

**amerikis iuristTa asociacia
centraluri evropisa da evraziis samarTlebrivi iniciativa**

**gaerTianebuli erebis organizaciis
konvencia `korufciis winaaRmdeg~ da
saqarTvelos kanonmdebloba**

oqtomberi, 2006



kanonis uzenaesobis damkvidreba

**gaerTianebuli erebis organizaciis konvencia `korufciis winaaRmdeg~ da saqarTvelos
kanonmdebloba**

2006 wlis maisi

winamdebare gamocemaSi mocemuli analizi da winadadebebi warmoadgens amerikis iuristTa asociaciis centraluri evropisa da evraziis samarTlebrivi iniciativis naSroms, romelzec is srulad iRebs pasuxismgeblobas. amerikis iuristTa asociaciis mmartvelTa sabWos ar ganuxilavs da ar gaukeTebia komentari naSromis Sinaarsze. Sesabamisad, aq warmodgenili winadadebebi ar unda iqnas miCneuli amerikis iuristTa asociaciis oficialur mosazrebad. metic, angariSSi konkretul sakiTxebTan dakavSirebiT moyvanili arcerTi debuleba ar unda iqnas miCneuli iuridiul rekomendaciad, amdenad, mkiTxvelma rCevisaTvis iurists unda mimarTos. winamdebare publikaciis momzadeba SesaZlebeli gaxda aSS-is saerTaSoriso ganviTarebis saagentos saqarTvelos warmomadgenlobis daxmarebis saSualebiT, TanamSromlobis xelSekruleba # 111-A-00-00-00067-00 da TanamSromlobis xelSekrulebebi # ENI-A-00-00-0003-00 da ABA 6004407. naSromSi gamoxatuli mosazrebebi ekuTvniT maT avtorebs da ar unda iqnas miCneuli aSS-is saerTaSoriso ganviTarebis saagentos oficialur mosazrebad.

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gamocemulia aSS-Si

saavtoro uflebebi © 2006,
amerikis iuristTa asociaciisa da centraluri evropisa da evraziis samarTlebrivi iniciativis mier
20005, vaSingtoni, NW
q.15, b. 740
www.abaceeli.org

winamdebare naSromi Sesrulda eqspertTa jgufis mier Semdegi SemadgenlobiT:

londa esaZe - amerikis universitetis transnacionaluri danaSaulisa da korufciis centris saqarTvelos programis koordinatori (jgufis xelmZRvaneli);

eka kemularia – saqarTvelos parlamentis adamianTa uflebebis dacvisa da samoqalaqo integraciis komitetis wamyvani specialisti;

zaza meiSvili – saqarTvelos uzenaesi sasamarTlos Tavmjdomaris moadgile;

TinaTin tyeSeliaZe - saqarTvelos parlamentis iuridiul sakiTxTa komitetis wamyvani specialisti.

naSromi momzadda 2005 wlis 1 noembridan 2006 wlis 1 maisamde eqspertebis regularuli Sexvedrebis da ganxilvebis Sedegad. samuSao jgufis Sexvedrebs eswreboda da naSromze muSaobda ABA/CEELI-is ufrosi iuridiuli mrCeveli **nino xurciZe**. naSromis gamosacemad momzadebaSi monawilebda ABA/CEELI-is iuridiuli ganaTlebis programis TanamSromeli qeTevan iremaSvili. muSaobis procesSi eqspertTa jgufi xelmZRvanelobda saqarTvelos sagareo saqmeTa saministros mier mowodebuli konvenciis avTentikuri TargmaniT.

1993 wels, luCiano violentem, italiis anti-mafiuri saporlamento komitetis Tavmjdomarem, dakiTxvaze erT-erT mowmes moTxova informacia investiciebisa da fulis gaTeTrebis im teqnkis Taobaze, romelsac misi organizacia iyenebda. violente ixsnabda, rom amis Semdgom dialogi ase warimarTa:

`mowmem aqeT mkiTxa, Tu ras movimoqmedebdi sainvestigio Tanxis dabandebis mizniT~;

`me vupasuxe, rom eqsperts mivmarTavdi rCevisaTvis~;

`mowmem mipasuxa: Cvenc swored aseve viqceviT. Tuki investicia gaamarTlebs, maSin ras izamT?~

`kvlav imave eqsperts mivmarTav, - iyo Cemi pasuxi~;

`Cvenc zustad ase vakeTebT, magram Tuki investicia ar gaamarTlebs, maSin?~;

`maSin sxva eqsperts movZebni~;

`Cvenc aseve moviqceodiT, oRond im gansxvavebiT, rom jer pirvel eqsperts movklavdiT da Semdeg davrwmundebodiT, rom meore eqsperts aucileblad scodnoda, rac gavukeTeT mis winamorbeds. swored amaSia gansxvaveba Cvensa da Tqvens Soris~.

ufro Wkvianebi ar klaven. mkvleloba SesaZloa dabrkolebas xsnis, magram amavdroulad xmaursac iwvevs. korufcia uxmaurod anadgurebs.¹

Sesavali

danaSaulis da, maT Soris, korufciis globalizacia da misi transnacionaluri niSniT aRbeWdva, masTan brZolis samarTlebrivi formatis globalizaciasac ganapirobebs. ukanskelma periodma aCvena, rom Tundac efeqturi saerTaSoriso TanamSromloba regionaluri da/an ormxrivi xelSekrulebebis reJimSi aRar aris sakmarisi. aucilebelia erTiani antikorufciuli politikur-samarTlebrivi sivrcis Seqmna, romelic garkveulad Tavisufali iqneba rogorc iurisdiciaTa konfliqtebisagan, aseve samarTlebrivi urTierTdaxmarebis SemzRudveli procedurebisa da im sxva barierebisagan, riTac mxolod damnaSave korufcionerebi sargebloben.

am TvalsazrisiT gaerTianebuli erebis organizaciis konvencia `korufciis winaaRmdeg~ erTgvari revoluciaa saerTaSoriso sisxlis samarTalsi, romelmac pirvelma moaqcia korufciis urTulesi socialur-samarTlebrivi buneba kompleqsur samarTlebriv aqtSi. konvencia aseve saerTaSoriso konsensusac warmoadgens imis Sesaxeb, Tu ra unda gaakeTon saxelmwifoebma korufciis prevenciisa da kriminalizaciis, mis winaaRmdeg brZolis saerTaSoriso TanamSromlobis srulyofisa da aqtivebis dabrunebis mizniT. gansakuTrebiT ikveTeba saxelmwifoTa Soris pasuxismgeblobis gadanawilebis roli transsasazRvro danaSaulebrivi korufciuli qmedebebis SemTxvevSi.

konvenciis miRebis saWiroeba dRis wesrigSi gaeros narkotikebis kontrolisa da danaSaulis prevenciis ofisis mier SemuSavebuli misi winamorbedi dokumentis - `transnacionaluri danaSaulis winaaRmdeg konvenciis~ xelmosawerad gaxsnisTanave dadga (2000 wlis 12 dekemberi, palermo, italia). miuxedavad rigi regionaluri antikorufciuli standartebis arsebobisa, rogoricaa evropis sabWos konvenciebi, evropis ekonomikuri TanamSromlobisa da ganviTarebis organizaciis `konvencia ucxo qveynis sajaro Tanamdebobis pirTa mosyidvis winaaRmdeg~ da sxva, monawile saxelmwifoebi SeTanxmdnen, rom aucilebeli iyo mxolod korufciaze orientirebuli savaldebulo Zalis mqone globaluri instrumentis arsebobis. Sedegad gaeros generalurma asambleam 2001 wlis 22 ianvars miiRo 55/61 rezolucia² specialuri komitetis Seqmnis Sesaxeb, romelsac momavali konvenciis teqstze unda emuSava.

2001-2003 wlebis manZilze gamarTuli specialuri komitetis 7 sesiis Semdeg, generalurma asambleam 2003 wlis 31 oqtombris 58/4 rezolucii³ miiRo konvencia `korufciis winaaRmdeg~, romelze xelmoweris konferenciac 2003 wlis dekemberSi gaimarTa meqsikis qalaq meridaSi. konvencia ZalaSi 2005 wlis 14 dekembers Sevida misi 68-e muxlis Tanaxmad, romelic ZalaSi Sesvlas 30-e saratifikacio sigelis gadacemidan 90 dRis Semdeg iTvaliswinebs.

2006 wlis 9 maisis mdgomareobiT konvencia ratificirebulia gaeros 51 wevri saxelmwifos mier, xelmomwerTa raodenobas ki - 140 saxelmwifo Seadgens. konvenciis pirveli monawile saxelmwifo kenia gaxda. 30-e wevri, ris Sedegadac konvencia ZalaSi Sevida, ekvadori iyo. am droisaTvis ukanaskneli wevri qveyana ki ruseTis federaciaa, romelic konvencias 2006 wlis 9 maisis SeuerTda. konvenciis wevr saxelmwifoTa pirveli konferencia savaraudod 2006 wlis dekemberSi iordaniis qalaq amanSi gaimarTeba.

gaerTianebuli erebis organizaciis konvencia korufciis winaaRmdeg 8 Tavis da 71 muxlisagan Sedgeba. aqedan fundamentaluri principebi asaxulia 4 TavSi, kerZod:

- korufciis Tavidan acilebis RonisZiebebi (Tavi II);

¹ lord rasel jonstonis gamosvlidan korufciis winaaRmdeg gaeros konvenciis xelmowerisadmi miZRvnil konferenciaze. merida, meqsika. 2003 wlis dekemberi.

² GA/RES/55/61, 22 ianvari 2001, abzaci 1.

³ GA/RES/58/4, 2003 wlis 1 oqtomberi.

- kriminalizacia da samarTaldacviTi saqmianoba (Tavi III);
- saerTaSoriso TanamSromloba (Tavi IV);
- aqitivebis dabruneba (Tavi V).

konvenciis ZiriTad inovaciebad da miRwevebad iTvleba prevenciuli zomebis mravalferovneba, korufciis kriminalizacia rogorc sajaro, aseve kerZo seqtorSi, iuridiul pirTa pasuxismgebloba, xandazmulobis vadis gazrda korufciul danaSaulebze, samoqalaqo sazogadoebis rolisa da mis Sesaxeb informaciis xelmisawvdomobis xarisxis amaRleba, fulis gaTeTrebis winaaRmdeg brZolis gaZliereba, saxelmwifoebs Soris samarTlebrivi urTierTdaxmarebis gawevis masStabebis zrda da sxv.

magram konvenciis mier saerTaSoriso samarTalsi naTqvami axali sityva mainc aqitivebis dabrunebas ukavSirdeba, romelic moicavs danaSaulebrivi gziT miRebuli Semosavlis gadaricxvis Tavidan acilebasa da gamovlenas, qonebis uSualo dabrunebisaTvis aucilebel RonisZiebebs, konfiskaciis saqmeze saerTaSoriso TanamSromlobis Sedegad qonebis amoRebis meqanizmebs, saerTaSoriso da specialur TanamSromlobis meTodebs konfiskaciis mizniT da Tavad aqitivebis ara marto dabrunebis, aramed maTi gankargvis regulaciebsac.

aqitivebis dabrunebis Sesaxeb specialuri Tavis konvenciaSi CarTva mudmivmoqmedi komitetis molaparakebebeze warmoebuli debatebisada mxareTa uTanxmoebis ZiriTad sagans warmoadgenda. es sakiTxi jer kidev pirvel sxdomaze filipinebis delegaciis mier daisva, rasac afrikuli da laTinuri qveynebis delegaciebis didma nawilma dauWira mxari CineTTan erTad⁴. amavdroulad sxva qveynebis delegaciebi mizanSewonilad ar miiCnevden konfiskaciisa da aqitivebis dabrunebis debulebebisTvis savaldebulo Zalis miniWebas. am kuTxiT aRsanavi gaxldaT swored Sveicariis delegaciis pozicia, romelmac albaT erT-erTi yvelaze mniSvnelovani roli Seasrula sakiTxis dadebiTad gadawyvetaSi, ramdenadac calaxad ganacxada, rom konvenciis mizania waaxalisos wevri saxelmwifoebi moaxdinon Sida kanonmdeblobis harmonizacia da SeimuSaon is savaldebulo samarTlebrivi baza, rasac daefuZneba saerTaSoriso TanamSromloba ukanonod miTvisebuli qonebis amoRebisa da dabrunebisa procesSi.

unda aRiniSnos, rom saerTaSoriso eqspertebi konvenciis sust mxareebzec miuTiteben, rac ZiriTadad gamoixateba implementaciisa da monitoringis meqanizmebis ganmsazRvrelis konkretuli debulebebis ararsebobaSi, savaldebulo Zalis mqone debulebebis naklebobaSi (mag. politikur partiaTa dafinansebis, kerZo seqtorSi korufciis kriminalizaciis, informatorTa dacvis nawilSi) da Sesabamisad erovnuli iurisdicqiebisTvis am kuTxiT meti manevrirebis uflbis miniWebas. niSandoblivia, rom konvenciis teqstis adreuli proeqtebi iTvaliswinebdnen aRniSnul sakiTxebs (mag. specialuri komitetis mexuTe sesiamde teqstSi jer kidev arsebobda Tavi `implementaciis meqanizmebis` Sesaxeb da muxli `politikuri partiebis dafinansebis` Taobaze), magram samwuxarod molaparakebis Semdgom procesSi monawile mxareebis Soris konsensusi ar Sedga.

miuxedavad zemoT aRniSnulisa, konvencia udavod unda miviCniot 21-e saukunis erT-erT umniSvnelovanes gamowvevad danaSaulobasTan brZolis TvalsazrisiT da misi efeqturi aRsruleba bevrad aris damokidebuli saxelmwifoTa politikur nebaze.

jerjerobiT saqarTvelo konvenciis xelmomwerTa Sorisac ar aris, Tumca am mxriv pirveli nabijebi ukve gadaidga. 2004 wlis 9 dekembers, meridas konferencieze konvenciis xelmosawerad gaxsnis wlisTavze da korufciis winaaRmdeg brZolis saerTaSoriso dRes, saqarTvelos parlamentma miiRo dadgenileba #6333–IIs `korufciis winaaRmdeg gaerTianebuli erebis organizaciis konvenciis xelmowerisa da ratifikaciis Taobaze~, romelSiac korufciis winaaRmdeg brZola aRiara saxelmwifos saSinao politikis erT-erT ZiriTad prioritetad da mizanSewonilad miiCnia qveynis kanonmdeblobis daxvewa saerTaSoriso standartebis Sesabamisad. aRniSnuli dadgenilebiT saqarTvelos prezidents eTxova kanonmdeblobiT gaTvaliswinebuli procedurebis dacviT konvenciis xelmowerisa da saqarTvelos parlamentisaTvis misi saratifikaciოდ wardgenis uzrunvelyofa.

amis Semdgom saqarTvelos prezidentis 2005 wlis 8 Tebervlis N 43 gankargulebiT saqarTvelos sagareo saqmeTa saministros daevala winadadebis momzadeba konvenciis dadebis Taobaze. 2006 wlis 28 martis N 155 gankargulebiT saqarTvelos prezidentma daamtka erovnuli antikorufciuli strategiis samoqmedo gegma, romlis 16.1. muxliT sagareo saqmeTa da iusticiis saministroebis daevalaT aucilebeli RonisZiebebis gatareba 2006 wlis 30 aprilamde `korufciis winaaRmdeg gaerTianebuli erebis organizaciis konvenciasTan` mierTebis mizniT.

konvenciis 65-e muxlis Tanaxmad TiToeulma monawile saxelmwifom sakutari Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad unda gaataros aucilebeli sakanonmdeblo RonisZiebebi konvenciiT gaTvaliswinebuli Tavisi movaleobebis Sesasruleblad. amavdroulad, korufciis Tavidan acilebisa da masTan

⁴ A/AC.261/4, Report of the Ad Hoc Committee, second session, 17 – 28 June 2002, paragraph 26.

brZolis mizniT, monawile saxelmwifos SeuZlia, miiRos SedarebiT ufro mkacri RonisZiebebi, vidre es gansazRvrulia am konvenciiT.

saqarTvelos konstituciis me-6 muxlis me-2 punktis Tanaxmad saqarTvelos saerTaSoriso xelSekrulebas an SeTanxmebas, Tu igi ar ewinaaRmdegeba saqarTvelos konstitucias, aqvs upiratesi iuridiuli Zala Sidasaxelmwifoebrivi normatiuli aqtebis mimarT. TavisTavad cxadia, rom saerTaSoriso aqtebis mimarT e.w. `absoluturi midgomiT~ cnobili amgvare konstituciuri norma imTaviTve qmnis Zalian xelsayrel pirobas konvenciiis moTxovnaTa cxovrebaSi gatarebisaTvis, ramdenadac ratifikaciis SemTxvevaSi igi pirdapir xdeba erovnuli kanonmdeblobis nawili da sxva Sidasaxelmwifoebrivi kanonebis mimarT upirates Zalas iZens. magram miuxedavad amisa, konvenciiis namdvili amoqmedebisaTvis aucilebelia Sida erovnuli kanonmdeblobis masTan srul SesabamisobaSi moyvana. swored saqarTvelos kanonmdeblobis `korufciis winaaRmdeg~ konvenciasTan harmonizacia Seadgens winamdebare naSromis mTavar mizans.

am kuTxiT eqspertTa jgufma ganaxorciela konvenciiisa da qarTuli kanonmdeblobis muxlobrivi SedarebiTi analizi, raTa erTis mxriv, gamoevlina arsebuli gansxvavebebi da sakanonmdeblo `xvrelebi~, da meores mxriv, moexdina Tanxvedr normaTa identifikacia. am TvalsazrisiT detalurad iqna Seswavlili rogorc saqarTvelos antikorufciuli da mimdebare kanonmdebloba, aseve ucxoetis sakanonmdeblo Teoriisa da praqtikis yvelaze warmatebuli nimuSebic.

naSromi Seicavs rekomendaciebis pakets im sakanonmdeblo cvlilebebisa da damatebebis Sesaxeb, romelTa gatarebac mniSvnelovan rols Seitans konvenciiis xelmowerisa da ratifikaciis procesSi da, rac mTavaria, uzrunvelyofs mis efeqtur amoqmedebas.

imeds gamovTqvamT, rom warmodgenili naSromis Seswavla da masSi mocemuli SeniSvnebis da rekomendaciebis gaTvaliswineba aRmasrulebeli da sakanonmdeblo xelisuflebis mier daaCqarebs korufciis winaaRmdeg konvenciasTan mierTebis process da xels Seuwyobs misi principebisa da debulebebis aqtur implementacias saqarTveloSi.

gaerTianebuli erebis organizaciis konvencia `korufciis winaaRmdeg~

Tavi I ZiriTadi debulebani

muxli 1. konvenciiis miznebi

am konvenciiis miznebia:

- a) *im RonisZiebaTa gatarebisa da maTi ganmtkicebis xelSewyoba, romlebic mimarTulia korufciis Tavidan asacileblad da masTan sabrZolvelad;*
- b) *korufciisa da masTan brZolis Tavidan acilebis sferoSi teqnukur daxmarebasTan dakavSirebiT saerTaSoriso TanamSromlobis waxaliseba, gamartiveba da mxardaWera, maT Soris, aqtivebis dasabruneblad Sesabamisi RonisZiebis gatareba;*
- g) *patiosnebis, mousyidvelobisa da pasuxismgeblobis, agreTve sajaro saqmeebisa da sajaro qonebis saTanado marTvis waxaliseba.*



pirvel muxlSi mocemulia konvenciiis ZiriTadi miznebi, rac unda aisaxos monawile saxelmwifoTa politikur nebaSi, gaataron mizanmimarTuli antikorufciuli politika. saqarTveloSi ukanaskneli aTweulis manZilze mravali antikorufciuli iniciativa ganxorcielda specialuri saxelmwifo programebisa da anti-korufciuli komisiebis Seqmnis CaTvliT. 1998 wlidan moyolebuli qveyanaSi yoveli weli korufciasTan «gadamwyveti brZolis» wlad cxaddeboda. Tumca yvela es aqtivoba da RonisZieba ZiriTadad mxolod formalur xasiaTs atarebda, rasac realuri Sedegi ar mohyolia.

2003 wlis noembris cnobili movlenebis Semdeg axali xelisuflebis yvelaze mniSvnelovan saprogramo iniciativas korufciis winaaRmdeg brZolis TvalsazrisiT warmoadgens saqarTvelos erovnuli antikorufciuli strategiisa da misi samoqmedo gegmis SemuSaveba, romelic 2006 wlis 28 marts saqarTvelos prezidentis # 155 brZanebulebiT iqna damtkicebuli (dawvrilebiT ix. qvemoT konvenciiis me-6 muxlis analizi).

muxli 2. terminTa ganmartebebi

am konvenciaSi gamoyenebul terminebs aqvT Semdegi mniSvneloba:

a) sajaro Tanamdebobis piri: I) nebismieri daniSnuli an arCeuli piri, romelsac monawile saxelmwifos sakanonmdeblo, aRmasrulebel, administraciul an sasamarTlo organoSi ukavia mudmivi an droebiTi Tanamdeboba Sesabamisi Sromis anazRaurebiT an mis gareSe, dakavebuli Tanamdebobis miuxedavad; II) nebismieri sxva piri, romelic asrulebs raime sajaro funqcias, maT Soris, sajaro uwyebisaTvis an sajaro sawarmosaTvis, an axorcielebs raime saxis sajaro momsaxurebas, rogorc es gansazRvrulia monawile saxelmwifos Sida kanonmdeblobiT da rogorc es gansazRvrulia monawile saxelmwifos samarTlebrivi regulirebis Sesabamis sferoSi; III) nebismieri sxva piri, romelic monawile saxelmwifos Sida kanonmdeblobiT gansazRvrulia, rogorc `sajaro Tanamdebobis piri~. am konvenciis meore TavSi aRniSnuli zogierTi konkretuli RonisZiebis gatarebis mizniT `sajaro Tanamdebobis piri~ warmoadgens nebismier pirs, romelic asrulebs raime sajaro funqcias an axorcielebs raime sajaro momsaxurebas, rogorc es gansazRvrulia monawile saxelmwifos Sida kanonmdeblobiT da rogorc es gamoiyeneba am monawile saxelmwifos samarTlebrivi regulirebis Sesabamis sferoSi;

b) ucxo qveynis sajaro Tanamdebobis piri – nebismieri daniSnuli an arCeuli piri, romelsac ukavia sxva saxelmwifo sakanonmdeblo, aRmasrulebel, administraciul an sasamarTlo organoSi raime Tanamdeboba da nabismieri piri, romelic asrulebs raime sajaro funqcias sxva saxelmwifosTvis, maT Soris, sajaro uwyebisaTvis an sajaro sawarmosaTvis;

g) saerTaSoriso organizaciis sajaro Tanamdebobis piri – saerTaSoriso samoqalaqo mosamsaxure an nebismieri piri, romelic uflebamოსilia aseTi organizaciis mier awarmoos saqmianoba misi saxeliT;

d) qoneba - nebismieri sxva aqTivi, materialuri an aramaterialuri, moZravi an uZravi, romelic gamoxatulia nivTebis saxiT an masze Sesabamisi uflebebiT; qonebad iTvleba agreTve iuridiuli dokumentebi da aqTivebi, romlebiTac dasturdeba aseT aqTivebze sakuTrebis ufleba an maTdami interesi;

e) danaSaulidan miRebuli Semosavali - nebismieri qoneba romelic SeZenilia an miRebulia pirdapir an iribad, danaSaulis Cadenis Sedegad;

v) operaciis SeCereba (gayinva) an dapatimreba - qonebis gadacemis, gardaqmnis, gasxvisebis an gadaadgilebis droebiT akrZalva, an aseTi qonebis droebiTi floba, an aseT qonebaze droebiTi kontrolis, sasamarTlos an sxva kompetenturi organos dadgenilebis Sesabamisad;

z) konfiskacia - qonebaze uflebis sabolood CamorTmeva sasamarTlos an sxva kompetenturi organos dadgenilebis Sesabamisad;

T) ZiriTadi samarTaldarRveva – nebismieri samarTaldarRveva, romlis Sedegad miRebul Semosavalzec SeiZleba ganxorcieldes am konvenciis 23-e muxliT gansazRvruli qmedebebi, romlebic qmnian danaSaulis Semadgenlobas;

i) kontrolirebadi miwodeba – meTodi, romlis gamoyenebis drosac dasaSvebia ukanono an eWvqveS arsebuli tvirTis partiis gadatana, gadazidva an Semotana erTi an ramdenime saxelmwifos teritoriaze am saxelmwifoTa kompetenturi organoebis nebarTviTa da meTvalyureobiT raime saxis danaSaulis gamoZiebisa da danaSaulSi monawile pirTa gamovlenis mizniT.



konvenciis meore muxlSi gansazRvrulia rigi ZiriTadi terminebisa, romlebic gamoiyeneba konvenciaSi. gansaxilveli konvenciis debulebebis saTanado SesrulebisaTvis aucilebelia im ganmartebebis gageba, romlebic mocemulia konvenciis me-2 muxlSi.

sajaro Tanamdebobis piri

`sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb~ kanonis meore muxlSi mocemulia Tanamdebobis pirTa CamonaTvali. esenia: saqarTvelos prezidenti; saqarTvelos parlamentis wevri; aWarisa da afxazeTis avtonomiuri respublikebis umaRlesi warmomadgenlobiT organoebis xelmZRvanelebi da maTi moadgileebi; aWarisa da afxazeTis avtonomiuri respublikebis aRmasrulebeli xelisuflebis umaRlesi organoebis xelmZRvanelebi da maTi moadgileebi; saqarTvelos ministri da misi moadgile; saqarTvelos saxelmwifo kancelariis ufrosi da misi moadgile; saqarTvelos saxelmwifo departamentis Tavmjdomare, saqarTvelos saxelmwifo inspeqciis ufrosi da maTi moadgileebi; saqarTvelos; saministros struqturuli qvedanayofis xelmZRvaneli, agreTve masTan gaTanabrebuli piri; saqarTvelos saxelmwifo kancelariis struqturuli qvedanayofis xelmZRvaneli, agreTve masTan gaTanabrebuli piri; saqarTvelos saxelmwifo saqveuwyebო dawesebulebis xelmZRvaneli; saqarTvelos Sinagan saqmeTa, uSiSroebisa da Tavdacvis saministroebis departamentebis, biuroebis, mTavari sammarTveloebisa da sammarTveloebis ufrosebi da maTi moadgileebi, agreTve maTTan gaTanabrebuli pirebi; saqarTvelos saxelmwifo sabaJo departamentis regionaluri sabaJos, sabaJo sammarTvelos, sabaJos xelmZRvanelebi; saqarTvelos saxelmwifo sagadasaxado departamentis afxazeTisa da aWaris avtonomiuri respublikebis, raionis, qalaqis, qalaqis raionis adgilobrivi sagadasaxado inspeqciebis xelmZRvanelebi; saqarTvelos saxelmwifo antimonopoliuri samsaxuris ufrosi da misi moadgile; centraluri gamwvevi komisiis Tavmjdomare, gamwvevi komisiis raionis da qalaqis (Tbilisi, baTumi, rusTavi, soxumi, foTi, quTaisi da cxinvali), agreTve qalaqis raionis samxedro komisrebi; saqarTvelos kontrolis palatis Tavmjdomare, moadgile prezidiumis wevri, departamentis, regionaluri da qalaqis biuros xelmZRvanelebi, afxazeTisa da aWaris avtonomiuri respublikebis kontrolis palatების xelmZRvanelebi; saqarTvelos erovnuli bankis prezidenti da sabWos wevri; saqarTvelos prezidentis saTaTbiro organos wevri; saqarTvelos energetikis

maregulirebeli erovnuli komisiis wevri; saqarTvelos saavtomobilo transportis, sarkinigzo transportis, sazRvao transportisa da samoqalaqo aviaciis administraciebis Tavmjdomareebi; saqarTvelos centraluri saarCevno komisiis Tavmjdomare, moadgile da mdivani; saqarTvelos prezidentis saxelmwifo rwmunebuli da misi moadgile; raionis da qalaqis (Tbilisi, baTumi, rusTavi, soxumi, foTi, quTaisi da cxinvali), adgilobrivi warmomadgenlobiT organoebis xelmZRvanelebi; raionis da qalaqis (Tbilisi, baTumi, rusTavi, soxumi, foTi, quTaisi da cxinvali), agreTve qalaqis raionis adgilobrivi aRmasrulebeli organoebis xelmZRvanelebi da maTi pirveli moadgileebi; mosamarTle; saqarTvelos generaluri prokurori da misi moadgile; saqarTvelos generaluri prokuraturis sammarTvelos, samsaxuris xelmZRvanelebi da maTTan gaTanabrebuli pirebi, regionuli transportis prokurori, regionuli samxedro prokurori, sasjelTa aRrulebebis kanonebis dacvaze zedamxedvelobis prokurori, saolqo, raionis da qalaqis (Tbilisi, baTumi, rusTavi, soxumi, foTi, quTaisi da cxinvali), agreTve qalaqis raionis prokurorobi; saqarTvelos konstituciis pirdapiri miTiTebis safuZvelze arCeuli, daniSnuli an damtkicebuli sxva piri.

rogor cnobilia, `saqarTvelos mTavrobis struqturis, uflebamosilebisa da saqmianobis wesis Sesaxeb~ saqarTvelos kanonSi cvlilebebis Setanis Taobaze~ saqarTvelos parlamentis 2004 wlis 24 ivniss miRebuli kanonisa da winamdebare likvidaciis procesis safuZvelze gauqmebul iqna saqarTvelos uSiSroebis saministro, romelic SeuerTda Sinagan saqmeTa saministros. miuxedavad amisa `sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb` kanonis meore muxlSi mocemul Tanamdebobis pirTa CamonaTvalSi kvlav figurirebs aw ararsebuli uSiSroebis saministro. aucilebelia kanonmdebელმა გაTvaliswinos aRniSnuli xarvezის aRmofxvra.

saqarTvelos sisxlis samarTlis kodeqsi ar iZleva Tanamdebobis piris cnebas. saqarTvelos sisxlis samarTlis saproceso kodeqsis 44-e muxlis 47-e nawilis Tanaxmad: `Tanamdebobis piri (romlis mimarTac xorcieldeba sisxlis samarTlis procesi) - am kanonis miznebisTvis, `sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb~ saqarTvelos kanonis me-2 muxliT gaTvaliswinebuli Tanamdebobis piri, sajaro moxele, sajaro samarTlis iuridiuli piri xelmZRvaneli an misi moadgile, an sawarmoSi, romelSic saxelmwifo flobs wilis (aqciaTa) 50%-s an 50%-ze mets, xelmZRvanelobiT an/da warmomadgenlobiT uflebamosilebis mqone piri, romelsac bralad edeba Tanamdebobaze yofnis periodSi samoxeleo an samewarmeო an sxva organizaciaSi samsaxuris interesis winaarmdeg mimarTuli danaSaulis Cadena, ukanono Semosavlis legalizacia, gamoZalva, miTviseba an gaflangva, gadasaxadebisagan Tavis arideba an sabaJo wesebis darRveva, miuxedavad imisa, gaTavisuflebulia Tu ara igi dakavebuli Tanamdebobidan.

`sajaro samsaxuris Sesaxeb~ saqarTvelos kanonis me-6 muxlis pirveli punqtis Tanaxmad moxele aris piri, romelic iniSneba an airCeva saxazino dawesebulebis saStato (StatiT gaTvaliswinebul) Tanamdebobaze.

2005 wlis 16 dekembers saqarTvelos administraciul saproceso kodeqSi Setanil iqna cvlileba, romlis Tanaxmadac gafarTovda Tanamdebobis piris cneba. cvlilebis Tanaxmad, Tanamdebobis piria, `sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb~ saqarTvelos kanonis me-2 muxliT gaTvaliswinebuli Tanamdebobis piri, sajaro moxele, sajaro samarTlis iuridiuli piri xelmZRvaneli an misi moadgile, agreTve saxelmwifo sawarmos (romelSic saxelmwifo flobs wilis (aqciaTa) 50%-s an mets) xelmZRvanelobaze/warmomadgenlobaze uflebamosili piri, miuxedavad imisa, gaTavisuflebulia Tu ara igi dakavebuli Tanamdebobidan (21⁵-e muxli).

saqarTvelos kanonmdebloba, konvenciisagan gansxvavebiT, danaSaulis subieqtad ar ganxilavs gansazRvruli vadiT daniSnul StatgareSe mosamsaxures (`sajaro samsaxuris Sesaxeb~ kanonis Sesabamisad – Tanamdebobis pirs). amgvarad, konvenciiT mocemuli Tanamdebobis piris cneba ufro farToa, vidre saqarTvelos kanonmdeblobiT aris gansazRvruli.

ucxo qveynisa da saerTaSoriso organizaciis sajaro Tanamdebobis piri

konvenciis me-2 muxlis `b~ da `g~ punqtebi gansazRvravs ucxo qveynisa da saerTaSoriso organizaciis sajaro Tanamdebobis pirebis cnebebs. saqarTvelos sisxlis samarTlis kodeqsi jerjerobiT ar iTvaliswinebs. korufciuli samarTaldarRvevis CadenisaTvis ucxo qveynisa da saerTaSoriso organizaciis sajaro Tanamdebobebis mqone pirTa pasuxismgeblobas (davrilebiT ix. qvemoT, konvenciis me-16 muxlis analizi). gamonaklisia sisxlis samarTlis kodeqsis 332-e muxlis SeniSvna, romlis Tanaxmadac XXXIX Tavis (samoxeleo danaSauli) 332-e, 333-e, 334-e, 335-e, 336-e, 338-e, 339-e, 341-e da 342-e muxlebiT dadgenili samoxeleo danaSauli aseve gulixmobs sisxlis samarTlis saerTaSoriso sasamarTlos warmomadgenელთა მერ Cadenil danaSaulsac.

danaSaulidan miRebuli Semosavali

konvenciis me-2 muxlis `e~ punqtSi mocemulia danaSaulidan miRebuli Semosavlis definicia, romlis Tanaxmadac nebismeri qoneba, romelic SeZenili an miRebulia pirdapir an iribad, konvenciiT gaTvaliswinebuli danaSaulis Cadenis Sedegad, iTvleba danaSaulidan miRebul Semosavlad;

Tumca aqve unda aRiniSnos, rom konvenciis rusul teqstSi, romelic konvenciis 71-e muxlis Tanaxmad, aseve originalad iTvleba, me-2 muxlis `e~ punqti SecdomiT aris Targmnili rusul enaze, ramac SesaZloa, SemdgomSi gaurkveveli gaugebroba da problema Seuqmnas im saxelmwifoebis, romlebic teqstis rusuli originaliT ixelmZRvaneleben. kerZod, ganmarteba `danaSaulis Cadeni~ (romliTac am konvenciiT dadgenili danaSaulebi igulisxmeba) - `commission of an offence~ – Targmnilia, rogorc `nebismeri danaSaulis Cadeni~ - `commission of any offence~.⁵

problema imaSi mdgomareobs, rom mravali qveynis da maT Soris saqarTvelos kanonmdeblobac zustad adgens im ZiriTad (predikatul) danaSaulTa CamonaTvals, romelTagan miRebuli Semosavalic miiCneva ukanonod. ase magaliTad, `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos kanonSi mocemulia ukanono Semosavlis Semdegi ganmarteba: `ukanono Semosavali – piris sakuTrebaSi an mflobelobaSi arsebuli fuladi saxsrebi, sxva qoneba an qonebrivi uflebebi, romlebic man miiRo saqarTvelos sisxlis samarTlis kodeqsiT gaTvaliswinebuli danaSaulis (maT Soris, iaraRiT vaWrobis, narkotikuli danaSaulebis, trefikingis, terorizmis) Cadenis Sedegad, garda sagadasaxado da sabaJo sferoebSi danaSaulebis Cadenis SemTxvevebisa~; (m.2). konvenciis rusul originalSi daSvebulma Secdomam SesaZloa saxelmwifoebis ubiZgos aramarTebuli daTqmis gakeTebisaken, rom danaSauli am konvenciis miznebisaTvis vTqvaT ar moicavdes sagadasaxado da sabaJo sferoebSi Cadenil danaSaulebs.

zemoT Tqmulidan gamomdinare, mizanSewonilad migvaCnia, gaeros narkotikebisa da danaSaulis prevenciis ofisma (UNODC) gaiTvaliswinos konvenciis rusul originalSi aRniSnuli xarvezis gamosworebis SesaZlebloba. miT umetes, rom zustad analogiur Secdomas aqvs adgili gaeros `transnacionaluri organizebuli danaSaulis winaaRmdeg~ konvenciis me-2 muxlSiC.

administraciuli saprocso kodeqsis 21⁵ muxliT ukanonoa qoneba, agreTve am qonebidan miRebuli Semosavali, aqciebi (wili), romelic Tanamdebobis pirs, misi ojaxis wevrs, axlo naTesavs an dakavSirebul pirs mopovebuli aqvT kanonis moTxovnaTa darRveviT. kodeqsi aseve iZleva dausabuTebeli qonebis ganmartebas, romlis Tanaxmadac aseTad iTvleba qoneba, agreTve am qonebidan miRebuli Semosavali, aqciebi (wili), romlis kanonieri saSualebebiT mopovebis damadasturebeli dokumentebi Tanamdebobis pirs, misi ojaxis wevrs, axlo naTesavs an dakavSirebul pirs ar gaaCniaT an igi mopovebulia ukanono qonebis gasxvisebis Sedegad miRebuli fuladi saxsrebiT~.

yadaRa da konfiskacia

saqarTvelos kanonmdeblobiT gaTvaliswinebulia qonebis mimarT iseTi zomebis gatareba, rogoricaa SeCereba an dayadaReba– qonebis gadacemis, gardaqmnis, gasxvisebis an gadaadgilebis droebiT akrZalva, an aseTi qonebis droebiT floba, an aseT qonebaze droebiTi kontroli sasamarTlos an sxva kompetenturi organos dadgenilebis Sesabamisad. konvenciiT gaTvaliswinebulia qonebis konfiskacia, anu qonebaze uflebis sablood CamorTmeva sasamarTlos an sxva kompetenturi organos dadgenilebis Sesabamisad.

saqarTvelos sakonstitucio sasamarTlom 1997 wlis 21 ivliss miiRo #1/51 gadawyvetileba, romlis mixedviTac arakonstituciurad iqna cnobili saqarTvelos sisxlis samarTlis kodeqsis 23-e muxlis me-5 nawilis pirveli punqti da 96-e muxlis me-2 nawilis sanqciis is nawili, romelSic damatebiTi sasjelis saxiT gaTvaliswinebuli iyo qonebis konfiskacia. Tumca, sakonstitucio sasamarTlos gadawyvetilebiT da mis safuZvelze „konfiskaciis~ cneba saqarTvelos kanonmdeblobaSi ar gauqmebula. amas adasturebs administraciul samarTdarRvevaTa kodeqsis 24-e muxli, romelic administraciul saxdelad ganxilavs im sagnis konfiskacias, romelic administraciuli samarTaldarRvevis Cadenis iaraRs, uSualo obieqts an sabaJo wesebis darRvevis sagans, saqonlis transportirebisa da miwodebis saSualebas warmoadgenda. aseve, amave kodeqsis 29-e muxli gansazRvavs im sagnis konfiskaciis wess, romelic administraciuli samarTaldarRvevis Cadenis iaraRi, uSualo obieqti an sabaJo wesebis darRvevis sagani, saqonlis transportirebisa da miwodebis saSualeba iyo.

konfiskaciis institutis nairsaxeobas iTvaliswinebs saqarTvelos sssk-s Sesabamisi muxlebi: 44-e, 124-e, 410-e, 412-e, 424-e, 425-e, 426-e, 427-e, 510-e da 511-e muxlebic. kerZod, am muxlebiT gansazRvulia e.w. saprocso konfiskacia – danaSaulis iaraRis da sagnis usasyidlod CamorTmeva, rac xorcieldeba mosamarTlis dadgenilebis safuZvelze. rac mxolod nawilobriv Seesabameba konvenciis moTxovnebs (dawvrilebiT ix. qvemoT konvenciis 23-e, 31-e da 54-e muxlebis analizi).

