidan. piri, sanotaro

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moqmedebis Sesasrulebl ad xSirad waradgens dokumentebs, romlebic Tavis mxriv SeiZleba Seicavdes saeqimo, sabanko saidumlos an iseT cnobebs, romelTa gaxmaurebac klients ubralod ar surs. sanotaro saidumlos subieqtebs warmoadgenen: notariusi, notariusis Semcvleli, TanaSemwe, staJiori an sanotaro biuros sxva TanamSromeli, romlebzec aseve vrceldeba saidumlos dacvis moTxovna. xSir SemTxvevaSi cnobebi, romlebic Seadgenen sanotaro saidumlos, SeiZleba cnobili gaxdes eqspertisaTvis, TarjimnisaTvis, mowmisaTvis an sxva pirisaTvis, romlebmac saWiroebis SemTxvevaSi SeiZleba monawileoba miiRon sanotaro moqmedebaSi da romlebic aseve unda CaiTvalon am urTierTobis subieqtebad, Tumca zogierT SemTxvevaSi kanoni pirdapir miuTiTebs aseT pirTa valdebulebas ar gaaxmauron cnobebi, romlebic maTTvis cnobili gaxda sanotaro moqmedebis Sesrulebisas (mag. anderZis mowmeebi).

mimoweris, piradi Canaweris, satelefono saubrebis, saidumlo saqarTvelos konstituciis me-20 muxliT gaTvaliswinebuli mniSvnelovani uflebaa. satelefono saubris qveS igulisxmeba abonentTa saubari, saqalaqo, saerTaSoriso, saqalaqTaSoriso satelefono kavSiris, agreTve radiotelefonebis, mobiluri kavSirebis gamoyeneba. safosto kavSiri gulisxmobs teqnikuri da sxva saSualebebis erTobliobas, romelic uzrunvelyofs safosto gzavnilebis miRebas, damuSavebas, gadazidvas, mitanas, agreTve fuladi Tanxebis safosto gadaricxvebs. kavSirgabmulobis yvela operatori, anu yvela Tanamdebobis piri, romelsac ufleba aqvs ganaxorcielos safosto an eleqtronuli kavSiri, valdebulni arian, uzrunvelyon saidumlos dacva.

Svilad ayvana (Sviloba) erT-erTi saSualebaa, rogorc uSvilo

`Svilad ayvanis da mindobiT aRzrdis Sesaxeb" saqarTvelos kanonis mixedviT dacul iaSvilad ayvanis saidumloeba.

mosamarTle, romelmac gamoitana Svilad ayvanis Sesaxeb gadawyvetileba, biologiuri mSobeli, meurveobisa da mzrunvelobis organos warmomadgeneli,samoqalaqo aqtebis registraciic organos TanamSromeli da Svilad ayvanis procedurebSi monawile nebismieri piri valdebuli arian saidumlod Seinaxon Svilad ayvanis proceduris ganxorcielebis nebismier etapze miRebuli informacia. Svilad ayvanis saidumloebis gamJRavneba biologiuri mSoblis, mSvileblisa da srulwlovani naSvilebis Tanxmobis gareSe akrZalulia.[210]

Svilad ayvanis saidumlos darRveva SesaZlebelia am faqtis, rogorc TviT naSvilebisaTvis, ise mesame pirisaTvis, nebismieri saxiT Setyobinebis gziT, rac dazaralebuls aZlevs kanoniT gaTvaliswinebuli saSualebebis gamoiyenebis uflebas, upirvel esad ki moraluri zianis anazRaurebis uflebas. vinaidan aranair eWvs ar iwvevs is azri, rom Svilad ayvanis saidumlos dacva upirveles yovlisa swored moralur zians ayenebs, rogorc mSobels, ise naSvilebs.

migvaCnia, rom aRsarebis saidumloeba erT_erTi umniSvnelovanesi piradi saidumloa, romelic piradi cxovrebis nawilia da misi gamJRavneba swored, rom xel yofs adamianis sulier samyaros da SeiZleba moraluri zianis anazRaurebis safuZveli gaxdes. samoqalaqo saproceso kodeqsis 129_e muxlis "b" punqtis Tanaxmad, ar SeiZleba axsna_ganmartebis miReba sasuliero pirisagan iseT garemoebaTa Sesaxeb, romlebic mas gaandves aRsarebis dros. mxaris mier aRsarebis dros ama Tu im faqtis gandoba da misi monanieba dakargavda yovel gvar azrs, Tu SesaZlebeli da dasaSvebi iqneboda misi gaxmaureba.[211] igi ar SeiZleba aseTi faqtebis Sesaxeb mowmedac daikiTxos. (sssk-is 141-e muxli). sasuliero piris mimarT kanonmdeblis aseTi akrZalvis mizani gaxlavT rogorc sasuliero piris dacva

[210] saqarTvelos kanoni `Svilad ayvanis da mindobiT aRzrdis Sesaxeb", 2009 weli, muxli 25.
[211] Tengiz liluaSvili, valeri xrustali "saqarTvelos samoqalaqo saproceso kodeqsis komentari," Tbilisi, 2004 weli, gv. 234.

aRsarebis saidumlos gamJRavnebisagan, rac nebismieri RvTismsaxurisaTvis uRirsi da araqristianuli saqcielia, aseve piris dacva, romelmac moinania da gulwrfelad misca aRsareba. sasuliero pirs gaando mis cxovrebasTan dakavSirebuli cnobili Tu ucnobi faqtebi da garemoebebi da bunebrivia aqvs moralodini, rom saidumlo ar gamJRavndeba.

kompiuteruli teqnikiT moqalaqeTa piradi cxovrebis Sesaxeb monacemebis Segrovebis da gadamuSavebis mzardi SesaZleblobebi iZleva maTi Senaxvisa da maTSi moTavsebuli piradi xasiaTis monacemebis arasanqcirebuli gavrcelebis SesaZleblobas. bevr qveyanaSi, ukve miRebulia samarTlebrivi aqtebi, romlebic adgenen personaluri informaciis dacvis meqanizmebs, romlis Tanaxmadac kompiuteruli informaciis damuSavebaze kontroli ekisrebaT am procesiT dakavebul pirebs. kompiuteruli da satelekomunikacio teqnologiebis mZafrma ganviTarebam gamoiwvia principulad axali faqtorebis formirebac, romlebic Seicaven moqalaqeTa pirad cxovrebaSi Carevis saSiSroebas. "piradi cxovrebis xelyofis obieqtad iqca, kompiuteruli da sxva eleqtronuli saSualebebiT damuSavebuli personaluri informacia _"personaluri monacemebi". ucxoeTis qveynebis umravlesoba personalur monacemebs yofs sam kategoriad:

1. "Cveulebrivi" personaluri monacemebi, maTi Sekreba damuSaveba, gamoyeneba da gadacema SesaZlebelia speciluri nebarTvis gareSe.

2. "mgrZnobiare" personaluri monacemebi _ maTi Sekreba, damuSaveba, gamoyeneba da gadacema saWiroebs dacvis da usafrTxoebis gansakuTrebul zomebs.

3. "gansakuTrebiT mgrZnobiare" personaluri monacemebi _ maTi Segroveba, damuSaveba, gamoyeneba da gadacema an saerTod akrZalulia an daSvebulia mxolod gamonaklis SemTxvevaSi dacvis da usafrTxoebis spec. zomebis gamoyenebiI is

dakavSirebiT, kerZo cxovrebis da piradi Tavisufl ebis dacvis sabazo samarTl ebrivi principebis SemuSavebasa da gamoyenebis saWiroebas.

am fonze, mkafiod vl indeba kompiuterul i monacemebis efeqturad dacvis meqanizmis SemuSavebis anu kompiuterul i teqnikis mier Segrovebul i informaciis dacvis sakiTxebis saxel mwifo regul irebis aucil ebl oba. es aucil ebl oba ukve aRiarebul i da ganmtkicebul ia mraval i qveynis kanonmdebl obiT. informaciis, rogorc sajaro, ise kerZo seqtorSi kompiuterul i informaciis efeqturad dacvis sqemis damuSavebisa da mignebis gareSe, kompiuterSi dacul i informaciis gavrcel eba yovel Tvis iqneba is faqtori, romel ic xel s Seuwyobs moqal aqeTa piradi cxovrebis xel Seuxebl obis ufl ebis srul yofil ganxorciel ebas.

$ 5.2. personal uri monacemebis dacva

aRsaniSnavi da sayuradReboa, rom samoqal aqo kodeqsma personal uri monacemebi piris Sesaxeb miakuTvna ra pirad saiduml oebas sakanonmdebl o wesiT ganamtkica misi miRebis ufl eba. sk_is 19 (l)_is mixedviT: pirs ufl eba aqvs, gaecnos masze arsebul personal ur monacemebs da Canawerebs, roml ebic dakavSirebul ia mis finansur/qonebriv mdgomareobasTan an sxva kerZo sakiTxebTan, da miiRos am monacemebis asl ebi, garda saqarTvel os kanonmdebl obiT gansazRvrul i SemTxvevebisa. pirs ar SeiZl eba uari eTqvas im informaciis gacemaze, romel ic moicavs personal ur monacemebs an Canawerebs mis Sesaxeb. nebismieri piri val debul ia, weril obiTi Txovnis safuZvel ze sxva pirs gadasces masTan dacul i personal uri monacemebi da Canawerebi, Tu igi warudgens im piris weril obiT Tanxmobas, roml is personal ur monacemebsac warmoadgens Sesabamisi informacia. aseT SemTxvevaSi piri val debul ia daicvas aRniSnul i monacemebis, informaciis saiduml oeba. szak-is 44-e muxl iT dacul ia personal uri monacemebis saiduml oeba. sajaro dawesebul eba val debul ia ar gaaxmauros pirad saiduml oebas mikuTvnebul i informacia TviT am piris Tanxmobis an kanoniT gaT15sbibui

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SemTxvevebSi – sasamarTl os dasabuTebul i gadawyvetil ebis gareSe, Tanamdebobis pirTa (agreTve Tanamdebobaze wardgenil kandidatTa)

monacemebis pirad s

nawili obrivi gasaidumloebis kanonierebis Seswavlis mizniT. sasamarTlos ufleba aqvs es ganxilva awarmoos daxurul sxdomaze.

$ 5.3. piradi xel Seuxebloobis dacva

dacvis imave principebs eqvemdebareba samoqalaqo kodeqsis me-18 muxliT gaTvaliswinebuli iseTi aramaterialuri sikeTe, rogoricaa piradi xel Seuxebloba. aRniSnuli konstituciuri Tavisufleba micavs iseT pirovnul Rirebulebebs, rogoricaa: miwer-moweris, piradi werilebis, dRiurebis, kerZo dokumentaciis dacva, romelTa uzrunvelyofa efeqturia „piradi cxovrebis saidumloebis“ ganxilvisas miTiTebuli samoqalaqo-samarTlebrivi saSualebebiT.

saqarTvelos konstituciis me-

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trefikingisTvis (ssk-is 143 (l) muxli), mZevlad xelSi CagdebisTvis (ssk-is 144-e muxli), wamebisTvis (144 (l)), damamcirebeli an araadamianuri mopyrobisaTvis (ssk-is 144(3)), fsiqiatriul dawesebulebaSi ukanono moTavsebisaTvis (ssk-is 149-e muxli). Tuki adamians ukanonod aRekveTa TavisuflebadazaralebulsufIeba aqvs moiTxovos darRveuli uflebis aRdgena, samoqalaqo samarTalwarmoebis wesiT. xolo Tu amasTan damnaSave saxel mwifo organoebis Tanamdebobis piria, pasuxismgebloba ekisreba saxelmwifosac.

Semxvedri moval eobis gareSe, Tanaxmaa gamosaxul eba gamoqveyndes, saqme gvaqvs Tanxmobis cal mxriv gancxadebasTan anu nebarTvasTan. roca piri Tanaxmaa gamosaxul eba gamoqveyndes vinmes Semxvedri moval eobis Sesrul ebis pirobiT, Tanxmobas eZl eva xel Sekrul ebis saxe. aseTi xel Sekrul ebebi gavrcel ebul ia profesiul i fotomodel ebis praqtikaSi.

roca saqme gvaqvs Tanxmobis cal mxriv gancxadebasTan, imis garkvevisas, iyo Tu ara Tanxmoba, unda gamovideT praqtikaSi damkvidrebul i Tanxmobis formebidan. Tu Tanxmobis amgvari damkvidrebul i formebi ar arsebobs, saWiroa gairkves, SeeZl o Tu ara Tanxmobis mimRebs piris moqmedeba an saqciel i Tanxmobad CaeTval a.[221] magal iTad, Tu piri iTval iswinebs, rom fil mis gadaRebisas igi kadrSi SeiZl eba moxvdes, es jer kidev ar gul isxmobs mis konkl udentur moqmedebas. Tanxmobis farl ebi SeiZl eba dadgindes yovel cal keul SemTxvevaSi arsebul garemoebaTa gaTval iswinebiT. Cveul ebriv, gamoiyeneba principi – Tanxmoba im mocul obisaa, ra fargl ebisTvisac aris gamiznul i. Tu piri Tanaxmaa gamoqveyndes misi fotosuraTi, radgan igi im saqmis mesveuria, roml is Sesaxebac moTxrobil ia publ ikaciaSi, individis Tanxmobis mizans swored es publ ikacia warmoadgens. Tanxmoba Zal adakargul i iqneba mas Semdeg, rac piri karga xania aRniSnul saqmes CamoSorda da mis Sesaxeb qveyndeba masal a, romel sac araviTari kavSiri ara aqvs Zvel garemoebebTan.[222]

Tanxmoba, rogorc nebis gamovl ineba, SeiZl eba gaprotestebul i iqnas. es im SemTxvevebs exeba, roca pirovneba motyuebis gziT SecdomaSi Seiyvanes. amgvar moqmedebasTan gvaqvs saqme, roca korespondenti individs, roml isganac intervius iRebs, yal b cnobebs aZl evs am intervius gamoyenebis miznis an dagegmil i korespondenciis SinaarsiS Sesaxeb.

erTxel micemul i Tanxmoba boWavs mis ganmcxadebel s. es principi iseT SemTxvevebs exeba, roca Tanxmoba cal mxrivadaa gancxadebul i. sainformacio saSual ebebSi korespondenciis gamoqveynebaze Tanxmoba individma SeiZl eba „ukan waiRos", Tu garemoebebi ise radikal urad

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[221] saqarTvel os samoqal aqo kodeqsis komentari, wigni pirvel i, Tb. 1999 w. 67.

[222] saqarTvel os samoqal aqo kodeqsis komentari, wigni pirvel i, Tb. 1999 w. gv. 68.

Seicvala, rom aRniSnulma korespondenciam SesaZloa daarRvios misi pirovnuli uflebebi.[223] Tanxmobis gauqmeba dasaSvebia, rodesac gansazRvrul momentSi piri Tanaxmaa gamoqveyndes misi politikuri an msofl mxedvelobrivi mosazrebebi, magram mogvianebiT misi poziciebi principulad icvleba.

sazogadoebrivi cxovrebis nawils, „ewereba aqtualobisa da Tanamedroveobis" SinaarsSi, sazogadoebis informirebis sayovel Tao interesi sWarbobs individis interess – daupirispirdes sakuTari gamosaxulebis publikacias. [226]

evropis adamianis uflebaTa sasamarTlom d-T g-Zis saqmeze miiCnia, rom aplikantis mimarT dairRva konvenciis me-8 muxli (piradi da ojaxuri cxovrebis daculobis ufleba) da me-13 muxli (qmediTi samarTlebrivi misageblis ufleba) gazeT `axali Taobis~ meSveobiT informaciisa da misi fotoebis, aseve sasamarTlo gadawyvetilebebis gamoqveynebiT.

d-T g-Zem 199.. wels gasayidad gamoitana cnobili qarTveli mwerlis konstantine gamsaxurdias xel naweri. q-ni m. Aa-Ze-g-ia (mwerlis rZali da saqarTvelos aw gardacvlili eqs-prezidentis zviad gamsaxurdias meuRle) aplikants SeuTanxmda Sexvedraze, romelic Catarda gazeT `axali Taobis~ Jurnalistta Tandaswrebit. Sexvedras win uZRvoda statiebisa da interviuebis seria aplikantis fotoebTan erTad, sadac m. a-Ze-g-ia bralad sdebda mas xel nawerebis moparvas saeWvo viTarebaSi.

aplikanti Civis, rom gazeT `axali Taobis~ meSveobiT am informaciisa da misi fotoebis, aseve sasamarTlo gadawyvetilebebis gamoqveyneba, xel yofs misi piradi cxovrebis daculobis uflebas. aplikants miaCnia, rom mis mimarT dairRva konvenciis me-8 muxli (piradi da ojaxuri cxovrebis daculobis ufleba) da me-13 muxli (qmediTi samarTlebrivi misageblis ufleba).

sasamarTlom aRniSna, rom ganmcxadebeli Civis ara saxel mwifos uSualo Carevaze, aramed saxel mwifos mier misi piradi cxovrebis dacvis arasakmarisobaze. Tu me-8 muxli ZiriTadad miznad isaxavs daicvas piri saxel mwifos ukanono Carevisagan, igi ar kmayofileba saxel mwifosaTvis amgvari Caurevlobis valdebulebis dakisrebiT. amgvar negatiur valdebulebebs SeiZleba daematos piradi da saojaxo cxovrebis efeqturi dacvisaTvis damaxasiaTebeli pozitiuri valdebulebebi. maT SeiZleba aucilebeli gaxadon piradi cxovrebis uflebis dasacavad garkveuli zomebis miReba maSinac ki, roca

[226] saqarTvelos samoqalaqo kodeqsis komentari, wigni pirveli, Tb. 1999 w. gv. 69.

ganmcxadeblis Tanxmoba aucilebeli iyo, vinaidan suraTis gadaReba
ar momxdara policiis moTxovnebis Sesabamisad. `axali Taobis”
fotografis, ganmcxadeblis wodebiT `paparacis”, mier gadaRebuli

kavSiri ar aqvs momxdari movlenis SecnobasTan. aseT SemTxvevaSi publikacia ar Tavsdeba „Tanamedroveobis istoriis" CarCoebSi.

danaSaulis faqtebTan dakavSirebul pirTa gamosaxulebebis publikacia dakavSirebulia sazogadoebrivi uSiSroebis interesebTan. erTmaneTisagan ganasxvaveben Zebnil da damnaSave pirTa gamosaxulebebis publikacias. roca damnaSaves policia eZebs, misi gamosaxulebis publikacias kanonier safuZvels aZlevs sazogadoebrivi intere

aRar iwvevs cvlil ebebis Setanas gardacvlili Svilis an meuRlis saaqto CanaverebSi. gardacvlilis saxelis uflebis darRvevad CaiTvleba misi ugulvebelyofa, Secvla, damaxinjeba.

gardacvlilis memkvidreebs, gansazRvruli socialuri funqciebidan gamomdinare, ufleba ara aqvT gaaxmauron saidumloebani, romlebic gardacvlilis pirovnebis Seuracxmyofelia, Tu aseTi cnobebis gaxmaurebis Sesaxeb Tavisi neba ar gamouTqvams mas, visac saidumloeba exeba. amasTan, saidumloebis dacvis moTxovna, gamosaxulebis an fonoCanaweris gamoqveynebis akrZalva ar vrceldeba im monacemebze, romlebic gardacvlilis sazogadoebriv moRvaweobas Seexeba, ar vrceldeba cnobebze, romlebic mis mier sajarod gamoiTqva. sazogadoebas ufleba aqvs gaecnos aseT masalebs. pirad saidumloebad ar CaiTvleba politikosis sazogadoebrivi pozicia, mecnieris Teoria, mwerlis SemoqmedebiTi kredo. amgvari cnobebis gamoqveyneba amdidrebs istoriografias, mecnierul Tu mxatvrul analizs. saidumloebis dacvis sakiTxis gadawyvetis dros saWiroa gaimijnos piradi da sazogadoebrivi interesi.[234]

piradi araqonebrivi uflebebi memkvidreobiT ar gadaicema. zemoT aRniSnul SemTxvevebSi memkvidreebis mier xorcieldeba gardacvlilis pirovnuli uflebebis da ara gardacvlilisagan memkvidreobiT miRebuli uflebebis dacva. moraluri ziani pirovnuli uflebebis xelyofiT gamowveuli ziania, romlis anazRaurebis moTxovnis ufleba aqvs mxolod am uflebaTa subieqts, sxva piri anazRaurebis moTxovnis safuZvels moklebulia. amasTan, usafuZvlod ar unda CaiTvalos anazRaureba moraluri zianisa, romlis moTxovniT dazaralebulma sasamarTlos mimarTa, magram gadawyvetilebis gamotanamde igi gardaicvala. moraluri zianis fuladi sazRauri aseT SemTxvevaSi samkvidro masis Semadgeneli nawilia.[235]

aranakleb sakamaToa sakiTxi gardacvlilTa axloblebisaTvis gardacvalebiT miyenebuli tanjvisaTvis moraluri zianis anazRaurebis Sesaxeb. rogorc wesi pativi da Rirseba piris piradi,

[234] saqarTvelos samoqalaqo kodeqsis komentari, wigni pirveli, Tb. 1999 w. gv. 81.
[235] saqarTvelos samoqalaqo kodeqsis komentari, wigni pirveli, Tb. 1999 w gv. 81.

ganuyofeli da ganusxvisebeli uflebebia, romelTa mesame pirTaTvis nebismieri saxiT gadacemac dauSvebelia. udavoa, rom mSoblebis, Svilebis da axloblebis saxeli da avtoriteti gavlenas axdens piris reputaciaze. amitom maTi araqonebrivi uflebebis dacviT igi ara marto vals ixdis gardacvlilis winaSe, aramed icavs Tavis interesebsac. amasTan saxelis aRdgenis mizniT araqonebrivi uflebis dacva da moraluri zianis anazRaurebis moTxovna erTi da igive rodia. rogorc wesi moraluri zianis anazRaurebisaTvis sasamarTlosaTvis mimarTvisas piri xelmZRvanelobs sakuTari interesebiT. maSinac ki, roca piris gardacvalebis Semdeg misi axloblebi mimarTaven sasamarTlos araqonebrivi uflebebis dasacavad, moraluri zianis anazRaurebisas Sefasdeba swored am piqonedasacavad,

pirdapir da zust CamonaTvals sasamarTlos yovelTvis SeuZlia sxvadasxa normatiuli aqtebis analizidan gamomdinare aRiaros axali an ukve cnobili araqonebrivi uflebis darRveva da aanazRauros moraluri ziani."[236]

germanul samarTalSi aRiarebulia saxelmwifos valdebuleba daicvas gardacvlilis pirovneba Tu Rirseba xelyofisagan, iseve rogorc mis "uaxloes pirs" warmoeSoba gardacvlilis interesebis saziano informaciis uaryofis an misi gavrcelebisgan Tavis Sekavebis moTxovnis ufleba.[237]

amasTan "uaxloesi piris" kategoriis formireba xazs usvams im garemoebas, rom Sesabamisi moTxovnis arseboba ar aris damokidebuli memkvidreobasa an sxvagvar uflebamonacvleobaze.[238]

germanul samarTalSi aRiarebulia anderZiT saTanado miTiTebis ararsebobis pirobebSi swored am "uaxloesi piris" ufleba, ganaxorcielos gardacvlilis uflebebis dacva. amasTan, dauSveblad iTvleba xelyofis SemTxvevaSi materialuri kompensaciis (zianis anazRaurebis) moTxovnis warmoSoba, radgan amiT SesaZlebelia biZgi mieces pirovnuli uflebebis "komercializacias".[239]

literaturaSi problemuria sakiTxi imis Taobaze unda aunazRaurdeT Tu ara moraluri ziani dazaralebulis axloblebs. zogadad erTi piris araqonebrivi uflebebis da aramaterialuri sikeTeebis darRveva ar aZlevs sxva pirs moraluri zianis anazRaurebis moTxovnis uflebas, ramdenadac es ziani miadga swored im piris visi uflebebic dairRva da mxolod mas SeuZlia Seitanos sarCeli aseTi moTxovniT. Tumca arc Tu iSviaTad SeiZleba dazaralebulis axloblebma ufro meti fizikuri Tu moraluri ziani gaanicadon, vidre TviT dazaralebulma, rac dRis wesrigSi ayenebs maT mier moraluri zianis anazRaurebis moTxovnis mizanSewonilobis sakiTxs. zogierTi mecnieris azriT, aRniSnuli garemoeba ar aZlevs dazaralebulis axloblebs aseTi moTxovnis uflebas, radganac aseT

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[236] Ivane doRonaZe "moraluri zianis anazRaureba", 2010 weli, gv. 177.

[237] Larenz/Wolf, AT des Burgerlichen Reghts, 2004, $8, RdNr. 46 f.

[238] Palandt/Sprau, BGB, 2008, $823, daviT kereseliZe, „kerZo samarTlis uzogadesi istemuri cnebebi", Tbilisi, 2009 weli, gv. 160.

[239] Larenz/Wolf, AT des Burgerlichen Reghts, 2004, $8, RdNr. 90 f.

SemTxvevaSi "moraluri zianis anazRaurebis uflebis mqone subieqtTa
wre imdenad gafarTovdeba, rom principuli mniSvneloba moraluri
zianis kompensaciis daniSnulebisa azrs dakargavs".[240]

sxvebi ki Tvlian, rom msgavs SemTxvevaSi moraluri zianis
anazRaurebis ufleba aqvT dazaralebulis axloblebsac. vinaidan,
axlobeli adamianis janmrTelobisaTvis zianis miyenebam maTSi
SeiZleba gamoiwvios aranaklebi zneobrivi gancdebi, rac sabolood
sxva araferia Tu ara maTi araqonebrivi sikeTeebis da uflebebis
Selaxva.[241]

migvaCnia, rom dazaralebulis axlobebs dazaralebulisgan
damoukideblad, xolo gardacvlilis axlobebs saqmis

legionis ufrosma serJantma z. b-Svilma, masze ricxuli cecxl sasroli iaraRiT mokla mosarCelis meuRle k. x-eli.

aRniSnulis gamo z. b-Svili micemul iqna pauxisgebaSi sisxlis samarTlis kodeqsis 108-e muxliT da miesaja 9 wliT Tavisuflebis aRkveTa.

mosarCelem miiCnia, rom mas danaSaulis Sedegad miadga rogorc materialuri, ise moraluri ziani da moiTxova mopasuxes mis sasargeblod dakisreboda 2000 lari materialuri zianisa (dakrZalvis xarjebi, Casasvenebeli, wasveneba, dakrZalava da sasaflaos mowyoba) da moraluri zianisaTvis 15.000 laris anazRaureba.

raionuli sasamarTlos gadawyvetilebiT nawilobriv dakmayofilda n. b-Svilis sasarCelo moTxovna da z. b-Svils mis sasargeblod daekisra materialuri zianisaTvis 1.000 larisa da moraluri zianisaTvis 5.000 laris anazRaureba.

n. b-Svilma saapelacio saCivriT gaasaCivra raionuli sasamarTlos gadawyvetileba moraluri zianis srulad anazRaurebaze uaris Tqmis nawilSi, im safuZvliT, rom z. b-Svilis mier misi qmris mkvlelobis Sedegad, rogorc mas, aseve mis ojaxis wevrebs miadgaTZlieri sulieri tkivili. kerZod, Svilis mkvlelobas ver gauZlo mamam da gardaicvala. yovelive zemoaRniSnulidan gamomdinare, apelantma miiCnia, rom mopasuxis mier maTTvis miyenebuli moraluri ziani ganusazRvrelia, magram mis mier sarCelSi miTiTebuli Tanxa gonivruli da samarTliani iyo.

saapelacio sasamarTlom miiCnia, rom mopasuxisaTvis moraluri zianis _ 5.000 laris dakisreba gonivruli da samarTliani iyo. gadawyvetileba sakasacio saCivriT mopasuxem gaasaCivra. uzenaesi sasamarTlos sakasacio palatam daakmayofila sakasacio saCivari da gadawyvetilebiT uari uTxra mosarCeles moraluri zianis anazRaurebaze Semdegi dasabuTebiT.