⁵ e) "доходы от преступления" означают любое имущество, приобретенное или полученное, прямо или косвенно, в результате совершения **какого-либо преступления**;

rac Seexeba sisxli samarTlis saqmeze sasamarTlos ganaCenamde qonebis konfiskaciis SesaZleblobas, saqarTvelos sisxli samarTlis da administraciuli saproceso kodeqsebiT gaTvaliswinebulia dausabuTebeli qonebis nawilSi administraciuli devnis ganxorcielebis SesaZlebloba im Tanamdebobis pirTa mimarT, romlebic emalebian gamoZiebas. kerZod, saqarTvelos ssk-s 37¹-e muxlis Tanaxmad Tanamdebobis piri ukanono da dausabuTebel qonebasTan dakavSirebiT prokurors ufleba aqvs, administraciuli saproceso wesiT aRZras sarCeli qonebis CamorTmevisa da saxelmwifosaTvis gadacemis Sesaxeb. (13.02.2004 #3287)

kodeqsis 44-e muxlis 49-e nawiliT gaTvaliswinebulia danaSaulebrivi gziT mopovebuli qonebis, agreTve am qonebidan miRebuli Semosavlebis, aqciebis (wilis) an am qonebis ekvivalenturi fuladi saxsrebis CamorTmeva.

saqarTvelos sisxli samarTlis saproceso kanonmdebloba aseve iTvaliswinebs reketiris da reketul qonebasTan dakavSirebiT specialur saproceso regulaciebsac (13.02.2004 #3287). 2005 wlis 28 dekembers Setanil iqna cvlilebebi da damatebebis sisxli samarTlis saproceso kodeqsi, romliTac sasjelis erT-erT saxed me-40-e muxliT dadginda qonebis CamorTmeva. amave dros, 41-e muxlis me-2 nawilis mixedviT qonebis CamorTmeva SeiZleba dainiSnos mxolod damatebiTi sasjelis saxiT. kodeqsis 52-e muxliSi (28.12.2005 #2619) mocemulia qonebis CamorTmevis cneba da pirobebi. kanonis Tanaxmad qonebis CamorTmeva niSnavs danaSaulis sagnis an/da iaraRis, danaSaulis Casadenad gamiznuli nivTis an/da danaSaulebrivi gziT mopovebuli qonebis saxelmwifos sasargeblod usasyidlod CamorTmevas. aRniSnuli cvlilebis SetaniT saqarTvelos kanonmdeblobaSi Semotanil iqna qonebis CamorTmevis definicia da gansazRvrul iqna qonebis CamorTmevis meqanizmebi.

kontrolirebadi mowodeba

konvenciis am muxliSi mocemuli cneba – kontrolirebadi mowodeba – gaTvaliswinebulia saqarTvelos kanoniT `operatiul-samZebro saqmianobis Sesaxeb~ kanonis Tanaxmad, kontrolirebadi miwodeba – danaSaulis gaxsnis, danaSaulis Camdeni piri gamosavlenad saqarTvelos farglebSi (xolo saerTaSoriso xelSekrulebiT gaTvaliswinebul SemTxvevebSi – saqarTvelos farglebs gareTac), saqarTvelos farglebs garedan saqarTveloSi an saqarTvelos farglebs gavliT nivTierit mtkicebulebis an iseTi sagnis kontrolirebadi gadaadgileba, romlis Tavisufali realizaciac kanoniT akrZaluli an SezRudulia.

SeniSvnebi da rekomendaciebi

- rogore cnobilia, `saqarTvelos mTavrobis struqturis, uflebamobilebisa da saqmianobis wesis Sesaxeb~ saqarTvelos kanonSi cvlilebebis Setanis Taobaze~ saqarTvelos parlamentis 2004 wlis 24 ivniss miRebuli kanonisa da winamdebare likvidaciis procesis safuZvelze gaauqmebul iqna saqarTvelos uSiSroebis saministro, romelic SeuerTda Sinagan saqmeTa saministros. miuxedavad amisa «sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb» kanonis meore muxliSi mocemul Tanamdebobis pirTa CamonaTvalSi kvlav figurirebs aw ararsebuli uSiSroebis saministro. aucilebelia kanonmdebelma gaiTvaliswinos aRniSnuli xarvezis aRmofxvra.
- saqarTvelos kanonmdebloba, konvenciisagan gansxvavebiT, danaSaulis subieqtad ar ganxilavs gansazRvruli vadiT daniSnul StatgareSe mosamsaxures (sajaro samsaxuris Sesaxeb kanonis Sesabamisad – Tanamdebobis pirs).
- konvenciiT mocemuli Tanamdebobis piri cneba ufro farToa, vidre saqarTvelos kanonmdeblobiT aris gansazRvruli.
- saqarTvelos sisxli samarTlis kodeqsi ar iTvaliswinebs korufciuli samarTaldarRvevis CadenisaTvis ucxo qveynisa da saerTaSoriso organizaciis sajaro Tanamdebobebis pasuxismgeblobas.
- aqve mivuTiTebT, rom kanonmdebloba ar gansazRvravs qonebis CamorTmevis procesis monitoringis meqanizmebs, diskriminaciuli da diskreciuli elementebis gamoricxvis TvalsazrisiT.
- konvenciis rusul teqstSi, romelic konvenciis 71-e muxlis Tanaxmad, aseve originalad iTvleba, me-2 muxlis `e~ punqti SecdomiT aris Targmili rusul enaze, ramac SemdgomSi SesaZloa, gaurkveveli gaugebroba da problema Seuqmnas im saxelmwifoebis, romlebic teqstis rusuli originaliT ixelmZRvaneleben.

muxli 3. gamoyenebis sfero

1. es konvencia, misi debulebebis Sesabamisad gamoiyeneba korufciis Tavidan acilebis, gamoZiebisa da sisxli samarTlebrivi devnis da operaciis SeCerebis (gayinvis), dapaTimrebis, konfiskaciisa, da danaSaulidan miRebuli Semosavlis dabrunebis mizniT.
2. am konvenciis Sesrulebis mizniT, Tu masSi sxva ram ar aris gaTvaliswinebuli, aucilebeli ar aris, rom aRniSnuli danaSaulebebis Cadenam ziani miayenos saxelmwifo qonebas.



me-3 muxliSi mocemulia konvenciis ZiriTadi debulebebi, romlebic aregulireben mis gamoyenebis sferos.

muxli 4. suverenitetis dacva

1. *monawile saxelmwifoebi aRiareben am konvenciis Tanaxmad TavianT valdebulebebs, suverenuli Tanasworobis, saxelmwifo teritoriuli mTlianobisa da sxva saxelmwifoTa saSinao saqmeebSi Caurevlobis principis dacviT.*
2. *am konvenciis arc erTi debuleba ar aZlevs monawile saxelmwifos uflebas sxva saxelmwifos teritoriaze gaavrcelos Tavisi iurisdicqia da Seasrulos is funqciebi, romlebic mxolod am saxelmwifos organoTa kompetenciaSia misi qveynis Sida kanonmdeblobis Sesabamisad.*



konvenciaSi mocemulia debulebebi, romlebic dafuZnebulia monawile saxelmwifos suverenitetis pativiscemasa da dacvaze. me-4 muxli Seicavs ZiriTad debulebebs saxelmwifos suverenitetis dacvasTan mimarTeBaSi, romliTac unda ixelmZRvanelon konvenciis ganxorcielebas.

Tavi II

korufciis Tavidan acilebis RonisZiebebi

muxli 5. korufciis Tavidan acilebis politika da praqtika da korufciis ukuqmedeba

1. *TiToeuli monawile saxelmwifo Tavisi samarTlebrivi sistemis fuZemdebluri principebis Sesabamisad SeimuSavebs an atarebs efeqtian da koordinirebul politikas korufciis ukuqmedebisaTvis, rac xels uwyobs am saqmeSi sazogadoebis Cabmas da gamoxatavs marTlwesrigis, sajaro saqmeebisa da sajaro qonebis saTanado marTvis, patiosnebis, mousyidvelobis, gamWvirvalobisa da pasuxismgeblobis principebs.*
2. *TiToeuli monawile saxelmwifo iswrafvis, SeimuSaos da waaxalisos praqtikis iseTi efeqtiani saxeebi, romlebic xels Seuwyobs korufciis Tavidan acilebas.*
3. *TiToeuli monawile saxelmwifo korufciis Tavidan acilebisa da masTan brZolis TvalsazrisiT iswrafvis periodulad Seafasos Sesabamisi samarTlebrivi dokumentebi da gatarebuli administraciuli RonisZiebebi maTi adekvaturobis dadgenis mizniT.*
4. *monawile saxelmwifoebi, saTanado SemTxvevebSi da TavianTi samarTlebrivi sistemebis fuZemdebluri principebis Sesabamisad, TanamSromloben erTmaneTTan da Sesabamis saerTaSoriso da regionul organizaciebTan im RonisZiebaTa SemuSavebisa da xelSewyobisaTvis, romlebic ganzazRvrulia am muxliT. Ees urTierToba SeiZleba moicavdes korufciis Tavidan asacileblad saerTaSoriso programebsa da proeqtebSi monawileobas.*



konvenciis me-5 muxli ufro zogad xasiaTs atarebs da mouwodebs saxelmwifoebis, SeimuSavon da ganxorcielon erTiani politika korufciis acilebis mizniT, aseve iTanamSromlon saerTaSoriso struqturebTan.

saqarTvelos erTiani erovnuli antikorufciuli strategia

2005 wlis 24 ivniss saqarTvelos prezidentma gamosca brZanebuleba #550, romelic iTvaliswinebs korufciis Tavidan acilebis mizniT erTiani politikis SemuSavebasa da saerTaSoriso struqturebTan TanamSromlobas. antikorufciuli strategiis miznebad ganisazRvra: korufciis warmoSobisa da arsebobis xelmSemwyobi pirobebis gamovlena, gaanalizeba da maTi aRmofxvris meqanizmebis SemuSaveba; sajaro seqtorSi angariSvaldebulebisa da sajaroobis principebis ganmtkiceba, maT Soris sazogadoebrivi reagirebis gaaqtiurebisaTvis xelSewyoba; kanonis uzenaesobis damkvidreba, maT Soris korufciis faqtebis gamovlenisa da kanonis sruli dacviT damnaSaveTa pasuxisgebaSi micemis xelSemwyobi pirobebis Seqmnis gziT; xelisuflebis samive StoSi kanonis farglebSi Sesabamisi makontrolbeli organoebis mxridan kontrolis, xolo sazogadoebis mxridan - monitoringis uzrunvelyofa da sxv.

2005 wlis 12 seqtembers saqarTvelos mTavrobam gamosca gankarguleba #377 saqarTvelos erovnuli antikorufciuli strategiis samoqmedo gegmis damtkicebis Sesaxeb. saqarTvelos erovnuli antikorufciuli strategiis samoqmedo gegmis Sesrulebis kontrolis ganxorcieleba daevala saxelmwifo ministrs reformebis koordinaciis sakiTxebSi. gegmis Tanaxmad gaTvaliswinebulia antikorufciuli kanonmdeblobis srulyofa, maT Soris: konkretuli korufciuli praqtikis Tvisebebis dadgena da Sesabamisi kanonmdeblobis kritikuli analizi da formireba; im kanonmdeblobisa da normatiuli bazis reviziis/analizis institucionalizeba, romlebic mniSvnelovania korufciis donis Sesamcireblad; yvela im moqmedebis kriminalizacia, romlebic saerTaSoriso gamocdilebiT korufciul danaSaulad miiCneva; maRali Tanamdebobis pirTa mimarT specialuri antikorufciuli zedamxedvelobis sistemis SemuSaveba; saxelmwifos mxridan regulirebisa da zedamxedvelobis sistemis Semcireba da srulyofa,

administraciuli barierebis Semicireba korufciis Senelebis mizniT; sasamarTlo sistemis reforma; samarTaldacvis organoebis reforma; sajaro dawesebulebebis struqturuli, sakadro da saqmiswarmoebis optimizacia, adamianuri resursebis marTvis sistemis srulyofa. saerTaSoriso organizaciebis rekomendaciaTa Sesruleba; da saerTaSoriso konvenciebis ratificireba.

saqarTvelos erovnuli antikorufciuli strategiis Tanaxmad antikorufciuli politikis danergvis zedamxedvelobas ganxorcielebs saqarTvelos mTavroba. 7.2.3. punktis Tanaxmad, yovel 6 TveSi erTxel, saqarTvelos mTavroba moamzadebs da prezidents warudgens angariSs erovnuli antikorufciuli strategiis ganxorcielebis samoqmedo gegmis mimdinareobis Taobaze, xolo premier-ministrs analogiuri angariSi waredgineba yovel 2 TveSi erTxel. weliwadSi erTxel aseTi angariSi unda waredginos sazogadoebas. 2006 wlis 28 marts saqarTvelos prezidentma gamosca brZanebuleba #155 saqarTvelos erovnuli antikorufciuli strategiis samoqmedo gegmis damtkicebis Sesaxeb.

aqve aRvniSnavT, rom miuxedavad imisa, rom antikorufciuli strategiis SemuSaveba da gegmis damtkiceba uTuod wingadadgmuli nabijia, gegma arasaTando konkretikiTaa gawerili da ar moicavs mis Sesrulebaze monitoringis meqanizmebs. aseve ignorirebulia sajaroobisa da gamWirvalobis principebic.

saerTaSoriso TanamSromloba

gansaxilveli muxlis me-5 nawilSi konvenciis avtorebi mouwodeben saxelmwifoebis, iTanamSromlon erTmaneTTan da saerTaSoriso organizaciebTan.

saqarTvelo aris evropis sabWos korufciasTan brZolis jgufis (*GRECO – Group of States against Corruption*) da ekonomikuri TanamSromlobisa da ganviTarebis organizaciis, gardamavali ekonomikis mqone qveynebis antikorufciuli qselis (*OECD-ACN for Transition Economies*) antikorufciuli konvenciebis wevri qveyana. aRniSnuli organizaciebi wevri qveynebis mimarT SeimuSaveben rekomendaciebs, romlis Sesrulebac gaamjobesebs qveyanaSi korufciis winaaRmdeg brZolis meqanizmebs. saqarTvelo *GRECO*-Si 1999 wels gawevrianda. monitoringis pirveli raundi qveyanaSi ganxorcielda 2001 wels, romlis Sedegadac *GRECO*-s plenarulma sxdomam SeimuSava 25 rekomendacia. saWiroa daCqardes Sesabamisi reformebis gatareba, raTa droulad iqnes implementirebuli aRniSnuli rekomendaciebi.

1998 wels ekonomikuri TanamSromlobisa da ganviTarebis organizaciasTan erovnuli mTavroebis, arasamTavrobo organizaciebisa da saerTaSoriso donori organizaciebis iniciativiT Seiqmna antikorufciuli qseli. mxedvelobaSi iqna miRebuli, rom aseTi organo uzrunvelyofda codnisa da gamocdilebis gaziarebas, donorTa koordinaciis gaumjobesebas da daexmareboda samoqalaqo sazogadoebas da mTavrobas Soris TanamSromlobis gaZlierebas. 2004 wlis 18 ianvars *ACN*-is Sexvedraze saqarTvelosaTvis SemuSavda 21 rekomendaciis proeqti Semdegi mimarTulebebiT: erovnuli antikorufciuli politika, misi ganxorcieleba da institutebi, sakanonmdeblo baza da korufciis kriminalizacia, sajaro samsaxuris gamWirvaloba. saWiroa daCqardes Sesabamisi reformebis gatareba, raTa droulad iqnes implementirebuli aRniSnuli rekomendaciebi.

saqarTvelo aris wevri dsT-s konvenciis `samarTlebrivi daxmarebisa da samarTlebrivi urTierTobebis Sesaxeb samoqalaqo, saojaxo da sisxlis samarTlis saqmeebze~ da dsT-s 1996 wlis 12 aprilis SeTanxmebis `ekonomikur sferoSi danaSaulTan brZolaSi TanamSromlobis Sesaxeb~. 1999 wlis 23 ivnisis saqarTvelos parlamentis #2143 dadgenilebiT saqarTvelo SeuerTda `sisxlis samarTlis saqmeebze urTierTdaxmarebis Sesaxeb~ evropul konvencias (20.04.1959. strasburgi). saqarTvelos dadebuli aqvs ormxrivi xelSekrulebebi sisxlis samarTlis da sxva kategoriis saqmeebze samarTlebrivi urTierTdaxmarebis Sesaxeb bulgareTis respublikasTan, TurqETTan, latviasTan, TurqmeneTTan, belarusTan, azerbaijanTan, egiptesTan, rumineTTan, ukrinasTan. Tumca, am xelSekrulebebSi araa pirdapri miTiTeba korufciul danaSaulebze.

SeniSvnebi da rekomendaciebi

- *moxdes antikorufciuli strategiis gegmis konkretuli gawera da mis Sesrulebaze monitoringis meqanizmebis uzrunvelyofa.*
- *moxdes evropis sabWos korufciis Sesaxeb sisxlis samarTlis konvenciis da damatebiTi oqmis ratifikacia.*

muxli 6. korufciis ukuqmedebisa da misi Tavidan acilebis (prevenciis) organo an organoebi

1) *TiToeuli monawile saxelmwifo Tavisi samarTlebrivi sistemis fuZemdebluri principebis Sesabamisad. uzrunvelyofs iseTi organos an organoebis arsebobs, romlebic atareben korufciis Tavidan asacilebel RonisZiebebs. es RonisZiebebia:*

a) am konvenciis me-5 muxliT gansazRvruli politikis gatareba, agreTve, saTanado SemTxvevebSi, aseTi politikis gatarebaze zedamxedveloba da am koordinaciis ganxorcieleba.

b) korufciis Tavidan acilebis sakiTxebze codnis gaRrmaveba da gavrcleba.

2) TiToeuli monawile saxelmwifo am muxlis pirvel punqtSi aRniSnul organos an organoebis uzrunvelyofs aucilebeli damoukideblobiT Tavis samarTlebrivi sistemis fuZemdebluri principebis Sesabamisad, raTa am organom an organoebma ufro efeqtianad Seasrulon TavianiTun funqciebi nebismieri arasaTanado gavlenisagan Tavisufal pirobebSi. amiTvis isini uzrunvelyofilni unda iyvnen aucilebeli materialuri resursebiTa da specializebuli personaliT, romlebic TavianiTun funqciebis Sesasruleblad gavlian Sesabamis momzadebas.

3) TiToeuli monawile saxelmwifo acnobebs gaeros generalur mdivans aseTi organos an organoebis dasaxelebasa da misamarTs, romlebic xels Seuwyoben sxva monawile saxelmwifoebis korufciis Tavidan acilebis konkretuli RonisZiebebis SemuSavebasa da gatarebaSi.



konvenciis me-6 muxliT gaTvaliswinebulia korufciis Tavidan asacilebeli (prevenciuli) RonisZiebebis gamtarebeli organos an organoebis Seqmna, romlebic uzrunvelyofilebi iqnebian aucilebeli damoukideblobiT. 2001 wlis 13 aprils saqarTvelos prezidentis brZanebulebiT damtkicda antikorufciuli politikis sakoordinacio sabWos debuleba. sabWo gaxldaT saTaTboro organo, romlis funqciasac erovnuli antikorufcili programis RonisZiebaTa gegmis SemuSaveba da am RonisZiebaTa ganxorcielebis koordinacia warmoadgenda. sakoordinacio sabWo angariSvaldebuli iyo saqarTvelos parlamentis winaSe. aRniSnuli brZanebuleba Zaladakargulia prezidentis 22.04.2004 wlis #139 brZanebulebiT.

garkveuli drois ganmavlobaSi, korufciis prevenciis RonisZiebaTa gamtarebel organod saqarTvelos erovnuli uSiSroebis sabWo gvevlineboda. `erovnuli uSiSroebis sabWos Sesaxeb~ saqarTvelos organuli kanonis me-2 muxlis Tanaxmad erovnuli uSiSroebis sabWo, prezidentis davalebiT sxva sakiTxebTan erTad organizebas uwevs saxelmwifo strategiis SemuSavebas korufciasTan brZolis sferoSi.

saqarTvelos mTavrobis #377 gankargulebiT (12.09.2005.) damtkicda saqarTvelos erovnuli antikorufciuli strategiis samoqmedo gegma, romlis Sesrulebis kontrolic daekisra saxelmwifo ministrs reformebis kordinaciis sakiTxebSi. Tumca, aRniSnul organoTagan arc erTi (erovnuli uSiSroebis sabWo da saxelmwifo ministri reformebis kordinaciis sakiTxebSi) ar warmoadgens korufciis prevenciis RonisZiebebis gamtarebel damoukidebel organos.

konvenciis me-6 muxlis me-3 nawilis Tanaxmad TiToeuli monawile saxelmwifo acnobebs gaeros generalur mdivans aseTi organos an organoebis dasaxelebasa da misamarTs, romlebic xels Seuwyoben sxva monawile saxelmwifoebis korufciis Tavidan acilebis konkretuli RonisZiebebis SemuSavebasa da gatarebaSi. ramdenime saxelmwifom konvenciis ratificirebisas gaakeTa gancxadeba, romliTac daasaxela korufciis prevenciisa da mis winaaRmdeg brZolisaTvis pasuxismgebeli organoebi, ase magaliTad:

bolivia

respublika bolivia, konvenciis muxli 6.3.-is Tanaxmad ityobineba, rom mis centralur sakontaqto organos warmoadgens *Delegacion Presidencial para la Transparencia y la Integridad Publica*.

xorvatia

konvenciis me-6.3. muxlis Tanaxmad, organoebi, romelTac mxare-saxelmwifoTaTvis SeuZliaT daxmarebis gaweva anti-korufciuli zomebis SemuSavebasa da ganxorcielebaSi, aris Sinagan saqmeTa saministros korufciasTan da organizebul danaSaulTan brZolis samsaxuri.

sasurveli iqneboda, saqarTvelos gaeziarebina msgavsi praqtika da uzrunveleyo amgvარი organizaciis dasaxelebisa da sakontaqto informaciis dafiqsireba. Tumca, aRniSnulis ganxorcieleba rTuli iqneba am konkretul etapze, rodesac ar arsebobs prevenciuli antikorufciuli saqmianobisaTvis aucilebeli uflbamosilebiT aRWurvili damoukidebeli organo.

aucilebelia, qveyanaSi Seiqmnas korufciis prevenciis RonisZiebaTa SemmuSavebeli da gamtarebeli damoukidebeli organo, romelic angariSvaldebuli iqneba parlamentis winaSe da romelsac daevaleba korufciuli danaSaulis gamovlena, gamoZieba da aRkveTa (maT Soris maRali Tanamdebobis piri mier Cadenili danaSaulis). SesaZloa, es organo Camoyalibdes sajaro samarTlis iuridiuli piri saxiT. es organo struqturulad dakavSirebuli unda iyos generalur prokuraturasTan, magram mas amasTanave unda hqondes sakmarisi damoukidebloba. is unda aerTianebedes samarTaldamcav da sagamoZiebo organoebis da mas saTaveSi unda edgas piri, romelsac eqneba prokuroris analogiuri uflbamosileba. maRali Tanamdebobis pirebis mier Cadenili korufciuli danaSaulebebis aRkveTaze muSaobis paralelurad am organos erT-erTi umTavresi funqcia unda iyos korufciis winaaRmdeg mebrZol sxva organoebis Soris kordinaciis gazrda (mag. informaciis gavliisa da angariSgebis konkretuli meqanizmebis CamoyalibebiT, gunduri muSaobis principis danergviT da a.S.)

sailustracioid moviyvanT ramdenime qveynis gamocdilebas, sadac Seqmnilia analogiuri damoukidebeli organoebi, romelnic muSaoben swored korufciis Tavidan acilebis mimarTulebiT.

bevr qveyanaSi Seqmnilia specialuri samTavrobo antikorufciuli organo korufciasTan brZolis mizniT. erT-erTi aseTi pirveli organo Seiqmna hong kongSi 1974 wels (*ICAC – Independent Commission Against Corruption*). am droidan moyolebuli igi iyenebs korufciis winaarmdeg brZolis samwaxnagovan meTods, romelic gulixmobs prevencias, gamoZiebas da ganaTlebas. samwaxnagovan Setevas sasicocxlo mniSveloba eniWeboda axali sazogadoebrivi cnobierebis ganviTarebisaTvis, vinaidan korufciis winaarmdeg brZola mxolod maSin iqneboda warmatebuli, Tu moxerxdeboda korufciis mimarT adamianebebis midgomis Secvla. strategia Zalzed efeqturi aRmoCnda da dRemde igi komisiis ZiriTad principad rCeba.

gana galxavT erT-erTi warmatebuli qveyana im 7 saxelmwifoTa Soris, romlebSic ganxorcielda msolfio bankis institutis (*WBI*) mier SemuSavebuli sapiloto programa. programis – korufciasTan brZolis samoqmedo gegmis – ganxorcielebis mizniT 1999 wels Seiqmna ganis antikorufciuli koalicia. koaliciis SemadgenlobaSi Tavidan Sediodnen mTavrobis, kerZo seqtorisa da samoqalaqo sazogadoebis warmomadgenlebi. Tumca, Semdgom gadawyda, rom arasaTanado gavlenisa da kontrolis minimumamde dayvanis mizniT koalicia gardaqmniliyო arasamTavrobo arasamewarneo organizaciad. koaliciis saqmianobis ZiriTad mimarTulebas warmoadgens prevenciuli da saganmanaTleblo saqmianoba.

bulgareTSi 2003 wels Seiqmna korufciasTan brZolis damoukidebeli saagento, romelsac mieniWa gamoZiebis funqciebi. saagentos Tavmjdomare iniSneba qveynis umaRlesi sakanonmdeblo organos mier, amave dros misi uflebamosilebis vada ar emTxveva sakanonmdeblo organos uflebamosilebis vadas. saagentos miniWebuli aqvs igive uflebamosileba, rac Sinagan saqmeTa saministros da iZiebs danaSaulebebs, Cadenils maRali Tanamdebobis pirebis mier. moZiebuli masalebi gadaecema prokuraturas.

SeniSvnebi da rekomendaciebi

- *konvenciis me-6 muxlis debulebebi ar aris daregulirebuli, ramdenadac dResdReobiT saqarTveloSi ar arsebobs korufciis prevenciis RonisZiebebis gamtarebeli damoukidebeli organo.*
- *aucilebelia, qveyanaSi Seiqmnas korufciis prevenciis RonisZiebaTa SemmuSavebeli da gamtarebeli damoukidebeli organo, romelic angariSvaldebuli iqneba parlamentis winaSe. SesaZloa, es organo Camoyalibdes sajaro samarTlis iuridiuli piris saxiT*
- *aRniSnuli organo (saagento) strukturulad dakavSirebuli unda iyos generalur prokuraturasTan, magram mas amasTanave unda hqondes sakmarisi damoukidebloba. saagento unda aerTianebdes samarTaldamcav, sagamoZiebo da aRmkveT departamentebs da mas saTaveSi unda edgas piri, romelsac eqneba prokuroris analogiuri uflebamosileba. maRali Tanamdebobis pirebis mier Cadenili korufciuli danaSaulebis aRkveTaze muSaobis paralelurad am organos erT-erTi umTavresi funqcia unda iyos korufciis winaarmdeg mebrZol sxva organoebis Soris koordinaciis gazrda.*

muxli 7. sajaro seqtori

1. TiToeuli monawile saxelmwifo iswrafvis, saTanado SemTxvevebSi da Tavisi samarTlebrivi sistemis fuZemdebluri principebis Sesabamisad Seqmnas, daicvas da ganamtkicos samoqalaqo mosamsaxureebis, sxva araarCeul sajaro Tanamdebobis pirTa samuSaoze miRebisa da samsaxuris gavlis, samsaxureobrivi dawinaurebisa da pensiaze gasvlis iseTi sistemebi, romlebic:

a) iqmneba efeqtianobisa da gamWirvalobis principebis safuZvelze da iseTi obieqturi kriteriumebis Sesabamisad, rogorebicaa samuSaos SeubRalveloba, samarTlianoba da piris SesaZleblobebi;

b) iTvaliswinebs kadrebis saTanado SerCevisa da maTi momzadebis procedurebs sajaro TanamdebobaTa dasakaveblad, romlebic gansakuTrebiT mowyvladia korufciis TvalsazrisiT, agreTve saTanado SemTxvevebSi, aseTi kadrebis rotacias am Tanamdebobebze;

g) xels uwyobs saTanado gasamrjelos gacemasa da samarTliani anazRaurebis dadgenas monawile saxelmwifos ekonomikuri ganviTarebis donis gaTvaliswinebiT;

d) xels uwyobs saganmanaTleblo da saswavlo programebis Catarebas imisaTvis, raTa aseTma pirebma daakmayofilon sajaro funqciebis sworad, keTilnayofierad da jerovnad Sesrulebis moTxovnebi, agreTve uzrunvelyofs maT specializebuli da saTanadod momzadebiT imisaTvis, rom am pirebma Rrmad gaanalizon korufciasTan da Taviani funqciebis SesrulebasTan dakavSirebuli riskis faqtori. aseTi programebi SeiZleba Seicavdes miTiTebebs analogiur sferoSi qcevis kodeqsebis an standartebis Sesaxeb.

2) TiToeuli monawile saxelmwifo ganixilavs agreTve saTanado sakanonmdeblo da administraciuli RonisZiebebis gatarebis SesaZleblobas am konvenciisa da misi Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad, raTa dadgindes sajaro Tanamdebobaze kandidatebTan da arCevnebTan dakavSirebuli kriteriumebi.

3) *TiToeuli monawile saxelmwifo ganixilavs agreTve aucilebeli sakanonmdeblo da administraciuli RonisZiebebis gatarebis Sesazleblobas am konvenciisa da misi Sida kanonmdeblobis ZiriTadi fuZemdebluri principebis Sesabamisad, raTa uzrunvelyofil iqnes arCeviT sajaro Tanamdebobebze kandidatTa dafinansebis gamWvirvaloba, xolo, sadac es Sesazlebelia, agreTve politikuri partiebis dafinansebac.*

4. *TiToeuli monawile saxelmwifo iswrafvis Tavisi Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad Seqmnas, xeli Seuwyos da ganamtkicos iseTi sistemebi, romlebic uzrunvelyofen gamWirvaleobasa da xels SeuSlian interesTa koliziis Seqmnas.*



sajaro samsaxurSi miReba

racionaluri sajaro samsaxuris mowyoba da misi srulyofa korufciis aRmofxvris erT-erTi aucilebeli pirobaa. sajaro mosamsaxurebis ufleba-movaleobebis, sajaro samsaxurSi miRebis wess, sajaro samsaxuris ganxorcielebasTan dakavSirebul urTierTobebis da sajaro mosamsaxuris samarTlebriv mdgomareobas gansazRvavs saqarTvelos kanoni `sajaro samsaxuris Sesaxeb~. kanonis meore TavSi mocemulia sajaro samsaxurSi miRebis pirobebi. kanonis mixedviT, sajaro moxele unda iyos qmedunariani piri aranakleb 21 wlis asakisa, romelic flobs saxelmwifo enas da aqvs saTanado codna da gamocdileba. kanonis me-16 muxliT dadgenilia, rom TviTmmarTvelobis organos moxele unda iyos qmedunariani piri aranakleb 18 wlis asakisa, romelic flobs saxelmwifo enas da aqvs saSualo ganaTleba.

`sajaro samsaxuris Sesaxeb~ kanonis me-15 muxliSi mocemul cnebas `codna da gamocdileba~ sWirdeba dazusteba. aseve, kanonSi araa dafiqsirebuli Tanamdebobis dasakaveblad aucilebeli formaluri pirobebi, raTa meti sixdade iqnas Setanili sakonkurso SerCevis proceduraSi.

moxele samsaxurSi miiReba Tanamdebobaze daniSvniT an arCeviT. 22-3 muxlis Tanaxmad Tanamdebobaze piris daniSvnis ufleba aqvs Sesabamisi dawesebulebis xelmZRvanelis an mis mier amisaTvis uflebamosil moxeles. Tanamdeboba, romelzec moxelis daniSvnis ufleba aqvs dawesebulebis xelmZRvanelis, ganisazRvreba kanonmdeblobiT.

kanonis 29-e muxli gansazRvavs, rom sajaro samsaxurSi Statebi SeiZleba dakavebul iqnas konkursis wesiT. kanonis es Tavi da saqarTvelos prezidentis #173 brZaneuleba `sakonkurso-saatestacio komisiis debulebis damtkicebis Sesaxeb~ (25.03.1998) aregulirebs konkursis Catarebis formalur kriteriumebis, Tumca araa miTiTebuli, Tu romel profesiul winapirobebs unda akmayofilebdes da ra pirovnuli Tvisebebi unda gaaCndes konkursants. kanonmdeblobiT araa gansazRvruli Sefasebis kriteriumebi. amiT komisiis wevrebs eqmnebaT sruli Tavisufleba SerCevisa da kvalifikaciis proceduris Catarebisas. amgvarad, sakonkurso procedurebs arsebuli formiT ar SeuZliaT konvenciis mocemuli muxliT gansazRvruli miznis – gamWvirvalobis da sajaro samsaxurSi pirovnebis profesiuli donis gaTvaliswinebiT kadrebis SerCevis – Sesruleba. aseve aucilebelia, kanoniT dadgindes sajaro samsaxurSi vakantur Tanamdebobaze piris mxolod konkursis wesiT daniSvna; sajaro TanamdebobaTa konkretuli kategoriebisaTvis sakvalifikacio da damatebiTi moTxovnebis sruli gansazRvra; konkursis Catarebis dawvrilebiTi pirobebis da wesebis dadgena.

sajaro samsaxurSi dawinaureba

`sajaro samsaxuris Sesaxeb~ kanonis 77-e muxliSi mocemulia samsaxurebrivi dawinaurebis wesi. aRsaniSnavia, rom saqarTvelos kanonmdeblobiT ar aris gaTvaliswinebuli kadrebis rotaciis principi (garda diplomatiuri samsaxurisa). kadrebis rotacia gulixmobs mosamsaxuris gegmiur gadaadgilebas an misi uflebamosilebis mniSvnelovan cvlas. rotaciis aucileblobis erT-erT arguments waroadgens is, rom mosamsaxuris erT Tanamdebobaze xangrZlivi yofna amcirebs SromiT motivacias, is egueba samsaxuris uaryofiT mxareebis. amave dros, korufciisadmi `mowyvlat~ Tanamdebobebze rotaciis sistema prevenciul rolsac TamaSobs, vinaidan xels uwyobs korufciuli qmedebebis institucionalizaciis Tavidan acilebas. saqarTvelos kanonmdeblobam unda gaiTvaliswinos sajaro samsaxurSi rotaciis principis danergva, gansakuTrebiT korufciisadmi `mowyvlati~ TanamdebobebisaTvis.

mosamsaxureTa socialur-ekonomikuri uzrunvelyofa

mosamsaxureTa saTanado socialur-ekonomikuri uzrunvelyofa erT-erTi winapirobaa korufciis prevenciisa. `sajaro samsaxuris Sesaxeb~ kanonis Tanaxmad, mosamsaxuris SromiTi gasamrjelo (xelfasi) moicavs Tanamdebobriv sargos, premias da kanoniT gaTvaliswinebul danamatebs. danamatebis gacema unda ganxorcieldes mxarjavi dawesebulebebisaTvis biujetis kanoniT damtkicebuli asignebebis farglebSi. saxelmwifo dawesebulebebisaTvis biujetis xelmZRvanelis ufleba aqvs moxeles zeganakveTuri muSaobisa da gansakuTrebiT sapasuxismgeblo funqciuri datvirTvis gaTvaliswinebiT, yovelwliurad Sromis anazRaurebis fondSi warmoqmili ekonomis farglebSi, dadgenili wesiT, safinanso wlis ganmavlobaSi dauwesos sxva danamatebi. mosamsaxureTa SromiTi gasamrjelos (xelfasis) fondis formirebis wyaroa Sesabamisi biujeti. sabiujeto

asigneBaTa Semcireba ar SeiZleba iyos mosamsaxureTa SromiT gasamrjelos (xelfasis) da am kanoniT gaTvaliswinebuli sxva garantiebis dafinansebis Semcirebis safuZveli.

amJamad mimdinareobs muSaoba sajaro mosamsaxureTa Sromis anazRaurebis sferoSi erTiani saxelmwifo politikis gatarebisa da sabiujeto organizaciebSi erTiani saxelfaso badis SemoRebaze, romelic iTvaliswinebs Sromis anazraurebis sistemis mowesrigebas da sajaro samsaxurSi TiToeuli TanamdebobisaTvis erTiani saxelmwifo ganakveTebis gansazRvras.

rac Seexeba mosamsaxuris pensii daniSvnis sakiTxs, kanoniT gaTvaliswinebulia, rom pensia sajaro mosamsaxures sajaro samsaxurSi namsaxurobis staJis gaTvaliswinebiT unda daeniSnos da, amasTan, staJis Sesabamisad adgens pensiaze danamatebs. (sajaro samsaxuris Sesaxe~ kanonis 50-e muxlis me-2 da me-3 nawilebi). magram kanonis es norma kanonis 137-e muxlis Tanaxmad ZalaSi Sedis mxolod `saxelmwifo pensiebis Sesaxe~ kanonis miRebis Semdeg. Tumca, aRsaniSnavia, rom 2005 wlis 23 dekembris miRebuli kanoniT `saxelmwifo pensii Sesaxe~ am saxis danamatebi gaTvaliswinebuli araa.

dafinansebis gamWvirvaloba

konvenciis gansaxilveli muxlis me-3 punqti iTvaliswinebs arCeviT sajaro Tanamdebobebze kandidatTa dafinansebis gamWvirvalobas, xolo sadac es SesaZlebelia, agreTve politikuri partiebis dafinansebac. amavdroulad, saqarTvelos saarCevno kodeqsis me-8' muxlis Tanaxmad saarCevno procesi, saarCevno administraciis saqmianoba, arCevnebis monawileTa dafinansebis wyaroebi da odenoba, arCevnebisatvis gaweuli xarji Ria da sajaroa.

2005 wlis 16 dekembers parlamentma miiRo kanoni `moqalaqeTa politikuri gaerTianebis Sesaxe~ saqarTvelos kanonSi cvlilebebisa da damatebebis Setanis Taobaze~ da `saqarTvelos organuli kanonSi `saqarTvelos saarCevno kodeqsi~ cvlilebebisa da damatebebis Setanis Taobaze~. kanoniT xdeba saarCevno kampaniebis dafinansebisa da moqalaqeTa politikuri gaerTianebebis saqmianobis normebis srulyofa, aseve axali samarTlebrvi meqanizmebis SemoReba. wesdeba iTvaliswineba yoveli wlis pirvel Tebervlamde gasuli wlis saqmianobis, wliur SemosavlebTan dakavSirebuli detaluri informacii (sawevro Senatanebis, Semowirulobebis odenobis, Semowirulobis ganmaxorcielebeli fizikuri da iuridული პირების Taobaze monacemebis, saxelmwifos mier gamoyofili, agreTve sagamomcemlo da partiis mier sxvadasxva RonisZiebebis mowyobiT miRebuli Tanxebis, kuTvnil Senoba-nagebobebis, avtosatransporto saSualebebis raodenobisa da saxeobebis, maTi saerTo Rirebulebis, sabanko dawesebulebaSi ricxuli Tanxebis odenobis) beWdviT organoSi gamoqveynebisa da sagadasaxado organoebSi wardgenis valdebulebas. rac Seexeba konvenciis mocemuli muxlis me-4 nawilSi gaTvaliswinebul moTxovnebs gamWvirvalobis uzrunvelyofisa da interesTa kolizii SeqmnisaTvis xelis SeSlis Taobaze, am sakiTxebis Cven ganvixilavT me-8 da me-10 muxlebis ganxilvisas.

SeniSvnebi da rekomendaciebi

- *saqarTvelos kanonmdებლიT ar aris gaTvaliswinebuli Tanamdebobis dasakaveblad aucilebelი formalური პირობები, კადრების როტაცია (გარდა დიპლომატიური სამსახურისა). ასევე არ არის გაწერილი მოსამსახურეთა სამუშაო არეწობა; არ არსებობს საკადრო სექტორში მყარი კარიერული განვითარების შესაძლებლობა.*
- *saqarTvelos kanonmdებლობა და დააწესოს მოქონა, რომლის Tanaxmadac sajaro moxeelebis samsaxurSi miReba moxdeba mxolod konkursis wesiT. გარკვეული TanamdebobebisTvis კანონმა ასევე დაადგინოს მინიმალური და დამატებითი საკვალიფიკაციო კრიტერიუმები და დეტალურად არწეროს კონკურსის მართვის პროცედურა და პირობები.*
- *SemuSavdes mosamsaxureTa samuSaos არეწობა, რომელიც შეზღუდვისდაგვარად ერტგვაროვანი იყნება ყველა საჯარო დაწესებულებისათვის;*
- *უნდა მოხდეს უკვე არსებული ინსპექციების რეორგანიზაცია და დამოუკიდებელი გენერალური ინსპექციების გამოყალიბება.*

muxli 8. sajaro Tanamdebobis pirTa qcevis kodeqsebi

1. korufciasTan brZolis mizniT TiToeuli monawile saxelmwifo waaxalisebs sakuTari sajaro Tanamdebobis pirTa mousyidvelobas, patiosnebasa da pasuxismgeblobas Tavisi samarTlebrivi sistemis fuZemdebluri principebis Sesabamisad.

2. TiToeuli monawile saxelmwifo iswrafvis, kerZod Tavisi instituciuri da samarTlebrivi sistemebis farglebSi gamoiyenos qcevis kodeqsebi an standartebi sajaro funqciebis sworad, keTilsindisierad da saTanadod Sesaruleblad.

3. am muxlis debulebaTa ganxorcielebis mizniT TiToeuli monawile saxelmwifo saTanado SemTxvevebSi da Tavisi samarTlebrivi sistemis fuZemdebluri principebis Tanaxmad, iTvaliswinebs regionuli, regionTaSorisi da

mraValmxrivi organizaciebis Sesabamis initiativebs, magaliTad, saxelmwifo Tanamdebobis pirTa saerTaSoriso qcevis kodeqss, romelic Sesulia generaluri asambleis 1996 wlis 12 dekembris 51/59 rezolucii danarTSi.

4. TiToeuli monawile saxelmwifo ganxilavs agreTve Tavisi Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad iseTi RonisZiebebis gatarebisa da axali sistemebis Seqmnis SesaZleblobebs, romelTa Tanaxmad, sajaro Tanamdebobebis pirebi, romlebmac TavianTi funqciebis Sesrulebisas Seityves korufciuli qmedebis Sesaxeb Tavad atyobineben amis Taobaze kompetentur organoeb.