samoqalaqo kodeqsis 413-e muxlis pirveli nawiliT araqonebrivi zianisaTvis fuladi anazRaureba SeiZleba moTxovnil iqnes mxolod kanoniT zustad gansazRvrul SemTxvevebSi (aq igulisxmeba rogorc samoqalaqo kodeqsiT, ise, sxva kerZo Tu sajaro samarTlebrivi xasiaTis normatiuli aqtebi), e.i. es norma gamoricxavs araqonebrivi

zianis anazRaurebis SesaZlebloba im SemTxvevaSi, Tu igi kanoniT ar aris dadgenili. moqmedi kanonmdebloba (samoqalaqo kodeqsi, sisxlis samarTlis saproceso kodeqsi, kanoni "reklamis Sesaxeb" da sxv.), marTalia, iTvaliswinebs araqonebrivi (moraluri) zianis anazRaurebas sxvadasxva SemTxvevaSi, maT Soris, sxeulis dazianebis an janmrTelobisaTvis vnebis miyenebisas, magram ara sicocxlis xel yofis dros. sasamarTlo miuTiTebs, rom bevr SemTxvevaSi _ saxel Sekruleebo Tu deliqturi urTierTobis dros (miT umetes piris gardacvalebisas), SeiZleba real urad marTlac dadges moral uri ziani, magram Tu kanoniT araa gaTvaliswinebuli misi anazRaureba, igi ar anazRaurdeba. dazaralebulis gardacvalebis SemTxvevaSi anazRaurdeba mxolod materialuri ziani (samoqalaqo kodeqsis 1006-e muxliT) palatam CaTvala, rom moral uri (araqonebrivi) ziani pirovnul i uflebebis xel yofiT gamowveuli ziania, romlis anazRaurebis moTxovnis ufleba aqvs mxolod am uflebaTa subieqts, sxva piri anazRaurebis moTxovnis safuZvels moklebulia.

aRniSnulidan gamomdinare sakasacio sasamarTlom miuTiTa, rom moral uri zianis qonebrivi anazRaurebis moTxovna sikvdilis Semdeg dauSvebelia. es koncefcia efuZneba samoqalaqo kodeqsis me-19 muxliT dadgenil wess. aRniSnuli norma awesebs gardacvalebis Semdeg piradi uflebebis dacvis SesaZleblobas, magram amave muxliT akrZalulia gardacvalebis Semdeg moral uri zianis qonebrivi anazRaurebis moTxovna.

mocemul SemTxvevaSi sasamarTlom gamoiyena kanoni, romelic ar unda gamoeyenebina, ris gamoc gadawyvetileba moraluri zianis anazRaurebis nawilSi unda gauqmdes da n. b-Svils sarCelis am nawilSi uari unda eTqvas usafuZvlobis gamo. [242]

safuZvelze dafiqsirda pozicia axlo naTesavis gardacvalebis
SemTxvevaSi moraluri zianis anazRaurebis SesaZleblobaze.

e. m-Svil-ma da n. x-Svilma sarCeliT mimarTes Tbilisis saolqo
sasamarTlos samoqalaqo, samewarmeo da gakotrebis saqmeTa kolegias
da moiTxoves miyenebuli zianis anazRaureba, im safuZvliT, rom maTi
Svili g. x-

mosamsaxuris ganzraxi qmedebiT maTTvis miyenebuli materialuri zianis _ 20 000 aSS dolaris, moraluri zianis 1 000 000 laris dakisreba, werilobiTi formiT bodiSis moxda masmediis saSualebiT. Tbilisis saqalaqo sasamarTlos administraciul saqmeTa kolegiis

miyenebuli zianisaTvis, maT Soris, dasaxiCrebis, damaxinjebis,

gansazRvrul SemTxvevaSi, ar gulisxmobs mxolod samoqalaqo kanonmdeblobiT gaTvaliswinebul SemTxvevebs. sisxlis samarTlis saproceso kodeqsis 30-e muxli 1-li nawilis Tanaxmad, pirs, romelsac uSualod danaSaulis Sedegad miadga qonebrivi, fizikuri an moraluri ziani, ufleba aqvs sisxlis samarTlis saqmis warmoebisas moiTxovos zianis anazRaureba da am mizniT waradginos sarCeli. amave kodeqsis 33-e muxli aniWebs uflebas pirs, romelsac ar warudgenia sarCeli sisxlis samarTlis saqmeze an romlis sarCelic ganuxilveli darCa, waradginos igi SemdgomSi. amdenad, zemoaRniSnul normaTa safuZvelze anazRaurebas eqvedebareba marTlsawinaaRmdego qmedebiT miyenebuli ziani, maT Soris moral uric.

vinaidan ziani anazRaurdeba realurad arsebuli, damdgari saziano SedegisaTvis, aucilebelia pirdapiri zianis arsebobis konkretul qmedebasa da damdgar Sedegs Soris mizez-Sedegobrivi kavSiris arsebobis dadgena anu qmedeba uSualo winapirobas unda warmoadgendes damdgari SedegisaTvis. saqmis xel axali ganxilvisas unda dadgindes samxedro pirTa mier marTlsawinaaRmdego qmedebis CadeniT damdgarma Sedegma gamoiwvia Tu ara mosarCeleTa samsaxuridan gaTavisufleba, janmrTelobis moSla, samyarosTan kontaqtis dakargva, maT Cveul garemoSi adaptirebis SeuZleloba.[243]

ebis" mier frenebis ganaxlebis Sesaxeb gancxadebebs akeTeben iq
momuSave arakompetenturi, araprofesionali da aviaciis sferosagan
Sors mdgomi pirebi" „ eseni arian aviaciaSi SemTxveviT moxvedrili
xalxi", Sps „a-na-saqarTvelos aviaxazebis" direqtorma T. g-Svilma
"rusTavi-2"-is sainformacio programa "kurieri 9 saaTze"
"saqarTvelos a-bis" koleqtivi kriminalebad moixsenia.

mosarCelem sarCelis samarTlebriv safuZvlad miuTiTa
samoqalaqo kodeqsis me-18 muxlis me-2 nawilze, 413-e muxlis pirvel
nawilze, 992-993-e muxlebsa da „reklamis Sesaxeb" saqarTvelos
kanonze.

Tbilisis saolqo sasamarTlos samoqalaqo da samewarmeo saqmeTa
kolegiis gadawyvetilebiT sarCeli nawilobriv dakmayofilda da Sps
"a-na-saqarTvelos aviaxazebs" Sps aviakompania "saqarTvelos a-is"
sasargeblod daekisra 500 000 laris gadaxda.

sakasacio sasamarTlom gaauqma saapelacio sasamarTlos
gadawyvetileba da ar daakmayofila sarCeli Semdegi dasabuTebiT: Sps
aviakompania „saqarTvelos a-bis" sarCeliT moraluri zianis
anazRaurebis erT-erT safuZvels warmoadgens internetis meSveobiT
arasaTanado reklamis gavrceleba. sakasacio sasamarTlom miuTiTa,
rom arasaTanado reklamis ganTavseba da gavrceleba ar warmoadgens
moraluri zianis anazRaurebis kanoniT gaTvaliswinebul safuZvels.
kerZod, samoqalaqo kodeqsis 413-e muxlis pirveli nawiliT
araqonebrivi zianisaTvis fuladi anazRaureba SeiZleba moTxovnil

xel yofa, romelsac qonebrivi ekvivalenti ar gaaCnia (suli eri an fizikuri tkivili, gancda, da sxva). amdenad, iuridiuli piris moTxovna moraluri zianis anazRaurebis Sesaxeb iuridiulad usafuZvloa. [248]

migvaCnia, rom sasamarTlom arasworad ganmarta reklamis Sesaxeb kanonis 21.3 muxli. normis Sinaarsis mixedviT dazaralebuls SeuZlia rogorc arasaTanado reklamis sajarod uaryofa, ise miyenebuli zianis, maT Soris, moraluri zianis anazRaureba.

polemikas iuridiuli pirisaTvis pativis, Rirsebisa da saqmiani reputaciis Selaxvisas moraluri zianis anazRaurebis Taobaze vfiqrobT, nawilobriv wertili dausva sakanonmdeblo cvlilebam, samoq

saqarTvelos samoqalaqo kodeqsis 992_e muxlis Sesabamisad piri, romelic sxva pirs marTlsawinaaRmdego, ganzraxi an gaufrTxilebeli moqmedebiT miayenebs zians, val debulia aunazRauros mas es ziani. samarTal Si samarTal darRveva deliqtad iwodeba, Sesabamisad samarTal darRvevis Sedegad warmoSobil val debulebas deliqtur val debulebas uwodeben. sk_is 317_e muxli gansazRvravs val debulebis warmoSobis safuZvlebs. esenia: xel Sekruleba, zianis miyeneba (deliqti), usafuZvlo gamdidreba an kanoniT gaTvaliswinebuli sxva safuZvlebi.

„ziani" samoqalaqo samarTal Si aris fizikuri da iuridiuli piris uflebis an keTil dReobis damcireba, ganadgureba, interesebis xel yofa.

Cven zemoT visaubreT saxel Sekrulebo da arasaxel Sekrulebo zianze da mas aRar gavimeorebT. mxolod davsZenT, rom „arasaxel Sekrulebo" ziani warmoiqmneba uSualod samarTal darRvevidan (deliqti), romel sac deliqtur val debulebasTan erTad xSirad „samarTal darRvevidan warmoSobil val debulebas", an „unebarTvo qmedebisagan warmoSobil val debulebas" uwodeben.

"deliqturi samarTali vrceldeba SemTxvevebze, roca individis interesTa ziani mdgomareobs ara imdenad micemuli sityvis mimarT mosarCelis ndobis gacruebaSi saxel Sekrulebo val debulebaTa Seusruleblobi pasuxismgeblobis darRvevis gziT, aramed misi sxva mraval ricxovani interesis Sel axvaSi, rogoricaa janmrTelobis dazianeba an reputaciis Sel axva, misi moZravi an uZravi qonebis dazianeba an sxva. deliqturi samarTlis funqciaa zianis miyenebis auracxeli SemTxvevebidan amoirCios iseTi, rodesac dazaralebuls SeuZlia miyenebuli zianis simZime sxva pirs daakisros."[250] D

TviT zianis miyenebis faqti (kanonSi miTiTebuli pirobebis erTobliobiT), samarTlis specialuri normebis safuZvelze warmoSobs mxareebs Soris (dazaralebuli da zianis mimyenebeli) samarTlebriv urTierTobas. dazaralebuli gvevlineba rogorc kreditori (mas aqvs moTxovnis ufleba), xolo zianis mimyenebeli – movalea (valdebuli piri). kreditori SeiZleba iyos yoveli fizikuri da iuridiuli piri, movalea ki mxolod del iqtunariani piri, e.i. piri, romelic pasuxs agebs Tavisi qmedebisaTvis. deliqtis dros, TviT zianis miyenebis faqti warmoadgens valdebulebis warmoSobis safuZvels, romeli valdebulebis ZaliTac dazaralebuls ufleba aqvs moiTxovos zianis anazRaureba zianis mimyeneblisagan.

s.n. bakunini pirovnebis sicocxlisa da janmrTelobis dacvis samarTlebrivi dacvis erT_erT saSualebad miiCnevs deliqturi valdebulebisde3m2i8ariqeTuarире

kriteriumia kanoni, xolo saxel Sekrul ebo val debul ebis darRvevis xasiaTi xel Sekrul ebis mixedviT ganisazRvreba." [257]

TiToeuli formis Sinaarss. am SemTxvevaSi, SesaZlebloba gveZleva visargeblოT sisxlis samarTlis kanonmdeblobaSi arsebuli gansazRvrebiT: ganzraxia qmedeba, romelic Cadenilia pirdapiri an arapirdapiri ganzraxviT. qmedeba pirdapiri ganzraxviTaa Cadenili, Tu pirs gacnobierebuli hqonda Tavisi qmedebis marTlwinaaRmdegoba, iTvaliswinebda marTlsawinaaRmdego Sedegis dadgomis SesaZleblobas da surda es Sedegi, anda iTvaliswinebda aseTi Sedegis ganxorcielebis gardauvalobas. samoqalaqo samarTalSi ganzraxva aris marTlsawinaaRmdego Sedegis codna da survili, anu Sedegis codna da survili marTlsawinaaRmdego SegnebiT.[266] qmedeba arapirdapiri ganzraxviTaa Cadenili, Tu pirs gacnobierebuli hqonda Tavisi qmedebis maral winaaRmdegoba, iTvaliswinebda marTlsawinaaRmdego Sedegis dadgomis SesaZleblobas da ar surda es Sedegi, magram Segnebul ad uSvebda an gulgril ad ekideboda mis dadgomas.[267]

gaufrTxilebloba bralis yvelaze gavrcelebuli formaa samoqalaqo samarTalSi. samoqalaqo kodeqsi arc gaufrTxileblobis definicias iZleva. "samoqalaqo samarTalSi gaufrTxileblobad iTvleba moqmedeba, romliTac irRveva samoqalaqo brunvisaTvis damaxasiaTebeli aucilebeli yuradRebianobis moTxovnebi. gaufrTxileblobis cneba ar aris damokidebuli yuradRebianobis im xarisxze, romelic SeiZleba gamoiCinos individualurad braleulma pirma. gaufrTxilebloba samoqalaqo samarTalSi ganisazRvreba moTxovnis obieqturi masStabebiT"[268], e.i gamoiyeneba msgavs situaciaSi gonieri da keTilsindisieri adamianis moqmedebis prezumfcia. Tu dazaral da saqmiani wris garkveuli jgufis an garkveuli profesiis warmomadgeneli, sasamarTl om unda gaarkvios, mopasuxem gamoiCina Tu ara windaxeduleba im moculobiT, romelic sCvevia Sesabamisi profesiis an saqmiani wris "saSualo warmomadgenels". [269]

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[266] Fikentscher W., Schuldrect, 8, Auflage, Berlin-New-York, 1992, 312.
[267] saqarTvelos sisxlis samarTlis kodeqsi, Tbilisi, 1999 weli, muxli 8.
[268] Dieter Medicus, Schuldrecht, Allgemeiner

"gaufrTxilebloba samoqalaqo samarTalSi iyofa uxeS da martiv (ubralo) gaufrTxileblobad. uxeSi gaufrTxileblobiT moqmedebsis, vinc Tavisi moqmedebiT aucilebeli yuradRebianobis moTxovnebs arRvevs uCveulod maRali xarisxiT. martivi gaufrTxileblobiT moqmedebsis, vinc aucilebeli yuradRebianobis moTxovnebs arRvevs SedarebiT dabali doniT. gansxvaveba gaufrTxileblobis formebs Soris aucilebeli yuradRebianobis darRvevis xarisxSia."[270]

"gaufrTxileblobis qveS kanoni gulisxmobs samoqalaqo urTierTobaSi aucilebeli zrunvis gamouCenlobas. zogadi wesiT movale pasuxs agebs nebismieri, Tundac mcire gaufrTxileblobisaTvis. Sesabamisad, gansxvaveba gaufrTxileblobis sxvadaxva xarisxs Soris (martivi, saSualo, uxeSi gaufrTxileploba), rogorc wesi ar asrulebs mniSvnelovan rols. uxeSi gaufrTxileploba saxeze roca samoqalaqo urTierTobaSi aucilebeli zrunvis gamouCenlobas aqvs adgili gansakuTrebiT mZime masStabiT. bralis SeracxvisaTvis gamoiyeneba movalis individualuri Cveulebrivi qcevis wesebi. gansxvaveba ganzraxvasa da gaufrTxileplobas Soris samoqalaqo samarTlisaTvis ar aris mniSvnelovani, radgan movale ganzraxvasa da gaufrTxileplobasTvis erTnairad agebs pasuxs."[271]

ganzrax an gaufrTxilebeli qmedebiT miyenebuli ziani eqvemdebareba anazRaurebas. kanoni iTvaliswinebs bralis gareSe pasuxismgeblobis SemTxvevebsac.

samoqalaqosamarTlebriv pasuxismgeblobas axasiaTebs misTvis damaxasiaTebeli zianis mimyeneblis braleulobis prezumfciis principi. zianis mimyenebel miiCneva braleulad. Tu ar daamtkicebs misi bralis ararsebobis faqts. amis Sesabamisadve xdeba mtkicebis tvirTis ganawileba dazaralebulsa da zianis mimyenebels Soris: dazaralebuli, mimarTavs ra sasamarTlos zianis anazRaurebis moTxovniT, valdebulia daamtkicos misTvis zianis arsebobis faqti, aseve mizezobrivi kavSiris arseboba zianis mimyeneblis qmedebasa da

[270] saqarTvelos samoqalaqo kodeqsis komentari, wigni mesame, Tb. 2001 weli. gv. 386.
[271] zurab WeWelaSvili, „saxelSekrulebo samarTali," Tbilisi, 2008 weli, gv. 184-185.

damdgar zians Soris. zianis mimyenebelma, Tavis mxriv, unda daamtkicos mis qmedebaSi marTl winaaRmdegobis da bralis ararseboba.

zianis anazRaurebis moval eoba SeiZl eba gamoiwvios danaSaul ma an administraciul ma gadacdomam. samoqal aqo-samarTl ebrivi pasuxismgebl oba maSinac dgeba, roca Cadenil ia danaSaul i da maSinac, roca qmedeba danaSaul is niSnebs ar Seicavs. amitom, sisxl is samarTl is saqmeze gamamarTl ebel i ganaCenis gamotana yovel Tvis ar aris samoqal aqo-samarTl ebrivi pasuxismgebl obisagan ganTavisufl ebis safuZvel i. Tu ziani miyenebul ia iseTi qmedebiT, romel ic danaSaul is niSnebs Seicavs, maSin damnaSaves erTdroul ad daekisreba sisxl is samarTl is da samoqal aqosamarTl ebrivi pasuxismgebl oba.

bral is formasa da xarisxs samoqal aqo-samarTl ebrivi

gaufrTxilebloba. amasTan, bunebrivia, rom dazaralebulis mier
CadeniliiiigaufrTxileblobisasiigaTvaliswinebuliiiiundaiiiiiqnas
konkretuliiigaremoebebi. magaliTad, uxeSiiiigaufrTxilebaaa
dazaralebulisiiarafxizeliimdgomareobaSiiyofna, romeliimaciixeli
Seuwyo zianis dadgomasanmisgazrdas."[273]

arsebobs zogadi wesi, roml is mixedviTac, ziani sruladunda
aanazRauros zianis mimyeneblma. impirma, romeliciivaliiidebulia
aanazRaurosiiziani, undaaaRadginosiiisiimdgomareoba, romelic
iarsebebda, romiiariidamdgariyoiianazRaurebisimavaliidebulebeli
garemoeba (samoqalaqoiikodeqsisii408-eiimuxli). aRniSnuli iiinormidan
gamomdinareobs, romiiizianiiiundaiiianazRaurdesiinaturiT. kerZod,
ganadgurebulii nivTissanacvlodiidazaralebulsundaiigadaecesiimave
gvarisa da xarisxisnivTi, an zianis mimyeneblismier aRdgeniliiunda
iqnasidazianebulii nivTi da a.S. Tu pirvandelimdgomareobis aRdgena
SeuZlebelia, dazaralebulsmiecemaffuladi anazRaureba.[274]

"saxel SekruleboiiurrierrobebSi, xSiradiiSeuZlebeliaiiian
aragonivruliapirvandelimdgomareobissruladnaturiT aRdgena, ra
drosacnaturiT restituciisadgilsffuladi anazRaureba ikavebs.
hipoTeturida realur mdgomareobasSorissxvaobaffuladierTeuliiT
ivseba. Tu kanonidan an saqmisgaremoebebidansxvaramiiar
gamomdinareobs, iiidazianebuliiiisikeTisiiiRirebulebaiiiisabazro
Rirebulebebia ganisazRvreba, araqonebrivi zianis SemTxvevaSiiiiki
abstraqtulizianis SesabamisianazRaureba xdeba."[275]

moraluriizianisiianazRaurebis pirobebze sakmaodiivrclad
visaubreT da mas aRar gavimeorebT. sayuradRebo da ganxilvis Rirsia
romeliideliqturiivaliidebulebebiswarmoSobisidrosidgeba moraluri
zianis anazRaurebissakiTxi da rogoria am SemTxvevaSi pasuxisgebisa
da kompensaciis specifika.

zogadi wesisa da deliqtis bunebidan gamomdinare Cvens mier
zemoT ganxiluliiipiradi araqonebrivi uflebebis Sel axvidan

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ganicada Sromis unarianobis mTlianad an nawilobriv dakargvis, aqtiuri cxovrebis wesis gagrZelebis SeuZleblobis, raime uflebis SezRudvis da dakargvis, fizikuri tkivilebis gancdis da a.S. gamo, rac gamoiwvia misi janmrTelobis Seryevam, mis mimarT ganxorcielebuli aramarTlzomieri qmedebis an gadatanili gancdebis Sedegad.

avtorTa nawili Tvlis, rom msgavs SemTxvevaSi moraluri zianis anazRaurebis ufleba aqvT dazaralebulis axloblebsac. vinaidan, axlobeli adamianis janmrTelobisaTvis zianis miyenebam maTSi SeiZleba gamoiwvios aranaklebi zneobrivi gancdebi, rac sabolood sxva araferia Tu ara maTi araqonebrivi sikeTeebis da uflebebis Selaxva.[283]

"aRniSnuli mosazreba namdvilad ar aris moklebuli

ganmcxadebel i d. d-ia muSaobda dakavebul Ta da msjavrdebul Ta zedamxedvel ad saqarTvel os iusticiis saministros sasjel aRsrul ebiTi departamentis samedicino dawesebul ebaSi (cixis central uri saavadmyofo). ganmcxadebl is mier samsaxureobrivi moval eobis Sesrul ebis dros, Tormetma msjavrdebul ma, erT-erTi maTganis sakanSi gaTxril i gvirabis saSual ebiT, organizebul i gaqceva ganaxorciel es.

aRiZra sisxl is samarTl is saqme. imave dRes ganmcxadebel i mowmis saxiT daikiTxa. SuaRamisas igi daakaves rogorc eWvmitanil i da moaTavses Sinagan saqmeTa saministros droebiTi dakavebis izol atorSi. mas bral i daedo samsaxureobriv gul gril obaSi, ramac mZime Sedegi gamoiwvia. (sisxl is samarTl is kodeqsis 342(2) muxl i).

advokatTan Sexvedrisas d. d-iam aRniSna, rom Sinagan saqmeTa saministros TanamSroml ebma bral is aRiarebis mizniT, mis mimarT Zal adoba ganaxorciel es. batonma d-iam ganacxada, rom el eqtroSokiT wamebisas pol iciel ebi misgan patimrebis gaqcevaSi misi monawil eobis aRiarebas moiTxovdnen. d-ias unda eTqva, rom igi daexmara msjavrdebul ebs cixis teritoriis datovebaSi, sanacvl od ki mniSvnel ovani Tanxa aiRo. winaswari gamoZiebis stadiaze advokatma gancxadebiT mimarTa sagamoZiebo nawil is ufrosis moadgil es da acnoba misi kl ientis el eqtroSokiT wamebis faqtis Sesaxeb. advokatma moiTxova, patimris sakanSi damoukidebel i eqspertebis SeSveba.

general uri prokuraturis gamomZiebel ma uaryo damoukidebel i eqspertebis mowvevis moTxovna. samagierod, man daniSna saxel mwifo sasamarTl o-samedicino eqspertiza, romel sac pasuxi unda gaeca advokatis mier dasmul i SekiTxvebisaTvis. eqspertizis Catareba daeval a janmrTel obis dacvis saministros sasamarTl o samedicino kvl evis centrs.

ganmcxadebl is wamebas gamoxmaureba mohyva tel eviziasa da presaSi. masal ebis gamoqveynebis Semdeg, ganmcxadebel i inaxul es adamianis ufl ebaTa saparl amento komitetis Tavmj domarem da saxal xo damcvel is warmomadgenel ma. MmaT daadastures, rom bral debul is xel is mtevnebze da TiTebze marTl ac SeimCneoda naCxvl etebis kval i da muqi yavisferi l aqebi. mogvianebiT, saparl amento komitetis

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n_Zem sarCeli aRZra sasamarTloSi s.s. „sinaTlis" winaaRmdeg misi arasrulwlovani Svilis uflebisa da interesis dasacavad. man miuTiTa Semdeg faqtobriv garemoebebze: 200 wlis 17 ivniss, misi 8 wlis mariami mraval biniani saxlis ezoSi TamaSis dros Sevida satransformatoro qvesadguris maRali Zabvis saTavsos Ria karebSi, sadac eleqtrodenis zemoqmedebis gamo miiRo sicocxlisaTvis saSiSi sxeulis daxianeba. kerZod, meoTxe xarisxis eleqtroteqnikuri damwvroba, romlis gamoc aucilebeli gaxda marjvena xelis amputacia. marcxena xelis mtevani aRar funqcionirebs, tanze da saxeze darCa dasaxiCrebis waruSleli kvali (es faqtebi dadgenilia 200 wlis 20 ivnisis lii (es faqteb

kveTis operaciisas didi raodenobiT sisxlis dakargvis gamo dasWirda sisxlis gadasxma. misma naTesavebma gadasxmisaTvis saWiro masala SeiZines Sps "bio"-Si. mogvianebiT aRmoCnda, rom deda-Svili

moraluri zianis anazRaurebis Sesaxeb ganmarta, rom samoqalaqo kodeqsis 1010-e muxli produqtis uxarisxobis kriteriumad miiCnevs ra mis saimedoobas, samoqalaqo brunvis monawile isaTvis da gansakuTrebiT aramewarme momxmareblisaTvis rTulia da zog SemTxvevaSi SeuZlebelicaa, gansazRvros Tu ramdenad saimedoa esa Tu is produqti. mocemul SemTxvevaSi kasatori, Tavisi saqmianobidan gamomdinare, saxel mwifos mier gacemuli specialuri nebarTvis safuZvelze awarmoebs ra specifikuri produqtis _ sisxlis produqciasa da mis realizacias, momxmarebels mis mimarT

miyenebuli zianis sasamarTlos meSveobiT anazRaurebis wess, uTiTeben saxelmwifos pasuxismgeblobis safuZvels, gansazRvraven SemTxvevebs, roca gamoiricxeba saxelmwifos pasuxismgebloba, adgenen saxelmwifos mier damnaSave piris mimarT regresuli sarCelis wardgenis uflebas.[290]

saxelmwifo mmarTvelobis sferoSi moqalaqeTa uflebebis da Tavisuflebebis dacvis erT-erT garantias warmoadgens saxelmwifos konstituciis 42_e muxlis mecxre punqtiT gaTvaliswinebuli valdebuleba aanazRauros saxelmwifo da TviTmmarTvelobis organoTa da mosamsaxureTagan ukanono qmedebiT miyenebuli ziani. vinaidan zianis anazRaureba warmoadgens darRveuli uflebis dacvis absolutur samoqalaqo-samarTlebriv saSualebas konstituciis garda aRniSnul urTierTobebs aregulirebs rogorc sk-is 1005-e muxli, aseve szak-is 208-e muxli. amdenad saxelmwofo organoebis ukanono qmedebiT zianis miyenebis SemTxvevaSi gamoiyeneba deliqturi pasuxismgeblobis zogadi pirobebi, agreTve mTeli rigi specialuri pirobebi, damatebiT gaTvaliswinebuli administraciuli kanonmdeblobis mier. amasTan arc erTi normatiuli aqti detalurad ar aregulirebs am urTierTobebs, rac ganapirobebs araerTi sirTulis Tu Taviseburebis arsebobas am sakiTxTan dakavSirebiT. saxelmwifo mosamsaxuris ukanono qmedebiT (umoqmedobiT) miyenebuli zianisaTvis saxelmwifos pasuxismgeblobis materialur safuZvels Seadgens: 1. saxelmwifo mosamsaxuris ukanono qmedeba. (umoqmedoba); 2. materialuri an moraluri ziani; 3. ukanono qmedebasa da zians Soris mizezobrivi kavSiri; 4. saxelmwifo mosamsaxuris brali.[291]

saxelmwifosagan zianis anazRaurebis moTxovnis uflebis safuZvels pirvel rigSi warmoadgens saxelmwifo mosamsaxuris ukanono qmedeba (umoqmedoba) an gadawyvetileba. ukanono qmedebis qveS igulisxmeba qmedeba, romelic ewinaaRmdegeba ar mxolod kanonebs, aramed nebismieri donis sxva normatiul-samarTlebriv aqtebsac. rogorc ukve aRvniSneT anazRaurebas eqvemdebareba ziani miyenebuli ara marto aramarTlzomieri qmedebiT, anu saxelmwifo mosamsaxuris aqtiuri qmedebiT (mag. pirovnebis ukanono dakaveba), aramed

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[290] " - , - ". 2005, gv.