5. TiToeuli monawile saxelmwifo iswrafvis saTanado SemTxveebSi da Tavisi Sida kanmdeblobis fuZemdebluri principebis Sesabamisad gaataros RonisZiebebi da Seqmnas sistemebi, romelTa Tanaxmad, sajaro Tanamdebobis piri valdebulia warudginos Sesabamis organoeb, sxvasTan erTad, deklaracia arasamsaxurebrivi saqmianobis Sesaxeb, investiciebis, aqtivebis, saCuqrebisa da sxva sargeblis Taobaze, romelmac SeiZleba gamoiwvion interesTa kolizia mis funqciebTan dakavSirebiT, rogorc sajaro Tanamdebobis pirTan.

6. TiToeuli monawile saxelmwifo Tavisi Sida kanmdeblobis fuZemdebluri principebis Sesabamisad ganxilavs SesaZleblobas gaataros disciplinuri an sxva RonisZiebebi am sajaro Tanamdebobis pirTa mimarT, romlebic arRveven am muxliT gansazRvruli qcevis kodeqsebsa da standarteb.



sajaro mosamsaxureebis qcevis kodeqsi

konvenciis me-8 muxliSi yuradRebaa gamaxvilebuli korufciis prevenciis iseT meqanizmze, rogoric gaxlavT sajaro funqciebis sworad, keTilsindisierad da saTanadod Sesasruleblad qcevis kodeqsebis an standartebis SemuSaveba da gamoyeneba. qcevis kodeqsi aregulirebs sajaro mosamsaxureTa eTikis dacvas, pirad da samsaxurebriv interesTa konfliqtis Tavidan acilebas, postsamsaxureobriv saqmianobas da maTi finansuri da qonebrivi mdgomareobis deklarirebas.

2004 wlis 12 oqtombers xeli moewera `saqarTvelos parlamentis wevrTa eTikis kodeqss~. eTikis kodeqssSi xazgasmulia is principebi, rac TiToeuli deputatis saqmianobas safuZvlad unda daedos. esenia: sazogadoebrivi interesebis gatareba da erTguleba, amomrCevelTa winaSe angariSvaldebuleba, parlamentis wevrTa saqmianobis finansuri gamWvirvaloba, piradi interesebis deklarireba, korufciuli gadawyvetilebebis SezRudva da qveyanaSi kanonis uzenaesobis dacvis myari precedentis Seqmna. Tumca, aRniSnuli kodeqsi ufro deklaraciis xasiaTs atarebs. ar aris dadgenili misi Sesrulebis meqanizmebi, iseve rogorc misi debulebebis darRvevisaTvis pasuxismgeblobis zomebi.

sajaro samsaxurisTvis qcevis normaTa gansazRvra da maTi implementaciisaTvis Sesabamisi institucionaluri modelis Seqmna Zalze rTul sakiTxs warmoadgens. zogierT qveyanas, rogoricaa magaliTad, avstralia da axali zelandia, aqvs yovelmxrivi da amomwuravi qcevis kodeqsi, romelic sajaro mosamsaxureTa farTo speqtrs exeba da romlis safuZelze calkeuli saxelmwifo dawesebuleba Tu uwyeba miznobrivad SeimuSavebs Tavisi struqturisTvis specifikur qcevis kodeqss, romelSic aisaxeba am uwyebebis konkretuli miznebi da amocanebi. zog qveyanaSi eTikis kodeqss aqvs Sida uwyebrivi daniSnuleba da calkeuli dawesebulebebic uSualod adgenen eTikis normebs. eTikaze zedamxedvelobas calkeul saxelmwifoSi amisaTvis Seqmnili specialuri organoebi axorcieleben, zogan ki ar iqmneba raime gancalkevebuli zemakontrolbeli organo da am funqcias uSualod Sidauwyebrivi komisia an amisaTvis daqiravebuli piri asrulebs.

aucilebelia, `sajaro mosamsaxureTa qcevis kodeqsis miReba~, sadac erTiani kodificirebuli saxiT Tavs moiyris interesTa konfliqtTan dakavSirebuli da sxva sakiTxebi. momavalSi miRebuli `qcevis kodeqsis~ safuZvelze SesaZlebelia sajaro organizaciebs miecet Sidastruqturuli qcevis normebs SemuSavebis uflbamosileba, romelic zogad wesebTan erTad gaiTvaliswinebs organizaciis specifikur sakiTxeb. amasTanave, kodeqsi dafuZnebuli unda iyos ara mxolod eTikur da moralur wesebze, aramed, igi unda iTvaliswinebdes amkrZalav normebsac. Yyovel konkretul akrZalvas Tan unda axldes konkretuli sanqcia.

rac Seexeba konvenciis me-8 muxlis me-4 punqts, romelic iTvaliswinebs sajaro Tanamdebobis pirTa mier TavianTi funqciebis Sesrulebisas korufciuli qmedebis Sesaxeb miRebuli informaciis Sesaxeb kompetenturi organoebisaTvis Setyobinebas, SeiZleba iTqvas, rom es debuleba faqtobrivad ar gagvaCnia qarTul kanonmdeblobaSi.

sajaro moxeleebis mier korufciuli aqtebis Setyobineba

sixxlis samarTlis kodeqsis 376-e muxlis mixedviT, danaSaulis Seutyobinebloba imis mier, vinc namdvilad icis, rom mzaddeba gansakuTrebiT mZime danaSauli, - isjeba jarimiT an tusaRobiT vadiT samidan eqvs Tvemde anda Tavisuflebis aRkveTiT vadiT xuT wlamde. kodeqsis 375-e muxliT gansazRvrulia pasuxismgebloba danaSaulis dafarvisaTvis. gansakuTrebiT mZime danaSaulis dafarva winaswar Seupireblad isjeba jarimiT an tusaRobiT vadiT samidan eqvs Tvemde anda Tavisuflebis aRkveTiT vadiT oTx wlamde. sixxlis samarTlis kodeqsis me-12 muxlis me-4 nawilis mixedviT ki, gansakuTrebiT mZimea iseTi ganzraxi danaSauli, romlis

CadenisaTvis am kodeqsiT gaTvaliswinebulia sasjelis saxiT Tavisuflebis aRkveTa aT welze meti vadiT an uvado Tavisuflebis aRkveTa.

miRebuli unda iqnas zomebi saxelmwifo struqturebSi TanamSromlebis dasacavad, roca es pirebi maT struqturebSi arsebuli korufciis Sesaxeb acnobebe Sesabamis organoebis. aseve sajaro moxeleebisaTvis unda Catardes sainformacio kampania `mamxilebelTa~ mniSvnelobisa da damsaxurebis Sesaxeb. saWiroa `mamxilebelTa~ dacvis meqanizmebis SemuSavebac.

konvenciis gansaxilveli muxlis me-5 punqtis Tanaxmad, TiToeuli monawile saxelmwifo iswrafvis, saTanado SemTxvevebSi da Tavisi Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad gaataros RonisZiebebi da Seqmnas sistemebi, romelTa Tanaxmad, sajaro Tanamdebobis piri valdebulia warudginos Sesabamis organoebis deklaracia arasamsaxurebrivi saqmianobis Sesaxeb, investiciebis, aqtivebis, saCuqrebisa da sxva sargeblis Taobaze, romlebmac SeiZleba gamoiwvios interesTa kolizia mis funqciebTan dakavSirebiT, rogorc sajaro Tanamdebobis pirTan.

gaeros „saxelmwifo Tanamdebobis pirTa qcevis saerTaSoriso kodeqsis~ me-3 TaviT rekomendirebulia Tanamdebobis pirTa da maTi ojaxis wevrTa piradi qonebisa da interesebis gacxadebis valdebuleba. am muxlis Sesrulebis TvalsazrisiT aRsaniSnavia „sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb~ saqarTvelos kanonis miReba, romelmac axali normebi da valdebulebebi SemoiRo sajaro mosamsaxureTa mimarT da daamkvidra Tanamdebobis pirTa saqmianobaze sazogadoebrivi monitoringis ZiriTadi principebi.

aRniSnulma kanonma safuZveli daudo saqarTveloSi maRali rangis Tanamdebobis pirTa qonebisa da Semosavlebis deklaraciebis danergvas, romlis ZiriTad mizans warmoadgens Tanamdebobis pirTa ekonomikuri interesebis gacxadeba, sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Tavidan acileba, gamovlena da aRkveTa. kanoni safuZvlad daedo Tanamdebobis pirTa qonebrivi da safinanso mdgomareobis sainformacio biuros Seqmnas. aRniSnuli organos saqmianobis ZiriTadi mimarTuleba sajaro samsaxurSi korufciis prevenciul RonisZiebebs ukavSirdeba.

saqarTvelos kanonmdeblobis Tanaxmad, sainformacio biuros ZiriTad funqciebsa da kompetenciebs warmoadgens: Tanamdebobis pirTa qonebrivi mdgomareobis da safinanso deklaraciebis miReba, aRricxva, arqivireba da sajaroobis uzrunvelyofa; Tanamdebobis piris mier deklaraciis teqnukurad sworad Sevsebis mizniT instruqtaJis Catareba; deklaranti Tanamdebobis pirebisaTvis konsultaciebis gaweva Tanamdebobrivi SeuTavseblobis, interesTa konfliqtis sxva sakiTxebTan dakavSirebiT; biuroSi warmodgenili deklaraciebis monacemebis analizi da ganzogadeba, Sesabamisi statistikuri maCveneblebisa da zogadanalitikuri daskvnebis Sedgena da gamoqveyneba; warmodgenili deklaraciebis moqmedi kanonmdeblobiT dadgenil vadebSi Cabarebaze biuros mier kontrolis ganxorcieleba da vadis darRvevis SemTxvevaSi Sesabamisi pasuxismgeblobis sakiTxis dasma saTanado organoebis winaSe; werilobiTi gancxadebebis ganxilva Tanamdebobis pirTa deklaraciebis sakiTXTan dakavSirebiT.

„sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb~ saqarTvelos kanonis me-14 muxlis Tanaxmad, deklaraciebis Sevsebis valdebuleba Tanamdebobis pirs warmoeSoba Tanamdebobis dakavebidan an Tanamdebobis datovebidan erTi Tvis vadaSi. garda amisa, Tanamdebobis piri valdebulia, Tanamdebobaze yofnis ganmavlobaSi yoveli wlis 1 aprilidan 30 aprilamde Seavsos da waradginos qonebrivi mdgomareobis da safinanso deklaraciebi (yovelwliuri sadeklaracio periodi). amasTan, specifikuri moTxovnaa dawesebuli mosamarTleobis kandidatisaTvis. igi valdebulia, kandidatad registraciis dRidan erTi kviris vadaSi Seavsos qonebrivi mdgomareobis deklaracia.

saqarTvelos kanonmdeblobiT, deklaraciebSi mieTiTeba: saqarTveloSi Tu sxva qveyanaSi Tanamdebobis piris da misi ojaxis wevris sakuTrebaSi arsebuli im uZravi da moZravi nivTebis CamonaTvali, romelTagan TiToeulis Rirebuleba aRemateba 5000 lars; informacia saqarTveloSi Tu sxva qveyanaSi Tanamdebobis pirisa da misi ojaxis wevris sakuTrebaSi arsebuli fasiani qaRaldebis Sesaxeb; informacia saqarTvelos Tu sxva qveyanis sabanko an/da sxva sakredito dawesebulebaSi arsebuli Senatani an/da angariSis Sesaxeb, romlis gankargvis ufleba aqvs Tanamdebobis pirs da misi ojaxis wevris dawesebulebis rekvizitebis, Senatani an/da angariSis saxeobis da ganmkargavi piris, Senatanze an/da angariSze ricxuli Tanxis miTiTebiT; monacemebi Tanamdebobis piris da misi ojaxis wevris sakuTrebaSi arsebuli im naRdi fuladi Tanxis Sesaxeb, romlis odenoba aRemateba 1500 lars; informacia saqarTvelos Tu sxva qveyanis sawarmos saqmianobaSi Tanamdebobis piris da misi ojaxis wevris monawileobis Sesaxeb (maT Soris sawarmodan miRebuli Semosavlis miTiTebiT); monacemebi saqarTveloSi Tu sxva qveyanaSi Tanamdebobis piris da misi ojaxis wevris mier Sesrulebuli nebismieri anazRaurebadi samusaos Sesaxeb (miRebuli Semosavlis miTiTebiT); saqarTveloSi Tu sxva qveyanaSi Tanamdebobis piris da misi ojaxis wevris mier saangariSo wlis ganmavlobaSi dadebuli an/da nebismieri moqmedi xelSekruleba (miRebuli Semosavlis miTiTebiT), romlis sagnis Rirebuleba aRemateba 1500 lars; informacia saqarTveloSi Tu ucxo qveyanaSi Tanamdebobis piris da misi ojaxis wevris mier miRebuli nebismier saCuqarze an/da miznibrivi xarjebis anazRaurebaze, saCuqris an/da miznibrivi xarjebis

anazRaurebis mimRebisa da gadamcemis (wyaros), mimRebisa da gadamcemis (wyaros) Soris kavSiris, saCuqris an/da miznobrivi xarjebis anazRaurebis saxeobisa (mivlineba da sxva) da sabazro Rirebulebis (odenobis) miTiTebiT da a.S

saqarTvelos administraciul samarTaldarRvevaTa kodeqsis 173-e muxlis me-8 punktis Tanaxmad, qonebrivi mdgomareobis an safinanso deklaraciebis dadgenil vadaSi warudgenlobisaTvis, Tanamdebobis piris mimarT dawesebulia administraciuli pasuxismgebloba da is dajarimdeba Sromis anazRaurebis asi minimaluri odenobiT. xolo, sixlis samarTlis kodeqsis 355-e muxlis mixedviT, qonebrivi mdgomareobis an safinanso deklaraciis wardgenisaTvis jitud Tavis arideba an/da deklaraciaSi ganzrax arasruli an araswori monacemebis Setana isjeba jarimiT an sazogadoebisaTvis sasargeblo SromiT asocidan oras saaTamde, Tanamdebobis dakavebis an saqmianobis uflebis CamorTmeviT vadiT sam wlamde.

„sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb~ saqarTvelos kanonis me-18 muxlis safuZvelze sainformacio biuro uzrunvelyofs Tanamdebobis pirTa deklaraciebis sajaroobas, rac imas niSnavs, rom Tanamdebobis pirTa deklaraciebi xelmisawvdomia nebismieri dainteresebuli pirisaTvis.

interesTa konfliqti

konvenciis gansaxilveli muxlis me-5 nawilSi saubarია interesTa koliziazე. ganxilaven ori saxis – fulad da arafulad – interesTa kolizias. fuladi interesi moicavs arsebiT da potenciur finansur sargebels. Cveni kanonmdebloba termin „interesTa kolizias~ ar icnobs. Tumca, arsebobs termini „interesTa SeuTavsebloba~, romelic Sinaarsobrivad cvlis mas. „sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb~ saqarTvelos kanonis me-3 muxlis Tanaxmad, interesTa SeuTavsebloba sajaro samsaxurSi aris Tanamdebobis piris qonebrivi an sxva piradi interesebis dapirispireba saxelmwifo samsaxuris interesebTan.

konvenciis mocemuli muxlis me-5 nawili mouwodebs saxelmwifoეbs daareguliron saCuqreბis miRebasTan dakavSirebuli urTierTobeბი. `saxelmwifo Tanamdebobis pirTa qcevis saerTaSoriso kodeqsis~ me-9 muxli saxelmwifo Tanamdebobis pirs ukrZalavs pirdapir an SeniRbulad moiTxovos an miiRos saCuqari an yuradReბis gamoxatvis raime formiT sargeბeli, romelmac SeiZleბa gavlena iqonios Tanamdebobis piris movaleobis Sesruleბaze an gadawyvetileბis miReბaze.

mravali qveynis kanonmdebloba aregulireბs maRali Tanamdebobis pirTa mier saCuqris aReბis weseბs. xSir SemTxveვაSi, miReბulia saCuqris aReბa saprotokolo, saerTaSoriso, saqmiani da oficialuri viziteბის. bevr qveyanaSi aris zustad gansazRvruli weseბი, rodis SeuZlia ministrs saCuqris aReბa. nebismieri kriteriumiT, saCuqari ar unda iyos ZviradRireბuli da igi piris oficialur movaleobasTan ar unda iyos dakavSireბuli, rac ukve, ganxileბa, rogorc samarTaldarRveვა.

magaliTad, aSS-s kanonmdebloba saCuqris erTian ganmartebas ar icnobs. termini „saCuqari~ moicavs yvelafers, rasac aqvs fuladi Rirebuleბa. saCuqars ar ganekutvneბa ualkoholo sasmელბი, yava, funTuSa da mokrZaleბuli sadili. aris sagneბი, romleბic saCuqrad ar ganxileბa, magaliTad:

- umniSvelo Rirebuleბის sagneბი, romleბic gankutvnilia uSualod prezentaciisTvis (misaloci baraTebi, sapatio samkerde niSneბი, serTifikateბი);
- yvelaferi, ris safasursac ixdis mTavroბa an uzrunvelyofs mas saxelmwifo kontraqtis an kanonis Sesabamisad;
- yvelaferi, ris sabazro Rirebuleბasac ixdis mosamsaxure;
- jildo da nebismieri prizi Ria konkurseბSi gamarjveბisaTvis;
- komerciული fasdakleბa, romelic yvelasaTvis xelmisawvdomia;
- bankeბისagan an finansuri organizacieბისagan saerTo wesis safuZvelze aReბuli sexxi.

aSS-is federalur mosamsaxureეbs, moqmedi kanonmdeბობის mixedviT, ekrZaleბaT saCuqris miReბa pirisagan an organizaciisagan, Tu igi: iReბs momsaxureobas im dawesebuleბისagan, sadac muSaobs saxelmwifo mosamsaxure; mas aqvs saqmiani kavSiri saxelmwifo organizaciasTan an cdilobs daamyaros aseTi urTierToba; aqvs intereseბი, romleბmac SeiZleბa gavlena iqonion mosamsaxuris oficialuri movaleobების Sesruleბaze an Seusruleბlobaze; dakavSireბulia moxelis oficialur TanamdebobasTan. federaluri kanoneბის Tanaxmad, mosamsaxures SeuZlia, saCuqrad aiRos araumetes 20 aSS dolaris Rirebuleბის saCuqari. amasTanave, weliwadSi am saxis saCuqreბის miReბის Rirebuleბa erTi wyarodan ar unda aRemateბodes 50 aSS dolars. garda amisa, saCuqris aReბa daSveბulia iseT situaciaSi, roca igi ganpirobeბulia ara mosamsaxuris TanamdebobiT, aramed ojaxuri urTierTobeბiT an piradi megობroბiT.

saqarTvelos kanonmdeბობaSi saCuqarTan dakavSireბuli urTierTobeბის samarTleბrivi reglamentacia mocemulia „interesTa SeuTavseblobisa da korufciis Sesaxeb~ kanonSi. kanonis me-5 muxlis Tanaxmad, saCuqari aris `usasyidlod an SeRavaTiani pirobeბiT gadacemuli nebismieri qoneბa an qonebrivi valdebuleბისagan ganTavisufleბa, agreTve im piris mier aSkarad SeRavaTiani pirobeბiT gaweული momsaxureoba, romelic aseTi momsaxureბisaTvis Cveuleბriv iReბs gasamrjelos~.

qarTuli kanonmdeblobiT „saCuqris~ ganmarteba Zalze abstraqtulia. igi moicavs rogorc qonebas, qonebrivi valdebulebisagan gaTavisuflebas (magaliTad, sesxi), aseve nebismier momsaxurebas. masSi SeiZleba moviazroT mkurnaloba, mogzauroba, dasvenebs, swavla da a.S. amdenad, kanonmdebloba srulad ar adgens „saCuqris~ CamonaTvals. aRniSnuli kanonis mixedviT saCuqars ar ganekuTvneba saxelmwifos an saerTaSoriso organizaciis mier gadacemuli granti, stipendia, jildo an premia. garda amisa, kanoni saCuqrad ar ganxilavs sxva piris mier Tanamdebobis pirisatvis gadacemul nabeWd gamocemebs, Tu is araa istoriuli an bibliografiuli Rirebulebis mqone. aRsanisnavia, rom kanonis me-12 muxli awesebs SezRudvebs saCuqris aRebasTan dakavSirebiT ara mxolod Tanamdebobis piris an misi ojaxis wevriv mimarT, aramed, zogierT SemTxvevaSi, Tanamdebobis piris axlo naTesavis mimarTac.

Tumca, Tanamdebobis piris axlo naTesavis mier saCuqris aRebis faqtis gamovlena da masze monitoringis daweseba faqtobrivad gamoricxulia, vinaidan, kanoniT ar arsebobs saCuqris aRebis administrirebis arc organo da arc Sesabamisi meqanizmebi. garda amisa, arc Tanamdebobis piris ojaxis wevriv da miTumetes arc axlo naTesavis mier saCuqris aRebis faqtis gamo, pasuxismgeblobis aranairi zomebi araa gaTvaliswinebuli. amdenad, kanonmdeblobiT amkrZalavi normebs Semotana Sesabamisi pasuxismgeblobis dawesebis gareSe, gaumarTlebelia, vinaidan aseT SemTxvevaSi aRniSnuli normebs e.w. „mkvdar normaTa~ beds gaiziareben. qarTuli kanonmdeblobiT Tanamdebobis pirs, mis axlo naTesavs ar aqvs saCuqris aRebis ufleba, Tu misi gadacema gamowveulia Tanamdebobis pirs samsaxurebrivi mdgomareobis gamo. garda amisa, kanoni ukrZalavs Tanamdebobis pirs, mis axlo naTesavs im pirisagan saCuqris aRebas, romelTan dakavSirebuli sakiTxi Tanamdebobis pirma ganixila, ixilavs an winaswar cnobilia, rom unda ganxilos uflebamosilebis Sesrulebis gamo.

amasTanave, rogorc Tanamdebobis pirs, ise mis axlo naTesavs „interesTa SeuTavseblobisa da korufciis Sesaxeb~ kanonis me-12 muxlis mixedviT ekrZaleba „saCuqris aReba Tanamdebobis pirs samsaxurebrivi zedamxedvelobis qveS myofi pirisagan, Tu igi miRebuli ar aris iseT gansakuTrebul movlenasTan dakavSirebiT, rodesac saCuqris gadacema miRebulia sazogadoebaSi.~ muxli konkretulad ara asaxebs aseT gansakuTrebul movlenebs da maT zogadad, sazogadoebaSi tradiciiT damkvidrebul wesebs ukavSirebs. kanoni aseT SemTxvevaSi awesebs saCuqris Rirebulebis zeda zRvars. igi ar unda aRematebodes saarsebo minimumis naxevars.

Tanamdebobis pirs, misi ojaxis wevriv ufleba aqvs, miiRos saCuqari sxva qveynis an saerTaSoriso organizaciis organosagan an dawesebulebisagan an maTi warmomadgenlebisagan, Tu is saeqmo an sxva oficialuri RonisZiebis CatarebasTan aris dakavSirebuli. aseT SemTxvevaSi, saCuqars simboluri saxe unda hqondes da erTi wyarodan aRebuli saCuqris Rirebuleba ar unda aRematebodes 500 lars. amave kanoniT dadgenilia saCuqrebis aRebis wliuri limiti. maTi saerTo Rirebuleba weliwadSi ar unda aRematebodes 2000 lars.

aris erTi mniSvelovani sakiTxi, romelic ukavSirdeba akrZaluli saCuqris ukan dabrunebis meqanizmis ararsebobas. marTalia, kanoni avaldebulebs Tanamdebobis pirs da mis axlo naTesavs saCuqris gadacemidan 72 saaTis ganmavlobaSi daubrunos saCuqari im pirs, romlisganac igi miiRo an gadasces saxelmwifo xazinas, ar arsebobs saCuqris ukan dabrunebis wesi, araa gansazRvuli saCuqris Rirebulebis Sefasebisa da ukan dabrunebis meqanizmebi, miTumetes maSin, roca saCuqris gadacema xdeba ucxoeTSi. garda amisa, kanoniT araa dadgenili, vin da rogor axdens saCuqris Sefasebas, ar arsebobs konkretuli organo, romelic ukanono saCuqars Caibarebda da SemdgomSi moaxdenda mis auqcionze gayidvas, xolo miRebuli Tanxis biujetSi gadaricxvas. aRsanisnavia, rom akrZaluli saCuqris miRebis gamo saxelmwifo moxelis mimarT, saqarTvelos sisxlis samarTlis kodeqsis 340-e muxlis mixedviT, dawesebulia sisxlis samarTlebrivi pasuxismgebloba, magram Tanamdebobis pirs ojaxis wevriv an axlo naTesavis mier akrZaluli saCuqris miRebis gamo, kanonmdeblobiT araa gaTvaliswinebuli arc sisxlissamarTlebrivi da arc administraciuli pasuxismgebloba. garda amisa, sisxlissamarTlis kodeqsis 340-e muxliT gaTvaliswinebuli pasuxismgebloba vrceldeba mxolod saxelmwifo moxeleze da ara saxelmwifo-politikuri Tanamdebobis pirebze (prezidenti, premier-ministri, ministri, parlamentis wevri da sxva), vinaidan, „sajaro samsaxuris Sesaxeb~ kanonis mixedviT, saxelmwifo moxele da saxelmwifo-politikuri Tanamdebobis pirebi samarTlebrivad gansxvavebuli mcnebebia.

rogorc vxedavT, saqme gvaqvs kanonis morig xarvezTan. zemoaRniSnuli argumentebisa da meqanizmebis gaTvaliswinebis gareSe saCuqris aRebasTan dakavSirebuli urTierTobebis srulad mowesrigeba SeuZlebelia. pirvel rigSi, ukanono saCuqris miRebis yvela SemTxvevaze kanonmdeblobiT unda dawesdes pasuxismgeblobis Sesabamisi zomebi, Uan SemuSavdes saTanado normebs monitoringisa da administrirebis sistemisaTvis, romelic detalurad gansazRvavs saCuqris aRebis, misi Sefasebis da dabrunebis wesebsa da procedurebs, xolo saCuqris Semdgomi gankargvisaTvis Sesabamisi samarTlebriv normebsa da uflebamosil organos.

rac Seexeba konvenciiT gaTvaliswinebul arasamsaxurebriv saqmianobas, „sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb~ saqarTvelos kanonis me-13 muxli Tanamdebobis pirebis mimarT awesrigebs Tanamdebobriv SeuTavseblobis sakiTxebs, kerZod: „Tanamdebobis pirs ufleba ara aqvs,

asrulebdes raime anazRaurebad samuSaos, garda samecniero, pedagogiuri an SemoqmedebiTi saqmianobisa, an ekavos raime Tanamdeboba romelime sxva saxazino dawesebulebaSi an saxazino sawarmoSi, an asrulebdes raime anazRaurebad samuSaos an ekavos raime Tanamdeboba sxva qveynis organoSi an dawesebulebaSi~. amasTanave, Tanamdebobis pirs ufleba ara aqvs, ekavos raime Tanamdeboba romelime sawarmoSi an flobdes aqciebs an sawesdebo kapitalis wils im sawarmoSi, romlis saqmianobis kontrolic am Tanamdebobis piris an misi samsaxuris uflebamosilebas ganekuTvneba.

rogorc vxedavT, Tanamdebobis pirs saerTod ara aqvs aqciebis an kapitalis wils flobis ufleba im sawarmoSi, romelsac is an misi samsaxuri akontrolibs. magram kanonis nakli is aris, rom araa gansazRvruli, SeuZlia Tu ara Tanamdebobis pirs flobdes aqciebs da wils sxva sawarmoSi, romelic misi samsaxurebrivi kontrolis qveS ar moiazreba. amasTan dakavSirebiT sainteresoa „sajaro samsaxuris Sesaxeb~ kanonis zogierTi debuleba, romelic, zogadad, sajaro samsaxurSi dakavSirebul urTierTobebis awesrigebs. maTgan, sul ramdenime muxli exeba „interesTa SeuTavseblobas~. magaliTad, 63-e muxli adgens rom, moxeles ar aqvs samewarneo saqmianobis ufleba, Tumca SeuZlia flobdes aqciebsa da wils. am muxlis gamoyeneba yvela kategoriis Tanamdebobis piris mimarT (mag. saxelmwifo-politikuri Tanamdebobis pirebi) SeuZlebelia, vinaidan, moxeles amave kanonis mixedviT ar ganekuTvneba saxelmwifo-politikuri Tanamdebobis piri, maSin, roca „sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb~ kanoni vrceldeba rogorc saxelmwifo moxeleze (Tumca ara yvela moxeleze), ise saxelmwifo-politikuri Tanamdebobis pirebze.

amasTanave, „sajaro samsaxuris Sesaxeb~ kanonis me-11 muxlis Tanaxmad, saxelmwifo-politikuri Tanamdebobis pirebe ar vrceldeba am kanonis 63-65-e muxlebi (samsaxurebrivi SeuTavsebloba, postsamsaxurebrivi saqmianoba). am kategoriis pirebis interesTa SeuTavseblobis sakiTxebis aregulirebs konstitucia, „sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb~ kanoni da specialuri kanonebis calkeuli muxlebi.

ganviTarebuli qveynebis gamocdileba gviCvenebs, rom mosamsaxureTa umetes nawils SeuZlia dakavdes arasamsaxurebrivi anazRaurebadi da araanazRaurebadi samoqalaqo, saqvelmoqmedo, religiuri da sazogadoebrivi saqmianobiT. Tumca ar aris nebadarTuli saqmianobis yvela saxe. SeTavsebiT saqmianobasTan dakavSirebiT moqmedebs SezRudvebisa da akrZalvebis garkveuli normebi. mosamsaxures ar aqvs ufleba, dakavebuli iyos iseTi saqmianobiT, Tu interesTa konflikti da obieqturobis sakiTxi moiTxovs misi saqmisan Camocilebas.

magaliTad, aSS-s federaluri kanonebis 18C3 §203 da 205 Tavebis Tanaxmad, mosamsaxures ekrZaleba warmomadgenloba anazRaurebad Tu araanazRaurebad saqmeebze nebismier samministroSi, saagentoSi an sasamarTloSi, Tu am saqmes aqvs arsebiTi mniSvneloba saxelmwifosaTvis. garda amisa, mosamsaxures ekrZaleba fulis aReba warmomadgenlobisaTvis sxva piris sasargeblod an premiis aReba, AaSS saxelmwifos winaaRmdeg sarCelis Setanis gamo. Tumca §203 da §205 Tavebis Sesabamisad arsebobs gamonaklisi SemTxvevetic. erT-erTi maTgani nebas rTavs mosamsaxures, gansazRvrul situaciaSi, warmoadginos sakuTari Tavi, rogorc mSobelma, meurlem, Svilma an meurve. kanonebSi aris gamonaklisi Cvenebebis micemasTan dakavSirebiTac. amasTanave, aseTi gamonaklisis gamoyeneba SemosazRvrulia eTikis normebiT. aRniSnulis Tanaxmad, mosamsaxures ar aqvs ufleba, iyos kerZo piris mowme an eqsperti da gamovides, rogorc mxare sasamarTlo procesze, Tu, aSS-s xelisuflebas am saqmesTan dakavSirebiT aqvs pirdapiri da arsebiTi interesi, ufro metic, Tu igi erT-erTi mxarea procesSi. es SezRudva gamoiyeneba miuxedavad imisa, mosamsaxuris saqmianoba anazRaurebadia Tu ara. Tumca, garkveul SemTxvevaSi, eTikaze pasuxismgebelma pirma SeiZleba es SezRudva gaauqmos.

mosamsaxures ekrZaleba saxelmwifo samsaxurTan erTad nebismieri sxva saxis anazRaurebadi saqmianoba. mas ar aqvs ufleba miiRos avansi, maT Soris transportisaTvis da saxovrebeli xarjebisaTvis. masSi ar Sedis mTavrobisgan miRebuli Tanxa, romelic ukavSirdeba swavlas an sityviT gamosvlas da misi samsaxurebrivi movaleobidan gamomdinareobs. arsebobs gamonaklisi, roca garkveul SemTxvevaSi, yvela mosamsaxures neba eZleva miiRos safasuri pedagogiuri moRvaweobisaTvis (garkveuli kursebis CatarebisaTvis). yvela aseT SemTxvevaSi mosamsaxure valdebulia kompetenturi pirisagan (organosagan) aRniSnul sakiTxebeze aiRos konsultacia.

am TvalsazrisiT sainteresoa yofili sabWoTa kavSiris respublikebSi arsebuli praqtikac. estoneTSi sajaro moxeleebisTvis pirdapiraa nebadarTuli samewarneo saqmianoba. estoneTis respublikis `sajaro samsaxuris Sesaxeb~ kanonis Tanaxmad, sajaro moxeles ufleba aqvs eweodes samewarneo saqmianobas damniSvneli Tanamdebobis piris an samsaxuris xelmZRvanelis nebarTviT. amasTanave, kanonSi gakeTebulia daTqma, rom samewarneo saqmianoba xels ar unda uSlides sajaro moxeles Seasrulos misi uflebamosileba an miayenos ziani samsaxuris prestiJs.

SeniSvnebi da rekomendaciebi

- sainformacio biuros kanonmdeblobiT mieniWos Semdegi uflbamosileba:
 - (1) sasamarTlo wesiT Tanamdebobis piris, misi ojaxis wevrebis sabanko angariSebisa da warmoebuli operaciebis Sesaxeb informaciaze daSvebis uflba;
 - (2) administraciuli organoebidan damatebiTi informaciis daubrcoleblad gamoTxovis uflbamosileba;
 - (3) Tanamdebobis pirisaTvis an misi ojaxis wevrisaTvis deklaraciebSi miTiTebuli qonebis an mis sakuTrebaSi arsebuli qonebis warmomavlobis Taobaze Sesabamisi axsna-ganmartebis CamorTmevis uflba;
 - (4) damoukidebeli auditis meSveobiT qonebis Sefaseba, nebismieri dokumentis gamoTxova, rac dakavSirebulia qonebis SefasebasTan da warmomavlobasTan. saWiroebis SemTxvevaSi, miRebuli dokumentebis eqspertiza;
 - (5) Tanamdebobis piris, misi ojaxis wevrebis samewarneo saqmianobaSi monawileobisa da aseTi sawarmoebis dafinansebis wyaroebis Semowmeba;
 - (6) nebismieri informaciis gacnobis uflba sabuRaltro monacemebis CaTvliT, Tanamdebobis piris, misi ojaxis wevrebis saqmianobidan miRebuli Semosavlebis, samsaxurebrivi miwlinebebis Taobaze.
- sasurvelia, Seiqmnas erTiani sainformacio banki samewarneo saqmianobaSi Tanamdebobis pirTa, maTi ojaxis wevrTa (axlo naTesavis) monawileobis Sesaxeb, rac mniSvelovani instrumenti gaxdeba interesTa konfliqtisa da zogadad korufciis faqtebis gamovlenisaTvis. vinaidan, arc Tu ise iSviaTad, kerZo sektoris gamoyenebiT xdeba ukanono Semosavlebis da qonebis damalva, misi legalizacia.
- saqarTvelos sisxlis samarTlis kodeqsis 355-e muxli iTvaliswinebs pasuxismgeblobas qonebrivi mdgomareobis an safinanso deklaraciis wardgenisaTvis jiutad Tavis aridebis an deklaraciaSi ganzrax arasruli an araswori monacemebis Setanis gamo. aRniSnuli danaSaulis xasiaTidan gamomdinare, migvaCnia, rom calke muxlebad unda gamoiyos „deklaraciis wardgenisaTvis jiutad Tavis arideba~ da „deklaraciaSi ganzrax arasruli an araswori monacemebis Setana~, rogorc ori erTmaneTisagan damoukidebeli danaSaulis saxe da, Sesabamisad, gansxvavebuli unda iyos sanqciebi. sasurvelia, rom sanqcia aRniSnul danaSaulebze iyos gacilebiT mkacri, rogorc es bevr demokratiul qveyanaSia dawesebuli. garda amisa, calke danaSaulad unda Camoyalibdes „deklaraciaSi qonebis Seutanloba~.
- kanoniT daregulirdes moxelis mier miRebuli saCuqris Sefasebis da, saWiroebis SemTxvevaSi, saCuqris dabrunebis meqanizmebi. amasTanave, gaTvaliswinebul iqnas Tanamdebobis pirTa ojaxis wevrebis mier kanonmdeblobiT akrZaluli saCuqris miRebis SemTxvevaSi Sesabamisi sanqciebi.
- miRebuli unda iqnas zomebi saxelmwifo struqturebSi TanamSromlebis dasacavad, am ukanasknelTa mier Sesabamis organoebisaTvis sakuTar dawesebulebaSi arsebuli korufciis Sesaxeb informaciis miwodebis SemTxvevSi.
- aucilebelia `sajaro mosamsaxureTa qcevis kodeqsis miReba~, sadac erTiani kodificirebuli saxiT Tavs moivris interesTa konfliqtTan dakavSirebuli sakiTxebis da romlis safuZvelzec SesaZlebeli gaxdeba sajaro organizaciebisaTvis Sidastruqturuli qcevis normebs SemuSavebis uflbamosilebis miniWebi.

muxli 9. sajaro Sesyidvebi da sajaro finansebis marTva

1. TiToeuli monawile saxelmwifo Tavisi samarTlebrivi sistemis fuZemdebluri principebis Sesabamisad atarebs aucilebel RonisZiebebs sajaro Sesyidvebis saTanado sistemis Sesaqmnelad, romelic efuZneba gamWvirvalobas, konkurencias, gadawyvetilebaTa miRebis obieqtur kriteriumebis da sxvasTan SedarebiT ufro efeqtiania korufciis Tavidan acilebis TvalsazrisiT. sistemebi, romelTa gamoyenebisas gaTvaliswinebulia saTanado zRvruli maCveneblebi, sxvasTan erTad, moicavs:

a) informaciis sajaro gavrcelbas, romelic Seexeba Sesyidvis procedurebsa da Sesyidvis Sesaxeb kontraqtebs, agreTve informacias vaWrobaSi monawileobasTan dakavSirebul mowvevis Taobaze da saTanado an saWiro informaciis kontraqtebis dadebis Sesaxeb, raTa vaWrobaSi potenciur monawileebis hqondeT dro satendero gancxadebebis mosamzadeblad da warsadgenad;

b) sajaro SesyidvebSi monawileobis pirobebis droulad dadgenas, SerCevis kriteriumebisa da kontraqtis dadebis Sesaxeb gadawyvetilebis miRebis CaTvliT, agreTve Catarebuli vaWrobis wesebis droulad dadgenas da maT gamoqveynebas;

g) sajaro Sesyidvebis Sesaxeb gadawyvetilebis miRebasTan dakavSirebiT winaswar dadgenili obieqturi kriteriumebis gamoyenebas wesebisa da procedurebis gamoyenebis sisworis Semdgomi Semowmebis mizniT;

d) Sida kontrolis efeqtian sistemas gasaCivrebis sistemis CaTvliT; Secilebis iuridული saSualebebis da samarTlebrivi dacvis saSualebebis uzrunvelyofisaTvis am punqtiT dadgenili wesebisa da procedurebis darRvevis SemTxvevaSi;

e) saTanado SemTxvevSi personalTan dakavSirebuli sakiTxebis regulirebis RonisZiebebs, Tu isini pasuxismgebelni arian Sesyidvebze, magaliTad, konkretul sajaro Sesyidvebze dainterebis deklarirebis Sesaxeb moTxovnebis Semowmebis procedurebi da profesiuuli momzadebisTvis Sesabamisi moTxovnebi.

2. *TiToeuli monawile saxelmwifo Tavisi samarTlebrivi sistemis fuZemdebluri principebis Sesabamisad atarebs saWiro RonisZiebebs sajaro finansebis marTvaSi gamWirvalobisa da angariSgebis xelSewyobisaTvis. es RonisZiebebi agreTve moicavs:*

a) *erovnuli biujetis damtkicebis procedurebs;*

b) *Semosavlisa da gasavlis Sesaxeb angariSgebis droulad wardgenas;*

g) *sabuRaltro aRricxvis da auditis standartebisa da masTan dakavSirebuli sameTvalyureo sistemebis Seqmnas;*

d) *riskisa da Sida kontrolis marTvis efeqtiani da qmediTi sistemebis Seqmnas;*

e) *aucileblobis SemTxvevaSi, am punqtiT gansazRvruli moTxovnebis darRvevisas garkveuli koreqtivebis Setanas.*

3. *TiToeuli monawile saxelmwifo atarebs iseT samoqalaqo-samarTlebriv da administraciul RonisZiebebs, romlebic saWiroa misi Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad, raTa uzrunvelyofil iqnes sabuRaltro wignebis, Canawerebis, safinanso uweyebisa da sxva dokumentaciis Senaxva, romlebic Seexeba sajaro gasavalsa da Semosavals da aseTi dokumentaciis falsificirebis aRkveTa.*



konvenciis me-9 muxlis pirveli nawili moiTxovs, rom yvela monawile saxelmwifom gaataros RonisZiebebi sajaro Sesyidvebis saTanado sistemis Sesaqmnelad, romelic efuZneba gamWirvalobas, konkurencias, gadawyvetilebaTa miRebis obieqtur kriteriumebs da sxvasTan SedarebiT ufro efeqturia korufciis Tavidan acilebis TvalsazrisiT.

saxelmwifo Sesyidvebis procesi da kontrolis meqanizmi regulirdeba 2005 wlis 20 aprils miRebuli kanoniT `saxelmwifo Sesyidvebis Sesaxeb~, romelic ZalaSi Sevida 2006 wlis 1 ianvars. SesyidvebTan dakavSirebuli saqmianobis koordinaciisa da monitoringis ganxorcielebis mizniT Seqmnilia sajaro samarTlis iuridiuli piri – saxelmwifo Sesyidvebis saagento, romlis Tavmjdomares saqarTvelos ekonomikuri ganviTarebis ministris wardginebiT Tanamdebobaze niSnavs da Tanamdebobidan aTavisuflebs saqarTvelos prezidenti. Sesyidvebis sistemis gamWirvalobis, saagentos muSaobis sajaroobisa da demokratiis principebiT marTvis mizniT saagentosTan iqmneba sameTvalyureo sabWo 7 wevris SemadgenlobiT, romelTac niSnavs saqarTvelos prezidenti. saagentos saqmianobaze saxelmwifo kontrols axorcielebs ekonomikuri ganviTarebis saministro.

SezRudulia saxelmwifo Sesyidvebe sazogadoebrivi monitoringis roli: gaugebaria saagentosTan arsebuli sameTvalyureo sabWos dakompleqtebs wesi. kanonSi miTiTebulia, rom igi Sedgeba mmarTveli da makontrolbeli organoebis Tanamdebobis pirebisagan, xolo frCxilebSi miTiTebulia mxolod samTavrobo uweyebis warmomadgenlebi da imavdroulad ekonomikuri ganviTarebis saministros sazedamxedvelo funqcia kanonSi dafiqsirebulia.

kanonis Tanaxmad Sesyidva xorcieldeba tenderis saSualebiT. me-10 muxlis Tanaxmad, Sesyidva SeiZleba ganxorcieldes erT pirTan molaparakebiTac, im SemTxvevaSi, Tu Sesasyidi saqonlis an momsaxurebis savaraudo Rirebuleba ar aRemateba 20.000 lars, xolo samuSaos savaraudo Rirebuleba – 50.000 lars; saqonlis miwodeba, samuSaos Sesruleba an momsaxureba mxolod erTi piris eqskluziuri uflebaa.

Sesyidvis ZiriTad saSualebad gamocxadebulia tenderi. Tumca, iqve miTiTebulia, rom gadaubeli aucileblobis SemTxvevaSi nebismieri Rirebuliebis kontraqti SeiZleba daidos erT pirTan molaparakebis gziT. gadaubel aucileblobad ki TiTqmis yoveldRiuri viTarebebia gamocxadebuli (gadaubeli viTareba ganmartebulia rogorc viTareba, romelic realur safrTxes uqmnis Semsyidveli organizaciis funqcionirebas an zRudavs konkurentunarianobas). rac SeiZleba tenderebis Tavidan asacileblad iqnas gamoyenebuli.

tenderis Catarebis Sesaxeb gancxadebas satendero komisia aqveynebs sainformacio saSualebebSi. im SemTxvevaSi, Tu Sesasyidi saqonlis an momsaxurebis savaraudo Rirebuleba aRemateba 600.000 lars, xolo samuSaos savaraudo Rirebuleba 8 milion lars – tenderis Sesaxeb informacia vrceldeba saerTaSoriso masStabiT da es gancxadeba egzavneba saqarTveloSi akreditebul ucxo qveynebis diplomatiur da sakonsulo warmomadgenlebs. gancxadeba unda gamoqveyndes sakvalifikacio monacemebis damadasturebeli dokumentebisa da satendero winadadebebis miRebis dawyebamde ara ugvianes 20 dRisa.

kanoniT aseve daculia konvenciis moTxovna sajaroobisa da kontrolis Sesaxeb. kerZod, me-5 Tavi eZRvneba Sesyidvebis monitoringsa da kontrols. Sesyidvis Sesaxeb angariSebi xelmisawvdomia yvela dainteresebuli pirisaTvis. kanonis 22-e muxlis moTxovniT xdeba Sesyidvebis angariSebis mokle mimoxilva normatiuli aqtiT gansazRvrul sainformacio saSualebebSi. kanonis 23-e muxli iTvaliswinebs SesyidvebTan dakavSirebuli qmedebis gasaCivrevisa da davis ganxilvis wess. am TvalsazrisiT saqarTvelos kanonmdebloba TanxmobaSia konvenciis me-9 muxlis `d~ punqtTan.

konvenciis me-9 muxlis pirvel nawilis `e~ punqtis Tanaxmad, saxelmwifom unda uzrunvelyos personalTan dakavSirebuli sakiTxebis mogvareba. kerZod, dadgindes konkretul sajaro Sesyidvebe personalis dainteresebis deklarirebis moTxovna, maTi Semowmebis procedurebi da profesiuli momzadebis Semowmebis moTxovna.

konvenciis es moTxovna regulirdeba kanonis me-8 muxliT: `interesTa konfliktis Tavidan acilebis pirobebi da wesebi~⁶.

2006 wlis 3 ianvars saxelmwifo Sesyidvebis saagentos Tavmjdomaris #1 brZanebiT damtkicda debuleba `saxelmwifo Sesyidvebis ganxorcielebis wesis Sesaxeb~. kanonisa da xsenebuli debulebis momzadebisas, kanonmdebeli eyrdnoboda evropuli kavSiris derieqtivebsa da gaerTianebuli erebis saerTaSoriso vaWrobis samarTlis komisiis (*UNICITRAL*) samodelo kanons da maTSi gaTvaliswinebulia am saerTaSoriso dokumentebis standartebi.

aqve aRvniSnavT, rom saqarTvelos administraciul samarTaldarRvevaTa kodeqsiT gaTvaliswinebulia sanqciebi SesyidvebTan dakavSirebuli samarTaldarRvevebisatvis. kerZod: mᄁxIᄁᄁi 159⁵, (saxelmwifo Sesyidvis ganxorcielebis saSualebis an meTodis arasworad SerCeva), 159⁶ (saxelmwifo Sesyidvis ganxorcielebis wesebis darRveva), 159⁷ (saxelmwifo Sesyidvis ganxorcielebisas interesTa SeuTavseblobis Tavidan acilebis wesebis darRveva), 159⁸ (saxelmwifo Sesyidvebis saagentos moTxovnis Seusrulebloba) 159⁹ (saxelmwifo Sesyidvebis saagentosatvis kanonmdeblobiT dadgenili informaciis miuwodebloba).

konvenciis me-9 muxlis me-2 nawilis moTxovna ukavSirdeba saxelmwifoSi sajaro finansebis marTvis gamWvirvalobisa da angariSgebis xelSewyobas. sabuRaltro aRricxvisa da auditis standartebisa da masTan dakavSirebuli sameTvalyureo sistemebis Seqmnas; riskisa da Sida kontrolis marTvis efeqturi da qmediTi sistemebis Seqmnas; aucileblobis SemTxvevaSi, am punqtiT gansazRvruli moTxovnebis darRvevisas garkveuli koreqtivebis Setanas.

erovnuli biujetis damtkicebis procesi, Sesruleba, biujetis angariSgeba da kontroli regulirdeba kanoniT `sabiujeto sistemis Sesaxeb~. kanonis Tanaxmad, saqarTvelos sabiujeto sistemis erT-erT ZiriTad principis warmoadgens gamWvirvaloba, anu biujetis proeqtebis sakanonmdeblo organoebSi ganxilvis procedurebis sajarooba sazogadoebisa da masobrivi informaciis saSualebebisatvis; damtkicebuli biujetebisa da maTi Sesrulebis Sesaxeb angariSebis gamoqveyneba; biujetis Sesaxeb informaciis (garda saidumlo infonmaciisa) xelmisawwdomoba nebismieri fizikuri da iuridili pirisaTvis.

saxelmwifo kontrolis sistemaSi gansakuTrebuli adgili uWiravs kontrolis palatas. kanonis me-5 muxlSi gansazRvrulia is amocanebi, romelTac asrulebs kontrolis palata. misi sakontrolo uflbamosileba, sakuTari kompetenciis farglebSi, vrceldeba sakanonmdeblo, aRmasrulebeli da sasamarTlo xelisuflebis yvela organoze, mmarTvelobiT adgilobriv organoebze, specialur saxelmwifo fondebze, saqarTvelos erovnul bankze da yvela sxva organizaciisa da dawesebulebaze. kontrolis palata angariSvaldebulia saqarTvelos parlamentis winaSe. 2005 wels 14 dekembers, `kontrolis palatis Sesaxeb~ kanonis 63-e muxlis Tanaxmad, Seiqmna saqarTvelos kontrolis palatis saqmianobis Semowmebeli saqarTvelos parlamentis droebiTi komisia. aRniSnuli muxli garkveul kiTxvebs badebs. ramdenad marTebulia, rom parlamentma, romelzedac vrceldeba kontrolis palatis sakontrolo uflbamosileba, Seamowmos saqarTvelos kontrolis palatis saqmianoba. xom ar gamoiwvevs es interesTa konfliktis? Tumca, mTlianobaSi saqarTvelos kanonmdebloba konvenciis am muxlis debulebebTan SesabamisobaSi.

konvencia aseve mouwodebs wevr-saxelmwifoebis, Seqmnan sabuRaltro aRricxvisa da auditis standartebi da masTan dakavSirebuli sameTvalyureo sistemebi. `buRaltruli aRricxvisa da angariSgebis regulirebis Sesaxeb~ saqarTvelos kanonis me-3 muxlis Tanaxmad saqarTvelos aRiarebs buRaltruli aRricxvis saerTaSoriso standartebis. buRaltruli aRricxvisa da angariSgebis sferoSi saxelmwifo maregulirebeli organo aris saqarTvelos finansTa saministro, romlis kompetenciaa sajaro samarTlis iuridiuli pirebisatvis buRaltruli aRricxvis normevisa da wesebis damtkiceba, Sesabamisi instruqciebis, miTiTebebis gamocema da maTi praqtikaSi damkvidreba. saqarTvelos finansTa saministro buRaltruli aRricxvisa da angariSgebis sakiTxebTan dakavSirebiT TanamSromlobs saqarTvelos parlamentTan arsebuli buRaltruli aRricxvis standartebis komisiastan da buRalterTa damoukidebel profesiul organizaciebTan. saqarTvelos parlamentTan Seqmnilia buRaltruli aRricxvis standartebis komisia, romelic aerTianebs buRaltruli aRricxvis, finansebis, biznesis, ekonomikisa da samarTlis sferos warmomadgenlebs. komisiis Semadgenloba, romelSic Sedis saqarTvelos finansTa saministrosa da saqarTvelos fasiani qaraldebis komisiis TiTo warmomadgeneli, gansazRvreba 9 wevriT. 2005 wlis 6 aprill saqarTvelos parlamentTan arsebuli buRaltruli aRricxvis standartebis komisiastan gamosca dadgenileba #11 finansuri angariSebis saerTaSoriso standartebis, buRaltruli aRricxvis saerTaSoriso standartebisa da maTi interpretaciebis samoqmedod SemoRebis Sesaxeb.

⁶ am muxlis mixedviT, `dauSvebelia, Semsyidvelma organizaciast Sesyidvis momzadeba, ganxorcieleba an/da masze zedamxedveloba daakisros pirs an konsultantad (eqspertad) moiwvros piri, Tu igi: a) fizikuri piria da aris Sesyidvis monawile romelime iuridiuli piri xelmZRvanelis, TanamSromlis an uSualo monawilis axlo naTesavi; b) bolo 3 wlis ganmavlobaSi muSaobda Sesyidvis monawile organizaciaSi; g) piradi an saqmiani interesiT dakavSirebulia an aseTi kavSiris dasamyareblad molaparakebas awarmoebis Sesyidvis monawile iuridiul an fizikur pirTan~.

1995 wlis 7 Tebervals miRebuli iqna kanoni `auditoruli saqmianobis Sesaxe~. es kanoni gansazRvravs saqarTvelos auditoruli saqmianobis ganxorcielebis samarTlebriv safuZvlebs da awesrigebs auditorul saqmianobasTan dakavSirebul sazogadoebriv urTierTobebs. auditoruli saqmianobis regulirebis sistemaSi saxelmwifoerivi funqciebis ganxorcielebis mizniT, saqarTvelos parlamentis gadawyvetilebiT Seiqmna saqarTvelos parlamentTan arsebuli auditoruli saqmianobis sabWo, romlis funqciebia: auditis Catarebis standartebisa da meToduri rekomndaciebis SemuSaveba; auditorTa atestatisaTvis sakvalifikacio moTxonebis SemuSaveba da damtkiceba, atestaciis Catarebis debulebis damtkiceba; auditorTa kadrebis momzadebisa da gadamzadebis sistemis Seqmna, auditorTa atestacia, auditoruli saqmianobis licenzireba; auditorTa da auditoruli firmebis erTiani saxelmwif reestris warmoeba; auditul saqmianobaze sxva saxelmwifoTa mie gacemuli dokumentebis legalizacia saqarTvelos teritoriaze; auditoruli saqmianobis saxelmwifo regulirebasTan dakavSirebuli sxva sakiTxebis gadawyveta.

auditoruli saqmianobis sabWos kolegiam 1999 wlis 3 seqtembers gamosca dadgenileba #6, romlis Tanaxmadac auditoruli saqmianobis sabWos, qveyanaSi Catarebuli saqmianobis Semdgomi ganviTarebisa da srulyofis mTavar orientirad miaCnia auditis saerTaSoriso standartebis yvela ZiriTad aspeqtTan SesabamisobaSi finansuri angariSgebis auditis Catareba.

1995 wels miRebul saqarTvelos kanonSi `auditoruli saqmianobis Sesaxe~ auditis saerTaSoriso standartebis gamoyenebis Taobaze raime konkretuli ganmarteba ar aris mocemuli, rac kanonis xarvezad SeiZleba miviCnioT. amasTan, qarTul enaze ar arsebobs avtoritetuli informacia auditis saerTaSoriso standartebis interpretaciis sakiTxebze erovnul kanonmdblobasTan da moqmed normebTan mimarTebaSi. rac Seexeba aRricxvis saerTaSoriso standartebisa da auditis saerTaSoriso qarTulovan gamocemebs, maTi praktikuli gamoyeneba garTulebulia Targmanis dabali xarixsis gamo. am problemis mogvarebaze unda izrunos saqarTvelos parlamentis auditoruli momsaxurebis sabWom, saqarTvelos profesional buralterTa da auditorTa federaciam, ekonomikuri profilis umaRlesma saswavleblebma, arasamTavrobo ogranzaciebma da a.S.

auditis saerTaSoriso standartebis qarTulovanani oficialuri versia warmodgenilia 1998 wlis cnobaris – `auditis oficialuri teqniki dokumentebis~ saxiT, romlis redaqcias moamzada saqarTvelos parlamentTan arsebulma auditoruli saqmianobis sabWom saqarTvelos profesional buRalterTa da auditorTa federaciasTan erTad. standartebis qarTul enaze Targmna da gamocema teqnukurad da finansurad uzrunvelo aSS-s saerTaSoriso ganviTarebis saagentom. buRalterTa saerTaSoriso federaciis yvela dokumentis teqsti qarTul enaze identურია bsf-s inglisurnovani gamocemisa. auditis saerTaSoriso standartebis SemuSavebas, maTi gamoyenebis, srulyofisa da danergvis Tanmdev procedurebs axorcielebs buRalterTa saerTaSoriso federacia, romelic warmoadgens profesional buRalterTa saerTaSoriso gaerTianebas.

kanonmdblobiT araa dadgenili sajaro dawesebulebebSi Sida da gare auditis Catarebis erTiani principebi. aucilebelia, yvela saxelmwifo uwyeba gaxdes Sida da gare auditis Catarebis subieqti. unda SemuSavdes saxelmwifo seqtoris auditis wesebi, rogorc es gaTvaliswinebulia *INTOSAI-is (International Organization of Supreme Audit Institutions)* standartebSi.

konvenciis mocemuli muxlis me-3 nawilis mixedviT, TiToeuli monawile saxelmwifo atarebs iseT samoqalaqosamarTlebriv da administraciul RonisZiebebs, romlebic saWiroa misi Sida kanonmdblobis fuZemdebluri principebis Sesabamisad, raTa uzrunvelyofil iqnes sabuRaltro wignebis, Canawerebis, safinanso uwyebisa da sxva dokumentaciis Senaxva, romlebic Seexeba sajaro gasavalsa da Semosavals da aseTi dokumentaciis falsificirebis aRkveTa.

`sabiujeto organizaciebisa da sajaro samarTlis iuridiuli pirebis buRaltruli aRricxvis Sesaxe instruqciis damtkicebis Sesaxe~ (27.12.2005) saqarTvelos finansTa ministris #1278 brZanebaSi gaTvaliswinebulia wesebi, romelTa Sesabamisadac unda xorcieldebodes sabuRaltro wignebis, Canawerebis, safinanso uwyebisa da sxva dokumentaciis Senaxva. me-6 muxlis Tanaxmad sabuTebi bardeba organizaciis arqivs akinZuli saxiT. pirveladi sabuTebi, aRricxvis registrebi, buRaltruli angariSebi da balansebi arqivSi gadacemamde unda inaxebodes buRalteriaSi konkretuli piris pasuxismgeblobis qveS. organizaciis arqivSi buRaltruli saqmeebi inaxeba dawesebuli vadis ganmavlobaSi. Senaxvis vadebis gasvlis Semdeg saqmeebi bardeba Sesabamis saxelmwifo arqivs moqmedi kanonmdleblis Sesabamisad. Tumca, unda aRvniSnoT, rom miTiTebuli araa Senaxvis vadebi, rac sasurvelia, konkretulad iyos miTiTebuli. sabuTebi, romlebic adastureben saxelmwifo arqivSi buRaltruli saqmeebis Cabarebas, mudmivad inaxeba buRlteriaSi. pirveladi sabuTebis dakargvis an ganadgurebis SemTxvevaSi, organizaciis xelmZRvanelis gadawyvetilebis safuZvelze iqmneba dakargvis an ganadgurebis mizezebis gamomkvlevi komisia. saWiroebis SemTxvevaSi, komisiis muSaobaSi monawileobis misaRebad SeiZleba moiwvion sxva organizaciaTa warmomadgenlebic. komisiis muSaobis Sedegebi formdeba aqtiT, romelic mtkicdeba organizaciis xelmZRvanelis mier.

sisxlis samarTlis kodeqsis 204-e muxlis Tanaxmad, ekonomikuri saqmianobis amsaxveli sabuRaltro wignis an aRricxvis sxva dokumentis warmoebis wesis darRveva, ramac mniSvnelovani ziani gamoiwvia, isjeba jarimiT an Tavisuflebis aRkveTiT vadiT or wlamde.

sabiujeto procesis normalur kalapotSi mosaqcevad aucilebelia sajaro dawesebulebebSi biujetis formirebisa da xarjvis, sabuRaltro da aRricxvis warmoebis standartebis SemuSaveba da danergva. aRniSnuli standartebis safuZvlad aRebuli unda iqnes buRalterTa saerTaSoriso federaciis mier SemuSavebuli saxelmwifo seqtoris buRaltruli aRricxvis saerTaSoriso standartebi da saxelmwifo seqtoris angariSgebis wardgenis praqtikuli gamoyenebis instruqciebi.

SeniSvnebi da rekomendaciebi

- kanonis Tanaxmad, Sesvidvebis saagento sajaro samarTlis iuridiuli piria, romlis saqmianobis kontrolsac axorcielebs saqarTvelos ekonomikuri ganviTarebis saministro, romelic Tavad aris erT-erTi msxvili Semsvidveli. mizanSewonilad migvaCnia, rom saagento iseT maregulirebel organod Camoyalibdes, romelsac saxelmwifo kontrolis ganmxorcielebli organo ar evoleba da angariSvaldebuli igneba uSualod saqarTvelos prezidentis, parlamentisa da sazogadoebis winaSe.
- unda moxdes kanonis darRvevisaTvis sanqciebis gamkacreba (maT Soris sisxlissamarTlebrivi pasuxismgeblobis daweseba);
- kanonis darRveviT ganxorcielebuli Sesvidvis SemTxvevaSi Semsvidveli organizaciisaTvis gaTvaliswinebul sanqciebTan erTad, pasuxismgeblobis mimwodebeli organizaciisaTvis dakisreba, rac SeiZleba gamoixatos aseTi organizaciis `Sav~ siaSi SeyvaniT da/an misTvis jarimis dakisrebaSi.
- Sesabamisi mosamzadebeli samuSaoebis Catarebis Semdeg mniSvnelovania, dainergos eleqtronuli Sesvidvebis sistema. es erTis mxriv uzrunvelyofs gamWvirvalobas, meores mxriv ki SesaZlebs gaxdis sxvadasxva Semsvidveli organizaciebis praqtikis Sedarebas da analizs, Seqmnis saTanado winapirobebs sajaro saxsrebs xarjvis efeqturobis gazrdisaTvis.
- kanomdeblobiT araa dadgenili sajaro dawesebulebebSi Sida da gare auditis Catarebis erTiani principebi. aucilebelia, yvela saxelmwifo uwyeba gaxdes Sida da gare auditis Catarebis subieqti. Uunda SemuSavdes saxelmwifo seqtoris auditis wesebi, rogorc es gaTvaliswinebulia INTOSAI-is (International Organization of Supreme Audit Institutions) standartebSi.

muxli 10. sajaro angariSgeba

korufciasTan brZolis aucileblobis gaTvaliswinebiT TiToeuli monawile saxelmwifo Tavisi Sida kanomdeblobis fuZemdebluri principebis Sesabamisad atarebs iseT RonisZiebebs gamWirvaleobis gaZlierebis mizniT, romlebic saWiroa Tavisi sajaro administraciisaTvis, mis organizebasTan, funqcionirebasTan da saTanado SemTxvevebSi, gadawyvetilebebis miRebis procesebTan dakavSirebiT. aseTi RonisZiebebi agreTve moicavs:

a) iseTi procedurebisa da wesebis miRebas, romlebic saSualebas miscems mosaxleobas saTanado SemTxvevebSi miiRos informacia sajaro administraciis organizaciisa da funqcionirebis da sajaro administraciis mier gadawyvetilebaTa miRebis procedurebis Sesaxeb, piradi cxovrevisa da piradi monacemebis dacviT, da im gadawyvetilebaTa da iuridiuli aqtebis Sesaxeb, romlebic Seexeba mosaxleobis interesebs;

b) saTanado SemTxvevebSi administraciuli procesebis gamartivebas, gadawyvetilebaTa mimReb kompetentur organoebTan sajaro daSvebis gaadvilebis mizniT;

g) informaciis gamoqveynebas, romelSic periodulad aisaxeba sajaro administraciaSi korufciis safrTxis Sesaxeb angariSebi.



korufciuli garigebis erT-erTi umTavresi winapiroba saxelmwifo organoebis funqcionirebis da sazogadoebis winaSe masze dakisrebuli movaleobebis gaumWvirvaloba da arasaTanadod Sesrulebaa. am kuTxiT gansakuTrebiT mniSvnelovania, rom yoveli konkretuli saxelmwifo organos, adgilobrivi mmarTvelobisa Tu TviTmmarTvelobis organoebis muSaobisa da maTze dakisrebuli valdebulebebis Sesrulebis Sesaxeb informacia sazogadoebam miiRos srulad daubrkoleblad.

konvenciis am muxlis debulebebi regulirdeba saqarTvelos zogadi administraciuli kodeqsiT. administraciuli kodeqsis me-10 muxlis Tanaxmad yvelas aqvs ufleba, gaecnos administraciul organoSi arsebul sajaro informacias, agreTve miiRos maTi aslebi, Tu isini ar Seicaven saxelmwifo, profesiul, komerciul an pirad saidumloebas. administraciuli organo valdebulia, uzrunvelyos sakiTxis sajaron ganxilva, Tu amas iTvaliswinebs kanoni. kodeqsis me-12 muxlis Tanaxmad, nebismier pirs aqvs ufleba, mimarTos administraciul organos am ukanasknelis uflebamosilebas mikuTvnebuli im sakiTxis gadasawyvetad, romelic uSualod da pirdapir exeba

piris uflebebsa da interesebs, xolo administraciuli organo valdebulia, ganxilos mis uflebamosilebas mikuTvnebul sakiTxze Setanili gancxadeba da miiRos Sesabamisi gadawyvetileba.

administraciul organoSi arsebuli sajaro informaciis gacnobis wesebi, aseve informaciis gacemaze uaris Tqmis gasaCivrebis wesebi gansazRvrulia kodeqsis III TaviT. magaliTad, 32-e muxlis Tanaxmad, kolegiuri sajaro dawesebulebebis sxdomebi sajaroa, garda im SemTxvevebisa, rodesac ganixileba informacia, romelic Seicavs saxelmwifo, komerciul da pirad saidumloebas. 35-e muxlis Tanaxmad, sajaro dawesebuleba valdebulia, Seitanos dawesebulebaSi arsebuli sajaro informacia sajaro reestrSi. sajaro reestrSi Setanili unda iqnes sajaro informaciaze miTiTeba misi miRebidan, Seqmnidan, damuSavebidan an gamocemidan 2 dRis vadaSi sajaro informaciis dasaxelebis, miRebis, Seqmnis, damuSavebis, gamocemis TariRis, im fizikuri an iuridiuli piris, sajaro dawesebulebis dasaxelebis miTiTebiT, romlisganac Semovida an/da gaegzavna es informacia. 37-e muxlis Tanaxmad, nebis mier moqalaqes ufleba aqvs, moiTxovos sajaro informacia, agreTve gacnos informaciis dedanSi. amasTanave, ganmcxadebeli valdebuli araa, miuTiTos sajaro informaciis moTxovnis motivi an mizani. sajaro dawesebuleba valdebulia, gasces sajaro informacia dauyovnebliv an araugvianes 10 dRisa. kodeqsiT gaTvaliswinebulia sajaro informaciis gacemaze uaris Tqma (muxli 41). Tumca, am SemTxvevaSi ganmcxadebels gadawyvetilebis miRebidan 3 dRis vadaSi ganemarteba misi uflebebi da gasaCivrebis wesi.

~sajaro samsaxuris Sesaxeb~ kanonis me-13 muxliT sajarooa aRiarebulia sajaro samsaxuris erT-erT ZiriTad principad. aseve aRsanisnavia, rom zogadi administraciuli kodeqsis 49-e muxlis Tanaxmad, yoveli wlis 10 dekembers sajaro dawesebuleba valdebulia, warudginos angariSi saqarTvelos prezidents da parlaments: a) sajaro dawesebulebaSi Sesuli sajaro informaciis gacemisa da sajaro informaciaSi Sesworebis Setanis moTxovnaTa raodenobis Sesaxeb da moTxovnaze uaris Tqmis Taobaze miRebul gadawyvetilebaTa raodenobis Sesaxeb; b) moTxovnis dakmayofilebis an masze uaris Tqmis Taobaze miRebul gadawyvetilebaTa raodenobis, gadawyvetilebis mimRebi sajaro mosamsaxuris vinaobis, agreTve kolegiuri sajaro dawesebulebis mier sakuTari sxdomis daxurvis Sesaxeb miRebuli gadawyvetilebis Sesaxeb; g) sajaro monacemTa bazebisa da sajaro dawesebulebaTa mier personaluri monacemebis Segrovebis damuSavebis, Senaxvisa da sxvisTvis gadacemis Taobaze; d) sajaro mosamsaxureTa mier am kodeqsis moTxovnebis darRvevis raodenobisa da pasuximgebel pirebe disciplinuri saxdelis dadebis Sesaxeb. e) im sakanonmdeblo aqtebis Sesaxeb, romlebsac dawesebuleba eyrdnoboda sajaro informaciis gacemaze uaris Tqmis an kolegiuri sajaro dawesebulebis sxdomis daxurvis; v) sajaro informaciis gacemaze uaris Tqmis Sesaxeb miRebuli gadawyvetilebis gasaCivrebis Sesaxeb; z) sajaro dawesebulebis mier informaciis damuSavebasa da gacemasTan, agreTve informaciis gacemaze uaris Tqmis Sesaxeb miRebuli gadawyvetilebis an kolegiuri sajaro dawesebulebis sxdomis daxurvis Taobaze miRebuli gadawyvetilebis gasaCivrebasTan dakavSirebuli xarjebis, maT Soris mxaris sasargeblod gadaxdili Tanxebis Sesaxeb.

SeniSvnebi da rekomendaciebi

- unda gagrZeldes zogadi administraciuli kodeqsis principebis danergva sajaro dawesebulebebis saqmianobis praqtikaSi.
- sasurvelia, aseve Seiqmnas mudmivad ganaxlebadi sainformacio sistema erTiani eleqtronuli sainformacio qselis saxiT.
- sasurvelia, saqarTvelos kanonmdeblobaSi sajaro samsaxuris Sesaxeb gaTvaliswinebul iqnas sajaro administraciaSi korufciis safrTxis Sesaxeb angariSebis momzadebisa da maT Sesaxeb informaciis periodulad gamoqvevnebis Sesazlebloba.

muxli 11. sasamarTlo organoebisa da prokuraturis organoebis mimarT gasatarebeli RonisZiebebi

1. sasamarTlo xelisuflebis damoukideblobisa da korufciis winaaRmdeg brZolaSi misi mniSynelobis gaTvaliswinebiT TiToeuli monawile saxelmwifo Tavisi samarTlebrivi sistemis fuZemdebluri principebis Sesabamisad da ise, rom ziani ar miadges sasamarTlo organoebis damoukideblobas atarebs RonisZiebebs, romlebic mimarTulia mosamarTleTa da sasamarTlo organoebis muSakTa patiosnebis da mousyidvelobis ganmtkicebisaTvis, korufciis yvelanairi Sesazleblobis aRmofxvrisaTvis. am RonisZiebebiT SeiZleba gaTvaliswinebul iqnas iseTi wesebis SemoRebac, romlebic Seexeba mosamarTleTa da sasamarTlo organoebis muSakTa saqmianobas.

2. msgavsi RonisZiebebi, romlebic gamoiyeneba am muxlis pirveli punqtiT, SeiZleba Catardes monawile saxelmwifoTa prokuraturis organoebSi, Tu isini ar Sedian sasamarTlo xelisuflebis SemadgenlobaSi da sargebloben iseTive damoukideblobiT, rogorc sasamarTlo organoebi.



konvenciis me-11 muxli iTvaliswinebs iseTi RonisZiebebis gaterebas, romelic mimarTulia mosamarTleTa, sasamarTlo organoebis muSakTa da prokurorTa patiosnebisa da mousyidvelobis ganmtkicebisaTvis, korufciis yvelanairi SesaZleblobis aRmofxvrisaTvis. am RonisZiebebiT SeiZleba gaTvaliswinebul iqnas iseTi wesebis SemoRebac, romlebic Seexeba mosamarTleTa da sasamarTlo organoebis muSakTa saqmianobas.

sasamarTlo organoebi

sasamarTlo sistemaSi korufciasTan brZolis ZiriTadi meqanizmi disciplinuri samarTalwarmeobaa. `saqarTvelos saerTo sasamarTloebis mosamarTleTa disciplinuri pasuxismgeblobisa da disciplinuri samarTalwarmeobis Sesaxeb~ saqarTvelos kanonis me-2 muxlis Tanaxmad, mosamarTlis disciplinuri pasuxismgeblobis safuZveli da disciplinuri gadacdomis saxeebis: saqmis ganxilvisas mosamarTlis mier kanonis uxeSi an/da araerTgzis darRveva; korufciuli samarTaldarRveva an Tanamdebobrivi mdgomareobis marTlmsajulebisa da samsaxurebrivi interesebis saziand gamoyeneba; mosamarTlis TanamdebobasTan SeuTavsebeli saqmianoba an mosamarTlis movaleobebTan interesTa SeuTavsebloba; mosamarTlisaTvis Seuferebeli qmedeba, romelic bRalavs sasamarTlos avtoritets an zians ayenebs sasamarTlosadmi ndobas; saqmis ganxilvis usafuZvlo gaWianureba, mosamarTlis movaleobebis Seusrulebloba an arajerovnad Sesruleba, anda Sromis disciplinis sxvagrivi darRveva; mosamarTleTa TaTbiris an profesiuli saidumloebis gamJRavneba; disciplinuri uflbamobilebis mqone organos saqmianobisaTvis xelis SeSla an misadmi upativcemuloba; samosamarTlo eTikis normebs sxvagrivi darRveva.

garda amisa, aseve mniSvnelovania instanciurobis principi da saproseso zedamxedveloba qveda instanciis sasamarTloebis gadawyvetilebebe. aRniSnuli berketebis efeqturad amoqmedebasTan erTad aucilebelia sasamarTlo sistemaSi korufciis stimularebis aRmofxvra da am mizniT mosamarTleTa socialuri da samuSao pirobebis maqsimalurad gaumjobeseba, xelfasis zrda, gadamzadebisa da kvalifikaciis mudmivi amaRlebis sistemis (Sesabamisi swavlebis programisa da kursis) Seqmna, stabilurobisa da daculobis pirobebis uzrunvelyofa, ris gareSec SeuZlebelia kvalificiuri, keTilsindisieri da obieqturi sasamarTlo korpusis arsebobaa. magram, meore mxriv, cxadia isic, rom mxolod disciplinuri samarTalwarmeoba da korufciasTan brZolis sxva Sida meqanizmebi arasakmarisia am umZimesi problemis aRmosafxvrelad. swored amitom, aucilebelia sisxlissamarTlebrivi meqanizmebis amoqmedeba.

korufciis prevenciis TvalsazrisiT aucilebelia sasamarTlo sistemis dakompleqteba miukerZoebeli, patiosani da, rac mTavaria, kvalificiuri kadrebiT. 2005 wlis 28 dekembers parlamentma miiRo kanoni `iusticiis umaRlesi skolis Sesaxeb`. skolis daniSnulebaa, saerTo sasamarTloebis sistemis maRalkvalificiuri specialistebiT dakompleqtebis mizniT, uzrunvelyos mosamarTled gasamwesebeli piris - iusticiis msmenlis profesiuli momzadeba. skolis funqciaa, uzrunvelyos iusticiis msmenlis Teoriuli codnis gaRrmaveba da praqtikuli muSaobisaTvis aucilebeli unar-Cvevebis gamomuSaveba, agreTve iusticiis msmenlis mier momavali pasuxismgeblobis da kanoniT dadgenil farglebSi moqmedebis Tavisuflebis Secnoba, xeli Seuwyos iusticiis msmenlis TandaTanobiT integracias im socialur garemosi, romelSic mas, rogorc mosamarTles, momavalSi mouwevs saqmianoba. skolis daniSnulebaa aseve moqmedi mosamarTlis profesiuli srulyofis mizniT misi gadamzadeba. iusticiis umaRlesi skolis SeqmniTa da amoqmedebiT mogvardeba saqarTvelos sasamarTlo reformiTa da am konvenciiT gaTvaliswinebuli kidev erTi umniSvnelovanesi sakiTxi _ mosamarTleTa gadamzadebisa da kvalifikaciis amaRlebisaTvis aucilebeli specialuri programebs SemuSaveba da amoqmedeba, rac, Tavis mxriv, mosamarTleTa damoukideblobisa da miukerZoeblobis kidev erTi garantiaa.

aRsaniSnavia, rom `saqarTvelos erovnuli antikorufciuli strategiiT~, romelic dantkicebulia saqarTvelos 2005 wlis 24 ivniss, gaTvaliswinebulia mosamarTleTa da sasamarTlo aparatis mosamsaxureTa Sromis anazRaurebis zrda da maTi socialuri garantiebis gaumjobeseba, mosamarTleTa optimaluri raodenobis gansazRvra da kvalificiuri kadrebis SerCeva, sasamarTlo saqmianobisa da moqlaqeebTan urTierTobis gamWvirvaloba, saerTo sasamarTloebSi saqmeTa ganawilebis optimizacia da momsaxurebis kompiuteruli sistemis danergva.

prokuraturis organoebi

rac Seexeba prokuraturas, dRes arsebuli kanonmdeblobiT prokurorad, prokuraturis gamomZieblad SeiZleba dainiSnos saqarTvelos moqalaqe, romelsac aqvs umaRlesi iuridiuli ganaTleba, flobs samarTalwarmeobis enas, gavlili aqvs eqvsi Tvidan erT wlamde staJireba prokuraturaSi, sakvalifikacio sagamocdo komisiisaTvis Cabarebuli aqvs sakvalifikacio gamocda. sakvalifikacio gamocda tardeba testuri meTodiT. sakvalifikacio gamocdis Catarebis wess, periodulobas da gamocdis programis, sagamocdo komisiis debulebas da komisiis Semadgenlobas saqarTvelos iusticiis umaRlesi sabWos wardginebiT amtkicebs saqarTvelos prezidenti. prokuraturis muSakebma 3 welSi erTxel mainc unda gaiaron atestacia. atestaciis wess gansazRvrvs generaluri prokurori.

prokuraturis muSakis mier Cadenili danaSaulis faqtze sixlissamarTlebriv devnas iwyebis mxolod generaluri prokurori. prokuraturis muSakis mier Cadenil danaSauls iZiebs mxolod generaluri prokuratura. prokuraturis muSakis mimarT saqmis gamoZiebis periodSi, saboloo gadawvyetilebis miRebamde, prokuraturis muSaks dadgenili wesiT dakavebuli Tanamdebobidan gadaayenebs generaluri prokurori.

dagegmilia saqarTvelos prokuraturis struqtruli reorganizacia. momzadebulia prokuraturis reformis koncefcia. gaTvaliswinebulia prokuraturis sabWos Seqmna, romlis ZiriTadi funqcia iqneba prokurorTa Tanamdebobaze dasaniSn pirTaTvis konkursis organizeba da saqarTvelos generaluri prokuraturis sistemis efeqturad marTvis xelSewyoba. koncefcii Tanaxmad, prokurorTa mimarT disciplinur devnas prokuraturis generaluri inspeqcia ganxorcielebs. prokuraturis sabWo SeimuSavebs prokuraturis muSakTa eTikis kodeqss. saqarTvelos erovnuli antikorufciuli strategia aseve iTvaliswinebs cvlilebebs prokuraturis sistemaSi.

SeniSvnebi da rekomendaciebi

- **aRniSnuli cvlilebebis gaTvaliswinebiT SeiZleba iTqvas, rom qarTuli kanonmdebloba SesabamisobaSia konvenciis me-11 muxlTan.**

muxli. 12. kerZo seqtori

1. TiToeuli monawile saxelmwifo Tavisi Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad atarebs RonisZiebebs kerZo seqtorSi korufciis Tavidan asacileblad, sabuRaltro aRricxvisa da auditis standartebis gansanmtkiceblad. aseTi RonisZiebebis daucvelobis SemTxvevaSi monawile saxelmwifoebi iTvaliswineben efeqtiani, zomieri samoqalaqo-samarTlebrivi, administraciuli an sixlis samarTlis sanqciebis SemoRebas.

2. am miznebis misaRwevad SeiZleba gaTvaliswinebul iqnes:

- a) samarTaldamcav organoebisa da Sesabamis kerZo organizaciebs Soris TanamSromlobis xelSewyoba;
- b) im standartebisa da procedurebis SemuSavebis xelSewyoba, romlebic gankuTvnilia Sesabamisi kerZo organizaciebis muSaobaSi keTilsindisieri garemos Sesaqmnelad, qcevis kodeqsebis CaTvlit mewarmeTa, agreTve Sesabamisi profesii yvela warmomadgenlis mier Tavisi saqmianobis sworad, keTilsindisierad ganxorcielbisaTvis da interesTa koliziis warmoSobis Tavidan acilebisaTvis agreTve komerciul sawarmoebisa da maTTan saxelSkrulebo damokidebulebaSi myof saxelmwifos Soris keTilsindisieri komerciuli praqtikis waxalisebisaTvis;
- g) kerZo organizaciebis saqmianobis gamWvirvalobis xelSewyoba da saTanado SemTxvevebSi, saidentifikacio RonisZiebebis gatareba im fizikuri da iuridiuli pirebis mimarT, romlebic monawileoben korporaciuli organizaciebis Seqmnasa da maT marTvaSi;
- d) im procedurebis borotad gamoyenebis Tavidan acileba, romlebic aregulirebs kerZo organizaciebis saqmianobas, subsidiebTan da licenziebTan dakavSirebuli procedurebis CaTvlit, romlebsac sajaro organoebi gadascemen kerZo organizaciebs komerciuli saqmianobis ganxorcielbisaTvis;
- e) interesTa koliziis warmoSobis Tavidan acilebisaTvis SezRudvebis daweseba, saWiroebis SemTxvevebSi, gonivrulad gansazRvruli vadiT, yofil sajaro Tanamdebobis pirTa profesiul saqmianobasTan dakavSirebiT an kerZo seqtorSi momuSave sajaro Tanamdebobis pirTa samuSaosTan dakavSirebiT, Tu maTi gadadgomis an pensiaze gasvlis Semdeg, maTi saqmianoba an samuSao pirdapir kavSirSia im funqciebTan, romlebsac es sajaro Tanamdebobis pirebi axorciebdnen Tanamdebobaze yofnisas an axorciebdnen kontrols am funqciis Sesrulebaze.
- v) imis uzrunvelyofas, rom kerZo organizaciebs, maTi struqturebisa da moculobis Sesabamisad, gaaCndeT Sida auditoruli kontrolis ganxorcielebis meqanizmebi, raTa maT SeZlon korufciuli qmedebis gamovlena da Tavidan acileba da rom aseTi kerZo organizaciebis angariSebi da moTxovnili safinanso uwyisebi eqvemdebarebodes auditsa da serTifikaciis saTanado procedurebs.