[291] S. CikvaSvili, moraluri ziani samoqalaqo samarTalSi, Tbilisi, 1998, gv.145.

umoqmedobiTac. ukanaskneli gul isxmobs saxel mwifo mosamsaxuris mier dadgenil vadebSi maTze dakisrebuli garkveuli moqmedebis Seusruleblobas, romelic maT kanonis an sxva normatiuli aqtis Sesabamisad unda SeesrulebinaT (mag. pensiis gaucemloba, saCivris ganuxilveloba da a.S.).

saxel mwifo organoebis da maTi Tanamdebobis pirebis ukanono qmedebebis (an umoqmedobebis) raime CamonaTvals, romel Ta Cadenasac mohyveba saxel mwifos pasuxismgebloba moqalaqeTaTvis zianis anazRaurebis Sesaxeb kanonmdebloba ar Secavs. amis Sesabamisad Tanamdebobis piris mier samsaxurebrivi movaleobis Sesrulebis

tipiuri warmomadgenlebi arian policiis, sabaJos, sagadasaxado organoebis, sxvadasxva saxis inspeqciis TanamSromlebi.[293]

ukanono qmedebiT miyenebuli ziani anazRaurdeba saxel mwifos mxridan sajaro mosamsaxureebisa an Tanamdebobis pirTa bralis miuxedavad, xolo bralis arsebobis SemTxvevaSi isini saxel mwifosTan erTad solidarulad ageben pasuxs. brali SeiZleba iyos rogorc ganzraxvis, ise gaufrTxileblobis formiT, Tumca gansaxilvel sferoSi ziani, rogorc wesi adgeba gaufrTxileblobiT. saxel mwifo organos (Tanamdebobis piris) brali yovel Tvis ivaraudeba da saxel mwifo xelisuflebis organo SeiZleba ganTavisufldes pasuxismgeblobisagan Tuki daamtkicebs bralis ararsebobas.

ziani SeiZleba miadges rogorc pirovnebas, ise qonebas, amitom kanonmdebloba rogorc deliqtis sxva saxeebis SemTxvevaSi iTvaliswinebs rogorc materialuri, ise moraluri zianis anazRaurebas.

saxel mwifos pasuxismgeblobis dadgomis aucilebel pirobas aramarTzomier qmedebasa (umoqmedobasa) da damdgar zians Soris mizezobrivi kavSiris arseboba, rac imaSi gamoixateba, rom, pirveli meores uswrebs droSi da iwvevs mas.

gansaxilvel sferoSi mizezobrivi kavSiris gamovlenas garkveuli specifika axasiaTebs. rogorc wesi saxel mwifo mmarTvelobis sferoSi miyenebuli ziani warmoadgens ramodenime organos am Tanamdebobis piris qmedebis (umoqmedobis) Sedegs, rac gamowveulia aRmasrulebeli xelisuflebis arsebuli struqturiT. saxel mwifos pasuxismgeblobis materialur safuZvels warmoadgens aRmasrulebeli xelisuflebis (Tanamdebobis pirTa) mier ukanono davalebebis da funqciebis marTl sawinaaRmdego ganxorcieleba, ramac gamoiwvia materialuri an moraluri zianis dadgoma.[294] garda amisa zianis anazRaurebis dakisrebisaTvis saWiroa procesualuri safuZvelic _ kompetenturi organos aqti aRmasrulebeli

[293] iqve, gv. 312.
[294] z.adeiSvili, q.vardiaSvili, l.izoria, m.kopaleiSvili, n.sxirtlaZe, p.turava. d.qitoSvili "zogadi administraciuli samarTlis saxel mZRvanelo" Tbilisi, 2005 weli, gv. 312.

xelisuflebis qmedebis (umoqmedobis) ukanonod miCnevis, agreTve aramarTlzomieri gadawyvetilebis gauqmebis Sesaxeb. kanonmdeblobis analizi saSualebas iZleva gamovyoT aseTi ori wesi, administraciuli da sasamarTlo.

gasaCivrda, Caidina uxeSi Secdoma da uari Tqva marTl msajul ebaze. Tumca saxel mwifos aqvs regresul i sarCel is wardgenis ufl eba.

did britaneTSi moqmedi wesi moxel eTa individual uri pasuxismgebl obis Sesaxeb ar vrcel deba mosamarTl eebze. samoqal aqo-samarTl ebrivi pasuxismgebl obisagan mosamarTl eebs imuni teti icavs.

imuni tetis arsebul i doqtrinis Secvl is da kompensaciis principebsa da sasamarTl o damoukidebl obis principebs Soris bal ansis aRdgenis mizniT amerikel ma iuristebma wamoayenes winadadeba, romel ic gul isxmobs mosamarTl eTaTvis absol uturi da SezRudul i imuni tetis miniWebas. [297]

migvaCnia, rom zianis anazRaurebis moTxovnis Sesaxeb sarCel Si mopasuxed mosamarTl is CarTvam SeiZl eba Sel axos misi avtoriteti, eWvqveS daayenos sasamarTl o gadawyvetil ebebi, imuni teti-mosamarTl isaTvis miniWebul i kerZo ufl eba ar aris. es ukanasknel i saj aro ufl ebis matarebel ia, roml is daniSnul eba marTl msajul ebis winaaRmdegobebis gareSe ganxorciel ebis garantiaa. sasamarTl o imuni teti gamarTl ebul ia sasamarTl o procesebis aRsrul ebis aucil ebl obiT, roml ebic winaaRmdeg SemTxvevaSi usasrul od gagrZel deboda. yovel ive aqedan gamomdinare sazogadoebaSi kerZo da saj aro interesebs Soris bal ansis SenarCunebis upirvel es pirobas warmoadgens konstituciuri normebis mkacri dacva. garda amisa mizanSewonil ia special uri kanonis miReba, roml is safuZvel zec unda mowesrigdes saxel mwifo organoebis, Tanamdebobis pirTa Tu mosamarTl eTa mier TavianTi samsaxureobrivi ufl ebamosil ebis ganxorciel ebis procesSi moqal aqisaTvis miyenebul i zianis anazRaurebis sakiTxi. mTl ianobaSi ki saWiroa xel isufl ebis da mosamarTl eebis pasuxismgebl obis principis gamij vnis meqanizmis da agreTve mosamarTl eTa pasuxismgebl obis dazRvevis sqemis SemuSaveba.

moqal aqeebs SeiZl eba ziani miadgeT gamoZiebisa da prokuraturis organoebis da sasamarTl os Tanamdebobis pirTa ukanono qmedebis Sedegad.

usafuZvl od patimrobaSi yofna zneobrivi xasiaTis mwvave gancdebis garda, TiTqmis yovel Tvis dakavSirebul ia udides fizikur

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[297] iqve, gv. 103. www.dissercat.com

Tanamdebobis pirTa bralis miuxedavad. ganzraxvisas an uxeSi gaufrTxileblobisas es pirebi saxelmwifosTan erTad solidarulad ageben pasuxs.

saqarTvelos zogadi administraciuli kodeqsis 208_e muxlis mixedviT "saxelmwifo administraciuli organos, agreTve misi Tanamdebobis piris an sxva saxelmwifo mosamsaxuris mier misi samsaxurebrivi movaleobis ganxorcielebisas miyenebuli zianisaTvis pasuxismgebelia saxelmwifo." dadgenilia saxelmwifos pasuxismgebloba rogorc administraciuli organos mier samarTlebrivi aqtis gamocemiT, ise administraciuli organos mier pirdapiri moqmedebis SesrulebiT gamowveuli zianisaTvis. kanonmdeblobam daadgina, rom pasuxismgebloba SeiZleba warmoSvas ara mxolod administraciulma aqtma, aramed normatiulma administraciulma aqtmac. avtorTa nawilis mosazrebiT "praqtikaSi unda dainergos midgoma, romelic daawesebs kriteriumebs normatiuli aqtiT miyenebuli zianis sakompensaciod da ar dauSvebs aseTi saxis pasuxismgeblobis metismetad gafarToebas. aseTi kriteriumi SeiZleba iyos is, rom miyenebuli ziani unda iyos pirdapiri da UuSualo, anu gamoiricxos normatiuli aqtiT miyenebuli yvela saxis arapirdapiri zianis anazRaurebis moTxovnis SesaZlebloba."²⁹⁹

saxelmwifos an adgilobriv TviTmmarTvelobas ekisreba mxolod im zianis anazRaurebis valdebuleba, romelic ukavSirdeba sajaro mosamsaxuris mier samsaxurebrivi movaleobis Sesrulebas. samsaxurebrivi movaleobis Sesrulebad CaiTvleba is SemTxveva, rodesac piri zians miayenebs samsaxurebrivi uflebamosilebis gadametebiT. Mmag: saaRsrulebo policiis TanamSromeli zians miayenebs piris qonebas. sadavoa sakiTxi, iTvleba Tu ara zianis safuZvlad, roca zianis miyenebas adgili hqonda sajaro mosamsaxuris mier samsaxurebrivi mdgomareobis borotad gamoyenebiT. imisTvis, rom warmoiSvas pasuxismgebloba sajaro moxelis mier samsaxurebrivi valdebulebis Sesrulebisas miyenebuli zianisaTvis, saWiroa zianis warmoSobas safuZvlad edos sajaro mosamsaxuris mier Tavisi

²⁹⁹ z. adeiSvili, q.vardiaSvili, l.izoria, m.kopaleiSvili, n.sxirtlaZe, p.turava. d.qitoSvili "zogadi administraciuli samarTlis saxelmZRvanelo" Tbilisi, 2005 weli, gv. 311.

samsaxurebrivi moval eobis darRveva sxva pirTa mimarT.[300] darRveuli unda iyos iseTi samsaxurebrivi val debul eba, romel sac Seesabameba sxva kerZo piris ufl eba. magal iTad, Tanamdebobis piris val debul ebas gasces l icenzia, gancxadebis miRebidan gansazRvrul vadaSi Seesabameba ganmcxadebl is ufl eba l icenziaze an l icenziis miRebaze droul ad uaris Tqmaze. amasTan kerZo da saj aro interesebis

val debuleba warmoiSoba mxolod maSin, roca araTanabari mopyrobiT gamoweuli ziani mniSvnelovnad didia."[302]

zogadi administraciuli kodeqsi adgens, rom kompensaciis gamoTvla unda moxdes sajaro da kerZo interesebis proporciulobis safuZvelze.

kerZo pirTa mimarT saxelmwifos pasuxismgeblobis kidev erTi SemTxveva, roca saxelmwifos mxridan adgili ara aqvs braleul moqmedebas gaxlavT sazogadoebrivi saWiroebisas gadaudebeli aucileblobisas sakuTrebis CamorTmeva. aseTi SemTxvevis Tavisebureba is aris, rom saxelmwifo moqmedebs kanonis sruli dacviT, magram ziani adgeba piris fundamentur uflebas-sakuTrebas. saxelmwifo am dros SezRuduli a "sazogadoebrivi saWiroebisas gadaudebeli aucileblobisas sakuTrebis CamorTmevis wesis Sesaxeb" saqarTvelos organuli kanoniT romelic adgens sakuTrebis CamorTmevisa da kompensaciis gadaxdis mkacrad gansazRvrul da sakmaod SezRudul wess.[303]

saxelmwifo mosamsaxuris mier miyenebuli zianisaTvis saxelmwifos mier anazRaurebas eqvemdebareba, rogorc materialuri, ise moraluri ziani. "piris Tavisuflebisa da xel Seuxeblobis darRvevas, rogorc wesi, yovelTvis Tan sdevs, mZime xarisxis realuri gancdebi da fizikuri tanjva."[304]

miuxedavad imisa, rom samoqalaqo kodeqsis normebi pirdapir ar adgenen aseT SemTxvevaSi moraluri zianis moTxovnis SesaZleblobas, konstituciisa da sisxlis samarTlis saproceso kodeqsis normebze dayrdnobiT saxelmwifos mainc unda daekisros moraluri zianis anazRaureba piris mimarT ukanono msjavrdebis, sisxlis samarTlis pasuxisgebaSi ukanonod micemis, aRkveTis RonisZiebis saxiT patimrobis ukanonod gamoyenebis, patimrobis, gamasworebeli samuSaoebis saxiT

[302] z.adeiSvili, q.vardiaSvili, l.izoria, m.kopaleiSvili, n.sxirtlaZe, p.turava. d.qitoSvili "zogadi administraciuli samarTlis saxel mZRvanelo" Tbilisi, 2005 weli, gv. 328.

[303] z.adeiSvili, q.vardiaSvili, l.izoria, m.kopaleiSvili, n.sxirtlaZe, p.turava. d.qitoSvili "zogadi administraciuli samarTlis saxel mZRvanelo" Tbilisi, 2005 weli,gv. 330.

[304] S. CikvaSvili, moraluri ziani samoqalaqo samarTalSi, Tbilisi, 1998, gv.137.

administraciuli saxdelis arasworad dakisrebis SemTxvevaSi.[305] usafuZvlod patimrobaSi yofna zneobrivi xasiaTis mwvave gancdebis garda, TiTqmis yovel Tvis dakavSirebulia udides fizikur tanjvasTanac. praqtikulad SeuZlebelia udanaSaulo adamians aunazRauro aseT pirobebSi gancdili da gadatanili fizikuri da zneobrivi tanjva da mainc am tanjvis fuladi kompensacia reabilitirebul pirTa darRveuli uflebebis aRdgenis erT-erTi saSualebaa.

evropis sasamarTlom saqarTvelos sasamarTloebis mier piris mimarT winaswari patimrobis Sefardebisas mxolod formaluri safuZvlebiT xelmZRvaneloba miiCnia evrokonvenciis me-5 muxliT daculi Tavisuflebisa da usafrTxoebis uflebis darRvevad da saqarTvelos saxelmwifos, ganmxcadeblisaTvis moraluri da materialuri zianis anazRaurebis mizniT, mTlianobaSi 3670 evros gadaxda daakisra.

g. f-ias saCivari ZiriTadad ukavSirdeboda misTvis winaswari patimrobis Sefardebis usafuZvlobas. evropis sasamarTlom ganmarta, rom ganmcxadeblis winaswari patimroba 9 Tvisa da 12 dRis ganmavlobaSi iyo usafuZvlo da gaumarTlebeli. xel Sekrulebit, „saxelmwifo qonebis marTvis saministrom" aiRo valdebuleba mosarCelisaTvis gadaeca „saqarTvelos saxelmwifo dazRvevis kompaniis (JSC)" wilis 90%-i, imis sanacvlod (sxva valdebulebebTan erTad), rom igi (mosarCele) mimdinare Tvis bolo1mde kompaniis sawyis kapitals 480.000 (oTxasoTxmoci aTasi) lariT gazrdida. saministrom moiTxova imis Semowmeba, Tu ramdenad warmatebiT xdeboda xel SekrulebiT nakisr valdebulebaTa Sesruleba. mosarCelis mier amis sapasuxod warmodgenil dokumentaciis safuZvelze da aseve saqarTvelos erovnuli bankis (saxelmwifo organo) rekomendaciiT, „generalurma prokuraturam" moaxdina mosarCelis safinanso operaciebis Semowmeba, ris Sedegadac daadastura mosarCelis mier warmodgenili dokumentaciis namdviloba da uari Tqva dokumentebis

[305] saqarTvelos samoqalaqo kodeqsis komentari, wigni meoTxe, tomi II, Tb. 2001 w. gv. 421.

gayal bebis bral debiT mis winaaRmdeg sisxl is samarTl is saqmis aRZvraze.

mogvianebiT general urma prokurorma piradad moiTxova mosarCel is winaaRmdeg sisxl is samarTl is saqmis aRZvra. saxel mwifo wil is 90%-is miTviseba-gafl angva TaRl iTobiTa da sabanko dokumentebis gayal bebis bral debiT mosarCel es bral i wauyenes da daakaves. raionul ma sasamarTl om gaasamarTl a mosarCel e da TaRl iTobis mcdel obisaTvis miusaj a sami wl iT Tavisufl ebis aRkveTa. saapel acio da sakasacio sasamarTl oebma ar daakmayofil es mosarCel is saCivrebi.

saqarTvel os Sida sasamarTl oebis gadawyvetil ebebi i

sasamarTl om aRmSomtTebis tvirTis m   datana dakaveues

                                                    muxii s5

durRveiis eqvival enturi. sasamarTl o gnasakuTrebiT besia
sasamarTiloous gndawyvetil ebiT, rgndaisArx man
apl ikantis saqme danugZel a p200 wiis 6 de
nacvl ad, rom `gansakuTrebul i gul modginebis" umaRl esi xarisxiT
gnaexil a p sakiTxetxmas TiTqmize Svid
sasamarTl omgagZeliidRao standar trafareuri
gadawyvetil eba. vl ad isa, rom rul yfsl a8-3(d)-4( )6569Sefesrul ebinaT

                                                                5

3 nawil i.

sasamarTl om konvenciis me 5   3 nawil is
guTval igm(s)e2(vT)6871(im)4( )-669resaucemoearsi

Taviamata daedginrT bral euis sfauZvl ebi

ukanono dapatimrebisas piris zianis anazRaureba moxdeba samoqalaqo kodeqsis 992-e, 1005.1, 412-e, 413.1-e muxlebis, aseve saqarTvelos konstituciis me-18.7 da me-6.1 muxlebis, evrokonvenciis me-5.5 da I-li muxlebis erTobliobiT. [308]

mniSvnelovani sakanonmdeblo siaxlea, rom samoqalaqo saproceso kodeqsis XXXIV.3 TaviT dadginda danaSaulis an administraciuli samarTaldarRvevis Sedegad miyenebuli zianis anazRaurebis Sesaxeb sarCelebis ganxilvis gamartivebuli wesi.

zemoT miTiTebul SemTxvevebSi saxelmwifos pasuxismgebloba warmoiSoba misi sajaro mosamsaxureebisa Tu Tanamdebobis pirTa bralis miuxedavad. ganzraxi qmedebis an uxeSi gaufrTxileblobis SemTxvevaSi aseTi pirebi saxelmwifosTan erTad solidarulad ageben pasuxs.

sayuradReboa evropis adamianis uflebaTa saerTaSoriso sasamarTlos gadawyvetileba, romliTac sasamarTlom miiCnia ra ganmcxadeblis patimroba ukanonod saxelmwifo daakisra 150 000 evros gadaxda da patimrobidan misi ganTavisufleba.

sasamarTlom miuTiTa, rom ganmcxadebeli a_Ze dapatimrebuli iyo aWaris xelisuflebis organoebis mier me-5 muxlis 1-eli (g) punqtSi gansazRvruli miznebisaTvis 1999 wlis 11 dekembridan, anu im dRidan, rodesac mas brali waeyena axal sisxli samarTlis dac gamartivebuli wesi.

aRniSnavs, rom dauj erebel ia is faqti, rom im saxel mwifoSi, romel ic eqvemdebareba kanonis uzenaesobas, grZel debodes pirisaTvis Tavisufl ebis aRkveTa, miuxedavad gaTavisufl ebis Sesaxeb sasamarTl os brZanebisa. sasamarTl o adgens, rom 2001 wl is 29 ianvris Semdgom ganmcxadebl is patimroba TviTneburia, rac ewinaaRmdegeba konvenciis me-5 muxl is 1-l i punqtis debul ebebs. rac Seexeba ukve gancdil aramaterial ur zians, sasamarTl o adgens, rom konvenciis darRvevam udavod miayena ganmcxadebel s arsebiTi ziani. imyofeba ra TviTnebur patimrobaSi kanonis uzenaesobis umniSvnel ovanesi principis darRveviT, ganmcxadebel i imedgacruebul i da Secbunebul ia, radganac mas ar Zal uZs gamoasworos arsebul i situacia. mas uxdeboda winaaRmdegobis gaweva aWaris avtonomiuri xel isufl ebis organoebisaTvis, roml ebmac uari ganacxades daaxl oebiT sami wl is win gamocemul i gamamarTl ebel i ganaCenis aRsrul ebaze, da aseve central uri xel isufl ebis uunarobisaTvis, eiZul ebina avtonomiuri respubl ikis xel isufl ebis organoebi, aResrul ebinaT ganaCeni. rac Seexeba material ur zians, im faqtis gaTval iswinebiT, rom ganmcxadebel ma ver warmoadgina mtkicebul eba, romel ic asaxavda dakavebamde mis yovel Tviur Semosaval s, sasamarTl os ar Zal uZs ganaxorciel os zusti gamoangariSeba. TumcaRa, sasamarTl o Tvl is, rom ganmcxadebel s unda ganecada aseTi danakargi 2001 wl is 29 ianvris Semdgom ukanono patimrobis gamo. xsenebul i TariRis Semdgom mas unda SeZl eboda samsaxuris naxva da saqmianobis ganaxl eba. Sesabamisad, adgens ra Tanasworobis principis safuZvel ze da precedentul i samarTl iT dadgenil i kriteriumebis gaTval iswinebiT, sasamarTl o ganmcxadebel s aniWebs 150,000 evros patimrobis im periodTan dakavSirebiT, romel ic ganisazRvreba 2001 wl is 29 ianvridan am ganaCenis gamotanamde erTad aRebul i yvel a misi saCivrisaTvis, im TanxebTan erTad, roml ebic SesaZl oa daeqvemdebaros saSemosavl o gadasaxads.[309]

sakiTxis gadawyvetisas mniSvnel ovani rol i eniWeba TviT dazaral ebul is qmedebas, vinaidan zogj er udanaSaul o pirisaTvis msj avris dadeba an mis mimarT iZul ebiTi RonisZiebis gamoyeneba

[309] **www.supremecourt.ge.** evropis adamianis ufl ebaTa sasamarTl os gadawyvetil ebebi.

6 muxlis pirveli nawilis Tanaxmad. ganmcxadebeli g. d-Ze muSaobda saqarTvelos mecnierebaTa akademiis kibernetikis institutSi. xel mZRvanelobasTan garTulebuli urTierTobis gamo man iTxova roboteqnikis departamentSi gadayvana. misi gadayvana gadawyda 1991 wels, magram ganmcxadebeli ver uzrunvel yves Sesabamisi kabinetiTa da laboratoriiT. aRniSnuliT uzrunvel yofa moxda mxolod 1998 wels. 1999 wlis oqtombers ganmcxadebelma sarCeli aRZra istitutis direqtoris winaaRmdeg. is Cioda, rom 1991-dan 1998 wl amde mas ar hqonda saSualeba institutis axal SenobaSi esargebla Tavisi kabinetiT, xolo mas Semdeg, rac mas gadaeca samuSao kabineti, ori wlis manZilze ver SeZlo laboratoriis damontaJeba. 1999 wels, omis veteranTa Ses(be)6(95.32(6ax)-(a 5-799qti(rs)-3(5-79tam)] TJETQq0.000008871 O 595.3

ganmcxadebel i kompania SezRudul i pasuxismgebl obis sazogadoebaa. meore ganmcxadebel i gaxl daT ra samSenebl o kompania Sps "izas" damfuZnebel i da direqtori, xel i moawera kontraqts saxel mwifo skol asTan samSenebl o remontis CaTarebis Taobaze. kontraqti uzrunvel yofda ganaTl ebis saministros biujetidan 117514 l aris (53892,50 evro) gadaricxvas ganmcxadebel i kompaniis angariSze. amis sanacvl od ganmcxadebel i kompania val debul ebas iRebda, CaeTarebina skol is remonti. ganaTl ebis saministrom xel Sekrul ebiT nakisri val debul eba mxol od nawil obriv Seasrul a. sagadasaxado samsaxurebma ganmcxadebel i kompaniisa da piradad meore ganmcxadebl is winaaRmdeg aRZres saqme 30735 l aris (14104 evro) odenobiT gadasaxadis gadaxdis moTxovniT. ganmcxadebel Ta mtkicebiT gadasaxadis moTxovna efuZneboda gadasaxadis saerTo odenobas, roml is gadaxdac unda momxdariyo saministrosTan gaformebul i kontraqtiT gaTval iswinebul i samuSaosaTvis, maSin roca sinamdvil eSi ganmcxadebel ma kompaniam mxol od nawil obrivi dafinanseba miiRo.

raionul i sasamarTl os gadawyvetil ebiT srul ad dakmayofil da ganmcxadebel i kompaniis sarCel i ganaTl ebis saministros winaaRmdeg Sesrul ebul i samuSaosaTvis darCenil i Tanxis 7200 l arisa (3304 evro) da aseve meore ganmcxadebl is sagadasaxado daval ianebis 4347 l aris (1994 evro) gadaxdis moTxovniT. aRniSnul i gadawyvetil eba ar gasaCivrebul a da Sevida kanonier Zal aSi.

ganmcxadebl ebi Civian imis Taobaze, rom saxel mwifo organoebma ver aRasrul es sasamarTl o gadawyvetil eba, romel ic maT sasargebl od iqna gamotanil i. maTi mtkicebiT darRveul ia konvenciis me-6 $1 da me-13 muxl ebi da #1 damatebiTi oqmis pirvel i muxl i.

sasamarTl om miuTiTa, rom gadawyvetil ebis aRusrul ebl oba gamowveul i iyo saTanado sabiujeto RonisZiebebiT da ara saaRsrul ebo organoebis qceviT. amdenad, ganmcxadebel i kompania ar SeiZl eba dadanaSaul ebul iqnas imaSi, rom man am organoebis winaaRmdeg Semdgom sasamarTl o warmoebas ar mimarTa. sasamarTl om aRniSna, rom samarTl iani ganxil vis ufl eba moicavs Zal aSi Sesul i gadawyvetil ebis aRsrul ebis ufl ebas. nebismieri sasamarTl os mier gamotanil i gadawyvetil ebis aRsrul eba `sasamarTl o procesis-

ganuyofel nawilad unda ganixilebodes me-6 muxlis miznebidan

mosarCelis didi Zalisxmevis Sedegad, „marsi-91"-ma SeZlo Semotanili fqvilis raRac nawilis gakontroleba. maSin a.a-Zem aiZula mosarCele Tanxis garkveuli nawili Seetana mis politikur partia aRorZinebaSi.

a-Zem mosarCeles mosTxova partiis maRal CinosanTaTvis manqanebis SeZena. mosarCele iZulebuli Seiqmna Seesrulebina aRniSnuli moTxovna

199.. w aWaris Sesabamisma organoebma mosarCeles brali dasdes finansur maqinaciebSi. maTi mtkicebiT, mosarCelem 845 000 aSS dolari gamosZala baTumis „TuTunis gadamamuSavebel saamqros", raTa daefara fqvilis importirebis Sedegad dagrovili gadauxdeli vali. sabolood, mosarCelem datova qveyana da Tavi Seafara germaniis federaciul respublikas.

sakuTari interesebis dasacavad, mosarCelem sxvadasxva sarCelebiT mimarTa rogorc baTumis saqalaqo sasamarTlos, aseve aWaris avtonomiuri respublikis umaRles sasamarTlos, magram uSedegod. misi sarCelebi an ar iqna ganxiluli, anda maTi ganxilva ganusazRvreli vadiT iqna SeCerebuli.

strasburgis adamianis uflebaTa sasamarTlom miiCnia, rom sasamarTlosa da samarTaldamcavi organoebis umoqmedobas saaSkaraoze gamoaqvs „sasamarTloSi saqmis ganxilvis gaWWanurebis problema" da Sesabamisad, adasturebs „sasamarTlos xel misawvdomobis uflebis xel yofas". strasburgis sasamarTlom aseve miiCnia, rom sasamarTloSi saqmis ganxilva unda moxdes mosarCelis interesebis gaTvaliswinebiT „gonivrul vadaSi", romelic gaTvaliswinebulia evrokonvenciis me-6 muxlis I nawiliT. imis dasadgenad, Tu ra SemTxvevaSi SeiZleba CaiTvalos saqme gonivrul vadaSi ganxiluladi, saWiroa yovel konkretul SemTxvevaSi saqmis masalebisa da sasamarTlos kriteriumebis gaTvaliswineba, gansakuTrebiT: saqmis sirTulis, mosarCelisa Tu Sesabamisi kompetenturi organoebis moqmedebis, davis sagnisa da a.S. gaTvaliswineba.

konkretul SemTxvevaSi, strasburgis sasamarTlom daadgina, rom savaraudod adgili ar hqonia saqmis „raime gansakuTrebul sirTules" da aseve mosarCelis qcevac, romelic germaniaSi cxovrobda, ar

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badebda saqmis ganxilvis gawelvis araviTar saWiroebas. piriqiT, strasburgma CaTvala, rom mTavrobas ar warmoudgenia araviTari gamamarTlebeli mtkicebuleba, romliTac igi aWaris avtonomiuri respublikis umaRlesi sasamarTlos amgvar umoqmedobas gaamarTlebda. Sesabamisad, adgili hqonda evrokonvenciis me-6 muxlis I nawilis darRvevas.

piris mier sasamarTlos xel misawvdomobis uflebis efeqturad ganxorcieleba moiTxovs, rom pirs hqondes sruli da konkretuli SesaZlebloba sasamarTloSi gaasaCivros yvelა is qmedeba, romelic warmoadgens mis uflebebSi Carevas.

winamdebare SemTxvevaSi, 200.. wlis oqtomberSi, mosarCelem sarCeliT mimarTa baTumis saqalaqo sasamarTlos da moiTxova aWaris avtonomiuri respublikis aRmasrulebeli xelisuflebis xelmZRvanelisagan misTvis materialuri da moraluri zianis anazRaureba, im pirveladi mdgomareobis aRdgena, romelic arsebobda mis uflebebSi Carevamde. sakuTari sarCelis gasamyareblad, mosarCelem warmoadgina sxva da sxva mtkicebulebani. dRemde mas sasamarTlosagan araviTari pasuxi ar miuRia.

yovelive zemoTqmulis gaTvaliswinebiT, strasburgis

dacvis erTgvar garantias. amasTan erTad mocemuli uflebebis maregulirebel normebs gaaCniaT prevenciuli daniSnulebac, ramdenadac mimarTulia saxelmwifo organoebis, misi Tanamdebobis pirebsa da moqalaqeebs Soris urTierTobebSi kanonierebis ganmtkicebisaken.