3. korufciis Tavidan acilebis mizniT TiToeuli saxelmwifo atarebs RonisZiebebs, misi Sida kanonmdeblobis da Sesabamisi wesebis Tanaxmad, romlebic moawesrigeben sabuRaltro aRricxvis warmoebas, safinanso angariSgebis wardgenas, agreTve sabuRaltro aRricxvas da auditis standartebis Semdgomi qmedebis aRsakveTad, romlebic xorcieldeba nebismeri im danaSaulis Cadenis mizniT, romelic aseTad cnobilia am konvenciis Sesabamisad. es qmedebia:

- a) araoficialuri angariSgebis Seqmna;
- b) aRuricxavi an arasworad daregistrirebuli operaciebis Catareba;
- g) ararsebuli xarjebis angariSgebis warmoeba;
- d) im valdebulebebis asaxva, romelTa obieqti arasworadaa identifierebuli;
- e) yalbi dokumentebis gamoyeneba;
- v) kanonmdeblobiT gaTvaliswinebul vadaze adre sabuRaltro dokumentaciis Segnebulad ganadgureba.

4. TiToeuli monawile saxelmwifo uars acxadebs dabegvrisagan ganTavisuflebaze im xarjebTan dakavSirebiT, romelic warmoadgens qrTams da aris danaSaulis Semadgenlobis erT-erTi elementi, romlebic aseTad cnobilia

samarTaldarRvevebic. Tumca, albaT, sasurveli iqneba, `samewarmeo saqmianobis kontrolis Sesaxeb~ kanonis Sesabamis muxlSi moxdes am debulebis Camateba.

aqve mivutiTebT, rom 2004 wlis 24 TebervalS miRebul iqna kanoni `finansuri policiis Sesaxeb~, romlis amocanebsac warmoadgens: safinanso-ekonomikur sferoSi danaSaulis gamovlena, Tavidan acileba da winaswari gamoZieba am kanoniTa da saqarTvelos sxva normatiuli aqtebiT miniWebuli uflbamosilebis safuZvelze; safinanso-ekonomikur sferoSi administraciul samarTaldarRvevaTa prevencia da gamovlena administraciul samarTaldarRvevaTa kodeqsiT da sxva normatiuli aqtebiT miniWebuli uflbamosilebis safuZvelze; saqarTvelos finansTa saministros sistemis saqmianobis usafRTxoebis da samsaxurebrivi movaleobebis Sesrulebis procesSi am organoTa TanamSromlebis marTIsawinaaRmdego xelyofisagan dacvis uzrunvelyofa; safinanso-ekonomikur sferoSi samoxeleo danaSaulis da korufciul garigebaTa prevencia, aRkveTa da gamovlena.

TanamSromlobis waxaliseba

konvencia mouwodebs wevr saxelmwifoebs, gaataron RonisZiebebi, rac aucilebelia, erTis mxriv, winaswari gamoZieba da sixlissamarTlebrivi devnis mwarmoebel organoebsa da meores mxriv, kerZo organoebs Soris TanamSromlobis wasaxaliseblad, rac gulixmobs kerZo organos warmomadgenlebis mier rogorc sakuTari iniciativiT, ise Txovnis safuZvelze Sesabamisi informaciis miwodebas.

saqarTvelos sixlis samarTlis saproceso kodeqsis 55-e muxlis me-4 nawilis Tanaxmad, kanonis safuZvelze gamotanili prokuroris dadgenilebis, miTiTebisa da moTxovnis Sesruleba savaldebuloa rogorc fizikuri da iuridiuli pirebisaTvis, ise saxelmwifos Sesabamisi organoebsa da Tanamdebobis pirebisaTvis, xolo saqarTvelos sixlis samarTlis saproceso kodeqsis 58-e muxlis me-5 nawilis mixedviT, kanonis Sesabamisad gamomZieblis mier gamotanili dadgenilebis Sesruleba savaldebuloa yvela sawarmos, dawesebulebis, organizaciis, Tanamdebobis pirisa da moqalaqisaTvis. gamomZieblis dadgenilebis Seusrulebloba ki iwvevs kanoniT dawesebul pasuxismgeblobas.

sixlis samarTlis kodeqsis 376-e muxli adgens pasuxismgeblobas danaSaulis SeutyobineblobisaTvis, kerZod: Seutyobinebloba imis mier, vinc namdvilad icis, rom mzaddeba gansakuTrebiT mZime danaSauli, isjeba jarimiT an tusaRobiT vadiT samidan eqvs Tvemde anda Tavisuflebis aRkveTiT vadiT xuT wlamde, xolo sixlis samarTlis kodeqsis 375-e muxliT gansazRvrulia pasuxismgebloba danaSaulis dafarvisaTvis, anu gansakuTrebiT mZime danaSaulis dafarwa winaswar Seupireblad, rac isjeba jarimiT an tusaRobiT vadiT samidan eqvs Tvemde anda Tavisuflebis aRkveTiT vadiT oTx wlamde, Tumca sixlissamarTlebrivi pasuxismgeblobisagan Tavisufleba is, vinc winaswar Seupireblad dafara axlo naTesavis danaSauli.

mewarmeTa saqmianobis standartebi da procedurebi

konvenciis me-12 muxlis me-2 nawilis `b~ qvepungtSi saubarია mewarmeTa saqmianobis standartebisa da procedurebis, maT Soris, qcevis kodeqsis Seqmnis Sesazleblobaze.

korporaciuli marTvis gaumjobesebisa da korporaciuli qcevis mowesrigebis uzrunvelsayofad sakorporacio samarTlis sferoSi uamrav `daweril kanonTan~ erTad civilizebul msolfioSi arsebobs `dauwereli kanonebi~. maT ricxvs miekuTvneba korporaciuli qcevis kodeqsi. es ar aris kanoni an raime samTavrobo an saxelmwifo direqtiva; es aris aRiarebuli sarekomendacio paketi, romelTanac Sesabamisoba prestiJuli, saboloo jamSi ki momgebiani da sasargebloa. germaniaSi 2002 wlidan arsebobs korporaciuli marTvis kodeqsi, romelic savaldebuloa yvela sabirJo kotirebis mqone saaqcio sazogadoebis mmarTveli organos wevrebisaTvis. garda imisa, rom kodeqSi zustad meordeba samarTlebrivi regulirebebi, romlebic investorebisaTvis informaciul xasiaTs atarebs, igi Seicavs 50 rekomendacias. ase magaliTad, rekomendacias sameTvalyureo sabWos auditoruli komitetis Seqmnis Sesaxeb.

mizanSewonilia, saxelmwifo da kerZo seqtorebis warmomadgenelTa erToblivi ZalisxmeviT korporaciuli qcevis nacionaluri (erovnuli) meTodologiisa da mis safuZvelze korporaciuli qcevis nacionaluri (erovnuli) principebis SemuSaveba, romelTa gamoyenebiTa da danergviT Sesazlebeli gaxdeba mesakuTreebisadmi menejmentis demokratiuli, samarTliani da gamWvirvale damokidebulebis damkvidreba, mniSvnelovani korporaciuli qmedebebis mowesrigeba da saaqcio sazogadoebis efeqturi funqcionirebisa da marTebuli marTvis organizebisaTvis safuZvlebis Seqmna. `mewarmeTa qcevis kodeqsis~ Seqmna ufo rekomendaciul xasiaTs atarebs. es rekomendaciebi ar SeiZleba aRqmul iqnas rogorc saxelmwifos mier nakisri valdebuleba. `mewarmeTa qcevis kodeqsi~ biznesis warmomadgenlebis mier erToblivad Seqmnili da mxardaWerili dokumenti unda iyos. kodeqsi unda iyos saxelmZRvanelo dokumenti saqarTveloSi moqmedi yvela im mewarmisaTvis, romelsac surs korporaciuli pasuxismgeblobis mqone piris reputaciiT wardges qarTuli sazogadoebis winaSe. aq gansazRvruli iqneba samewarmeo seqtoris ganviTarebis eTikuri CarCoebi, rac xels

Seuwyobs eTikis programisa da qcevis kodeqsis SemuSavebas calkeuli sawarmosaTvis. mocemuli kodeqsi Semdgom, gamocdis Sedegad SeiZleba inkorporirebul iqnas kanonmdeblobaSi.

kerZo organizaciebis gamWvirvalobis xelSewyoba

konvenciiT aseve gaTvaliswinebulia kerZo organizaciebis gamWvirvalobis xelSewyoba. `mewaremTa Sesaxeb kanonis` me-4 muxlis Tanaxmad, nebismieri sawarmos registracia xorcieldeba samewarneo reestrSi saTanado CanawerebiT. samewarneo reestrSi Setanili monacemebi sajaroa. nebismier pirs SeuZlia, gaecnos samewarneo reestris monacemebs da miiRos reestris amonawerebi. erTian samewarneo reestrs awarmoebs saqarTvelos finansTa saministros sagadasaxado departamenti. samewarneo reestris warmoebis wesi da registraciaze uflbamosili sagadasaxado organoebi ganisazRvrebA saqarTvelos mTavrobis dadgenilebiT. samewarneo reestris monacemebs sagadasaxado organo aqveynebs oficialur beWdviT organoSi, xolo sawarmos registraciis Sesaxeb gadawyvetilebis asls uzgavnis saqarTvelos ekonomikuri ganviTarebis saministros saxelmwifo saqveuwyebo dawesebulebas-statistikis departaments TveSi erTxel, ara ugvianes momdevno Tvis 5 ricxvisa. saaqcio sazogadoebasTan dakavSirebiT gamotanili gadawyvetilebis asls sagadasaxado organo imave vadaSi uzgavnis saqarTvelos fasiani qaRaldebis erovnul komisiis.

saqarTvelos mTavrobis 2005 wlis 10 agvistos #127 dadgenilebiT damtkicda samewarneo reestris warmoebis wesi da ganisazRvra registraciisaTvis uflbamosili sagadasaxado organoebi. samewarneo reestri aris sajaro (saxelmwifo) nusxa im faqtebisa, romelTac ekonomikur urTierTobebSi samarTlebrivi mniSvneloba aqvT. samewarneo reestrs awarmoeben sagadasaxado inspeqciebi. dadgenilebis me-3 muxlis Tanaxmad samewarneo reestris monacemebi sajaroa da nebismier dainteresebul pirs uflaba aqvs sawarmos Sesaxeb samewarneo reestris amonaweris miRebis Taobaze ganxadebiT mimarTos sagadasaxado inspeqciis sawarmos adgilsamyoflis mixedviti. inspeqcia valdebulia, ganxadebis registraciidan 3 samuSao dReSi gasces moTxovnil sawarmoze samewarneo reestris amonaweri. im SemTxvevaSi, Tu sagadasaxado inspeqciaSi samewarneo reestris formularebis baza (m.S. eleqtronuli) ar Seicavs moTxovnil informacias sawarmos Sesaxeb, inspeqcia sagadasaxado departamentis centraluri aparatis meSveobiT azustebs moTxovnili informaciis gacemisaTvis uflbamosil sagadasaxado inspeqciis da aRniSnulis Taobaze Sesabamis informacias ara ugvianes 10 dRisa awvdis ganmxadebels.

administraciul samarTaldarRvevaTa kodeqsis 164-e muxlis Tanaxmad, samewarneo saqmianobis wesis darRveva, samewarneo saqmianobis ganxorcieleba saxelmwifo registraciis gareSe, agreTve akrZaluli samewarneo saqmianobis ganxorcieleba an unebarTvod iseTi saqmianobis ganxorcieleba, romelic specialur nebarTvas (licenzias) saWiroebs, - gamoiwvevs dajarimebas oTxasidan xuTas laramde. meurne subieqtebis saqmianobis SeCerebis SemTxvevaSi maT mier savaWro operaciebis (momsaxurebis) ganxorcieleba, - gamoiwvevs dajarimebas Sromis anazRaurebis Svidasi minimaluri odenobiT.

kerZo organizaciebis gamWvirvalobis xelSewyobis kuTxiT, saqarTvelos kanonmdebloba harmonizaciaSia rogorc mocemul konvenciasTan, aseve evropis sabWos direqtivebTan kerZo seqtorSi korufciasTan brZolis Sesaxeb. aqve aRvniSnavT, rom evropis sabWos #68/151 direqtiva iTvaliswinebs sabuRaltro balansisa da mogeba-zaralis angariSis gamoqveynebasac.

korufciis Tavidan acilebis mizniT gatarebuli sxva RonisZiebebi

2005 wlis 27 ivniss saqarTvelos parlamentma miiRo kanoni `licenzirebisa da nebarTvebis Sesaxeb~. kanoniT martivdeba licenzirebis wesi. kanonis Tanaxmad, romelic e.w. `erTi sarkmlis princips~ efuZneba, nebarTvis gamcemi administraciuli organo Tavadi uzrunvelyofs damatebiTi salicenzio an sanebartvo pirobebis sxva administraciuli organos mier dadasturebas. `licenzirebisa da nebarTvebis Sesaxeb` kanonis me-19 muxlis Tanaxmad, sargeblobis licenciis gacemis sawyis fassa da angariSsworebis wess adgens licenciis gamcemi, rac aramarTebulad migvaCnia. es gansazRvruli unda iyos saqarTvelos kanonSi `salicenzio da sanebartvo mosakreblis Sesaxeb~.

qarTul kanonmdeblobaSi sajaro mosamsaxuris postsamsaxurebriv saqmianobasTan dakavSirebuli urTierTobebis samarTlebrivi reglamentacia TiTqmis ar xdeba. erTaderTi norma mocemulia `sajaro samsaxuris Sesaxeb~ saqarTvelos kanonis 65-e muxlSi, sadac naTqvamia: gaTavisuflebuli saxelmwifo mosamsaxure gaTavisuflebis dRidan 3 wlis manZilze ar SeiZleba samsaxurSi Sevides im dawesebulebaSi an eweodes saqmianobas im sawarmoSi, romelsac igi ukanaskneli 3 wlis manZilze sistematurad zedamxedvelobda samsaxurebrivad. am xniss ganmavlobaSi mas agreTve ar aqvs uflaba aseTi dawesebulebidan an sawarmodan miiRos Semosavali. garda amisa, kanonmdebloba ar iTvaliswinebs aRniSnuli procesis administrirtebas, ar arsebobs aRniSnuli procesis kontrolis araviTari meqanizmi, rac faqtoibrivad ar iZleba kanonis darRvevis dafiqsirebis Sesazleblobas. amas emateba is faqtic, rom araa gansazRvruli pasuxismgebloba, rac faqtorivad aRniSnul normas `mkvdar normad` aqcevs.

`mewarmeTa Sesaxeb~ kanonis me-13 muxli exeba buRaltrul aRricxvasa da auditorul saqmianobas. auditis Sesaxeb kanonis me-3 muxlis Tanaxmad: auditoruli Semowmeba (auditi) tardeba moqmedi kanonmdeblobiT gansazRvrul SemTxvevebSi (savaldebulo auditi), agreTve sameurneo subieqtis iniciativiT (sainiciativo auditi) saTanado xelSekrulebis safuZvelze. samarTaldamcav organoebis ufleba aqvT saqarTvelos kanonmdeblobis Sesabamisad moiwvion auditori (audituri firma) sameurneo subieqtis auditoruli SemowmebisaTvis. auditorebs irCeven partniorebi xmaTa ubralo umravlesobiT. wliuri angariSgeba, buRaltruli aRricxvis registrebi da saqmianobis Sesaxeb angariSi unda Semowmdes sazogadoebisagan damoukidebeli erTi an ramdenime auditoris mier (daskvniTi Semowmeba). aseTi Semowmebis gareSe wliuri angariSgebis miReba dauSvebelia. wliuri angariSgebis SemowmebiT unda dadgindes, daculia Tu ara wliuri angariSgebisadmi kanonisa da wesdebis moTxovnebi da saqmianobis Sesaxeb angariSSi motanili monacemebi xom ar Seqmnis mcdar warmodgenas sazogadoebaSi arsebul saqmis viTarebaze. Tu sazogadoebis direktorebi Semowmebis Sedegebze daskvnis Sedgenis Semdeg Secvlian wliur angariSgebas, maSin auditorebma xelaxla unda Seamowmon wliuri angariSgeba.

kanonmdeblobaSi araa pirdapiri miTiTeba auditoruli kontrolis, rogorc korufciis prevenciis meqanizmze, magram, gamomdinare iqedan, rom auditis warmoebis erT-erT mizans sawarmos saqmianobis kanonTan Sesabamisobis Semowmeba warmoadgens, SeiZleba amaSi korufciuli qmedebis gamovlenac moviazroT.

`sabiujeto organizaciebisa da sajaro samarTlis iuriduli pirebis buRaltruli aRricxvis Sesaxeb instruqciis damtkicebis Sesaxeb~ (27.12.2005) saqarTvelos finansTa ministris #1278 brZanebaSi gaTvaliswinebulia wesebi, romelTa Sesabamisadac unda xorcieldebodes sabuRaltro wignebis, Canawerebis, safinanso uwyebisa da sxva dokumentaciis Senaxva. me-6 muxlis Tanaxmad, sabuTebi bardeba organizaciis arqivs akinZuli saxiT. pirveladi sabuTebi, aRricxvis registrebi, buRaltruli angarSebi da balansebi arqivSi gadacemamde unda inaxebodes buRalteriaSi konkretuli piris pasuxismgeblobis qveS. organizaciis arqivSi buRaltruli saqmeebi dawesebuli vadis ganavlobaSi inaxeba. Senaxvis vadebis gasvlis Semdeg saqmeebi bardeba Sesabamis saxelmwifo arqivs moqmedi kanonmdeblobis Sesabamisad. sabuTebi, romlebic adastureben saxelmwifo arqivSi buRaltruli saqmeebis Cabarebas, buRlteriaSi mudmivad inaxeba. pirveladi sabuTebis dakargvis an ganadgurebis SemTxvevaSi, organizaciis xelmZRvanelis gadawyvetilebis safuZvelze iqmneba dakargvis an ganadgurebis mizezebis gamomkvlevi komisia. saWiroebis SemTxvevaSi, komisiis muSaobaSi monawileobis misaRebad SeiZleba moiwvion sxva organizaciaTa warmomadgenlebic. komisiis muSaobis Sedegebi formdeba aqtiT, romelic mtkicdeba organizaciis xelmZRvanelis mier.

sagadasaxado kodeqsis 41-e muxlis Tanaxmad, gadasaxadis gadamxdeli valdebulia, uzrunvelyos im dokumentebis Senaxva, romelTa safuZvelzedac xdeba gadasaxadebiT dabegvris obieqtების aRricxva da sagadasaxado deklaraciebis Sedgena, agreTve Semosavliisa da mogebis miRebis, gaweuli xarjebisa da gadaxdili an/da dakavebuli gadasaxadebis damadasturebeli dokumentebis Senaxva 6 wlis vadiT;

sixxlis samarTlis kodeqsis 204-e muxlis Tanaxmad, ekonomikuri saqmianobis amsaxveli sabuRaltro wignis an aRricxvis sxva dokumentis warmoebis wesis darRveva, ramac mniSvnelovani ziani gamoiwvia, isjeba jarimiT an Tavisuflebis aRkveTiT vadiT or wlamde. 206-e muxlis Tanaxmad gadaxdisuunarobis an zedavalianebis dros sabuRaltro wignis warmoebis darRveva, ramac realuri qonebrivi mdgomareobis Sefaseba gaarTula, isjeba jarimiT an Tavisuflebis aRkvTiT vadiT sam wlamde.

saqarTvelos sagadasaxado kanonmdebloba ar iTvaliswinebs sajaro moxelisaTvis (rogorc erovnuli, aseve ucxo qveynis sajaro Tanamdebobis pirTa) qrTamis saxiT gadaxdili Tanxis gadasaxdeli gadasaxadebis odenobidan gamoqviTvas. saqarTvelo gaxlavT evropis samezoblo politikis monawile da mis erT-erT mTavar prioritets warmoadgens evropis kavSiris wevroba. am mizniT xorcieldeba saqarTvelos kanonmdeblobis harmonizacia evropul standartebTan. am TvalsazrisiT mizanSewonilia, saqarTvelos kanonmdeblobaSi asaxva hpovos `kerZo seqtors korufciasTan brZolis Sesaxeb~ evropis kavSiris sabWos 2003 wlis 22 ivლის CarCo gadawyvetilebis (#2002/946) principebma.

SeniSvnebi da rekomendaciebi

- sixxlis samarTlis kodeqsis 204-e muxlis Tanaxmad, ekonomikuri saqmianobis amsaxveli sabuRaltro wignis an aRricxvis sxva dokumentis warmoebis wesis darRveva, ramac mniSvnelovani ziani gamoiwvia, isjeba jarimiT an Tavisuflebis aRkveTiT vadiT or wlamde. kanonSi saubaria mxolod iseTi saxis darRvevaze, ramac mniSvnelovani ziani gamoiwvia da misi moqmedebis farglebs miRmarCeba darRvevebi, romelnic am kategoriaSi ver xvdeba. sasurvelia, sabuRaltro aRricxvasTan dakavSirebuli darRvevebi gaTvaliswinebuli ignas administraciul samarTaldarRvevaTa kodeqsis.
- `auditis Sesaxeb~ saqarTvelos kanonis 24-e muxlis Tanaxmad auditoris (audituri firmis) romelic saTanadod ar Seasrulebs Tavis movaleobebs, qonebrivi da sxva saxis pasuxismgebloba daekisreba saqarTvelos moqmedi kanonmdeblobisa da damkveTTan dadebuli xelSekrulebis Sesabamisad. Auditoris (audituri firmis) qonebrivi pasuxismgeblobis moculoba ar SeiZleba aRematebodes misi

mizeziT damkveTisadmi faqtobrivad miyenebuli zaralis odenobas. Tumca, saqarTvelos administraciul samarTaldarRvevaTa kodeqsi ar moicavs muxls auditis standartebis darRvevis Sesaxeb.

- licenzirebisa da nebarTvebis Sesaxeb~ kanonis me-19 muxlis mixedviT, sargeblobis licenciis gacemis sawyis fassa da angariSsworebis wess adgens licenciis gamcemi, rac aramarTebulad migvaCnia. es gansazRvruli unda iyos saqarTvelos kanonSi `salicenzio da saneparTvo mosakreblis Sesaxeb~.
- saqarTvelos kanonmdeblobaSi sajaro mosamsaxuris postsamsaxurebriv saqmianobasTan dakavSirebuli urTierTobebis samsarTlebrivi reglamentacia TiTqmis ar xdeba.
- saqarTvelos sagadasaxado kanonmdebloba ar iTvaliswinebs sajaro moxelisaTvis (rogorc erovnuli, aseve ucxo qveynis sajaro Tanamdebobis pirTa) qrTamis saxiT gadaxdili Tanxis gadasaxdeli gadasaxadebis odenobidan gamogviTvas. am TvalsazrisiT sasurvelia sagadasaxado da sxva Sesabamisi sajaro organoebis warmomadgenlebs CautardeT specialuri treinigebi qrTamis gamogviTvis arasagadasaxado meTodebis Sesaxeb.
- mizganSewonilia saqarTvelos kanonmdeblobaSi asaxva hpovos `kerZo seqtorSi korufciasTan brZolis Sesaxeb~ evropis kavSiris sabWos 2003 wlis 22 ivlisis CarCo gadawyvetilebis (#2002/946) principebma.

muxli 13. sazogadoebis monawileoba

1. TiToeuli monawile saxelmwifo Tavisi SesaZleblobebis farglebSi da Tavisi Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad atarebs RonisZiebs sajaro seqtoris farglebs gareT calkeuli pirebisa da jgufebis aqtiuri monawileobis xelSewyobisaTvis. magaliTad, iseTebisaTvis, rogorebicaa samoqalaqo sazogadoebasTan, arasamTavrobo da saTemo organizaciebTan, romlebic saqmianoben korufciis Tavidan acilebisa da masTan brZolis mizniT, raTa amaRldes sazogadoebis Segneba korufciis, misi arsebobis, mizezebisa da safrTxis gamo, romelic misgan momdinareobs.

a) gamWvirvalobis gaZliereba da gadawyvetilebebis miRebis procesSi mosaxleobis Cabmis xelSewyoba;

b) mosaxleobisaTvis informaciis xelmisawvdomoba;

g) mosaxleobis informirebisTvis iseTi RonisZiebis gatereba, romelic xels Seuwyobs korufciis mimarT Seurigeblobis atmosferos Seqmnas, agreTve sajaro ganaTlebis programebis SemoRebas, skolebsa da universitetebSi saswavlo programebis CaTvlit;

d) korufciis Sesaxeb informaciis Tavisuflad moZiebis, miRebis, gamoqveynebisa da gavrclebis pativiscema, waxaliseba da dacva. aseT Tavisuflebeze SeiZleba dadgindes garkveuli SezRudvebi, mxolod kanoniT gaTvaliswinebul farglebSi da imdenad, ramdenadac es aucilebelia:

I) sxva pirTa uflebebis an maTi reputaciis pativiscemisaTvis;

II) erovnuli usafrTxoebis an sajaro wesrigis, mosaxleobis janmrTelobis an zneobriobis dacvisaTvis.

2. TiToeuli monawile saxelmwifo atarebs saTanado RonisZiebs imisaTvis, rom am konvenciiT gaTvaliswinebuli korufciis winaaRmdeg mebrZoli saTanado organoebi cnobili iyvnen mosaxleobisaTvis, uzrunvelyofil iqnes aseT organoebTan daSveba da mosaxleobas mieces saSualeba am organizaciebisaTvis mimarTvebis warsadgenad, maT Soris anonimuric, nebismieri SemTxvevebis gamo, romelic iTvleba danaSaulad am konvenciiS Sesabamisad.



korufciis prevenciis erT-erT mniSvelovan meqanizmad konvenciaSi sazogadoebis mxardaWera ganixileba. am kuTxiT aRniSnuli dokumenti mouwodebs wevr saxelmwifoebis, xeli Seuwyon sazogadoebrivi organizaciebis CarTvas korufciis winaaRmdeg mimarTul qmedebebisa da gadawyvetilebebis miRebis procesebSi. gansakuTrebiT mniSvelovania, rom yoveli konkretuli saxelmwifo organos, adgilobrivi mmarTvelobisa Tu TviTmmarTvelobis organoebis muSaobisa da maTze dakisrebuli valdebulebebis Sesrulebis Sesaxeb informacia sazogadoebam miiRos srulad da daubrkoleblad.

konvenciiS am muxlis debulebebi regulirdeba saqarTvelos zogadi administraciuli kodeqsiT. zogadi administraciuli kodeqsis me-10 muxlis Tanaxmad, yvelas aqvs ufleba, gacnos administraciul organoSi arsebul sajaro informacias, agreTve miiRos maTi aslebi, Tu isini ar Seicaven saxelmwifo, profesiul, komerciul an pirad saidumloebas. administraciuli organo valdebulia, uzrunvelyos sakiTxis sajarod ganxilva, Tu amas iTvaliswinebs kanoni. kodeqsis me-12 muxlis Tanaxmad, nebismier pirs aqvs ufleba mimarTos administraciul organos am ukanasknelis uflebamosilebas mikuTvnebuli im sakiTxis gadasawyvetad, romelic uSualod da pirdapir exeba piris uflebebsa da kanonier interesebs. administraciul organoSi arsebuli sajaro informaciis gacnobis wesebi, aseve informaciis gacemaze uaris Tqmis gasaCivreblis wesebi gansazRvrulia kodeqsis III TaviT. 32-e muxlis Tanaxmad, kolegiuri sajaro dawesebulebebis sxdomebi sajaroo, garda im SemTxvevebisa, rodesac ganixileba informacia, romelic Seicavs saxelmwifo, komerciul da pirad saidumloebas. 35-e muxlis Tanaxmad, sajaro

dawesebuleba valdebulia, Seitanos dawesebulebaSi arsebuli sajaro informacia sajaro reestrSi. sajaro reestrSi Setanili unda iqnes sajaro informaciaze miTiTeba misi miRebidan, Seqmnidan, damuSavebidan an gamocemidan 2 dRis vadaSi sajaro informacii dasaxelebis, miRebis, Seqmnis, damuSavebis, gamocemis TariRis, im fizikuri an iuridiuli piris, sajaro dawesebulebis dasaxelebis miTiTebiT, romlisganac Semovida an/da gaegzavna es informacia. 37-e muxlis Tanaxmad nebismier moqalaqes ufleba aqvs, moiTxovos sajaro informacia, agreTve gaecnos informacias dedanSi. amasTanave, ganmcxadebeli araa valdebuli, miuTiTos sajaro informacii moTxovnis motivi an mizani.

konvencii me-13 muxlis pirveli punktis `g~ qvepunktis Tanaxmad, saxelmwifom unda gaataros RonisZiebebi saganmanaTleblo dawesebulebebi iseTi programebis SeqmnisaTvis, romlebic xels Seuwyoben korufcii mimarT Seurigeblobis atmosferos Seqmnas. saqarTvelos saganmanaTleblo sistemaSi programis mTlianad ganaTlebis saminstro da Tavad saswavlo dawesebulebebi gansazRvaven. sasurvelia, saswavlo programaSi gaTvaliswinebuli iqnas antikorufciuli fakultatiuri kursi.

konvencii mocemuli muxlis meore punktis mixedviT TiToeuli monawile saxelmwifo atarebs saTanado RonisZiebebs imisaTvis, rom am konvenciiT gaTvaliswinebuli korufcii winaaRmdeg mebrZoli saTanado organoebi cnobili iyvnen mosaxleobisaTvis, uzrunvelyofil iqnes aseT organoebTan daSveba da mosaxleobas mieces saSualeba am organizaciebisaTvis mimarTvis warsadgenad, maT Soris anonimuric, nebismieri SemTxvevebis gamo, romelic iTvleba danaSaulad am konvencii Sesabamisad.

saqarTvelos sixxlis samarTlis saproceso kodeqsis 263-e muxlis Tanaxmad, winaswari gamoZiebis daweyebis safuZvelia cnobebi danaSaulis Cadenis Sesaxeb, romlebic gamomZiebels an prokurors miawodes fizikurma anda iuridiulma pirma, saxelmwifo an TviTmmarTvelobisa da mmarTvelobis organoebma, Tanamdebobis pirma, operatiul-samZebro organom, bralis aRiarebiT gamocxadebulma pirma, anda isini moZiebulia masobrivi informacii saSualebebiT, agreTve uSualod sixxlis samarTlis procesis organos mier saqmis gamoZiebisas aRmoCenili cnobebi, garda im SemTxvevebisa, rodesac am organos warmomadgeneli danaSaulis TviTmxilveli an dazaralebulia, aseve sixxlis samarTlis saqmis gamoZiebisas gamovlenili cnobebi. 2005 wlis 16 dekembers kodeqSi Setanil iqna cvlileba, romlis Tanaxmadac gamomZiebeli an prokurori uflebamosilia, daiwyos winaswari gamoZieba. Aamave muxlis Tanaxmad, dauSvebelia piris mimarT sixxlissamarTlebrivi devnis ganxorcieleba mxolod anonimuri cnobis safuZvelze.

SeniSvnebi da rekomendaciebi

- saxelmwifos mxridan maqsimalurad unda Seewyos xeli damoukidebeli Jurnalisturi gamoZiebis ganviTarebas da SemuSavdes amgvar praktikis mindevar JurnalistTa dacvis meqanizmebi;
- saxelmwifo struqturabis mxridan masmediasTan TanamSromlobisa da misTvis informacii miwodebis gamWvirvale da obieqturi informacii miwodebis meqanizmebis daxvewa;
- korufciasTan brZolaSi gansakuTrebuli roli unda daekisros moqalageTa winaSe angariSvaldebul, sajaro dafinansebiT moqmed sazogadoebriv mauwyeblobas, romlis damoukideblobasa da miukerZoeblobasac gansakuTrebuli xelSewyoba unda hqondes.
- sazogadoebis wevrTa da saxelmwifos warmomadgenlebs Soris korufciuli garigebebis Semicirebis mizniT saWiroa moxdes moqalageTaTvis informacii miRebis wyaroTa identifikacia. aseTi wyaroebis Seqmna SesaZlebelia sainformacio biuroebis Camoyalibebis gziT, sadac SesaZlebeli iqneba saxelmwifos mier miRebuli nebismieri sajaro saxis matarebeli informacii drouli, amomwuravi da araorazrovani informacii miReba. gansakuTrebuli yuradReba unda gamaxvildes mcire da saSualo sawarmoebis warmomadgenelTa informaciiT uzunvelyofaze, gansakuTrebT ki - regionebsi.
- xelisuflebis angariSvaldebulebis sistemaSi samoqalago monawileobis uzrunvelyofis mizniT saxelmwifo organoebSi unda Seiqmnas sazogadoebrivi monitoringis struqturabi. maTi funqciebi, Semadgenloba, ufleba-movaleobani da saqmianobis meTodebi unda ganisazRvros kanonmdeblobiT.
- yvela sabiujeTo organizaciam unda gamoaqveynos wliuri angariSi Tavisi saqmianobis Sesaxeb, maT Soris finansuri saqmianobis Sesaxeb.
- saSualo da umaRlesi saganmanaTleblo dawesebulebebis saswavlo programebsi gaTvaliswinebuli unda iqnas antikorufciuli fakultatiuri kursebis SemoReba.

muxli 14. fuladi saSualebis `gaTeTrebi~ Tavidan acilebis RonisZiebebi

1. TiToeuli monawile saxelmwifo:

a) adgens regulirebisa da meTvalyureobis yovlismomcvel Sida reJims bankebisa da arasabanko finansuri dawesebulebebis mimarT, romlebic fuladi saSualebebis da faseulobebis gadaricxvebTan dakavSirebul momsaxurebas axorcieleben oficalurad an araoficalurad, agreTve saTanado SemTxveebSi, sxva organoebis mimarT, romlebic gansakuTrebiT mowvyvladia fulis gaTeTrebis TvalsazrisiT, Taviani kompetenciis farglebSi, fulis gaTeTrebis yvela formis gamovlenis dauSveblobis mizniT, amasTan, aseTi reJimis safuZvelia, pirvel rigSi, klientis pirovnebisadmi identifikaciis moTxovnebi, saWiroebis SemTxveebSi, masakuTre – beneficiarisadmi moTxovnebi, agreTve adgens angariSgebis warmoebis reJims da saeWvo garigebebTan dakavSirebiT mimarTvebis wardgenis aucileblobas;

b) am konvenciis 46-e muxlisaTvis zianis miyenebis gareSe, uzrunvelyofs administraciuli, maregulirebeli, samarTaldamcavi da sxva organoebis, romlebic ibrZvian fulis gaTeTrebis winaaRmdeg (Sida kanonmdeblobiT gaTvaliswinebul SemTxvevaSi, sasamarTlo organoebis CaTvlit) TanamSromlobas da informaciis gacvlav erovnul da saerTaSoriso doneze, Sida kanonmdeblobis Sesabamisad da am mizniT ganxilavs finansebTan dakavSirebuli operatiuli qvejgufis Seqmnis sakiTxs, romelic Seasrulebs erovnuli centris funqcias informaciis Sekrebis, analizisa da gavrcelbisaTvis da aRnuxsavS fulis gaTeTrebis savaraudo SemTxveebis.

2. monawile saxelmwifoebi ganxilaven sakiTxs im Sesazlo praqtikuli RonisZiebis gaterebis Sesaxeb, romlebic dakavSirebulia naRdi fuladi saSualebebis gadaadgilebasa da Sesabamisi sabrunavi instrumentebis gamovlenasTan maTi sazRvrebis gavlit da aseTi gadaadgilebebis kontrolis im pirobebis dacvit, romlebic mimarTulia informaciis Sesabamisi gamoyenebis uzrunvelyofisaTvis da kanonieri kapitalis, yovelgvavi winaaRmdegobis Seqmnis gareSe gadatanisaTvis. aseTi RonisZiebebi SeiZleba iTvaliswinebdes moTxovnebs, rom fizikurma pirebma da komerciulma sawarmoebma Seatyobinon mniSvnelovani moculobis naRdi fuladi saSualebebis transsasazRvro gadaricxvebisa da Sesabamisi sabrunavi instrumentebis gadacemis Sesaxeb.

3. monawile saxelmwifoebi ganxilaven Sesazlo praqtikuli RonisZiebebis gaterebis sakiTxs im moTxovnaTa dasadgenad, rom finansurma dawesebulebebma da fuladi saSualebebis gadamricxvelma dawesebulebebma:

Aa) fuladi saSualebebis eleqtronuli gadaricxvebis formularebSi da masTan dakavSirebul Setyobinebebi Seitanon zusti da arsebiti informacia ganmgzavnis Taobaze;

b) Seinaxon aseTi saxis informacia gadaxdis ganxorcielebis yvela etapze;

g) Caataron fuladi saSualebebis gadaricxvis sruli Semowmeba, Tu ar arsebobs srulyofili informacia ganmgzavnis Taobaze.

4. regulirebisa da meTvalyureobis Sida reJimis damyarebisas am muxlis debulebaTa Tanaxmad da am konvenciis nebismieri muxlis debulebisaTvis zianis miyenebis gareSe monawile saxelmwifoebis saSualeba eZleba iTxelmZRvanelon regionuli, regionTaSorisi da mravalmxrivi organizaciebis Sesabamisi iniciativebit, romlebic mimarTulia fulis gaTeTrebis winaaRmdeg.

5. monawile saxelmwifoebi iswrafvian globaluri regionuli, subregionuli da ormxrivi TanamSromlobis ganvitarbisa da waxalisebisaTvis samarTaldamcav da sasamarTlo organoebis Soris, agreTve finansuri regulirebis organoebis Soris fulis gaTeTrebis winaaRmdeg brZolis mizniT.



saerTaSoriso savaluto fondis gancxadebit, fulis gaTeTrebis masStabebi msolfios mTliani Sida produqtis 2-dan 5 %-mde meryeobs. fulis gaTeTrebis procesis struqtura Zalzed rTulia da sxvadasxvagvari operaciebis kombinacias SeiZleba moicavdes, romlebic dRiTidRe kidev ufro mravalferovndeba. fulis gaTeTrebis teqnologiis modebidan yvelaze popularulia e.w. samfaziani modeli, romelic sami stadiisagan Semdgari dinamiuri procesia da moicavs:

- **ganTavsebas**, raTa moxdes Tanxebis danaSaulebrivi moqmedebis adgilidan gatana;
- **ganSrevas**, raTa gamoZiebisagan daifaros danaSaulebrivi gziT mopovebuli Tanxebi;
- **integrirebas**, raTa danaSaulebrivi gziT mopovebul Tanxa, misi geografiuli warmoSobis miuxedavad, moqmedi gaxdes.

Tumca, teqnologiuri modelebi masTan brZolis gaaqtirebis paralelur reJimSi rTuldeba da swored amitom gansakuTrebuli mniSvneloba eniWeba fulis gaTeTrebis Tavidan acilebisaken mimarTul RonisZiebebs da maT samarTlebriv uzrunvelyofas.

ukanono Semosavlebis gaTeTrebase kontrolis ganxorcielebaze TanamSromlobis gansazRvruli minimaluri standartebi farTod gamoiyeneba saxelmwifoTa mTavrobebisa da safinanso sferos pasuxismgebeli warmomadgenlebis mier, rogorc safinanso sferos regulirebis aucilebeli Semadgeneli nawili. fulis gaTeTrebis winaaRmdeg brZolis standartebi Cvens mier gansaxilveli konvenciis garda warmodgenilia Semdeg saerTaSoriso dokumentebSi:

- **saerTaSoriso sabanko sazogadoebis sabanko wesebisa da kontrolis praqtikis komitetis bazelis deklaracia~ (1988)** - deklaracia moicavs rekomendaciebs klientebis identifikaciis Sesaxeb, anonimuri angariSebis warmoebaze uaris Tqmas, mouwodebs bankebis xelmZRvanelobas samarTaldamcav organoebTan TanamSromlobisaken.

- **`narkotikuli saSualebebisa da fsiqotropuli nivTierebis ukanono brunvis winaaRmdeg brZolis Sesaxeb~ gaeros venis konvencia** - konvencia miRebulia 1988 wlis 9 dekembers da saqarTvelo misi monawile saxelmwifo gaxlav⁷. am konvenciaSi, pirvelad mieca ganmarteba ukanono Semosavlebis legalizaciis (gaTeTrebis) cnebas, ramac didi gavlena iqonia dasavleTis qveynebis Sesabamis kanonmdeblobis ganviTarebaze.
- **`fulis gaTeTrebis, danaSaulebrivi saqmianobis Sedegad mopovebuli Semosavlebis moZiebis, amoRebisa da konfiskaciis Sesaxeb~ evrosabWos konvencia (strasburgis konvencia)** - konvencia miRebulia evropis sabWos mier strasburgSi 1990 wlis 8 ianvars da saqarTvelo misi monawile saxelmwifo gaxlav⁸. strasburgis konvencia venis konvenciisgan gansxvavebiT iTvaliswinebs aramarto narkobiznesis, aramed nebismieri danaSaulebrivi gziT mopovebuli fulis legalizacias. amasTan, strasburgis konvenciam gaiTvaliswina wevr-saxelmwifoTa ufleba me-6 muxlSi gaTvaliswinebuli qmedebebisaTvis pasuxismgeblobis dakisrebis SesaZleblobis Sesaxeb maSinac, Tu ZiriTadi danaSauli, romelic win uswrelda fulis legalizacias da romlisganac iqna miRebuli es fuli ar ganxorcielda im saxelmwifos iurisdicqis qveS, sadac xorcieldeba fulis gaTeTreba. amasTan, saxelmwifom SeiZleba gaiTvaliswinos, rom Savi fulis gaTeTrebis ganmaxorcielebel pirebs ar daekisroT pasuxismgebloba ZiriTadi danaSaulisaTvis, romelic warmoadgens Savi fulis gaTeTrebis safuZvels.
- **gaeros modeluri kanoni `narkotikebisagan miRebuli fulis gaTeTrebis Sesaxeb~** - eyrdnoba ra sxvadasxva saxelmwifoebis kanonmdeblobas, modeluri kanoni Seicavs rekomendaciebs fulis gaTeTrebis aRkveTis, amgvari qmedebebis gamovlenisa da maTze sanqciebis dawesebis Sesaxeb.
- **gaeros `fulis gaTeTrebis da danaSaulebrivi saqmianobisagan miRebuli Semosavlebis gamoyenebis aRkveTisa da brZolisadmi miZRvnili konferenciis deklaracia~ (kurmaiori, italia, 1992w. ivnisi)** - deklaraciam gansazRvra fulis gaTeTrebasTan brZolis efeqturi strategiis 7 ZiriTadi mimarTuleba: ukanono Semosavlebis gaTeTrebis kriminalizacia; sabanko saidumloebis Semicreba; warmdgenze anonimuri angariSebis likvidacia, moqmedi pirebis identifikacia (wesi `icnobde klientis~); saeWvo operaciebis identifikacia da informireba; safinanso operaciebiT dakavebuli organizaciebisa da pirebis saqmianobis regulirebis srulyofa; danaSaulebrivi saqmianobiT miRebuli Semosavlebis konfiskacia; saerTaSoriso urTierTTanamSrolobis qmediTi meqanizmebis ganviTareba.
- **`transnacionaluri organizebuli danaSaulis winaaRmdeg brZolis gaeros konvencia~ (2000)** - konvenciaSi sxva aspeqtTan erTad yuradReba gamaxvilebulia danaSaulebrivi gziT miRebuli Semosavlebis gaTeTrebis kriminalizaciaze. amasTanave xazgasmulia am muxlis danaSaulobaTa farTo wris mimarT gamoyenebis aucilebloba.
- **evropis sabWos direqtiva `safinanso sistemebis fulis gaTeTrebis mizniT gamoyenebis aRkveTis Sesaxeb~ (direqtiva #91/308/EEC, 14.02.91).** evropis sabWos direqtiva warmoadgens mniSvnelovan dokumentis ara marto evropis sabWos wevri qveynebisaTvis, aramed am organizaciis SesaZlo momavali wevrebisaTvis. direqtiva moiTxovs organizaciis wevri saxelmwifoebisagan cnon narkobiznesisagan da sxva danaSaulebisagan miRebuli Semosavlebis gaTeTreba sisxlis samarTlebriv danaSaulad. direqtiva moiTxovs safinanso dawesebulebebisagan, uzrunvelyon klientebis identifikacia, valutasTan dakavSirebuli msxvili garigebebis Seqmna da aRricxvis warmoeba da Seatyobinon xelisuflebas saeWvo garigebebis Sesaxeb. 91/308 EEC direqtivis Tanaxmad, saxelmwifoebma unda gansazRvron is struqturebi, romlebsac ufleba eqnebaT, miiRon informacia saeWvo garigebebis Sesaxeb.
- **kerZo sabanko seqtorSi Semosavlebis gaTeTrebis sawinaaRmdago sayovelTao direqtivebi `volfsbergis principebi»** - xelmowerilia 2000 wlis 30 oqtombers 7 saxelmwifos mowinave 11 bankis mier (*Barclays Bank, UBS AG, Citibank N.A., Deutsche Bank AG, HSBC, JP Morgan, The Chase Manhattan Private Bank, Societe Group*). am direqtivebis Tanaxmad, nebismieri kerZo bankis politikas safuZvlad unda edos wesi, romlis Tanaxmadac banks SeuZlia, daamyaros urTierToba mxolod im klientebTan, romelTa Semosavlebis wyarosTan dakavSirebiTac SeiZleba damtkicebul iqnas maTi kanonieri warmomavloba. amasTanave, `volfsbergis principebiT~ gaTvaliswinebulia, rom konkretuli zomebi fulis gaTeTrebis winaaRmdeg SeiZleba SemuSavebuli iqnas uSualod TiToeuli bankis mier. volfsbergis principebma ganamtkices bankebis dReisaTvis arsebuli politika - `icnobde Sens klientis~ da klientis saTanado da skurpulozuri (*Due diligence*) Seswavlis moTxovna.
- **`egmontis jgufis principebi~** - SemuSavebuli principebis moTxovnebis Sesabamisad, unda ganisazRvros da Camoyalibdes finansuri dazvervis qvedanayofi. sazRvargareTis qveynebis gamocdilebidan gamomdinare, sasurvelia, es organo dakompleqtdes mravalargovani SemadgenlobiT. mas unda gaaCndes saWiro sakanonmdeblo da materialuri resursebi maT Soris – safinanso informaciisadmi pirdapiri daSvebis ufleba da mieniWos iseTi statusi, romelic uzrunvelyofs safinanso seqtorTan ndobiTi urTierTobebis Camoyalibebas. saqarTvelos finansuri monitoringis samsaxuri gawevrianebulia egmontis jgufSi.

⁷ saqarTvelo konvencias saqarTvelos parlamentis 1997 wlis 28 maisis dadgenilebiT SeuerTda.

⁸ saqarTvelo konvencias SeuerTda saqarTvelos parlamentis 2004 wlis 17 Tebevris dadgenilebiT.

- **fulis gaTeTrebis winaaRmdeg finansur qmedebaTa specialuri komisiis⁹ 40 + 8 rekomendacia~ -**
dReisaTvis iTvleba fulis gaTeTrebis winaaRmdeg brZolis saukeTeso meqanizmad.

saerTaSoriso gamocdileba cxadyofs, rom maregulirebel organoebs unda gaaCndeT safinanso institutebeze kontrolis, saeWvo garigebeze informaciis mogrovebisa da gadacemisaTvis sakmarisad farTo uflebamosileba. aseve mniSvelovan sakiTxs warmoadgens makontrolbel organizaciebs Soris uflebamosilebebisa da pasuxismgeblobebis danawileba. calkeul qveynebsi saeWvo garigebebis Sesaxeb informacia dauyovnebliv gadaecema maregulirebeli organizaciebidan samarTaldamcav organizaciebs, romelnic aanalizeben informacias, atareben aucilebel gamoZiebas da aucileblobis SemTxvevaSi saqmes gadascemen sasamarTlos.

saqarTvelos, rogorc evropis sabWos wevr qveyanas, nakisri aqvs valdebuleba, moaxdinis sakuTari kanonmdeblobis harmonizacia evropis qveynebis kanonmdeblobasTan, maT Soris, ukanono Semosavlebis legalizaciis winaaRmdeg brZolis sferoSi prevenciuli sakanonmdeblo bazis Seqmna da Sesabamisi nabijebis gadadgma. `Savi fulis~ gaTeTrebis sferoSi saqarTvelos mdgomareobis Sefasebisa da saerTaSoriso sazogadobebis mxridan Sesabamisi gadawyvetilebis miRebis Sesaxeb sakiTxi seriozulad pirvelad daisva 2001 wlis 10-13 dekembers q. strasburgSi gamarTul fulis gaTeTrebis winaaRmdeg mimarTuli RonisZiebebis Semfasebel rCeul eqspertTa komitetis (*The Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures – MONEYVAL*) sxdomis samuSao Sexvedraze, sadac erT-erT ZiriTad sakiTxad saqarTvelos Sesaxeb momzadebuli angariSi (*The First Mutual Evaluation Report on Georgia*) ganixileboda. am moxsenebaSi saqarTvelos mier gadadgmuli nabijebi fulis gaTeTrebis prevenciisa da gamoZiebis TvalsazrisiT negatiurad iqna Sefasebuli. miuxedavad aRniSnul moxsenebaSi saqarTveloze dafiqsirebuli mravali uaryofiT poziciisa, saqarTvelo gadaurCa e.w. arakooperirebadi qveynebis `Sav siaSi” Setanas.

amis Semdgom fulis gaTeTrebis winaaRmdeg brZolis procesi gaaqturda da saqarTvelos prezidentis 2002 wlis 7 aprilis #395 gankargulebiT Seqmna uwyebaTaSorisi sakoordinacio komisia, romelsac daevala ori Tvis vadaSi fulis gaTeTrebis sawinaaRmdego RonisZiebaTa samoqmedo gegmisa da Sesabamisi sakanonmdeblo winadadebebis wardgena. 2002 wlis 8 aprilsve prezidentis mier gamoica gankarguleba `fulis gaTeTrebis, danaSaulebrivi saqmianobis Sedegad mopovebuli Semosavlebis moZiebis, amoRebis da konfiskaciis Sesaxeb~ strasburgis konvenciis xelmoweris Taobaze.

aRniSnul gegmaSi upirvelesi adgili fulis gaTeTrebis winaaRmdeg mimarTuli specialuri kanonis miRebas eWira. momzadebul iqna 4 alternatiuli kanonproeqti: finansTa saministros, erovnuli bankis, antikorufciuli biurosa da arasamTavrobo organizaciebis mier. xangrZlivi uwyebaTaSorisi davebis Semdeg gadawyda, rom mTavroba erovnuli bankis mier momzadebul kanonproeqts warudgenda parlaments da sabolood kanoni `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos parlamentma 2003 wlis 6 ivniss miiRo.

konvenciis me-14 muxlis moTxovnaTa Sesabamisad, kanoni aregulirebs saqarTveloSi ukanono Semosavlis legalizaciis gamovlenasTan da aRkveTis xelSewyobasTan dakavSirebul urTierTobebs saamisod uflebamosil organoebsa da Sesabamis pirebs Soris, agreTve urTierTobebs, erTi mxriv, saqarTvelos da, meore mxriv, sxva saxelmwifoTa uflebamosil organoebsa da saerTaSoriso organizaciebs Soris. igi ganmartavs iseT cnebebs, rogoricaa: ukanono Semosavali, ukanono Semosavlis legalizacia, monitoringi, Sida kontroli, saeWvo zona, sazadamxedvelo organo, saeWvo garigeba, samarTaldamcavi organo, finansuri monitoringis samsaxuri da a.S.

kanoni FATF-is me-8 rekomendaciis Tanaxmad, axdens im monitoringis ganmaxorciebeli pirebis identificirebas, romelTac evalebaT garigebebis monitoringi da informaciis miwodeba Sesabamisi organosadmi¹⁰; aseve gansazRvravs im sazadamxedvelo organoebs, romlebsac evalebaT monitoringis ganmaxorciebeli pirebis mier kanonis Sesrulebis kontroli. kanonis me-5 muxli gansazRvravs kontrols daqvemdebarebul garigebebs, romelTaTvisac dawesebulia zRvruli limiti 30 000 laris odenobiT rogorc naRdi, aseve unaRdo angariSsworebis SemTxvevaSi. mocemuli zRvruli limiti srul SesabamisobaSia rogorc FATF-is rekomendaciebTan, aseve evrokavSiris #91/308/EEC direqtivasTanac, romelTa mixedviTac es maCvenebeli ar unda aRematebodes 15 000 aSS dolars an evros. amasTanave Tu gadavxedavT sxva qveynebis gamocdilebas,

⁹ FATF - Financial Action Task Force on Money Laundering

¹⁰ monitoringis ganmaxorciebeli pirebi arian:

- komerciuli bankebi, valutis gadamcvleli punqtebi da arasbanko sadepozito dawesebulebebi;
- sabrokero kompaniebi da fasioni qaraldebis registratorebi;
- sadzRvevo kompaniebi da arasaxelmwifo sapensio sqemis damfuzneblebi;
- latariebisa da sxva momgebiani TamaSebis momwyobi pirebi;
- Zvirfas liTonebTan, Zvirfas qvebTan da maT nawarmTan da antikvarul nivTebTan dakavSirebuli saqmianobis ganmaxorciebeli pirebi;
- sabaJo organoebi;
- grantebisa da saqvelmoqmedo daxmarebebis gamcemi pirebi;
- notariusebi;
- safosto organizaciebi.

vnaxavT, rom savaldebulo identifikacias daqvemdebarebuli operaciebis saSualo zRvari 15 000 aSS dolaris farglebSi meryeobs:

sxvadasxva qveynebsi savaldebulo indentifikacias daqvemdebarebuli operaciebis limitis qveda zRvari		
#	qveyana	limiti (aSS. dolarebSi)
1	aSS	10,000
2	meqsika	valutis importi 10,000 sxva SemTxvevaSi 20,000
3	germania	16,700
4	bulgareTi	16,700
5	xorvatia	16,700
6	CexeTi	sabanko operaciebze 3,125 sxva SemTxvevaSi 15,625
7	ungreTi	7,000
8	rumineTi	8,800
9	poloneTi	sabanko operaciebze 8,800 fasian qaRaldebze 4,220
10	litva	sadazRvevo premia 2,500 valutis gadacvla 5,000 sxva SemTxvevaSi 2,500
11	latvia	sadazRvevo premia 785 erTjeradi premia 2,355 sxva SemTxvevaSi 15,700
12	avstralia	valutis eqsp-imp 5,000 sxva SemTxvevaSi 10,000
13	dania	13,000
14	italia	13,000
15	luqsemburgi	15,000

am TvalsazrishiT SeSfoTebas iwvevs 2006 wlis maisSi saqarTvelos parlamentSi gansaxilvelad Semosuli kanonproeqti `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb saqarTvelos kanonSi cvlilebebisa da damatebebis Sesaxeb~, romelic aRniSnuli zRvruli limitis 50 000 laris odenobamde awevas iTvaliswinebs. imeds gamovTqvamT, rom es cvlileba saqarTvelos parlamentis mier ar iqneba mxardaWerili.

moqmedi kanonmdebloba aseve adgens monitorings daqvemdebarebuli yvela garigebis CamonaTvals, maT Sorisaa: Tanxis miReba warmomdgenze sabanko CekiT, agreTve erTi nominalis banknotis sxva nominalis banknotze gadacvla; ucxouri valutis yidva-gayidva naRdi angariSsworebiT; arakooperirebad (aramoTanamSromle) zonaSi an ofSorul zonaSi registrirebul bankSi sabanko angariSis mflobelis mier Tanxis gadmoricxva saqarTveloSi arsebul sabanko angariSze an Tanxis gadaricxva saqarTvelodan aseT zonaSi registrirebul bankSi arsebul sabanko angariSze; arakooperirebad (aramoTanamSromle) zonaSi an ofSorul zonaSi registrirebuli piris mier sexsis gacema an miReba, an aseTi piris mier saqarTveloSi arsebuli sabanko dawesebulebis meSveobiT ganxorcielebuli nebismeri sxva garigeba (operacia); sxva saxelmwifoSi anonimuri piris sabanko angariSze Tanxis saqarTvelodan gadaricxva an anonimuri piris sxva saxelmwifoSi arsebuli sabanko angariSidan Tanxis saqarTveloSi gadmoricxva;sexsis gacema warmomdgenze fasiani qaRaldebiT uzrunvelyofiT; sexsis gacema uzrunvelyofis gareSe; iuridiuli piris registraciidan 3 Tvis ganmavlobaSi Tanxis mis sabanko angariSze Caricxva an am angariSidan gadaricxva; grantis an saqvelmoqmedo daxmarebis Tanxis angariSze Caricxva an angariSidan gadaricxva da a.S.

parlamentSi gansaxilvelad Semosuli kanonproeqti `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb saqarTvelos kanonSi cvlilebebisa da damatebebis Sesaxeb~ am mxrivac qmnis SeSfoTebis safuZvels. kerZod, igi aRar iTvaliswinebs, rom monitorings daeqvemdebaros arc ofSorul zonaSi registrirebul bankSi sabanko angariSis mflobelis mier Tanxis gadmoricxva saqarTveloSi arsebul sabanko angariSze an Tanxis gadaricxva saqarTvelodan aseT zonaSi registrirebuli bankebSi arsebul sabanko angariSebze, da arc ofSorul

zonaSi registirebuli piris mier sessis gacema an miReba, an aseTi piris mier saqarTveloSi arsebuli sabanko dawesebulebis meSveobiT ganxorcielebuli nebismeri sxva garigeba. warmodgenili kanonproeqtiT grantebisa da saqvelmoqmedo daxmarebebis gamcemi pirebic aseve aRar iqnebian monitoringis ganmaxorcielebeli pirebi. aRniSnuli cvlilebebi mizanSeuwonlad migvaCnia, ramdenadac saqarTveloSi ukanono Semosavlebis legalizaciasTan brZolis bolo 3 wlis praqtikam cxadyo, rogorc ofSorul zonaSi registirebuli iuridiuli pirebis, aseve saqvelmoqmedo organizaciebis kavSiri fulis gaTeTrebisa da terorizmis dafinansebis procesTan.

moqmedi kanoniT `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ gansazRvrulia monitoringis ganmaxorcielebeli pirebis valdebulebani. kerZod, identifikaciis, dokumentebis Senaxvis, informaciis sistematizaciis da Sida kontrolis sistemis Seqmnis da informaciis wardgenis valdebulebebi. ZiriTad princips warmoadgens monitoringis daqvemdebarebuli garigebebis identifiqireba da mis Sesaxeb kanoniT gansazRvruli informaciebis miwodeba Sesabamisi organosaTvis, agreTve, dadgenili procedurebis mixedviT Sida kontrolis ganxorcieleba. kanoni konvenciis Sesabamisad zustad adgens Sesabamisi organoebis pasuxismgeblobas da valdebulebebs informaciis dacvasa da gacemasTan dakavSirebiT da gansazRvravs sazedamxedvelo organoebis pasuxismgeblobas.

konvenciis gansaxilveli muxli Seicavs moTxovnas finansebTan dakavSirebuli operatiuli qvejgufis Seqmnis Taobaze, romelic Seasrulebs erovnuli centris funqciis informaciis Sekrebis, analiza da gavrcelbisTaTvis da aRnuxxavs fulis gaTeTrebis savaraudo SemTxvevebs. es uflbamosileba saqarTvelos kanonmdeblobiT miniWebuli aqvs finansuri monitoringis samsaxurs, romelic saqarTvelos prezidentis 2003 wlis 16 ivლის #354 brZanebulebiT Seiqmna saqarTvelos erovnul bankTan sajaro samarTlis iuridiuli piris statusiT. `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos kanonis Sesabamisad, finansuri monitoringis ganmaxorcielebeli pirebi valdebulni arian miawodon informacia monitoringis daqvemdebarebuli garigebebis Sesaxeb saqarTvelos finansuri monitoringis samsaxurs, sadac xdeba am informaciis sistematizacia da gaanalizeba, xolo sakmarisi safuZvlebis arsebobis SemTxvevaSi masalebi im garigebebis Taobaze, romlebic SesaZloa dakavSirebuli iyos ukanono Semosavlis legalizaciasTan an terorizmis dafinansebasTan, gadacema ukanono Semosavlis legalizaciaze sixxlissamarTlebrivi devnis specialur samsaxurs, romelic Seqmnilia saqarTvelos generalur prokuraturaSi.

2004 wlis 23 ivნის saqarTvelos finansuri monitoringis samsaxuri gaxda egmontis jgufis wevri, rac aZlevs samsaxurs aRniSnuli jgufis 101 wevr qveyanasTan operatiuli informaciis gacvlis saSualebas. finansuri monitoringis samsaxuris mier monitoringis ganmaxorcielebeli pirebisagan miRebuli da moZiebuli sxva informaciis analisis Sedegad gamovlenilia da `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos kanonis Sesabamisad generaluri prokuraturis specialuri samsaxurisaTvis gadacemulia 17 saqme, romelic SesaZloa ukavSirdebodes fulis gaTeTreas an terorizmis dafinansebas.

konvenciis mocemuli muxlis me-5 punqtis Sesabamisad, kanoni aseve gansazRvravs saerTaSoriso TanamSromlobis sakiTxebis, kerZod, sxva qveynebTan TanamSromlobas ukanono Semosavlis legalizaciis gamovlenisa da aRkveTis YRonisZiebebis gatarebis mizniT. `komerciuli bankebis Sesaxeb~ saqarTvelos kanonis Tanaxmad, saqarTvelos erovnul banks uflbeba aqvs komerciuli bankebis, maTi administratorების da makontrolebeli pirebis mimarT gamoiyenos sanqciebi, Tu bankma an misma romelime administratorma an makontrolebelma pirma daarRvia `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos kanonis moTxovnebi. igive debulebas iTvaliswinebs saqarTvelos organuli kanoni `saqarTvelos erovnuli bankis Sesaxeb~.

saqarTveloSi fulis gaTeTrebaze sixxlis samarTlebrivi kontrolis meqanizმის safuZvels warmoadgens saqarTvelos sixxlis samarTlis kodeqsis 194-e muxli, romelic awesebs sanqciebs ukanono Semosavlis legalizaciis winaarMdeგ.

da bolos, unda aRiniSnos, rom saqarTveloSi arakanonieri Semosavlebis legalizeba ZiriTadad mainc sabanko arxebis gverdis avliT SeiZleba xdebodes, ramdenadac qveyanaSi jerjerobiT ar SeiniSneba fulis gaTeTrebis iseTi Tanamedrove da aprobirebuli meTodebis gamoyeneba, rogoricაა: struqturuli depozitebisa da sabanko angariSebiT manipulireba, sxvadasxva monetარული instrumentების gamoyeneba (samgzavro Cekebi da sxva), sakredito da sadebeto baraTebis gamoyeneba, gadaricxvebi (*wire transfers*), iatakveSa bankebi (magaliTad, sistema `havalა~), smarფინგი (*smurfing* – mრავალი depozitiT manipulireba), paraleლური sakredito gadaricxvebi da a. S. Tumca, savaraudod adgili aqvs fulis gaTeTrebis sxva teqnologiebs, rogoricაა magaliTad, importze sakredito garantiebisa da sabaJo deklaraciebis falsificireba; barteri – mopარული qonebis (magaliTad, antikvariati da avtomobilebi) gadacvla sazRvarze an qveyნის SigniT da a.S.

ukanasknel periodSi gansakuTrebuli aqtualoba SeiZina saqarTvelos mier arაკontrolirebad teritorieბზე, kerZod - აფაზეTSi, danaSaulebrivi mizნებისათვის gანკუTვნილი finansuri saxსრების კონტროლირებადი sabanko სისტემის გverdis avლიT moZრაობისა და საფინანსო სტრუქტურების სენიRბული ფორმიT განTავსება-გამოყენების საკიTxმა. აფაზეTის ბანკების მეზობელი ტერიტორიებიდან (ZiriTadad რუსეთიდან) უპრობლემოდ Semotanილი ნარდი fulis sxva

qveynebsi gadaricxva xorcieldeba monitoringis garese. es bankebi (filialebi) ar floben arcerTi qveynis licenzias da ukanonod moqmed samewarneo struqturabs warmoadgenen, romlebic xSirad amofarebulni arian mezobeli qveynebis bankebis saxelwodebebs. maTTan aqtiurad Tanamromloben ruseTis federaciaSi registrirebuli sabanko dawesebulebebi da qmnia fulis gaTeTrebis saerTaSoriso `derefans~. am derefniT xorcieldeba rogorc fulis gaTeTrebis klasikuri sqemis pirveli safexuri – ganTavseba, aseve meore safexuric – ganSreveba. Ees Tanxebi ar eqvemdebareba finansur monitoringis moTxovnebs am qveynebis iuridiuli statusis, maTi saeWvo warmomavlobisa da sabanko zedamxedvelobis mouwesrigeblobis gamo. amasTan, aRniSnuli arakontrolirebadi konfliqturi zona dResdReobiT ar Sedis FATF-is arakooperirebadi teritoriebis CamonaTvalSi. yovelive es SesaniSnav pirobebs qmnia fulis gaTeTrebisTvis. amasTanave ukontrolo fuladi resursebis amgvvari brunva maRali riskis matarebilia aseTi Tanxebis terorizmis dasafinanseblad gamoyenebis TvalsazrisiTac.

SeniSvnebi da rekomendaciebi

- sasurvelia, saqarTvelos kanonmdeblobaSi termini `ukanono Semosavlis legalizaciis» nacvlad damkvidrdes termini `fulis gaTeTreba~, ramdenadac es ukanaskneli ukve aRar warmoadgens Jargons da 1988 wlis venis konvencidan moyolebuli aRiarebulia oficialur definiciad ara mxolod savaldebulo Zalis mqone saerTaSoriso standartebSi (magaliTad, 2003 wlis `gaerTianebuli erebis organizaciis konvencia fulis gaTeTrebis winaarmdeg~; 2002 wlis `gaerTianebuli erebis organizaciis konvencia terorizmis dafinansebis Sesaxe~; 2000 wlis `gaerTianebuli erebis organizaciis konvencia transnacionaluri organizebuli danaSaulis Sesaxe~), aramed umetesi qveynebis Sesabamis kanonmdeblobebSi (magaliTad, inglisi - `fulis gaTeTrebis regulirebis aqti~; Sveicaria - 1998 wlis aqti `kazinoSi fulis gaTeTrebis aqti~ da 1998 wlis `finansur seqtorsSi fulis gaTeTrebis aqti~; Turqeti - kanoni #4208 `fulis gaTeTrebis aRkveTis Sesaxe~);
- saqarTvelos kanonmdebloba fulis gaTeTrebis winaarmdeg saTanadod ar aregulirebs mis aRrulebaSi CarTuli subieqtis pasuxismgeblobisa da monawileobis donis dadgenis saSualebas, rogorc ierarqiul-struqturuli, aseve funkcionaluri datvirTvis TvalsazrisiTac;
- fulis gaTeTrebisTvis sixxlis samarTlis wesiT dasjadobis paralelurad unda gaTvaliswinebuli ignas fiskalur da samoqalaqo samarTlebriv sanqciebi da sasamarTlo devna, samoqalaqo samarTlawarmoebis CaTvliT;
- sixxlis samarTlis kanonmdeblobaSi fulis gaTeTrebasTan dakavSirebiT gaTvaliswinebuli unda ignas rogorc fizikur, ise iuridiul pirTa pasuxismgeblobac;
- saqarTvelos kanonSi `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxe~ arakooperirebadi (aramoTanamSromle) da/an sayuradRebo zonis terminis ganmarteba Camoyalibdes Semdegi redaqqiT: `qveyana an qveynis teritoriis nawili, romelsac ar gaaCnia finansuri institutebis regulirebisa da licenzirebis, saeWvo operaciebis kontrolis, iuridiul pirTa registraciisa da maT beneficiarTa identifikaciis saTanado sistema, romlis ukanono Semosavlis legalizaciis da terorizmis dafinansebis aRkveTis RonisZiebebi da sakanonmdeblo baza ar Seesabameba saerTaSoriso standartebis da romelic aseTad miCneulia saqarTvelos finansuri monitoringis samsaxuris mier kompetenturi saerTaSoriso organizaciebis informaciaze dayrdnobiT~;
- saqarTvelos kanonSi `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxe~ ofSoruli zonis terminis ganmarteba Camoyalibdes Semdegi redaqqiT: `ofSoruli zona - qveyana an qveynis teritoriis nawili, romelsac gaaCnia dabali an nulovani sagadasaxado ganakveTi SemosavalTa yvela an calkeul kategoriebze, sabanko da komerciuli saidumloebis dacvis gansakuTrebuli xarisxi, centraluri bankis sarezervo moTxovnebis minimaluri arseboba an sruli araroseboba, valutis konvertaciis SeuzRudaoba da romelic aseTad miCneulia saqarTvelos finansuri monitoringis samsaxuris mier kompetenturi saerTaSoriso organizaciebis informaciaze dayrdnobiT~;
- sasurvelia, saqarTvelos Sesabamisma uflbamosilma organoebma gaaqtiuron TanamSromloba saerTaSoriso organizaciebTan qveynis ukontrolo teritoriebze fulis gaTeTreba da terorizmis dafinansebis aRkveTis mizniT.

Tavi III

kriminalizacia da samarTaldacviti saqmianoba

muxli 15. erovnul sajaro Tanamdebobis pirTa mosyidva

TiToeuli monawile saxelmwifo atarebs iseT sakanonmdeblo da sxva RonisZiebebs, romlebic aucilebelia imisaTvis, rom sixxlissamarTlebrivad dasjad qmedebad, romelic Cadenilia ganzrax, CaiTvalos:

a) sajaro Tanamdebobis pirisaTvis dapirebis micema, SeTavazeza an gadacema, piradad an Suamavlebis daxmarebiT, Tavad Tanamdebobis pirisaTvis an sxva fizikuri an iuridiuli pirisaTvis raime aramarTlzomieri upiratesobisa imisaTvis, rom am Tanamdebobis pirma Caidinos raime moqmedeba an umoqmedoba Tavisi Tanamdebobrivi movaleobis Sesrulebisas;

b) sajaro Tanamdebobis piris mier, piradad an Suamavlebis daxmarebiT, gamoZalva an raime aramarTlzomieri upiratesobis miReba Tavad Tanamdebobis pirisaTvis an sxva fizikuri an iuridiuli pirisaTvis, raTa am Tanamdebobis pirma Caidinos raime moqmedeba an umoqmedoba Tvisi Tanamdebobrivi movaleobis Sesrulebisas.



konvenciis me-15 muxlis `a~ punqti avaldebulebs mis monawile saxelmwifoebis, SemoiRon sisxlissamarTlebrivi pasuxismgebloba iseTi qmdebebisaTvis, romlebic aRniSnuli danaSaulis calkeul stadiებს moicaven: meqrTameobis momzadeba, meqrTameobis mcdeloba, damTavrebuli danaSauli. yvela es stadia asaxulia saqarTvelos sisxlis samarTlis zogadi nawilis me-18 (danaSaulis momzadeba), me-19 (danaSaulis mcdeloba) da 338-e da 339-e muxlebSi (damTavrebuli danaSauli). es muxlebi srulad Seesabameba konvenciis me-15 muxls. amis gamo xelmeored imave qmedebobis danaSaulad miCneva srulad usafuZvlo da alogikuri iqneboda.

ufro detalurad Tu vimsjelebT, konvencia iTvaliswinebs iseT normebs, romlebic arsebiTad emTxveva saqarTvelos moqmedi sisxlis samarTlis kodeqsis Sesabamis muxlebs meqrTameobis Sesaxeb. konvenciis me-15 muxlis `a~ punqti Seicavs rekomendacias, monawile saxelmwifosaTvis ganaxorcielos iseTi sakanonmdeblo da sxva RonisZiebebi, romlebic aucilebelia imisaTvis, rom sisxlissamarTlebrivad dasjad ganzrax qmedebad CaiTvalos sajaro Tanamdebobis pirisaTvis raime aramarTlzomieri upiratesobis SeTavazeza, micema an gadacema, Ppiradad an Suamavlis meSveobiT, Tavad Tanamdebobis pirisaTvis an sxva fizikuri an iuridiuli pirisaTvis, raTa am Tanamdebobis pirma Tanamdebobrivi movaleobis Sesrulebisas Caidinos raime moqmedeba an umoqmedoba.

konvenciis am muxlis Sinaarsi arsebiTad emTxveva saqarTvelos sisxlis samarTlis kodeqsis kerZo nawilis 339-e muxliT gaTvaliswinebul normas (qrTamis micema), romelic iTvaliswinebs pasuxismgeblobas qrTamis micemisaTvis. SeiZleba iTqvas, rom swored am ori muxlis Sepirispireba-Sedareba gvaZlevs safuZvels davaskvnaT, rom saWiro ar aris raime cvlilebebis Setana ssk-is Sesabamis muxlebSi.

konvencia aseve iTvaliswinebs pasuxismgeblobas sajaro Tanamdebobis pirisaTvis raime aramarTlzomieri dapirebis SeTavazezisaTvis. aRniSnuli qmedeba dRes moqmedi sisxlis samarTlis kodeqsiT pirdapir ar aris gaTvaliswinebuli, magram Sesazlebelia moiazrebodes saqarTvelos sisxlis samarTlis kodeqsiT gaTvaliswinebuli `danaSaulis mcdelobis` qveS. amdenad, konvenciis es moTxovnac gaTvaliswinebuli da regulirebulia dRes moqmedi saqarTvelos sisxlis samarTlis kodeqsiT.

Tu korufciis cnebas gavigebT farTo mniSvnelobiT da masSi vigulisxmebT yvela angarebiTi saxis danaSauls, maSin sisxlis samarTlis kodeqsiT mრავალი saxis cvlilebebis Setana iqneba saWiro, xolo Tu korufcias misi pirdapiri daniSnulebisamebr aRviqvamT, maSin cvlilebebis Setana saWiro iqneba mxolod meqrTameobis amsaxveli muxlebis makvalificirebel garemoebebSi. rac Seexeba Suamavlis meSveobiT sajaro Tanamdebobis pirisaTvis aramarTlzomieri upiratesobis micemas, gadacemas, agreTve sajaro Tanamdebobis piris mier Suamavlis meSveobiT aramarTlzomieri upiratesobis gamoZalvas, am SemTxvevaSi dRes moqmedi sisxlis samarTlis kanonmdeblobiT Suamavals pasuxismgebloba daekisreba rogorc danaSaulSi Tanamonawiles. danaSaulSi Tanamonawilis pasuxismgeblobis sakiTxebs ki aregulirebs ssk-is me-7 TavSi mocemuli normebi.

konvenciis me-15 muxlis `b~ punqti iTvaliswinebs pasuxismgeblobas Tanamdebobis piris mier gamoZalvisa da sxva monaTesave qmedebis ganaxorcielebisaTvis. Eam muxliT gaTvaliswinebul analogiur debulebebs arsebiTad Seicavs dRes moqmedi sisxlis samarTlis kodeqsis 181-e muxli (gamoZalva), romelSic saxeldebiT aris gaTvaliswinebuli pasuxismgebloba gamoZalvisaTvis. konvenciis me-15 muxlis `b~ punqtiT gaTvaliswinebul sxva aramarTlzomier qmedebebi, kerZod, raime aramarTlzomieri upiratesobis miReba Tavad Tanamdebobis piris mier, Gasaxulia ssk-is sxvadasxva muxlebSi, kerZod, xsenebuli kodeqsis im TavSi, romelic mTlianad eZRVneba pasuxismgeblobas samoxeleo danaSaulisaTvis. mxedvelobaSi gvaqvs sisxlis samarTlis kerZo nawilis 332-e muxli (samsaxurebrivi uflbamosilebis borotad gamoyeneba), muxli 333-e (samsaxurebrivi uflbamosilebis gadameteba), muxli 340-e (kanoniT akrZaluli saCuqris miReba), muxli 341-e (samsaxurebrivi syalbe), muxli 342-e (samsaxurebrivi gulgriloba).

SeniSvnebi da rekomendaciebi

- **aramarTlzomieri dapirebis SeTavazeza dRes moqmedi sisxlis samarTlis kodeqsiT dasjad qmedebad pirdapir ar aris gaTvaliswinebuli, magram igi SeiZleba moiazrebuli ignes ssk-s me-19 muxliT gansazRvruli danaSaulis - «danaSaulis mcdelobis» – qveS.**

saerTaSoriso sapaarlamento krebis wevrs, romlis monawile saqarTveloa, im saerTaSoriso sasamarTlos an sasamarTlo organos mosamarTles da Tanamdebobis pirs, romlis iurisdicicias cnobs saqarTvelo~.

aRniSnuli kanonproeqtiT SemoTavazebuli cvlilebebi uTuod misasalmebelia, Tumca vfiqrobT, rom konvenciiT SemoTavazebul ucxo qveynisa da saerTaSoriso organizacii sajaro Tanamdebobis pirTa wre gacilebiT farToa da saqarTvelos kanonmdeblobaSi adekvaturad unda iqnes asaxuli. magaliTad: pirTa wrem unda moicvas im saerTaSoriso da/an regionaluri organizaciebis uflebamosili warmomadgenlebic, romelTa wevric saqarTvelo ar gaxlavT, magram Tavisi saqmianobiT SesaZloa, dakavSirebuli iyvnen qveyanasTan. aseTi magaliTis motana mravlad SeiZleba, Tundac evrokavSiris mier delegirebuli struqturebis saxiT. konvencia ucxo qveynis sajaro Tanamdebobis pirad moiazrebs im nebismieri pirs, romelic asrulebs raime sajaro funqcias sxva saxelmwifosaTvis, maT Soris, sajaro uwyebisaTvis an sajaro sawarmosaTvis. aq igulisxmeba magaliTad saxelmwifo Sesyidvebis ganmaxorcielebeli kompaniebis warmomadgenlebic, romlebic TavisTavad ar warmoadgenen sajaro moxelebs, magram Seadgenen am muxlis subieqtebs konvenciiis miznebisaTvis. yovelive es aseve unda iqnes asaxuli saqarTvelos kanonmdeblobaSi.

iusticiis saministros mier momzadebuli kanonproeqtiT gansazRvrulia, rom sixxlis samarTlis kodeqsis 338-e muxlis pirveli nawili Camoyalibdes Semdegi redaqqiT:

1. moxelis an masTan gaTanabrebuli piri mier pirdapir an arapirdapir fulis, fasiani qaRaldis, sxva qonebis, qonebrivi sargeblis an sxva raime aramarTlomieri upiratesobis miReba an moTxovna, aseve aseTis SeTavazebis an dapirebis miReba, Tavis an sxva piri sasargeblod, raTa am moxelem an masTan gaTanabrebulma pirma Tanamdebobrivi ufleba-movaleobebis Sesrulebisas qrTamis mimcemis an sxva piri sasargeblod ganaxorcielos raime moqmedeba an Tavi Seikavos raime moqmedebis ganxorcielebisagan an gamoiyenos Tavisi Tanamdebobrivi avtoriteti analogiuri miznis misaRwevad, agreTve mis mier samsaxurebrivi mfarvelobis ganxorcieleba, _

isjeba Tavisuflebis aRkveTiT vadiT xuTidan aT wlamde~.

338-e muxlis SeniSvnis teqsti CaiTvalos pirvel puntad da daematos Semdegi Sinaarsis me-2 punti:

2. am muxlis, aseve 339-e da 339' muxlebis miznebisaTvis moxelesTan gaTanabrebuli piri aseve gulisxmobs ucxo qveynis saxelmwifo Tanamdebobis pirs (maT Soris sakanonmdeblo an/da administraciuli uflebamosilebis ganmaxorcielebeli saxelmwifo organos wevrs), im saerTaSoriso organizacii an organos, romelTa wevri aris saqarTvelo, Tanamdebobis pirs an xelSekrulebis safuZvelze daqiravebul TanamSromels aseve nebismier mivlinebul an aramivlinebul pirs, romelic asrulebs am Tanamdebobis piri an TanamSromlis funqciebis Sesabamis funqciebs, im saerTaSoriso sapaarlamento asambleis wevrs, romlis monawile saqarTveloa, im saerTaSoriso sasamarTlos an sasamarTlo organos mosamarTles da Tanamdebobis pirs, romlis iurisdicicias cnobs saqarTvelo~.

kanonproeqti `saqarTvelos sixxlis samarTlis kodeqsi cvlilebebisa da damatebebis Sesaxeb` aseve iTvaliswinebs 339-e muxlis Camoyalibebas Semdegi redaqqiT:

1. muxli 339. qrTamis micema

1. moxelisaTvis an masTan gaTanabrebuli pirisaTvis, pirdapir an arapirdapir, fulis, fasiani qaRaldis, sxva qonebis, qonebrivi sargeblis an sxva raime aramarTlomieri upiratesobis dapireba, SeTavazeba an miniWeba moxelis (masTan gaTanabrebuli piri) an sxva piri sasargeblod, raTa am moxelem (masTan gaTanabrebulma pirma) Tanamdebobrivi ufleba-movaleobebis Sesrulebisas qrTamis mimcemis an sxva piri sasargeblod ganaxorcielos raime moqmedeba an Tavi Seikavos raime moqmedebis ganxorcielebisagan an gamoiyenos Tavisi Tanamdebobrivi avtoriteti analogiuri miznis misaRwevad, agreTve ganaxorcielos samsaxurebrivi mfarveloba, _

isjeba jarimiT an gamasworebeli samuSaoTi vadiT or wlamde an Tavisuflebis SezRudviT imave vadiT an tusaRobiT vadiT sam Tvemde anda Tavisuflebis aRkveTiT vadiT or wlamde.

2. igive qmedeba, Cadenili:

a) ukanono qmedebis Casadenad;

b) organizebuli jgufis mier, -

isjeba Tavisuflebis aRkveTiT vadiT oTxidan rva wlamde.

SeniSvna:

1. sixxlissamarTlebrivi pasuxismgeblobisagan Tavisufleba qrTamis mimcemi, Tu mas qrTami gamosZales an Tu man qrTamis micemis Sesaxeb nebayoflobiT ganaxada sixxlis samarTlis saqmis aRmZvrel organoSi.

2. am muxliT gaTvaliswinebuli qmedebisaTvis iurdiuli piri isjeba jarimiT~.

SeniSvnebi da rekomendaciebi

- saqarTvelos kanonmdeblobaSi ganisazRvros ucxo qveynisa da saerTaSoriso organizacii sajaro Tanamdebobis pirebis cnebebi zemoT gamoTqmuli SeniSvnebis gaTvaliswinebiT.