Tavi VII. daskvna

kacobriobis ganviTarebis istoria uZvelesi droidan dRemde gviCvenebs, rom cxovrebis yvela epoqaSi inteleqtualuri adamianisTvis umniSvnelovanesi sulieri Rirebulebebi ufro Zvirfasia material urTan SedarebiT. siyvaruli, religiuri grZnobebi, piradi Rirsebis Segneba da sociauri statusis arseboba ganapirobeben mis sulier sicocxles, rasac metnaklebad materialuri keTildReoba ganapirobebs. Sesabamisad civilizebulobisa da umaRlesi demokratiulobis pretenziis mqone sazogadoebis upirvelesi sazrunavi pirovnebis uflebisa da Tavisuflebis uzenaesobis aRiareba, misi dacva da arsebobis realuri ganxorcielebaa.

Tanamedrove msoflios TiTqmis yvela samarTlebrivi ojaxi da saerTaSoriso samarTali aRiarebs pirovnebis sicocxles, janmrTelobas, pirad da ojaxur cxovrebas, pativsa da Rirsebas im fasdaudebel Rirebulebad, romelTa SenarCuneba da dacva yvelaze metad aRelvebs adamians. saxelmwifoTa umravlesobis ZiriTad kanonSi deklarirebulia adamianis ZiriTadi uflebebi da Tavisuflebebi, romelTa harmoniuli ganviTareba adamianis upirvelesi sazrunavia.

saqarTvelos konstituciis meore Tavi axdens adamianis ZiriTadi uflebisa da Tavisuflebis deklarirebas, rac imas niSnavs, rom saxelmwifom aRiara, rom yvelas aqvs sakuTari pirovnebis Tavisufali ganviTarebis ufleba, adamiani dabadebiT Tavisufalia, sicocxle, pativi, Rirseba, Tavisufleba xelSeuvalia, sityvis, azris, sindisis, aRmsareblobis, rwmenis, piradi cxovrebis ufleba xelSeuxebelia, sakuTreba aRiarebuli da uzrunvel yofilia.

samarTlis istoriis manZilze adamianis materialuri uflebebis dacva_SenarCunebis ZiriTadi iaraRi miyenebuli zianis anazRaurebaa, riTac metnaklebad kompensirdeba darRveuli ufleba, aRdgeba pirvandeli mdgomareoba, magram gansakuTrebiT rTuli da faqizi sulieri, fsiqikuri, emociuri sferos dazianebis aRdgena_restituciaa, romlis srulyofileba Tanamedrove samarTlis upirvelesi sazrunavia.

morali moicavs zneobriv Sexedulebebs da grZnobebs, cxovrebiseul orientacias da principebs, qcevebisa da urTierTobebis mizans da motivs, zRvars avlebs sikeTesa da borotebas, Rirsebas da uRirsobas, samarTlianobas da usamarTlobas, sindisierebasa da usindisobas, gulmowylebas da sisastikes Soris. moraluri kategoriebi pirvel rigSi moicavs sayovelTaod deklarirebul pirad uflebebs, amitom samarTal darRvevis Sedegad maTi xelyofa aRiqmeba, rogorc moraluri Rirebulebebis xelyofa da Sesabamisad moraluri zianis dakisrebisa da anazRaurebis samarTlebrivi safuZveli.

kanoniT aRiarebuli araqonebrivi uflebiT daculi sikeTeebi moraluri faseulobebis identuria, amdenad maTi xelyofa pirovnebis moralis xelyofis tolfasia. moraluri ziani, rogorc aramaterialur, araqonebriv uflebaTa braleuli xelyofis Sedegi termonologiuradac ki gamoxatavs mis arss. moraluri ziani rogorc adamianis arsebis ganmsazRvrel sulier faseul obaTa xelyofis Sedegi saxezea, roca adgili aqvs fizikur da fsiqikur tanjvas, Zlier stress, cvlilebebs adamianis fsiqologiaSi.

samoqalaqo samarTalSi darRveuli uflebebis dacvisa da aRdgenis yvelaze qmediTi da efeqturi saSualeba miyenebuli materialuri da moraluri zianis anazRaurebaa. swored moraluri zianis dakisrebisa da kompensaciis sakiTxia winamdebare naSromis kidev erTxel Seswavlis sagani.

samarTlis istoriis xangrZlivobis miuxedavad zogadad moZRvreba piradi araqonebrivi uflebebis, rogorc moZRvreba sakuTar pirovnebaze uflebis Sesaxeb, Sedarebth axal gazrdaa da ZiriTadad meoce saukunis pirmSoa.

1. samoqalaqo kodeqsi ar iZleva arc qonebrivi da arc araqonebrivi zianis definicias. es sakiTxi doqtrinisa da sasamarTlo

praqtikis problemaa. samarTlis TeoretikosTa umravlesoba erTxmad aRiarebs, rom moraluri ziani es aris marTlsawinaaRmdego qmedebiT gamowveuli fizikuri da zneobrivi tanjva. Tumca sxvadasxva Sexedulebaa terminTan dakavSirebiT. aris mosazreba, rom mas ewodos araqonebrivi, fizikuri an fsiqikuri ziani. vfiqrobT, zianis Sinaarss, romlis gazomva fuladi eqvivalentiT SeuZlebelia da kompensireba mxolod nawilobriv avsebs araqonebrivi sikeTeebis xelyofiT

praqtika isedac uzrunvel yofda pirovnebis samoqal aqosamarTl ebriv dacvas kodeqsis 1382-

gansazRvrul SemTxvevaSi gonivruli da samarTliani anazRaurebis saxiT. sxeulis dazianebis an janmrTelobisaTvis vnebis miyenebis SemTxvevebSi ki dazaralebuls SeuZlia moiTxovos anazRaureba araqonebrivi zianisTvisac.

samoqalaqo kodeqsis me–18 muxli iTvaliswinebs pativis, Rirsebis, saqmiani reputaciis Selaxvis SemTxvevebSi mosarCelis uflebaTa dacvis iseT formebs, rogoricaa: a) gavrcelebuli cnobebis uaryofa; b) gavrcelebuli arasruli cnobebis Sevseba iseTi cnobebiT, romlebic sinamdviles Seesabamebian da amasTan erTad, aqarwyleben gavrcelebul arasrul, pativis, Rirsebis, saqmiani reputaciis Selaxav cnobebs; g) gavrcelebuli cnobebis uaryofa mediis imave saSualebiT, roml iTac isini gavrcelda; d) im sabuTis Secvla, romelic sinamdvilis Seusabamo cnobebs Seicavda da gavrcelda ara fizikuri piris, aramed organizaciis mier.

3. gasaziareblad migvaCnia avtorTa pozicia, rom kanonmdeblobasa da iuridiul literaturaSi pirovnuli uflebebis gamomxatveli terminebis mraval ferovneba SeiniSneba. samoqalaqo kodeqsi iyenebs "piradi uflebebis" cnebas (ssk-is I muxli), aseve termins "piradi araqonebrivi uflebebi" (ssk-is me-18 muxli). iuridiul literaturaSi iyeneben aseve termin "pirovnul uflebebs". am terminis upiratesoba swored "pirovnul obis" xazgasmaa. yvela sxva terminSi

kodeqsis 413.1-e muxlis safuZvelze moraluri zianis anazRaurebis ufleba.

aseve mizanSewonilad migvaCnia zogierT normatiul aqtSi, mag: "arbitraJis Sesaxeb", "sainvesticio saqmianobis xelSewyobisa da garantiebis Sesaxeb", "garemos dacvis Sesaxeb", "momxmarebelTa uflebebis dacvis Sesaxeb" saqarTvelos kanonebSi da samoqalaqo kodeqsis 1005_e muxlSi cvlilebebis ganxorcieleba da moraluri zianis anazRaurebis Sesaxeb cal saxad da uSualod miTiTeba.

5. pirovnebis samarTlebrivi dacvis Tval sazrisiT mniSvnelovania samoqalaqo kodeqsis 1005_e muxli, romelic adgens

patimrobis ukanonod gamoyenebis, patimrobis, gamasworebeli samuSaoebis saxiT administraciuli saxdelis arasworad dakisrebis SemTxvevaSi. usafuZvlod patimrobaSi yofna zneobrivi xasiaTis mwvave gancdebis garda, TiTqmis yovel Tvis dakavSirebulia udides fizikur tanjvasTanac. praqtikulad SeuZlebelia udanaSaulo adamians aunazRauro aseT pirobebSi gancdili da gadatanili fizikuri da zneobrivi tanjva da mainc am tanjvis fuladi kompensacia reabilitirebul pirTa darRveuli uflebebis aRdgenis erT-erTi saSualebaa.

samoqalaqo kodeqsis 413_e da 1005-e muxlebis SedarebiTi analizi cal saxad gvarwmunebs, rom saxel mwifos (an masTan erTad saxel mwifo mosamsaxureebis) pasuxismgeblobis sakiTxi deliqturi valdebulebis safuZvel ze unda gadawydes da 413.2 nawiliT, sxeulis dazianebis an janmrTelobisaTvis vnebis miyenebis SemTxvevaSi, dazaralebuli moiTxovs araqonebrivi zianis anazRaurebasac. magram sxva SemTxvevaSi, roca aseTi materialuri Sedegi ara gvaqvs saxeze, magaliTad, saxel mwifo mosamsaxuris, mosamarTlis, prokuroris mxridan uxeSi gaufrTxileblobisas Tuki samoqalaqo kodeqsis 992-e muxliT gaTvaliswinebuli pasuxismgeblobis safuZvlebi saxezea, dazaralebuli moiTxovs materialuri zianis anazRaurebas, magram mas moraluri zianis anazRaurebis samarTlebrivi safuZveli ar gaaCnia.

samoqalaqo kodeqsis 1005-e muxli mocemuli definiciiT nawilobriv iZleva araqonebrivi zianis kompensaciis saSualebas, magram mizanSewonilad migvaCnia normaSi mieTiTos moraluri zianis anazRaurebis SesaZleblobaze. (ianis SemTx

413.2-e muxlis Semadgenloba, xolo samarTlebrivi safuZvlis

obieqturad zrdis am sikeTeebis samarTl ebrivi dacvis SesaZl ebl obas.
veTanxmebi anal ogiur Temaze momuSave mecniers (l .doRonaZe) da
ucxoeTis da saqarTvel os kanonmdebl obis da sasamarTl o praqtikis
anal izidan gamomdinare, mizanSewonil ad migvaCnia arsebobdes iseTi
zogadi (dispoziciuri) norma, romel ic sasamarTl os miscems
SesaZl ebl obas daadginos araqonebrivi zianis anazRaurebis axal i
SemTxvevebi imisTvis, rom SenarCunebul i iqnes am kuTxiT samarTl is
ganviTarebis SesaZl ebl oba.

7. msofl ios samarTl ebriv sivrceSi mecnier da praqtikos
iuristTa araerTi mcdel oba SeemuSavebinaT raime universal uri wesi,
standarti, formul a roml iTac daregul irdeboda da amoixsneboda
moral uri zianisaTvis kompensaciis saiduml o uSedegod damTavrda.
erTaderTi kriteriumi roml iTac zogad standartebze dayrdnobiT
isazRvreba kompensaciis odenoba "misi udidebul esoba" sasamarTl o
praqtikaa. swored mas miando kanonmdebel ma sakiTxis gadawyveta, misca
moqmedebis farTo areal i da daakisra mis kompetenciaSi Cveul ebrivze
meti pasuxismgebl oba. gamomdinare aRniSnul idan Cven kompensaciis
odenobis gansazRvrisaTvis yvel aze swori poziciis SemuSavebisaTvis
bunebrivia sasamarTl o praqtikis gacnoba_anal izi miviCnieT. imis
gaTval iswinebiT, rom qarTvel i mosamarTl eebi sul ufro aqtiurad
iyeneben samarTal Sefardebisa Tu samarTal Semoqmedebisas evropis
adamianis ufl ebaTa saerTaSoriso sasamarTl os precedentul
samarTal s mizanSewonil ad miviCnieT qarTul praqtikasTan erTad
saqarTvel os saqmeebze am sasamarTl os mier miRebul i
gadawyvetil ebebis gacnoba. moral uri zianis specifikidan gamomdinare
gadawyvetil ebebis fabul a SedarebiT vrcl ad warmovadgineT, rom
gaadvil des sakiTxiT dainteresebul i mkiTxvel is mier kompensaciis
gonivrul oba_samarTl ianobis sakiTxis obieqturi Sefaseba. naSromSi
ganxil ul i magal iTebiT Tu vimsjel ebT, moral uri zianisaTvis
kompensaciis odenoba meryeobs erTi l aridan 150 000 evromde.
saqarTvel os uzenaesi sasamarTl os samoqal aqo saqmeTa sakasacio
pal atis rekomendaciebis mixedviT, rac arsebul i sasamarTl o
praqtikis anal izis safuZvel ze SemuSavda da zogadad wingadadgmul i
nabij ia moral uri zianis kompensaciis sakiTxze erTgvarovani

praqtikis Camoyalibebis gzaze, moraluri zianis anazRaurebis moculobas sasamarTlo mosarCelis moTxovnis safuZvelze gansazRvravs. mosarCele uflebamosilia sasarCelo gancxadebaSi miuTiTos fuladi Tanxa, miyenebuli sulieri Tu fizikuri tkivilis kompensaciisaTvis, magram es moTxovna mosarCelis mxolod mosazrebaa da anazRaurebis moculobis gansazRvra sasamarTlos mixedulobiT unda gadawydes. moraluri zianis anazRaurebas akisria sami funqcia: pirveli _ daakmayofilos dazaralebuli; meore _ zemoqmedeba moaxdinos zianis mimyenebelze; mesame _ Tavidan aicilos pirovnuli uflebebis xelyofa sxva pirebis mier. moraluri zianis anazRaurebis umTavres mizans ar Seadgens xelyofili uflebebis restitucia, radgan miyenebul zians fuladi ekvivalenti ar gaaCnia da SeuZlebelia misi sruli kompensacia. Zalian xSirad damdgari Sedegebis gamosworeba Seuqcevadi movlenaa da rogori didic ar unda iyos kompensacia, igi mainc ver aRudgens dazaralebuls xelyofamde arsebul sulier mdgomareobas. kompensaciis mizania mosarCelis gamarTleba sazogadoebis TvalSi da moraluri zianiT gamowveuli tkivilis Semsubuqeba. kompensacia mimarTulia uaryofiTi emociebis gasaqarwyleblad. moraluri zianis anazRaurebis prevenciuli funqciis ganxorcielebisaTvis mniSvneloba eniWeba iseT faqtors, rogoricaa samarTaldarRvevis ganmeorebis saSiSroeba zianis mimyeneblis mier, magram prevenciuli funqciis gadametebam SesaZloa gamoiwvios fuladi kompensaciis uzomod gazrda da presis Tavisuflebis dausabuTebeli SezRudva.

kompensaciis odenoba usaSvelod ar unda iyos gazrdili da ar unda mowydes realobas, misi mizani ar unda iyos mopasuxis dasja, ris gamoc kompensaciis gansazRvris dros gaTvaliswinebul unda iyos mopasuxis qonebrivi mdgomareobac.

samarTlis mecnierebaSi aRiarebuli Sexedulebisa da arsebuli sasamarTlo praqtikis analizis safuZvelze SeiZleba iTqvas, rom sasamarTlom miyenebuli moraluri zianis fuladi anazRaurebisas mxedvelobaSi unda miiRos dazaralebulis individualur TaviseburebebTan dakavSirebuli fizikuri da zneobrivi gancdebis moculoba da xasiaTi, zianis mimyeneblis bralis xarisxi, pativis,

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Rirsebisa da saqmiani reputaciis Semlaxveli informaciis gavrcelebis areali, dazaralebulisa da zianis mimyeneblis materialuri mdgomareoba da sxva yuradRebis Rirsi garemoebebi. migvaCnia, rom sakiTxis gadawyvetisas gaTval iswinebuli unda iqnes erovnuli tradiciebi da Cvevebi, dazaralebulis damokidebuleba religiasTan, ekonomikuri viTareba da SeiZleba metad specifikuri sakiTxebi saqmis individualuri Taviseburebebis gaTval iswinebiT.

moraluri zianis odenobis gansazRvrisas, sasamarTlom aseve mxedvelobaSi unda miiRos, rogorc dazaralebulis subieqturi damokidebuleba aseTi zianis simZimis mimarT, ise obieqturi garemoebani, riTac SeiZleba misi am kuTxiT Sefaseba, rogoricaa: xel yofili sikeTis (sicocxle, janmrTeloba, pativi da Rirseba, piradi Tavisufleba, binis xelSeuxebloba, nivTis faseuloba da a.S.) cxovrebiseuli mniSvneloba; samarTal darRvevis SedegTa simZime (axlo naTesavis mkvleloba, sxeulis dazianeba, dazaralebulis dainvalideba, Tavisuflebis aRkveTa, samuSaos warTmeva da a.S.); yal bi da saxelis gamtexi cnobebis xasiaTi da misi gavrcelebis sfero; dazaralebulis cxovrebis pirobebi (samsaxurebrivi, saojaxo, yofiTi, materialuri, janmrTelobis mdgomareoba, asaki da a.S.); sxva pativsadebi garemoebani, rogoricaa: dazaralebulis mkurnalobis xangrZlivoba, specifikur TvisebaTa SenarCunebis SesaZlebloba da a.S. vinaidan kanoni sabolooo verdiqtis gamomtan mosamarTles farTo interpretaciis saSualebas aZlebs mizanSewonilad miviCnieT naSromSi yuradReba gagvemaxvilebina araqonebrivi davebis ganxilvisa da gadawyvetis procesual ur_samarTlebriv wesze.

8. moraluri zianis anazRaurebis zogadi kriteriumebi sasamarTlo praqtikam met-naklebad TiTqos Camoayaliba, magram praqtikis analizi cxadyofs, rom sasamarTloebi (naSromSi miTiTebuli uzenaesi sasamarTlos araerTi gadawyvetilebis mixedviT kompensaci

10. saqarTvelos kanonma "sityvisa da gamoxatvis Tavisuflebis Sesaxeb" gansxvavebulad moawesriga zogierTi rogorc materialur_samarTlebrivi, ise procesualuri sakiTxi piris mimarT cil iswamebis, uxamsobis gavrcelebis SemTxvevaSi, ganmarta da daazusta sityvisa da gamoxatvasTan dakavSirebuli ZiriTadi

Tavisuflebis Sesaxeb" moawesriga, magram sasamarTloebis mier igi informaciisa da mosazrebis aRmniSvnelad gamoiyeneboda da amdenad, kanonis SinaarsTan azrobriv winaaRmdegobaSi ar modioda. "sityvisa da gamoxatvis Tavisuflebis Sesaxeb" kanonis gamoyenebis Sesaxeb sasamarTlo praqtika amJamad Zalian mcirea. amitom migvaCnia, rom praqtikis ganviTarebis kval obaze gadawyvetilebebi terminologiurad kanonSesabamisad mowesrigdeba.

11.

Svilebis da axloblebis saxeli da avtoriteti gavlenas axdens piris reputaciaze. amitom maTi araqonebrivi uflebebis dacviT igi ara marto vals ixdis gardacvlilis winaSe, aramed icavs Tavis interesebsac. amasTan, rogorc wesi moraluri zianis anazRaurebisaTvis sasamarTlosaTvis mimarTvisas piri xel mZRvanelobs sakuTari interesebiT. maSinac ki, roca piris gardacvalebis Semdeg ZRva

gamoiwvios aranaklebi zneobrivi gancdebi, rac sabolood sxva araferia Tu ara maTi araqonebrivi sikeTeebis da ufl ebebis Sel axva.

migvaCnia, rom dazaralebulis axloblebs dazaralebulisgan damoukideblad, xolo gardacvlilis axloblebs saqmis individualuri Taviseburebebis gaTvaliswinebiT unda warmoeSvaT moraluri zianis anazRaurebis ufleba, Tundac imis gaTvaliswinebiT, rom xSirad axlobelTa gancdis xarisxi SeiZleba gacilebiT didi iyos, vidre dazaralebulis da sarCelis wardgeniT isini sworedac rom sakuTar interesebs icaven. calkeul SemTxvevebSi axlobeli adamianis janmrTelobisaTvis zianis miyeneba marTlac SeiZleba gaxdes moraluri zianis anazRaurebis moTxovnis safuZveli, Tumca sakiTxis gadawyveta mTeli rigi garemoebebis gaTvaliswinebiT mainc sasamarTlos prerogativaa. vfiqrobT, qarTul ma sasamarTlo oebma ufro gabedulad unda miiRon gadawyvetilebebi franguli sasamarTlo praqtikis msgavsad. dazaralebulis axloblebisaTvis (naTesavebisaTvis) kategoriulad uaris Tqma moraluri zianis anazRaurebaze im safuZvliT, rom maT aseTi ziani ar miuRiaT, kanonis SezRuduli ganmartebis Sedegia.

13. literaturaSi sadavo gaxda sakiTxi imis Taobazec aqvs Tu ara iuridiul pirs ufleba moiTxovos moraluri zianis anazRaureba. avtorTa nawili Cveni poziciis sawinaaRmdegod Tvlida, rom iuridiul pirs savsebiT SesaZlebelia gaaCndes pativi da Rirseba da maTi xelyofis SemTxvevaSi aqvs dacvis Rirsi interesi. avtorTa meore jgufi miiCnevda, rom iuridiuli pirisaTvis moraluri zianis anazRaurebis sakiTxi dgeba mxolod saqmiani reputaciis Sel axvisas. piradi araqonebrivi uflebebis darRvevis yvela sxva danarCen SemTxvevaSi dazaraleblis saxiT SeiZleba gamovides mxolod fizikuri piri.

moraluri zianis daxasiaTebidan SeiZleba gakeTdes daskvna, rom moraluri zianis miyeneba mxolod fizikuri pirisTvis SeiZleba, vinaidan fizikuri da zneobrivi tanjvis gancda mxolod fsiqo-fizikur pirs SeuZlia da ara iseT social ur erTobliobas, rogoric iuridiuli piria. aRniSnul polemikas, nawilobriv, vfiqrobT wertili dausva sakanonmdeblo cvlilebam, samoqal aqo kodeqsis 27.5_e muxlSi,

maTi sxva pirisa an sajaro dawesebulebisaTvis ukanonod gadacemisas; d) sajaro dawesebulebis an sajaro mosamsaxuris mier am Tavis sxva moTxovnaTa darRvevisas. mtkicebis tvirTi ekisreba mopasuxe sajaro daweseebulebas an sajaro mosamsaxures. szak_is 27(l)_e, 37.ll_e, 43_e "T" da 44_e muxlebis analizis safuZvelze SesaZlebelia iTqvas, rom personaluri monacemebis pirad saidumloebad miCnevis sakiTxs wyvets piri yovel konkretul SemTxvevaSi.

15. naSromSi moqmedi kanonmdeblobis mixedviT ganxilulia saeqimo, saadvokato, sanotaro, sabanko, Svilad ayvanis, aRsarebis saidumloebis sakiTxebi, romlebic Cveni azriT swored piradi saidumloebis sferoSi Sedis.

migvaCnia, rom aRsarebis saidumloeba erT_erTi umniSvnelovanesi piradi saidumloa, romelic piradi cxovrebis nawilia da misi gamJRavneba swored, rom xel yofs adamianis sulier samyaros, rac SeiZleba moraluri zianis anazRaurebis safuZveli gaxdes. saqarTvelos samoqalaqo saproceso kodeqsis 129_e muxlis "b" punqtis Tanaxmad, ar SeiZleba axsna_ganmartebis miReba sasuliero pirisagan iseT garemoebaTa Sesaxeb, romlebic mas gaandves aRsarebis dros. mxaris mier aRsarebis dros ama Tu im faqtis gandoba da misi monanieba dakargavda yovel gvar azrs, Tu SesaZlebeli da dasaSvebi iqneboda misi gaxmaureba. igi ar SeiZleba aseTi faqtebis Sesaxeb mowmedac daikiTxos. (sssk_is 141_e muxli). sasuliero piris mimarT kanonmdeblis aseTi akrZalvis mizani gaxlavT, rogorc sasuliero piris dacva aRsarebis saidumlos gaTqmisagan, rac nebismieri RvTismsaxurisaTvis uRirsi da araqristianuli saqcielia, aseve im piris dacva, romelmac moinania da gulwrfelad misca aRsareba. sasuliero pirs gaando mis cxovrebasTan dakavSirebuli cnobili Tu ucnobi faqtebi da garemoebebi da bunebrivia aqvs molodini, rom saidumlo ar gamJRavndeba.

16. piradi uflebebis, maT Soris pativisa da Rirsebis dacvis sakiTxi gansakuTrebuli specifikiT xasiaTdeba roca saqme exeba politikosebis, saxel mwifo_politikuri Tanamdebobis pirebis an sazogadoebisTvis cnobili sajaro moxeleebis davas araqonebrivi uflebebis dasacavad. marTalia kanoni raime daTqmas am subieqtTa

piri, romelic sxva pirs marTl sawinaaRmdego, ganzraxi an gaufrTxilebeli moqmedebiT miayenebs zians, val debulia aunazRauros mas es ziani. (ssk_is 992_e muxli.)

del iqturi samarTal darRvevisas miyenebuli moraluri zianis anazRaureba warmoebs samoqalaqo kodeqsis 413_e muxlis safuZvelze sxeulis dazianebis an janmrTelobisaTvis vnebis miyenebis SemTxvevaSi. naSromSi ganxilulia, ra deliqturi pasuxismgeblobis safuZveli da saxeebi, yuradReba gamaxvilebulia deliqtebze romlebmac gamoiwvia sicocxlis an janmrTelobis dazianeba. janmrTelobis xelyofis Sedegad miyenebuli moraluri ziani SeiZleba mdgomareobdes zneobriv an fizikur tanjvaSi, rac pirma ganicada Sromisunarianobis mTlianad an nawilobriv dakargvis, aqtiuri cxovrebis wesis gagrZelebis SeuZleblobis, raime uflebis SezRudvis da dakargvis, fizikuri tkivilebis gancdis da a.S. gamo, rac gamoiwvia misi janmrTelobis Seryevam, mis mimarT ganxorcielebuli aramarTlzomieri qmedebis an gadatanili gancdebis Sedegad. vinaidan kontinenturi da saerTo samarTlis qveynebis umravlesobaTa samarTlebrivi aqtebi (kodeqsebi) pirovnebis uflebaTa dacvis Sesaxeb specialur normebs ar Seicavs. kodificirebuli sistemebis mqone kontinenturi samarTlis qveynebi, rogorc wesi aRniSnul uflebaTa dacvas deliqturi urTierTobebis sferoSi axorcieleben. rac, bunebrivia, metad farTo sferoa. deliqtTa didi wridan mniSvnelovnad miviCnieT yuradRebis gamaxvileba saxelmwifosa da saxelmwifo mosamsaxureTa pasuxismgeblobis sakiTxze da Sesabamisad Cveni mosazrebebi samoqalaqo kodeqsis 1005-e muxlis srulyofis Taobaze zemoT mogaxseneT.

ucxouri literaturisa da sasamarTlo praqtikis kvlevam gviCvena, rom raime principuli, konceptualuri xasiaTis sxvaoba moraluri zianisaTvis pasuxismgeblobisa da kompensaciis sakiTxis samarTlebriv regulaciaSi ar arsebobs. Tu ar CavTvliT, deliqturi urTierTobis sferoSi sakiTxis ufro "gabedul" da pirovnebaze da

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sasamarTlo praqtikis roli, samosamarTlo samarTlis mniSvneloba ara marto samarTal Sefardebis, aramed samarTal Semoqmedebis Tval sazrisiT. mxolod praqtikaais miukerZoebeli arbitri, romel sac Zaluzs droTa ganmavlobaSi Camoayalibos moraluri zianis kompensaciis stabiluri, gonivruli da samarTliani sistema. qarTuli sasamarTlo praqtika am mxriv jer sakmaod axal gazrdaa, sakiTxi mecnierul literaturaSic sustadaa damuSavebuli. sasamarTlo praqtika ki mudmivad ganviTarebadia da icvleba sazogadoebasTan erTad. Tavis mxriv, erTgvarovani praqtika ver Camoyalibdeba sakiTxis mecnieruli damuSavebis, analizis da rekomendaciebis SemuSavebis gziT daxmarebis gareSe. aRniSnulis, aseve sakiTxis specifikisa da mis mimarT sayovelTao interesis gaTvaliswinebiT migvaCnia, rom moraluri zianisaTvis kompensaciis problemis optimaluri gadawyvetis srulyofis mizniT momavalSic kvlevis gagrZelebis seriozuli perspeqtiva arsebobs.

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