- saqarTvelos kanonmdeblobaSi ganisazRvros sisxlissamarTlebrivi pasuxismgebloba ucxo qveynisa da saerTaSoriso organizaciis sajaro Tanamdebobis pirebis mier korufciuli samarTaldarRvevis CadenisaTvis.
- saqarTvelos kanonmdeblobaSi ganisazRvros ucxo qveynis sajaro Tanamdebobis pirTa da saerTaSoriso organizaciebis sajaro Tanamdebobis pirTa mosyidvis SemTxvevaSi iuridiul pirTa sisxlissamarTlebrivi pasuxismgebloba.
- saqarTvelos mTavrobam ganixilos ekonomikuri TanamSromlobisa da ganviTarebis organizaciis «saerTaSoriso biznes operaciebSi ucxo qveynis sajaro Tanamdebobis pirTa meqrTameobis winaaRmdeg» konvenciis principebis sakanonmdeblo implementaciis da Tavad konvenciasTan mierTebis Sesazlebloba.

muxli 17. sajaro Tanamdebobis piris mier qonebis dataceba, aramarTlzomieri miTviseba an sxva mizniT gamoyeneba

TiToeuli monawile saxelmwifo atarebs iseT sakanonmdeblo da sxva RonisZiebebs, romlebic aucilebelia imisaTvis, rom sisxlis samarTlebrivad dasjad qmedebad, rodesac igi Cadenilia ganzrax, CaiTvalos Zarcva, aramarTlzomieri miTviseba an sxva mizniT gamoyeneba sajaro Tanamdebobis piris mier gamorCenis mizniT sakuTari TavisaTvis an sxva fizikuri an iuridiuli pirisaTvis raime qonebis, sajaro an kerZo saSualebebis an fasiani qaRaldebis an nebismieri sxva fasiani sagnis, rac Tanamdebobis piris samsaxurebrivi mdgomareobidan gamomdinare mis gankargulebaSia.



konvenciis me-17 muxlis Sesatyvis normebs Seicavs saqarTvelos sisxlis samarTlis kodeqsis 332-e muxli, romelic iTvaliswinebs pasuxismgeblobas samsaxurebrivi uflebamobilebis borotad gamoyenebisaTvis. saqarTvelos sisxlis samarTlis kodeqSi calkea gamoyofili ekonomikuri danaSaulis Tavi. aq moTavsebulia normebi sakuTrebis winaaRmdeg mimarTuli danaSaulisaTvis (Zarcva -- 178-e muxli, miTviseba an gaflangva -- 180-e muxli).

dRes moqmedi ssk-is 178-e muxlis mixedviT, dasjadia iseTi qmedeba, rogoricaa Zarcva anu sxvisi moZravi qonebis aSkara marTsawinaaRmdego daufleba. Zarcvis aSkara xasiaTi ki imaSi mdgomareobs, rom sxvisi qonebis angarebiT daufleba xdeba TvalnaTliv, rogorc im pirisaTvis, vis sakuTrebaSi, mflobelobasa an sargeblobaSic imyofeba nivTi, aseve sxva adamianevisaTvisac. vinaidan, sisxlis samarTlis kodeqsis me-8 karis 24-e Tavi eZRvneba sakuTriv sakuTrebis winaaRmdeg mimarTul danaSauls, aRniSnuli muxlebi ganTavsebulia arian swored 24-e Tavis im karSi, romelsac ekonomikuri danaSauli ewodeba.

dRes moqmedi ssk-is 182-e muxlis pirveli nawilis mixedviT dasjadia sxvisi moZravi nivTis marTlsawinaaRmdego miTviseba an gaflangva, Tu es nivTi imyofeboda mimTvisebelis an gamflangvelis marTlzomier mflobelobaSi an gameblobaSi. mas Semdeg, rac axalma sisxlis samarTlis kodeqSma yvela saxis danaSaulebrivi xelyofisaTvis Tanabari pasuxismgebloba daawesa, am danaSaulis subieqtad ToTxmet wels miRweuli fizikuri piri gvevlineba, romelsac mesakuTrem mflobelobasa an gameblobaSi gadasca moZravi nivTi. am danaSaulis subieqti ar SeiZleba iyos Tanamdebobis piri. Tu mimTvisebeli Tanamdebobis piria, misi moqmedeba dakvalificirdeba 182-e muxlis meore nawiliT, sadac laparakia miTvisebaze samsaxurebrivi mdgomareobis gamoyenebiT. es ukanaskneli ki unda gavigoT, roca aseT moqmedebas Cadis specialuri subieqti, romelic saxelmwifo an sazogadoebriv organizaciaSi, dawesebulebaSi an sawarmoSi (igulisxmeba arasamTavroboc) asrulebs movaleobebs, rac dakavSirebulia saxelmwifo aqtebis, anu ganmkargulebeli, organizaciul-sameurneo, administraciuli an sxva amgvარი ფუნქციების განხორციელებას. aRniSnuli garemoeba kanonmdebelis mier damamZimebel garemoebadaa miCneuli da Sesabamisad am SemTxvevaSi sanqciac ufro mkacria.

SeniSvnebi da rekomendaciebi

- konvenciis me-17 muxlis debulebebi saTanadod regulirdeba saqarTvelos sisxlis samarTlis kanonmdeblobiT.

muxli 18. korufciuli zegavlana

TiToeuli monawile saxelmwifo ganixilavs iseTi sakanonmdeblo da sxva RonisZiebebis gatarebis SesaZleblobebs, romlebic aucilebelia imisaTvis, rom sixxlissamarTlebrivad dasjad qmedebad, rodesac igi Cadenilia ganzrax, CaiTvalos:

a) dapirebis micema, SeTavazeba an gadacema sajaro Tanamdebobis pirisaTvis, piradad an Suamavlebis daxmarebiT, raime aramarTlzomieri upiratesobisa, raTa am sajaro Tanamdebobis pirma an sxva aseTma pirma borotad gamoiyenos Tavisi arsebuli an savaraudo zegavlana imisaTvis, rom monawile saxelmwifos administraciisagan an sajaro organosagan miiRos raime aramarTlzomieri upiratesoba aseTi moqmedebobis pirveli iniciatorisaTvis an nebismieri sxva pirisaTvis;

b) gamoZalva an sajaro piris mier an nebismieri sxva piris mier, piradad an Suamavlebis daxmarebiT, raime aramarTlzomieri upiratesobis miReba, sakuTari TavisaTvis an sxva pirisaTvis, raTa am sajaro Tanamdebobis pirma an aseTma pirma borotad gamoiyenos Tavisi arsebuli an savaraudo zegavlana imisaTvis, rom monawile saxelmwifos administraciisagan an sajaro organoebisagan miiRos raime aramarTlzomieri upiratesoba.



konvenciis me-18 muxliT rekomendirebulia, monawile saxelmwifoebis mier sixxlis samarTlis kanonmdeblobaSi calke muxlad dawesdes pasuxismgebloba angarebis mizniT Tanamdebobis piris an masTan gaTanabrebuli sxva piris mier zegavlenis borotad gamoyenebisaTvis, anu korufciuli zegavlenisaTvis. korufciuli zegavlana Tavdapirvelad evropis sabWos 1999 wlis 27 ianvris `korufciaze sixxlis samarTlis evropulma konvenciam~ aRiara calke danaSaulebriv qmedebad. am ori konvenciis urTierTSedarebiT SeiZleba davaskvnaT, rom gaeros konvenciis mocemuli me-18 muxlis a) punqti moicavs e.w. `aqtiuri korufciuli zegavlenis~ Semadgenlobas, maSin rodesac `b~ punqtsi saubarua e.w. `pasiur korufciuli zegavlenaze~.

konvenciis me-18 muxlis Sesabamisad, aucilebelia, ganzrax danaSaulad gamoxaddes qmedeba, rac gamovlindeba sajaro Tanamdebobis pirisaTvis piradad an Suamavlis meSveobiT dapirebis micemaSi, SeTavazebasa an gadacemaSi raime aramarTlzomieri upiratesobis miRebis mizniT. aseTi qmedebis mizani aris is, rom swored am Tanamdebobis pirma an masTan gaTanabrebulma moxelem borotad gamoiyenos Tavisi arsebuli, realuri an potenciuri zegavlana imisaTvis, rom Sesabamisi saxelmwifos administraciisagan an sxva sajaro organosagan miiRos raime marTIsawinaaRmdego upiratesoba, Tanac es upiratesoba gamiznuli unda iyos pirveli iniciatorisaTvis an nebismieri sxva pirisaTvis.

dRes moqmedi saqarTvelos sixxlis samarTlis kodeqsis 332-e muxlis mixedviT uflbamosilebis borotad gamoyenebad SeiZleba CaiTvalos Tanamdebobis piris mier ganxorciebuli iseTi qmedebani, romlebic gamomdinareobs misi samsaxurebrivi uflbamosilebidan da dakavSirebulia iseTi uflbebis da movaleobebis ganxorciebasTan, romlebiTac aRWurvilia es piri dakavebuli Tanamdebobis gamo. saqarTvelos sixxlis samarTlis kodeqsis 332-e muxlis dRes arsebuli redaqlia gamoricxavs sixxlissamarTlebriv pasuxismgeblobas Tanamdebobis piris mier dakavebuli Tanamdebobis avtoritetis, kavSirebis, gavlenis da a.S. gamoyenebisTvis. radgan am mimarTulebiT saqarTvelos sixxlis samarTlis kodeqss axasiaTebs xarvezi, sasamarTlo praqtikis Rmad Seswavlis pirobiT SeiZleba, vifiqroT 332-e muxlis calkeuli formebis gamoyofisa da maTvis Sesabamisi sasjelis dawesebaze¹¹. (aqve unda iTqvav, rom ssk-is 332-e muxliT SemoTavazebuli norma ufro zogadia da igi moicavs ufro farTo wres, xolo konvenciis zemoxsenebuli muxli am normas ufro dawvrilebiT aRwers).

amasTan, mxedvelobaSi unda miviRoT is garemoeba, rom ssk-is kerZo nawilis muxlebi gamoiyeneba zogadi nawilis muxlebtan erTad. amis gamo, magaliTad, konvenciis me-18 muxlSi moxsenebuli konkretuli qmedebani mocemulia ssk-is zogadi nawilis im debulebebSi, romlebic miZRvnilia danaSaulis momzadebis,

¹¹ iusticiis saministros mier momzadebuli kanonproeqti `saqarTvelos sixxlis samarTlis kodeqsis cvilebebisa da damatebebis Sesaxeb~ iTvaliswinebs kodeqsis Semdegi Sinaarsis 339¹ muxlis damatebas:

`muxli 339¹. korufciuli zemoqmedeba

1. piris mier, Tavisi an sxva piris interesebisaTvis, pirdapir an arapirdapir fulis, fasiani qaRaldis, sxva qonebis, qonebrivi sargeblis an sxva raime aramarTlzomieri upiratesobis dapireba, SeTavazeba an miniWeba im pirisaTvis, romelic amtkicebs an adasturebs, rom mas SeuZlia aramarTlzomieri zemoqmedebis moxdena moxelis an masTan gaTanabrebuli piris mier gadawyvetilebis miRebaze, miuxedavad imisa, ganxorcielda Tu ara aseTi zemoqmedeba an/da miRebul iqna Tu ara am zemoqmedebiT sasurveli Sedegi, _

isjeba jarimiT an gamasworebeli samuSaoTi vadiT or wlamde an Tavisuflebis SezRudviT imave vadiT an tusaRobiT vadiT sam Tvemde anda Tavisuflebis aRkveTiT vadiT or wlamde.

SeniSvna: am nawiliT gaTvaliswinebuli danaSaulisaTvis pasuxismgeblobisagan Tavisufleba piri, romelic Tavisi mier am nawiliT gaTvaliswinebuli danaSaulis Cadenis Taobaze nebayoflobiT ganacxadebs sixxlis samarTlis saqmis aRmZvrel organoSi.

2. piris mier, romelic amtkicebs an adasturebs, rom mas SeuZlia aramarTlzomieri zemoqmedebis moxdena moxelis an masTan gaTanabrebuli piris mier gadawyvetilebis miRebaze Tavisi an sxva piris sasargeblad im pirsagan, romelic moqmedebis Tavisi an sxva piris interesebSi pirdapir an arapirdapir fulis, fasiani qaRaldis, sxva qonebis, qonebrivi sargeblis an sxva raime aramarTlzomieri upiratesobis moTxovna an miReba, aseve aseTis Taobaze dapirebis an SeTavazebis miReba, miuxedavad imisa, ganxorcielda Tu ara aseTi zemoqmedeba an/da miRebul iqna Tu ara am zemoqmedebiT sasurveli Sedegi, _

isjeba Tavisuflebis aRkveTiT vadiT samidan xuT wlamde.

3. am muxlis me-2 nawiliT gaTvaliswinebuli qmedeba Cadenili organizebuli jgufis mier, _

isjeba Tavisuflebis aRkveTiT vadiT oTxidan Svid wlamde.

SeniSvna: am muxliT gaTvaliswinebuli qmedebisaTvis iuridiuli piri isjeba jarimiT~.

mcdelobis da Tanamonawileobis sakiTxebisadmi. amitom, magaliTad, dapirebis micemas, SeTavazebas da sxv. moicavs ssk-is zogadi nawiliT gaTvaliswinebuli danaSaulis momzadebisa da mcdelobis stadiebi.

konvenciis me-18 muxlis `b~ punqti calke gamoyofs normas gamoZalvis Sesaxeb. unda aRiniSnos, rom saqarTvelos sisxlis samarTlis kodeqsi ar Seicavs pasuxismgeblobis diferenciacias gamoZalvis subieqtების mimarT da maTTvis erTian sasjels awesebs. Tu gamoZalvas Tan axlavs arsebuli an savaraudo samsaxurebrivi zegavlenis gamoyeneba, maSin ssk-iT saqme gveqneba danaSaulTa erTobliobasTan -- gamoZalva da samsaxurebrivi mgdomareobis borotad gamoyeneba (an samsaxurebrivi zegavlenis borotad gamoyeneba). im SemTxvevaSi ki, Tu sisxlis samarTlis kodeqSi calke muxlad gamoiyofa muxli Tanamdebobis piris mier zegavlenis borotad gamoyenebisaTvis, maSin konvenciis me-18 muxlis `b~ punqtiT gaTvaliswinebuli qmedeba dakvalificirdeba, rogorc gamoZalva da zegavlenis borotad gamoyeneba.

SeniSvnebi da rekomendaciebi

- saqarTvelos sisxlis samarTlis kodeqsis 332-e muxlis dRes arsebuli redaqcia gamoricxavs sisxlissamarTlebriv pasuxismgeblobas Tanamdebobis piris mier dakavebuli Tanamdebobis avtoritetis, kavSirebis, gavlenis da a.S. gamoyenebisTvis. radgan am mimarTulebiT saqarTvelos sisxlis samarTlis kodeqss axasiaTebis xarvezi, maSin sasamarTlo praqtikis Rmad Seswavlis pirobiT sasurvelia, moxdes 332-e muxlis calkeuli formebis gamoyofisa da maTTvis Sesabamisi sasjelis daweseba.
- saqarTvelos sisxlis samarTlis kodeqsis kerZo nawilis im TavSi, romelic eZRvneba samoxeleo danaSauls (XXXIX Tavi) calke Semadgenlobad ganisazRvros Tanamdebobis piris mier angarebis mizniT zegavlenis borotad gamoyeneba e.i. korufciuli zegavlena.
- konvenciis me-18 muxlis `b~ punqti calke gamoyofs normas gamoZalvis Sesaxeb. saqarTvelos sisxlis samarTlis kodeqsi ar Seicavs pasuxismgeblobis diferenciacias gamoZalvis subieqtების mimarT da maTTvis awesebs erTian sasjels.

muxli 19. Tanamdebobrivi uflebamosilebis borotad gamoyeneba

TiToeuli monawile saxelmwifo ganxilavs iseTi sakanonmdeblo da sxva RonisZiebebis gatarebis SesaZleblobas, romlebic aucilebelia imisaTvis, rom sisxlissamarTlebrivad dasjad qmedebad, rodesac igi Cadenilia ganzrax, CaiTvalos samsaxurebrivi uflebamosilebis an samsaxurebrivi mgdomareobis borotad gamoyeneba, anu kanonsawinaaRmdego moqmedebis an umoqmedebis Cadena sajaro Tanamdebobis piris mier Tavisi funqciebis Sesrulebas, raTa mas mieRo raime aramarTlomieri upiratesoba sakuTari TavisaTvis an sxva fizikuri an iuridiuli pirisaTvis.



dRes moqmedi saqarTvelos sisxlis samarTlis kodeqsis 332-e muxlis dispozicia, SeiZleba iTqvas, rom srul SesabamisobaSia konvenciis mocemuli muxlis moTxovneTan. amavdroulad unda aRiniSnos, rom saqarTvelos parlamentma Seitana cvlileba ssk-Si, romlis mixedviTac 332-e muxliT gaTvaliswinebuli danaSaulisaTvis pasuxismgebloba ekisreba rogorc moxeles da masTan gaTanabrebul pirs, aseve saqarTvelos zogadi administraciuli kodeqsis Sesabamisad administraciuli aqtis gamomcem pirsac. aseve cvlileba ganicada TviT qmedebis definiciam. kerZod, xsenebuli muxlis definiciaSi mieTiTeba, rom uflebamosilebis borotad gamoyeneba unda iyos mimarTuli sajaro interesebis sawinaaRmdegod. am cvlilebebiT gaizarda zemoxsenebuli muxlis subieqtTa wre. kanonmdebelma 332-e muxlis dispoziciaSic sagangebod miuTiTa, rom qmedeba mimarTuli unda iyos sajaro interesis sawinaaRmdegod.

332-e muxliT gaTvaliswinebuli danaSaulis obieqturi mxare gamoixateba saxelmwifo moxelis an masTan gaTanabrebuli piris mier Tavisi samsaxurebriv moTxovnaTa sawinaaRmdego qmedebis CadenaSi da amiT saxelmwifo an sazogadoebrivi interesebisa da calkeul fizikur da iuridiul pirTa uflebebisa da kanonieri interesebis arsebiT darRvevaSi. samsaxurebrivi uflebamosilebis borotad gamoyenebis konkretuli formebi mravalgvaria, vinaidan moxelis saqmianobis sfero metad farToa. amasTanave unda aRiniSnos, rom sisxlissamarTlebriv terminologiaSi `gamoyeneba~ gulisxmobs rogorc aqtiur, ise pasiur moqmedebasac. umetes SemTxvevaSi moxelis mier samsaxurebrivi mgdomareobis gamoyeneba aqtiur moqmedebaSi gamoixateba, magram sasamarTlo praqtikaSi arcTu iSviaTia, rodesac moxele ar asrulebs Tavisi uflebamosilebas da es umoqmedobaSi vlindeba.

SeniSvnebi da rekomendaciebi

- saqarTvelos sisxlis samarTlis kodeqsi srul SesabamisobaSia me-19 muxlis konvenciis moTxovnebTan.

muxli 20. ukanono gamdidreba

TiToeuli monawile saxelmwifo Tavisi konstituciisa da Tavisi samarTlebrivi sistemis fuZemdebluri principebis dacviT ganxilavs iseTi sakanonmdeblo da sxva RonisZiebebis ganxorcielebis SesaZleblobas, romlebic aucilebelia imisaTvis, rom sisxlissamarTlebrivad dasjad qmedebad, rodesac igi Cadenilia ganzrax, CaiTvalos ukanono gamdidreba anu sajaro Tanamdebobis piris aqtivebis mniSvnelovani zrda, rodesac igi imdenad aWarbebs mis kanonier Semosavals, rom mas ar SeuZlia es gonivrulad daasabuTos.



konvenciis me-20 muxli iTvaliswinebs sisxlissamarTlebriv pasuxismgeblobas Tanamdebobis piris mier ukanono Semosavlis miRebisaTvis. TavisTavad am normiT gaTvaliswinebuli debuleba dasabuTebulad gveCvenebs, magram aq warmoiSoba erTi metad seriozuli sakiTxi, romelic mxedvelobaSi unda miviRoT am debulebsa da sisxlis samarTlis kodeqsis Sesabamisi muxlebis Tanafardobis gacnobierebisas.

saqme isaa, rom saqarTvelos sisxlis samarTlis kodeqsis Sesabamisi muxlebi sagangebod iTvaliswineben sisxlissamarTlebriv pasuxismgeblobas ekonomikuri danaSaulisaTvis. ssk-is me-8 karis 25-e TavSi gaTvaliswinebulia normebi ekonomikur danaSaulTa Sesaxeb. kerZod, esenia normebi gamoZalvis, miTvisebisa-gaflangvisa da sxva amdagvari danaSaulebis Sesaxeb. sruliad logikurad warmoiSoba sakiTxi imis Taobaze, Tu ra urTierToba iqneba am normebsa da konvenciis me-20 muxliT rekomendirebul normebs Soris.

konvenciis me-20 muxlis pirdapiri asaxva moqmed ssk-Si vfiqrobT, aramarTebulia sanam Seswavlili ar iqneba ekonomikur danaSaulTa Sesaxeb moqmedi kanonmdeblobis efeqturobis sakiTxi.

amavdroulad, mxedvelobidan ar unda gamogvrCes is garemoebac, rom moxseniebuli sakiTxis gadawyveta ukavSirdeba administraciul saproceso kodeqsis mixedviT dawesebul pasuxismgeblobas qonebrivi danaSaulisaTvis. kerZod, saqarTvelos administraciul saproceso kodeqsis VII² Tavi aregulirebs administraciuli samarTalwarmoebis process Tanamdebobis pirTa ukanono da dausabuTebeli qonebis CamorTmevasa da saxelmwifosaTvis gadacemasTan dakavSirebiT. am kodeqsis 21⁴emuxlis Tanaxmad, Tanamdebobis pirTa ukanono da dausabuTebeli qonebis saxelmwifosaTvis gadacemis Sesaxeb sarCeli SeiZleba aRZrul iqnes Tanamdebobis piris, misi ojaxis wevris, axlo naTesavis an dakavSirebuli piris mimarT, sarCelis aRZvris ufleba aqvs prokurors saqarTvelos sisxlis samarTlis saproceso kodeqsis 37¹-e muxliT gaTvaliswinebul SemTxvevebSi. ssk-is aRniSnuli muxlis Tanaxmad ki, Tu prokurors aqvs safuZvliani eWvi, rom braldebuli Tanamdebobis piris mflobelobaSi arsebuli qoneba SesaZlebelia, mopovebuli iyos sisxlis samarTlis saproceso kodeqsis 44-e muxlis 47-e nawilSi miTiTebuli danaSaulis Cadenis Sedegad, igi aRZravs sarCels Tanamdebobis piris mflobelobaSi arsebuli ukanono an dausabuTebeli qonebis, agreTve am qonebidan miRebuli Semosavlebis, aqciebis (wilis) CamorTmevisa da saxelmwifosaTvis gadacemasTan dakavSirebiT. 44-e muxlis 47-e nawilSi aseve mocemulia Tanamdebobis piris cneba.

aseve aRsanisnavia, rom administraciul saproceso kodeqsis 21⁶, 21⁷, 21⁸ da 21⁹ muxlebSi mocemulia Tanamdebobis piris, dakavSirebuli piris, axlo naTesavis, ukanono da dausabuTebeli qonebis ganmartebebi da aseve dawesebulia is SesaZlo iuridiuli Sedegebi, rac SeiZleba moyves qonebis dausabuTebulad an ukanonod cnobas.

mxedvelobaSi misaRebia is garemoebac, rom saqarTvelos parlamentis mier ganxorcielda cvlileba saqarTvelos administraciul saproceso kodeqsis, romliTac administraciuli saproceso kodeqsis Tanamdebobis piris cneba SesabamisobaSi movida sisxlis samarTlis saproceso kodeqsis mocemul analogiur cnebasTan da sisxlis samarTlis saproceso kodeqsis msgavsad, Tanamdebobis piris cnebaSi aseve moiazreba sajaro samarTlis iuridiuli piris xelmZRvaneli an misi moadgile.

da bolos, unda aRiniSnos, rom konvenciis me-20 muxliT gansazRvruli danaSaulis kriminalizacia Zalze Zneldeba dasavleT evropis qveynebsa da aSS-Si, sadac konstituciiT akrZalulia mtkicebis tvirTis mopasuxeze gadatana sisxlis samarTlis procesSi. amis gamo konvenciis teqstze muSaobisa da masze molaparakebis procesSi rigi evropuli qveynebis delegaciebi `ukanono gamdidrebis~ Sesaxeb muxlis SemoRebis winaaRmdegni iyvnen. am TvalsazrisiT, zemoT aRwerili proceduris gamoyeneba administraciuli samarTalwarmoebis procesis gziT vfiqrobT, problemis erTgvar gadawyvetas warmoadgens.

SeniSvnebi da rekomendaciebi

- konvenciis me-20 muxliT gaTvaliswinebuli norma ukanono gamdidrebi Sesaxeb erTis mxriv, TiTqos pirdapir asaxvas ar hpovebs saqarTvelos sisxlis samarTlis kanonmdeblobaSi. magram amavdroulad saqarTvelos administraciul saproceso kodeqsis VII² Tavi srulad aregulirebs administraciuli samarTalwarmoebis process Tanamdebobis pirTa ukanono da dausabuTebeli gonebis CamorTmevasa da saxelmwifosaTvis gadacemasTan dakavSirebiT.
- konvenciis me-20 muxlis pirdapirma asaxvam moqmed sisxlis samarTlis kodeqsis Sesazloa didi kolizia warmoSvas zemoT miTiTebuli mizezebis gamo. amitom, sasurvelia Tavdapirvelad Seswavlil iqnes ekonomikur danaSaulTa Sesaxeb moqmedi kanonmdeblobis efeqturobis sakiTxi, ris Semdegac SeiZleba am sakiTxis gonivruli gadawyveta.

muxli 21. meqrTameoba kerZo seqtorSi

TiToeuli monawile saxelmwifo ganxilavs iseTi sakanonmdeblo da sxva RonisZiebebis gatarebis Sesazleblobas, romlebic aucilebelia imisaTvis, rom ekonomikuri, finansuri an komerciuli saqmianobisas sisxlissamarTlebrivad ganzrax dasjad qmedebad CaiTvalos:

a) dapirebis micema, SeTavazeba an gadacema, piradad an Suamavlis meSveobiT, raime aramarTlzomieri upiratesobisa nebismieri pirisaTvis, romelic xelmZRvanelobs kerZo seqtoris organizacias an muSaobs am organizaciaSi nebismier Tanamdebobaze, Tavad aseTi pirisaTvis an sxva pirisaTvis, raTa am pirma Caidinos, Tavisi movaleobebis darRvevaSi, raime moqmedeba an umoqmedoba;

b) gamoZalva, piradad an Suamavlis meSveobiT, an raime aramarTlzomieri upiratesobis miReba nebismieri piri mier, romelic xelmZRvanelobs kerZoO seqtoris organizacias an muSaobs am organizaciaSi nebismier Tanamdebobaze, Tavad aseTi pirisaTvis an sxva pirisaTvis, raTa am pirma Caidinos Tavisi movaleobebis darRvevaSi, raime moqmedeba an umoqmedoba.



konvenciis 21-e muxliT mizanSewonilad aris miCneuli kerZo seqtorSi dasaqmebuli nebismieri pirisaTvis, romelic xelmZRvanelobs an muSaobs am organizaciaSi nebismier Tanamdebobaze, raime aramarTlzomieri upiratesobis Sesaxeb dapirebis micema, SeTavazeba an gadacema.

Tavdapirvelad unda aRiniSnos, rom konvenciiT aRwerili qmedeba saqarTvelos ssk-iT orive mxarisaTvis, rogorc qrTamis mimcemisaTvis, aseve qrTamis amRebisaTvis, iwvevs sisxlissamarTlebriv pasuxismgeblobas (ix. 338-e, 339-e, 340-e muxlebi). magram qrTamis aRebis danaSauls axasiaTebs specialuri subieqti – moxele an masTan gaTanabrebuli piri. mizanSewonilia, mkveTrad gaimijnos konvenciis 21-e muxliT SemoTavazebuli sxvadasxva saxis qmedebebi.

amavdroulad, 90-ian wlebSi samewarneo saqmianobis ganviTarebis kvalobaze aucilebeli gaxda sisxlissamarTlebrivi pasuxismgeblobis daweseba komerciuli mosyidvisaTvis. komerciuli mosyidva, anu rogorc mas iuridiul literaturaSi uwodeben -- `komerciuli qrTami~, socialurad saSiSi movlenaa, romelic xels uSlis sabazro urTierTobis normalur funqcionirebas, angrevs am urTierTobis subieqtebis Tanasworobas da aferxebes maTi samarTlebrivi valdebulebebis dacvasa da ganxorcielebas. es muxli danaSaulis subieqtisa da dasacav faseulobaTa wris gaTvaliswinebiT axalia. iuridiuli teqniki TvalsazrisiT 221-e muxli agebulia im muxlebis analogiurad, rasac qrTamis aReba (338-e) da qrTamis micema (339-e) hqvia. amave dros kanonmdebeli miuTiTebis arsebiT gansxvavebaze komerciul mosyidvasa da qrTams Soris. maT Soris gansxvaveba ganisazRvrebaze erT SemTxvevaSi qrTamis amRebis saqmianobis specifikiT, saxeldobr imiT, rom igi aris sajaro samarTlis subieqti, romelic gamodis saxelmwifos saxeliT, maSin roca komerciuli mosyidvis subieqtad gvevlineba samewarneo an sxva specialuri uflebamosilebis ganmaxorcielebeli piri. amave muxliT dasjadad cxaddeba samewarneo an sxva organizaciaSi xelmZRvanelobiTi, warmomadgenlobiTi an sxva specialuri uflebamosilebis ganmaxorcieleblis mier fulis, fasiani qaRaldis an sxva qonebis ukanonod miReba an qonebrivi momsaxurebiT ukanonod sargebloba, raTa Tavisi samsaxurebrivi mdgomareoba momsaxurebis interesebisaTvis gamoiyenos. mocemuli normis mizani samewarneo da kerZo samarTlis sxva subieqtebis saqmianobis wesis sisxlissamarTlebrivi dacvis uzrunvelyofaSi mdgomareobs.

SeniSvnebi da rekomendaciebi

- saqarTvelos sisxlis samarTlis kodeqsis 221-e muxli faqtoibrivad emTxveva konvenciis 21-e muxlis vfigrobt, konvenciaSi Camoyalibebuli es norma Zalze zogadad aris formulirebuli. saqarTvelos sisxlis samarTlis kodeqsiT calke muxladaa gaTvaliswinebuli sisxlissamarTlebrivi pasuxismgebloba qrTamis aRebisa da micemisaTvis (ix.338-e da 339-e muxlebi) da komerciuli mosyidvisaTvis, konvenciiT ki es orive moqmedeba erTi danaSaulis Semadgenlobis dispoziciiTa moculi. am

muxlebis gaerTianeba da saiaro xelisuflebis warmomadgenlisa da samewarneo saqmianobis subieqtisaTvis Tanabari sisxlissamarTlebrivi pasuxismgeblobis daweseba marTebulad ar migvaCnia. mizanSewonilia, mkveTrad gaimijos konvenciis 21-e muxliT SemoTavazebuli sxvadasxva saxis qmedebebi.

muxli 22. qonebis gaflangva kerZo sektorSi

TiToeuli monawile saxelmwifo ganxilavs iseT sakanonmdeblo da sxva RonisZiebebis gatarebis SesaZleblobas, romlebic aucilebelia imisaTvis, raTa sisxlissamarTlebrivad ganzrax dasjad qmedebad CaiTvalos ekonomikuri, finansuri an komerciuli saqmianobisas piris mier gaflangva, romelic xelmZRvanelobs kerZo sektoris organizacias an muSaobs an organizaciaSi nebismier Tanamdebobaze, raime qonebis, kerZo saSualebebis an fasiani qaRaldebis, sxva nebismieri fasiani sagnis, rac samsaxurebrivi mdgomareobidan gamomdinare, an piris gankargulebaSi.



saqarTvelos kanonmdebloba ar moicavs pirdapir sisxlissamarTlebriv normas kerZo sektorSi dasaqmebuli piris mier uSualod komerciuli saqmianobisas Cadenil qmedebebze qonebis, kerZo saSualebebis an fasiani qaRaldebis, sxva nebismieri fasiani sagnis gaflangvisa da miTvisebis mizniT. Tumca, sisxlis samarTlis kodeqsis 182-e muxli amgvari qmedebebis subieqtad nebismier pirs miiCnevs.

ssk-is 182-e muxliT gaTvaliswinebuli danaSaulis obieqtia sakuTrebiTi urTierTobebi da misi obieqturi mxare gamoixateba sxvisi qonebis marTlsawinaaRmdego dauflebaSi rogorc miTvisebis, ise gaflangvis formiT. 182-e muxliSi gaerTianebulia ori damoukidebeli danaSauli: miTviseba da gaflangva. miTvisebasa da gaflangvisaTvis damaxasiaTebelia is, rom damnaSave uflebamosilia, hqondes qoneba marTlzmier mflobelobasa an gameglobaSi. igi qonebis marTlzmier mflobelobas an gameglobas axorcielebs samsaxurebrivi movaleobis, saxelSekrulebo urTierTobisa Tu specialuri davalebis saxiT. kanonmdebli sxvisi moZravi nivTis (qonebis) datacebis am formebs, rogoricaa gaflangva da miTviseba, sazogadoebrivi saSiSroebis mxriv erTmaneTTan aTanabrebs da erTian pasuxismgeblobasac awesebs. datacebis TiToeul formas aqvs Tavisi specifika, rac, upirveles yovlisa, gamoixateba damnaSavis mier qonebisadmi mopyrobs wesSi, saxeldobr, mesakuTris fondebidan qonebis amoRebis xerxebSi.

miTviseba aris sxvisi moZravi nivTis datacebis erT-erTi forma, rac gulixmobs damnaSavis mier mis marTlzmier mflobelobaSi an gameglobaSi myofi qonebis ukanono, usasyidlo amoRebas mesakuTris fondebidan angarebis mizniT da imis surviliT, rom igi Tavis sargeblobaSi moaqcios. gaflangva da miTviseba, rogorc sxvisi qonebis datacebis formebi, axlos dgas erTmaneTTan. maTTvis saerTo isaa, rom rogorc gaflangvis, ise miTvisebis dros damnaSave qonebas, romelic mis marTlzmier mflobelobasa da gameglobaSi imyofeba, kanonsawinaaRmdegod, usasyidlod iRebs mesakuTris fondebidan angarebis mizniT. gaflangvisas damnaSave ara marto TavisTvis ikavebs qonebas, romelic datacebis momentSi mis marTlzmier mflobelobaSi imyofeba, aramed eufleba mas, aramarTlzmierad xarjavs, yidis, aCuqebis da a.S. amdenad, gaflangva meti sazogadoebrivi saSiSroebis matarebelia, vidre miTviseba.

SeniSvnebi da rekomendaciebi

- *saqarTvelos sisxlis samarTlis kanonmdebloba ar moicavs pirdapir normas kerZo sektorSi dasaqmebuli piris mier uSualod komerciuli saqmianobisas Cadenil qmedebebze qonebis, kerZo saSualebebis an fasiani qaRaldebis, sxva nebismieri fasiani sagnis gaflangvisa da miTvisebis mizniT. Tumca, konvenciis 22-e muxliT gaTvaliswinebuli es norma garkveulwilad asaxulia sisxlis samarTlis kodeqsis 182-e muxliSi.*
- *imavdroulad, kanonmdeblis mier sazogadoebrivi saSiSroebis mxriv am ori formis erTmaneTTan gaTanabreba da erTnairi pasuxismgeblobis daweseba arasworad migvaCnia da mizanSewonilad vTvlit sisxlis samarTlis kodeqsis miTvisebisa da gaflangvis cal-calke muxlebad, e.i. sxvadasxva danaSaulis saxiT gamovofas, romlis ganmsazRvrelis igneba Sesabamisi danaSaulis Semadgenloba.*

muxli 23. danaSaulebidan miRebuli Semosavlis `gaTeTreba`

1. TiToeuli monawile saxelmwifo Tavisi Sida kanonmdeblobis fuZemdeburi principebis Sesabamisad atarebs iseT sakanonmdeblo da sxva RonisZiebebs, romlebic aucilebelia imisaTvis, rom sisxlissamarTlebrivad dasjad qmedebad, rodesac igi Cadenilia ganzrax, CaiTvalos:

1) konversia an qonebis gadacema, Tu cnobilia, rom aseTi qonebis Semosavlis wyaroa danaSauli, am qonebis danaSaulebrivi wyaros damalvis an gadamalvis mizniT an nebismieri pirisaTvis, romelmac Caidina ZiriTadi

samarTaldarRveva, daxmarebis gawevis mizniT, raTa man SeZlos aseTi qmedebibisaTvis pasuxismgeblobisagan Tavis arideba.

II) qonebis namdvili xasiaTis, misi wyaros adgilmdebareobis, gankargvis meTodis, gadaadgilebis, qonebaze uflebis, misi kuTvnilibis damalva an gadamalva, Tu cnobilia, rom aseTi qonebis Semosavlis wyaro danaSaulia.

b) Tavisi samarTlebrivi sistemis ZiriTadi principebis dacviT:

I) qonebis SeZena, floba, an gamoyeneba, Tu misi miRebisas cnobili gaxda, rom aseTi qonebis Semosavlis wyaro danaSaulia;

II) farul SeTanxmebaSi monawileoba, Tanamonawileoba an masSi CarTva am danaSaulebidan nebismieris Cadenis mizniT, romlebic aseTad cnobilia am muxlis Sesabamisad, agreTve danaSaulis Cadenis mcdeloba, danaSaulis CadenaSi daxmarebis gaweva, waqezeba an rCevis micema.

2. am muxlis pirveli punqtis ganxorcielebis an gamoyenebis mizniT:

a) TiToeuli monawile saxelmwifo iswrafvis, gamoiyenos am muxlis pirveli punqti ZiriTadi samarTaldarRvevis farTo wris mimarT;

b) TiToeuli monawile saxelmwifo ZiriTad samarTaldarRvevaTa ricxvSi aerTianebs danaSaulTa yovlismomcvel wres, romlebic aseTad cnobilia am konvenciis Sesabamisad;

g) me-2 punqtis `b~ qvepunqtis miznebisaTvis ZiriTad samarTaldarRvebebSi erTiandeba iseTi danaSaulebi, romlebic Cadenilia rogorc Sesabamisi monawile saxelmwifos iurisdicciis farglebSi, ise mis farglebs gareTac. magram danaSaulebebi, romlebic Cadenilia romelime monawile saxelmwifos iurisdicciis farglebs gareT iTvleba ZiriTad samarTaldarRvevad mxolod im pirobiT, rodesac Sesabamisi qmedeba sixlissamarTlebrivad dasjadia saxelmwifos Sida kanonmdeblobis Sesabamisad, romelSic igi iqna Cadenili da CaiTvlebodya sixlissamarTlebrivad dasjadad im monawile saxelmwifos Sida kanonmdeblobis Sesabamisad, romelic iyenebs am muxlis im SemTxvevaSi, danaSauli iq rom Cadeniliyo;

d) TiToeuli monawile saxelmwifo warudgens gaeros generalur mdivans Tavisi kanonebis teqstebs, romlebic uzrunvelyofen am muxlis debulebaTa Sesrulebas, agreTve am kanonebTan dakavSirebiT miRebuli nebismieri Semdgomi cvlilebebis teqstebs an aRnuxavs maT;

e) Tu amas moiTxovs monawile saxelmwifos Sida kanonmdeblobis ZiriTadi fuZemdebluri principebi, SeiZleba gaTvaliswinebul iqnes isic, rom am muxlis pirveli punqtiT gansazRvruli debulebebi, ar gavrceldes im pirebze, romlebmac Caidines ZiriTadi samarTaldarRvevebi.



konvenciis 23-e muxli srulyofs fulis gaTeTrebis winaaRmdeg mis winamorbed sxva saerTaSoriso standartebSi¹² mocemul regulaciebs. saerTaSoriso samarTalsi ukanono fulis gaTeTrebis pirveli definicia mocemulia gaeros 1988 wlis venis konvenciaSi `narkotikebis da fsiqotropuli nivTierebis ukanono brunvis winaaRmdeg brZolis Sesaxeb~, romelmac Tavis mxriv didi roli iTamaSa am sferoSi evropis qveynebis kanonmdeblobis ganviTarebaSi. venis konvenciam danaSaulad aRiara narkotikebis ukanono brunvidan miRebuli Savi fulis gaTeTreba.

Sesabamisad, droTa ganmavlobaSi es CamonaTvali izrdeboda da 1990 wlis evropis sabWos strasburgis konvenciam `danaSaulebrivi saqmianobidan miRebuli Semosavlebis moZiebis, amoRebisa da konfiskacii Sesaxeb~ Semdegi saxiT Camoayaliba fulis gaTeTrebasTan dakavSirebuli danaSaulebis CamonaTvali:

muxli 6 - fulis gaTeTrebasTan dakavSirebuli danaSaulebi

1. TiToeuli mxare miiRebs sakanonmdeblo an sxva aucilebel zomebs, raTa uzrunvelyos, rom misi Sida samarTliT danaSaulis kvalifikacia eniWebodes saerTaSoriso masStabiT Cadenil Semdeg qmedebibs:

a) qonebis konversia an gadacema, rodesac pirma icis, rom aseTi qoneba aris danaSaulebrivi Semosavali, im mizniT, rom daifaros an SeiniRbos qonebis arakanonieri warmomavloba an daxmareba gaewios ZiriTadi danaSaulis CadenaSi Careul nebismier pirs, misi qmedebis iuridiuli Sedegebis Tavidan acilebaSi;

b) qonebis namdvili bunebis, wyaros, adgilmdebareobis, gankargvis, gadaadgilebis, masze an mis flobaze uflebebis damalva, rodesac Sesabamisma pirma icis, rom aseTi qoneba aris Semosavali; da mxaris konstituciuri principebis da misi samrTlebrivi sistemis ZiriTadi koncefciebis mxedvelobaSi miRebiT;

g) qonebis SeZena, floba da gamoyeneba, rodesac pirma qonebis miRebis dros icis, rom aseTi qoneba warmoadgens Semosavals;

d) am muxlis Sesabamisad gansazRvruli nebismieri danaSaulis CadenaSi monawileobis miReba, CadenisaTvis jgufSi gaerTianeba an konspiracia, Cadenis mcdeloba an CadenaSi daxmareba, waqezeba, xelis Sewyoba da rCevebis micema.

`gaeros transnacionaluri organizebuli danaSaulis winaaRmdeg brZolis konvencia~ 2000 wlis dekemberSi simbolurad swored mafiis samSobloSi, siciliis qalaq palermoSi iqna miRebuli. konvenciis me-6 muxlis Tanaxmad, ganisazRvra danaSaulebrivi Semosavlebis gaTeTrebis kriminalizacia da maT strasburgis konvenciis msgavsi definicia mieca:

¹² dawvrilebiT ixile zemoT me-14 muxlis analizi.

`a. qonebis konversia an gadacema - rodesac cnobilia, rom qoneba warmoadgens danaSaulidan miRebul Semosavals, qonebis mopovebis danaSaulebrivi wyaros SeniRbvis an damalvis mizniT, an ZiriTad samarTaldarRvevaSi monawile nebismieri pirisadmi daxmarebis gawevis mizniT, raTa man SeZlos pasuxismgeblobisaTvis Tavis arideba;

b. qonebis namdvili arsis, wyaros, adgilmdebareobis, gankargvis gzebis, gadaadgilebis, qonebrivi da qonebis flobis uflebis damalva an SeniRbva, Tuki cnobilia, rom es qoneba warmoadgens danaSaulebrivi gziT miRebul Semosavals~.

saqarTvelos kanoni `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ ukanono Semosavlis legalizacias ganmartavs, rogorc `ukanono SemosavlisTvis kanonieri saxis micema (SeZena, gamoyeneba, gadacema an sxva moqmedeba), agreTve misi namdvili warmoSobis, mesakuTris an mflobelis an/da qonebrivi uflebis damalva an SeniRbva, anda aseTi qmedebis Cadenis mcdeloba~. rogorc vxedavT, gansaxilveli konvenciisa da sxva saerTaSoriso standartebis moTxovnaTa Sesabamisad, kanoniT `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ gaTvaliswinebuli ar aris amgvary danaSaulis Cadenisadmi xelSewyoba, daxmareba, waqezeba anda mis Casadenad rCevebis micema, aseve qonebis marTva, Senaxva, gankargva, gacvla, konversia, uzrunvelyofis mizniT gadacema, gadaadgileba, investireba, Secvla an ganadgureba.

`fulis gaTeTrebis, danaSaulebrivi saqmianobis Sedegad mopovebuli Semosavlebis moZiebis, amoRebisa da konfiskaciis Sesaxeb~ 1990 wlis 8 noembris strasburgis konvenciis ratifikaciis¹³ Semdeg dRis wesrigSi dadga saqarTvelos sixxlis samarTlis kanonmdeblobis masTan harmonizaciis sakiTxi da 2005 wlis 28 dekembers Setanili cvlilebebiT kodeqsis 194-e muxli Semdegi saxiT Camoyalibda:

muxli 194. ukanono Semosavlis legalizacia (fulis gaTeTreba)

1. ukanono Semosavlis legalizacia, ese igi danaSaulebrivi gziT mopovebuli qonebisaTvis kanonieri saxis micema (*SeZena, floba, sargebloba, konversia, gadacema an sxva moqmedeba*) misi ukanono warmoSobis dafarvis mizniT, agreTve misi namdvili bunebis, warmoSobis wyaros, adgilmdebareobis, ganTavsebis, moZraobis, masze sakuTrebis an/da masTan dakavSirebuli sxva uflebebis damalva an SeniRbva,-

isjeba jarimiT an Tavisuflebis aRkveTiT vadiT oridan oTx wlamde.

2. igive qmedeba:

a) Cadenili jgufurad;

b) Cadenili araerTgzis;

g) rasac Tan axlda didi odenobiT Semosavlis miReba,-

isjeba Tavisuflebis aRkveTiT vadiT oTxidan Svid wlamde.

3. igive qmedeba:

a) Cadenili organizebuli jgufis mier;

b) Cadenili samsaxurebrivi mdgomareobis gamoyenebiT;

g) rasac Tan axlda gansakuTrebiT didi odenobiT Semosavlis miReba,-

isjeba Tavisuflebis aRkveTiT vadiT Svididan aT wlamde.

SeniSvna:

1. am muxlis miznebisaTvis ukanono Semosavlad ar CaiTvleba sagadasaxado sferoSi Cadenili danaSauliT miRebuli Semosavali, agreTve Semosavali xuTi aTas laramde.

2. am muxliSi did odenobad iTvleba Semosavali ocdaaTi aTasi laridan ormocdaaTi aTas laramde, xolo gansakuTrebiT did odenobad - Semosavali ormocdaaTi aTasi laris zeviT.

amgvaryad, konvenciis 23-e muxlis pirveli nawilis moTxovnebi saqarTvelos sixxlis samarTlis kodeqsis 194-e muxliSi TiTqmis srulad gaTvaliswinebulia, xolo rac Seexeba farul SeTanxmebaSi monawileobas, Tanamonawileobas an masSi CarTvas konvenciiT gaTvaliswinebuli danaSaulebebidan nebismieris Cadenis mizniT, agreTve danaSaulis Cadenis mcdelobas, danaSaulis CadenaSi daxmarebis gawevas, waqezebas an rCevis micemas, yovelive es regulirdeba kodeqsis zogadi normebiT danaSaulis momzadebis Sesaxeb. Tumca, aqve unda aRiniSnos, rom saqarTvelos sixxlis samarTlis kodeqsis 186-e muxlis pirveli nawilis mixedviT, danaSaulebriv qmedebas warmoadgens winaswari SecnobiT danaSaulebrivi gziT mopovebuli nivTis mxolod SeZena an gasaReba, da ara misi floba, sargebloba, konversia, gadacema an sxva moqmedeba, rogorc es imave kodeqsis 194-e muxliSi. am TvalsazrisiT erTgvar kolizias aqvs dgili.

konvenciis gansaxilveli muxlis me-2 nawili monawile saxelmwifoebis mouwodebs, ZiriTad samarTaldarRvevaTa ricxvSi gaaerTianon konvenciiT gansazRvrul danaSaulTa yovlismomcveli wre. ramdenadac Tavad fulis gaTeTreba Tavisi arsiTa da struqturiT post-danaSaulebrivi danaSaulia, mis safuZvels Seadgens ZiriTadi samarTaldarRveva anu predikatuli danaSauli.

fulis gaTeTrebasTan brZolis sferoSi yoveli qveynis kanonmdeblobas Tavisi specifika gaaCnia. amasTanave, maTSi asaxulia is ZiriTadi principebi da moTxovnebi, romlebic saerToa qveyanaTa umravlesobisaTvis. zogierT

¹³ saqarTvelos parlamentis 2004 wlis 17 Tebervlis #3345-rs dadgenileba

qveyanaSi fulis gaTeTrebasTan brZolis kanonebSi yuradReba gamaxvilebulia ukanono garigebebeze, qveyanaTa sxva jgufSi ki – kriminaluri saqmianobisagan miRebul Semosavlebeze. saqmianobis saxis SerCeva, romlisganac miRebuli Semosavlebi eqvemdebareba sisxlissamarTlebriv devnas, damokidebulia saxelmwifos politikur nebasa da unarze, gaakontrolos aseTi Semosavlebi, aseve erovnul kanonmdeblobebSi gamoyenebuli cnebebisadmi – `ukanono~ da `danaSaulebrivi saqmianobis~, gansxvavebul midgomaze.

qveyanaTa umravlesobaSi fulis gaTeTreba miCneulia sisxlis samarTlis danaSaulad. es momenti mkafiod aris dafiqsirebuli aSS-sa da mravali sxva qveyinis kanonmdeblobaSi. umravles maTganSi fulis gaTeTreba mZime danaSauladaa miCneuli. amaze mowmobs sasjelis simZime da jarimebis odenoba. magaliTad, maltaze sanqcia gaxlavT 14 wlamde Tavisuflebis aRkveTa da/an jarima 1 mln. malturi liris odenobiT. aSS-Si gaTvaliswinebulia Tavisuflebis aRkveTa 20 wlamde vadiT da jarima 500.000 dolaramde. gaTvaliswinebulia aseve qonebis konfiskacia. italiis sisxlis samarTlis kodeqsis 648-bis muxliT, garda danaSaulSi Tanamonawileobis SemTxvevebisa, piris mier gaufTxileblobiT Cadenili danaSaulebrivad SeZenili fulis, qonebis an sxva sargeblis gadacvla, gadaricxva an am qmedebaTa Cadena sxva operaciebis ganxorcielebiT, romlebic xels uSlis maTi danaSaulebrivi warmomavlobis dadgenas, isjeba Tavisuflebis aRkveTiT vadiT oTxidan Tormet wlamde da jarimiT aTasidan TxuTmeti aTas evromde.

sazRvargareTis qveynebis kanonTa umravlesoba sakmaod farTo predikatul danaSaulTa specialur CamonaTvals Seicavs. evropis sabWos saxelmwifoTa umravlesoba ebrZvis fulis gaTeTrebas iseTi danaSaulebebisagan, rogoricaa iaraRiT, narkotikebiT, adamianebiT da adamianis organoebiT vaWroba, terorizmi, prostitucia, TaRliToba, aralegaluri TamaSebi, SantaJi da sxv. dRemde mimdinareobs debatebi imis Sesaxeb, CairTos Tu ara am siaSi iseTi danaSaulebebi, rogoricaa gadasaxadebisagan Tavis arideba, komerciuli saidumloebis darRveva, sabaJo danaSauli da a.S. es damokidebulia imaze, Tu razea mimarTuli kanoni: sisxlis samarTlebriv danaSaulsa da kriminalur wreebze, Tu ufro farTod – ukanono qmedebepis winaaRmdeg brZolaze.

saqarTvelos kanonmdeblobaSi ori sakanonmdeblo aqti – `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ kanoni da sisxlis samarTlis kodeqsi – miuTiTebs fulis gaTeTrebis ZiriTadi samarTaldarRvevebis Sesaxeb. samwuxarod aqac kvlav koliziasTan gvaqvs saqme. kerZod, `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ kanonis me-2 muxlis mixedviT, ukanono Semosavlad e.i. am kanonis miznebisaTvis predikatul danaSaulad miCneulia `piris sakuTrebaSi an mflobelobaSi arsebuli fuladi saxsrebi, sxva qoneba an qonebrivi uflebebi, romlebic man miiRo saqarTvelos sisxlis samarTlis kodeqsiT gaTvaliswinebuli danaSaulis (maT Soris, iaraRiT vaWrobis, narkotikuli danaSaulebis, trefikings, terorizmis) Cadenis Sedegad, garda sagadasaxado da sabaJo sferoebSi danaSaulebis Cadenis SemTxvevebisa~. amave dros, sisxlis samarTlis kodeqsis 194-e muxlis Tanaxmad, fulis gaTeTrebis miznebisaTvis ukanono Semosavlad ar CaiTvleba mxolod sagadasaxado sferoSi Cadenili danaSauli. sasurvelia, aRniSnuli debulebebis erTmaneTTan SesabamisobaSi moyvana.

SeniSvnebi da rekomendaciebi

- *saqarTvelos sisxlis samarTlis kodeqsis 186-e muxlis pirveli nawilis mixedviT, danaSaulebriv qmedebas warmoadgens winaswari SecnobiT danaSaulebrivi gziT mopovebuli nivTis mxolod SeZena an gasaReba, da ara misi floba, sargebloba, konversia, gadacema an sxva moqmedeba, rogorc es imave kodeqsis 194-e muxlSia. sasurvelia kodeqsis 186-e da 194 muxlebis erTmaneTTan SesabamisobaSi moyvana.*
- *`ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ kanonis me-2 muxliT ukanono Semosavlad e.i. fulis gaTeTrebis mizniT ZiriTad samarTaldarRvevad miCneulia sisxlis samarTlis kodeqsiT gaTvaliswinebuli danaSaulebi, garda sagadasaxado da sabaJo sferoebSi Cadenili danaSaulebisa. amave dros sisxlis samarTlis kodeqsis 194-e muxliT ukanono Semosavlad e.i. fulis gaTeTrebis mizniT ZiriTad samarTaldarRvevad ar CaiTvleba mxolod sagadasaxado sferoSi Cadenili danaSauli. sasurvelia aRniSnuli koliziis aRmofxvra.*

muxli 24. damalva

am konvenciis 23-e muxlis debulebebisatvis zianis miyenebis gareSe, TiToeuli monawile saxelmwifo ganxilavs iseTi sakanonmdeblo da sxva RonisZiebebis gatarebis Sesazleblobas, romlebic aucilebelia imisatvis, rom sisxlissamarTlebrivad dasjad qmedebad, rodesac igi Cadenilia ganzrax am danaSaulebebidan nebismieris Cadenis Semdeg, romlebic aseTad cnobilia am konvenciis Sesabamisad, aseTi danaSaulebebis CadenaSi monawileobis miuReblad CaiTvalos qonebis damalva an misi mudmivad dakaveba, Tu Sesabamisi piriSatvis cnobilia, rom aseTi qoneba miRebulia am danaSaulebebidan nebismieris Cadenis Sedegad, romlebic aseTad cnobilia am konvenciis Sesabamisad.



am konvenciis 23-e muxliT daculi sikeTisaTvis zianis miuyeneblad, konvenciiT sixlissamarTlebrivad dasjad qmedebad miCneul unda iqnes am danaSaulTagan nebismieri qmedeba, danaSaulis CadenaSi monawileobis miuReblad qonebis damalva an misi sabolood dakaveba. amasTan aucilebelia, rom es qoneba konvenciiT gaTvaliswinebul danaSaulTagan nebismieri qmedebis Cadenis Sedegad iyos miRebuli.

konvenciis 24-e muxliT rekomendirebulia, rom monawile wevrma saxelmwifoebma sixlissamarTlebrivi pasuxismgebloba daaweson im pirebisaTvis, romlebsac marTalia, uSualo monawileoba ar miuRiaT am konvenciiT gaTvaliswinebuli danaSaulis CadenaSi, magram ganzrax damales gadacemuli qoneba an/da miiRes zomebi qonebis samudamod dakavebisaTvis. am muxliT gaTvaliswinebuli sakanonmdeblo winadadebebi garkveulwilad exmianeba sakuTrebis winaaRmdeg mimarTul danaSauls. kerZod, ssk-is 186-e muxls, romelic Seicavs normas winaswari SecnobiT danaSaulebrivi gziT mopovebuli qonebis SeZenis an gasaRebisaTvis¹⁴.

winaswari SecnobiT danaSaulebrivi gziT mopovebuli nivTis SeZenas an gasaRebas SeiZleba hqondes Tanamonawileobis formebi. es maSin, rodesac damnaSave an uSualod monawileobda nivTis marTlsawinaaRmdego mopovebaSi, an winaswar iyo Sepirebuli, rom SeiZenda an gaasaRebda qonebas. Tu ganzraxva moicavs winaswar dapirebul moqmedebaTa Cadenas nivTebis (qonebis) SeZenis an gasaRebis mimarT, romlebic amoRebulia danaSaulebrivi gziT, maSin piri pasuxs agebs rogorc damxmare¹⁵. Tu konkretuli danaSaulis faqti cnobilia damnaSavisaTvis, maSin saqarTvelos sixlis samarTlis kodeqsiT misi moqmedeba SeiZleba dakvalificirdes, rogorc kodeqsis 186-e muxliT, ise ssk-is im muxlebiT, romlebic aweseben pasuxismgeblobas ama Tu im danaSaulis dafarvisa (muxli 375) an ganucxadeblobisaTvis (muxli 376).

SeniSvnebi da rekomendaciebi

- konvenciis 24-e muxliT gaTvaliswinebuli debulebebi asaxulia saqarTvelos sixlis samarTlis kodeqsis Sesabamis muxlebiSi. aqve SezniSnayT, rom 186-e muxlis damamZimebel garemoebad mizanSewonilad migvaCnia kanonmdebelma gaiTvaliswinos ssk-is 194-e muxliT (ukanono Semosavlis legalizacia) gaTvaliswinebuli qmedeba, ris safuZvelsac iZleva am muxliT gaTvaliswinebuli danaSaulis farTo gavrcelbuloba da saSiSroeba.
- sasurveilia sixlis samarTlis kodeqsis 186-e da 194-e muxlebis erTmaneTTan SesabamisobaSi moyvana konvenciis winamdebare muxlis analizisas gamovlenili koliziiis aRmofxvris mizniT.

muxli 25. marTlmsajulebis ganxorcielebisaTvis winaaRmdegobis gaweva

TiToeuli monawile saxelmwifo atarebs iseT sakanonmdeblo da sxva RonisZiebebs, romlebic aucilebelia imisaTvis, rom sixlissamarTlebrivad dasjad qmedebad, rodesac igi Cadenilia ganzrax, CaiTvalos:

1. fizikuri Zalisa da muqaris gamoyeneba, daSineba an aramarTlzomieri upiratesobis dapireba, SeTavazeba an gadacema cru Cvnebis misacemad Cvnebis micemis proceSi Casarevad an saqmiswarmoebaSi mtkicebulebebis warsadgenad danaSaulis CadenasTan dakavSirebiT, romelic aseTad cnobilia am konvenciis Sesabamisad;
2. fizikuri Zalisa da muqaris gamoyeneba an daSineba Tanamdebobis piri mier sasamarTlo an samarTaldamcavi organoebis Tanamdebobrivi movaleobebis SesrulebaSi Carevis mizniT danaSaulis CadenasTan dakavSirebul saqmiswarmoebaSi, romelic aseTad cnobilia am konvenciis Sesabamisad.

¹⁴ **muxli 186. winaswari SecnobiT danaSaulebrivi gziT mopovebuli nivTis SeZena an gasaReba**

1. winaswari SecnobiT danaSaulebrivi gziT mopovebuli nivTis SeZena an gasaReba,- isjeba jarimiT an sazogadoebisaTvis sasargeblo SromiT vadiT as oTxmocidan oras saaTamde an gamasworebeli samuSaoTi vadiT erT wlamde anda Tavisuflebis aRkveTiT vadiT or wlamde.

2. igive qmedeba, Cadenili:

- a) winaswari SeTanxmebiT jgufis mier;
- b) araerTgzis;
- g) avtomobilis mimarT;
- d) didi odenobiT;

e) imis mier, vinc orjer an metjer iyo nasamarTlevi sxvisi moZravi nivTis marTlsawinaaRmdego misakuTrevisaTvis an gamoZalvisaTvis,-

isjeba jarimiT an tusaRobiT vadiT oTxidan eqvs Tvemde anda Tavisuflebis aRkveTiT vadiT xuT wlamde.

3. am muxlis pirveli an me-2 nawiliT gaTvaliswinebuli qmedeba, Cadenili:

- a) organizebuli jgufis mier;
- b) samsaxurebrivi mdegomareobis gamoyenebiT,- isjeba Tavisuflebis aRkveTiT vadiT samidan Svid wlamde.

¹⁵ **muxli 24. Tanamonawilis saxeebi**

1. organizatoria is, vinc moawyo danaSaulis Cadena an xelmZRvanelobda mis ganxorcielebas, agreTve is, vinc Seqmna organizebuli jgufi an xelmZRvanelobda mas.

2. wamqzebelia is, vinc daiyolia sxva piri ganzraxi danaSaulis Casadenad.

3. damxmarea is, vinc xeli Seuwyo danaSaulis Cadenas.

am qvepunqtiT ziani ar adgeba monawile saxelmwifoTa uflebebs hqondeT iseTi kanonmdebloba, romelic uzrunvelyofs sxva kategoriis sajaro Tanamdebobis pirTa dacvas.



upirveles yovlisa unda aRiniSnos, rom saqarTvelos sisxlis samarTlis kodeqsis me-12 kari mTlianad eZRvneba sasamarTlo xelisuflebis winaarmdeg mimarTul danaSaulebs. es kari oTx Tavad aris dayofili. saxeldobr, XLI Tavi aerTianebs sasamarTlo organoebis saqmianobis winaarmdeg mimarTul danaSaulebs (muxlebi 364-367-e), XLII Tavi daTmobili aqvs mtkicebulebis mopovebis saproceso wesis winaarmdeg mimarTul danaSaulebs (368-373-e muxlebi), XLIII Tavi eZRvneba danaSaulis droulad aRkveTisa da gaxsnis winaarmdeg mimarTul qmedebes (374-376-e muxlebi), da bolos, XLIV Tavi daTmobili aqvs sasamarTlo aqtebis aRsrulebis winaarmdeg mimarTul danaSaulebs.

sasamarTlo organoebis saqmianobis winaarmdeg mimarTul danaSaulebs kanonmdebelma miakuTvna da, Sesabamisad, sisxlissamarTlebrivad dasjadad gamoacxada iseTi qmedebani, rogoricaa: samarTalwarmoebis ganxorcielebaze zegavlenis mizniT sasamarTlo saqmianobaSi ama Tu im formiT ukanono Careva; saqmis yovelmxrivi, sruli da obieqturi gamoZiebisatvis xelis SeSlis mizniT prokuroris an gamomZieblis saqmianobaSi ukanono Careva; muqara an Zaladoba samarTalwarmoebis ganxorcielebasTan an winaswar gamoZiebasTan dakavSirebiT; sasamarTlos upativcemuloba da sxv.

saqarTvelos ssk kodeqsi calke Semadgenlobad iTvaliswinebs danaSauls mtkicebulebis mopovebis saproceso wesis darRvevis winaarmdeg. saqarTvelos sisxlis samarTlis XLII TaviT gaTvaliswinebul danaSaulTa Sinaarsi TvalnaTliv adasturebs imas, rom xsenebuli kodeqsis Semdgenels gauTvaliswinebia im qmedebaTa dasjadoba, romelic sxva sityvebiTaa asaxuli konveciis 25-e muxlSi. am TavSi gaTvaliswinebulia pasuxismgebloba mtkicebulebaTa ganadgurebisatvis, maTi falsifikaciisatvis, cru an urTierTsawinaarmdego Cvnebis micemisaTvis, aseve yalbi daskvnis an araswori TargmanisaTvis. 371-e muxliT sagangebod aris dawesebuli sisxlissamarTlebrivi pasuxismgebloba mowmis an dazaralebulis mier Cvnebis micemaze uaris TqmisaTvis. 372-e muxliT dawesebulia pasuxismgebloba mowmis, dazaralebulis, eqspertis an Tarjimmis mosyidvisa an iZulebis Sesaxeb. sagangebodaa gaTvaliswinebuli sasjeli cru dasmenisaTvis.

sagulisxmoa is garemoeba, rom ssk-is momdevno XLIII Tavi iTvaliswinebs sisxlissamarTlebriv pasuxismgeblobas danaSaulis droulad aRkveTisa da gaxsnis winaarmdeg mimarTuli qmedebisaTvis. esenia: winaswari gamoZiebis monacemebis gaxmaureba, danaSaulis dafarva an Seutyobinebloba. ssk-is me-14 Tavi Seicavs normebs sakuTriv sasamarTlo aqtebis aRsrulebis winaarmdeg mimarTuli danaSaulisTvis.

SeniSvnebi da rekomendaciebi

- *konveciis 25-e muxliT SemoTavazebuli debulebebi ara marto srulad aris asaxuli ssk-is kerZo nawilis Sesabamis muxlebsi, aramed SeiZleba iTqvas, rom Sida kanonmdeblobis calkeuli normebiT afro farTod da gavrcobiladaa reglamentirebuli is moTxovnebi, romlebsac konvecia gvTavazobs,*
- *aqve gvinda aRvniSnoT, rom vinaidan ukve ganixileba sakiTxi qarTul kanonmdeblobaSi iuridiuli piris sisxlissamarTlebrivi pasuxismgeblobis dawesebis Sesaxeb, mizanSewonilad migvaCnia, zemoxsenebuli muxlebiT gaTvaliswinebuli qmedebisaTvis sisxlissamarTlebrivi pasuxismgebloba vrceldebodes rogorc fizikur, aseve iuridiul pirebze.*

muxli 26. iuridiul pirTa pasuxismgebloba

1. *TiToeuli monawile saxelmwifo atarebs iseT RonisZiebebs, romlebic samarTlebrivi principebis gaTvaliswinebiT SeiZleba saWiro iyos imisaTvis, rom dadgindes iuridiulpirTa pasuxismgebloba iseT danaSaulebebSi monawileobasTan dakavSirebiT, romlebic aseTad cnobilia am konveciis Sesabamisad.*
2. *monawile saxelmwifoTa samarTlebrivi principebis dacviT iuridiul pirTa pasuxismgebloba SeiZleba iyos sisxlissamarTlebrivi, samoqalaqosamarTlebrivi an administraciuli.*
3. *aseTi pasuxismgebloba zians ar ayenebs im fizikur pirTa sisxlissamarTlebriv pasuxismgeblobas, romlebsac Caidnes danaSauli.*
4. *TiToeuli monawile saxelmwifo, uzrunvelyofs iseTi iuridiuli pirebis mimarT, romlebsac daekisraT pasuxismgebloba am muxlis Sesabamisad, gamoyenebul iqnes efeqtiani zomteri sisxlissamarTlebrivi an arasisxlissamarTlebrivi sanqciebi, fulad sanqciebTan erTad.*



samarTlis Teoriisa da samarTlebrivi kulturis ganviTarebam droTa manZilze Searyia is mosazreba, rom korporaciebi danaSauls ar Cadian (*societas delinquere non potest*). iuridiul pirTa pasuxismgeblobis koncepcias jer kidev me-19 saukuneSi Caeyara safuZveli. Tumca, dRes saxelmwifoTa samarTlebrivi midgomebi am sakiTxisadmi principulad gansxvavdeba. kontinenturi sistemis sisxlis samarTlis kanonmdebloba ZiriTadad

emyareba individualuri braleulobis princips da, Sesabamisad, iuridiul pirTa sisxlis samarTlebrivi pasuxismgeblobis inkorporireba am kanonmdeblobaSi did kritikas iwvevs. miuxedavad amisa, aRniSnul iurisdicqiebSi korporaciaTa mimarT dawesebuli sanqciebi erTdroulad CanacvlebiTi pasuxismgeblobisa da identifikaciis Teoriebsac icnobs¹⁶.

asea Tu ise, gaeros konvenciam gaiTvaliswina samarTlebrivi sistemebis specifika da administraciul da samoqalaqo pasuxismgeblobasTan erTad moiTxova iuridiul pirTa sisxlissamarTlebrivi pasuxismgeblobis daweseba. amavdroulad bolo periodis gaxSirebulma korporaciulma skandalebma, romelTa drosac multinacionaluri kompaniebis mier Cadenil korufciul danaSaulebs mkvlevarebma `korporaciuli mkvlelebebic~ ki uwodes, cxadyves, rom xSir SemTxvevebSi iuridiuli pirebis mimarT mxolod samoqalaqo da administraciuli samarTlebrivi zomebis gamoyeneba ar iZleva sasurvel efeqts. amis gamo bevrma evropulma saxelmwifom, aRmosavleT evropis qveynebis CaTvliT¹⁷, SemoiRo iuridiul pirTa sisxlissamarTlebrivi pasuxismgebloba mTeli rigi danaSaulebisaTvis.

saqarTvelos moqmedi kanonmdebloba am etapze ar iTvaliswinebs iuridiul pirTa sisxlissamarTlebrivi pasuxismgeblobis sakiTxs, ramdenadac `sisxlis samarTlis kodeqsis~ subieqts warmoadgens mxolod fizikuri piri. es erTis mxriv arc aris gasakviri, radgan yofil sabWoTa kavSirSi iuridiuli pirebi faqtobrivad saxelmwifos danamats warmoadgendnen, xolo kerZo samarTlis iuridiuli pirebi am sityvis klasikuri gagebiT saerTod ar arsebobden. magram meores mxriv, saqarTvelos ukve 6 weliwadze metia, aRebuli aqvs valdebuleba iuridiul pirTa kriminalizaciis kuTxiT. saqarTvelos parlamentma jer kidev 2000 wlis 27 seqtembris #509-Is dadgenilebiT moaxdina 1997 wlis 27 ianvris `terorizmis winaaRmdeg brZolis Sesaxeb~ strasburgis evropuli konvenciis ratifikacia, romelic aRniSnuli normis SemoRebas iTvaliswinebda. damatebiT iuridiuli pirebis sisxlissamarTlebrivi pasuxismgeblobis Sida kanonmdeblobaSi danergvas iTvaliswinebs is ori sxva konvenciac, sadac saqarTvelo erT-erTi wevri saxelmwifoa: `fulis gaTeTrebis, danaSaulebrivi saqmianobis Sedegad mopovebuli Semosavlebis moZiebis, amoRebisa da konfiskaciis Sesaxeb~ 1990 wlis 8 noembris konvencia (ratificirebulia saqarTvelos parlametis 2004 wlis 17 Tebervlis #3345-rs dadgenilebiT) da gaeros 1999 wlis saerTaSoriso konvencia `terorizmis dafinansebis aRkveTis Sesaxeb~ (ratificirebulia saqarTvelos parlametis 2002 wlis 7 ivnisis #1486-II s dadgenilebiT).

misasalmebelia saqarTvelos iusticiis saministros iniciativa, romelmac moamzada kanonproeqti `saqarTvelos sisxlis samarTlis kodeqsi cvlilebebisa da damatebebis Sesaxeb~. kanonproeqtis mixedviT, ganisazRvrea is pirobebi, romelTa arsebobisas SesaZlebelia, iuridiul pirs daekisros sisxlissamarTlebrivi pasuxismgebloba, dadgindes iuridiuli piris mimarT gamosayenebel sasjelTa saxeebi, maTi gamoyenebisa da aRsrulebis wesi da pirobebi. aseve konkretdeba is danaSaulebi, romelTa Cadenis drosac iuridiuli pirs ekisreba sisxlissamarTlebrivi pasuxismgebloba.

proeqtis Tanaxmad, iuridiul pirs sisxlissamarTlebrivi pasuxismgebloba daekisreba saqarTvelos sisxlis samarTlis kodeqsiT gaTvaliswinebuli im danaSaulisaTvis, romelic Cadenilia iuridiuli piris saxeliT an misi meSveobiT (gamoyenebiT) an/da mis sasargeblad, pasuxismgebeli piris mier. pasuxismgebel pirSi ki moiazreba iuridiuli piris xelmZRvanelobaze, warmomadgenlobaze, misi saxeliT gadawyvetilebis miRebaze uflbamosili piri an/da iuridiuli piris sameTvalyureo, sakontrolo, sarevizio, sakonsultacio organos wevri. iuridiul pirs sisxlissamarTlebrivi pasuxismgebloba daekisreba im SemTxvevaSic, Tu danaSaulebrivi qmedeba Cadenilia iuridiuli piris saxeliT an misi meSveobiT (gamoyenebiT) an/da mis sasargeblad, miuxedavad imisa, dadgenilia Tu ara sisxlis samarTlis pasuxisgebaSi misacemi fizikuri piri. proeqtiT dadgenili iuridiuli piris sisxlissamarTlebrivi pasuxismgebloba vrceldeba saqarTvelosa (kerZo samarTlis iuridiuli pirebi) an ucxo qveynis kanonmdeblobis Sesabamisad Seqmnili iuridiuli pirebis (maTi uflbamonaacvleebis) mimarT.

kanonproeqtis mixedviT iuridiuli piris sisxlissamarTlebrivi pasuxismgebloba wesdeba sisxlis samarTlis kodeqsis Semdegi muxlebiT gaTvaliswinebul danaSaulebebeze:

143¹-e – adamianiT va Wroba, trefikingi;

143²-e – arasrulwlovniT va Wroba, trefikingi;

194-e – ukanono Semosavlis legalizacia;

221-e muxlis (komerciuli mosyidva) pirveli nawiliT gaTvaliswinebul Semadgenlobaze;

224¹-e – reketul dajgufebaSi monawileoba;

323-e _ 330-e – teroristuli aqti, teqnologiuri terorizmi, kiberterorizmi, saqarTvelos politikuri

Tanamdebobis pirze Tavdasxma, saerTaSoriso dacviT mosargeble pirze an dawesebulebaze Tavdasxma, teroristuli organizaciis Seqmna an xelmZRvaneloba anda masSi monawileoba, ucxo qveynis teroristul organizaciaSi an ucxoTis kontrols daqvemdebarebul aseT organizaciaSi gaerTianeba anda misi daxmareba,

¹⁶ ix. Corruption and Corporate Criminal Liability: www.icclr.law.ubc.ca/Publications/Reports/FergusonDF; Criminal liability of legal persons in legislation of European countries: www.juridica.ee/juridica_en.php?document=en/articles/1999/8/15760.SUM.php; Identification theory, Vicarious liability, and the Corporate Culture: www.filion.on.ca/pdf/CML%202003%20Paper.pdf.

¹⁷ am mxriv gansakuTrebiT sainterosa litvis gamocdileba Sesabamisi normebis sisxlis samarTlis kodeqsi CarTvis sakanonmdeblo teqnika da sanqciebis TvalsazrisiT (ix. latviis seimis kanoni No IX- 737. 25/01/2002).

mZevlad xelSi Cagdeba teroristuli mizniT, strategiuli an gansakuTrebuli mniSvnelobis obieqtis xelSi Cagdeba an blokireba teroristuli mizniT);

331¹-e – terorizmis dafinanseba;

338-e – qrTamis aReba;

339-e – qrTamis micema;

339¹-e – korufciuli zemoqmedeba;

364-e – samarTalwarmoebis ganxorcielebisaTvis an winaswari gamoZiebisaTvis xelis SeSla;

365-e – muqara an Zaladoba samarTalwarmoebis ganxorcielebasTan an winaswar gamoZiebasTan dakavSirebiT;

372-e –mowmis, dazaralebulis, eqspertis an Tarjimnis mosyidva an iZuleba.

rogorc vxedavT, danaSaulTa CamonaTvalSi ukve gaTvaliswinebulia `korufciis winaaRmdeg~ gaeros konvenciiT gansazRvruli rigi danaSaulebic. Tumca, aucileblad migvaCnia danaSaulTa wris gafarToeba: kerZod,ucxo qveynis sajaro Tanamdebobis pirTa da saerTaSoriso organizaciebis sajaro Tanamdebobis pirTa mosyidvis SemTxvevaSi iuridiul pirTa sisxlissamarTlebrivi pasuxismgeblobis daweseba.

`saqarTvelos sisxli samarTlis kodeqSi cvlilebebisa da damatebebis Sesaxeb~ kanonproeqtis mixedviT, iuridiuli piris mimarT SeiZleba gamoyenebuli iqnes sasjelis Semdegi saxeebi: jarima, saqmianobis uflebis CamorTmeva, qonebis CamorTmeva, likvidacia. aRniSnuli sanqciebi uxoeTis kanonmdeblobaSi yvelaze gavrcelbul sasjelis saxeebs warmoadgens iuridiuli pirebTan mimarTebaSi. Tumca,Cveni azriT da aseve arsebuli praqtikis Tanaxmad, umjobesia,sasjelis erT-erT saxed dawesdes saqmianobis uflebis SezRudvac. msolfioSi aRiarebuli gamocdilebis Sesabamisad momavalSi kanonmdebelma SesaZloa, gaiTvaliswinos iuridiuli piris mimarT alternatiuli sajelis SemoRebis SesaZleblobac¹⁸.

saqarTvelos iusticiis saministros mier aseve momzadebulia kanonproeტი `saqarTvelos sisxli samarTlis saproceso kodeqSi cvlilebebisa da damatebebis Setanis Sesaxeb~. proeqtis Tanaxmad, iuridiuli piris mimarT sisxlissamarTlebrivi pasuxismgeblobis gamosayeneblad saqmis warmoebis dawyebis safuZvelia gamomZieblis an sasamarTlos (mosamarTlis) dadgenileba, rac dauyovnebliv unda ecnobos am iuridiuli piris damfuZneblisa (damfuZneblebs) an/da xelmZRvanelს (xelmZRvanelebs), saqmis warmoebaSi monawileobisaTvis warmomadgenlobის uzrunvelsayofad.

proeqtის mixedviT, iuridiuli pirის mimarT sisxlissamarTlebrivi pasuxismgeblobის gamosayeneblad saqmis warmoebis aucilebelia, dadgindes: 1. Cadenilia Tu ara danaSaulebrivi qmedeba am iuridiuli pirის saxeliT an misi meSveobiT (gamoyenebiT) an/da mis sasargeblod; 2. aris Tu ara aRniSnuli danaSaulis Camdeni piri am iuridiuli pirის warmomadgenlobaze, misi saxeliT gadawyvetilebis miRebaze uflebamosili piri an/da iuridiuli pirის sameTvalyureo, sakontrolo, sarevizio, sakonsultacio organos wevri. im SemTxvevaSi, Tu aRniSnuli garemoebეbi ver iqna dadgenili, dadgenileba iuridiuli pirის mimarT sisxlissamarTlebrivi pasuxismgeblobის gamosayeneblad saqmis dawyebის Taobaze ar SeiZleba iqnes gamotanili, xolo gamotanili dadgenileba unda gauqmdes.

proeqtის mixedviT, iuridiuli pirის mimarT sisxlissamarTlebrivi saproceso iZulebis RonisZieბის saxiT SeiZleba gamoyenebulი iqnes qonebaze yadaRis dadeბის მეqანიზმი. imisaTvis, rom saqmis warmoeბის dros ar ganxorციეღes garkვეული manipლაციები pasuxismgeblobის Tavidan acიების mizniT, ikrZaleba iuridiuli pirის mimarT salikვიდაციო an reorganizაციასTan dakavSireბული procedureბის warmoeბა sisxli samarTli ს saqmis warmoeბის dawyებიდან ganaCenis კანიონიერ ZalaSi Sesvლამდე an sisxli samarTli ს saqmis warmoeბის Sewyvetამდე.

proeტიT aseve gansazRvrulia, rom iuridiuli pirის warmomadgenელი (damcველი) saqmeSi monawileობის მისარებად დაიSveბა iuridiuli pirის mimarT sisxlissamarTlebrivi pasuxismgeblobის gamosayeneblad saqmis dawyების Taobaze dadgenიების gamotanისTanave. mas ufleბა აqvs, gaecნოს saqmis warmoeბის masaleბს, gaasaCivros gamomZieბის, პროკურორის, mosamarTli ს (sasamarTlos) moqmedeba და gadawyvetileბა და ganacხადოს Suამდგომლობა sisxli samarTli ს saproceso kodeqSiT dadgenილი weსiT. კანიონproeტიT მოვესრიგებუღია aseve iuridiuli pirის mimarT sisxlissamarTlebrivi pasuxismgeblobის gamosayeneblad saqmis sasamarTloSi gagzavნის, sasamarTlo განხილვის, iuridiuli pirის mimarT ganaCenis gamotanისას, მისი გამოqვეyneბის და სxვა mniSvnelovანი საკიTxები. sasurვეღია, gaTvaliswineბულ iqნას saqarTvelos აxალ sisxli samarTli ს saproceso kodeqSi iuridiულ pirTa რეაბილაციის განმსაზRvreღი საკანიონმებღო ნორმების დანერგვა.

SeniSvneბი და რეკომენაციები

¹⁸ ase მაღალიTად, საფრანგეTის, ესპანეTისა და ნიდერლანდების კანიონმებღო alternatiულ სასჯელად iTvaliswineბს კორპორაციული სტრუქტურებისადმი განმკარგვეღის (meurvis) დანიSვნას და maTi პიდაპირი weსiT მარTვას.

- saqarTvelos moqmedi kanonmdebloba am etapze ar iTvaliswinebs iuridiul pirTa sisxlissamarTlebrivi pasuxismgeblobis sakiTxs, ramdenadac `sisxlis samarTlis kodeqsis~ subieqts warmoadgens mxolod fizikuri piri.
- sasurvelia, moxdes iuridiul pirTa sisxlissamarTlebrivi pasuxismgeblobis Sesaxeb iusticiis saministros mier momzadebuli kanonproeqtTa paketis miReba, Semdegi SeniSvnebis gaTvaliswinebiT:
 - aucileblad migvaCnia kanonproeqtSi mocemul danaSaulTa wris gafarToeba: kerZod, ucxo qveynis sajaro Tanamdebobis pirTa da saerTaSoriso organizaciebis sajaro Tanamdebobis pirTa mosyidvis SemTxvevaSi iuridiul pirTa sisxlissamarTlebrivi pasuxismgeblobis daweseba.
 - `saqarTvelos sisxlis samarTlis kodeqSi cvlilebebisa da damatebebis Sesaxeb~kanonproeqtis mixedviT, iuridiuli piris mimarT SeiZleba gamoyenebuli ignes sasjelis Semdegi saxeebi: jarima, saqmianobis uflebis CamorTmeva, gonebis CamorTmeva, likvidacia. saerTaSoriso praqtikis Tanaxmad, umjobesia, sasjelis erT-erT saxed aseve dawesdes saqmianobis uflebis SezRudva.
- msofliSi aRiarebuli gamocdilebis Sesabamisad momavalSi kanonmdebelma SesaZloa, gaiTvaliswinos iuridiuli piris mimarT alternatiuli sajelis SemoRebis SesaZleblobac.
- sasurvelia, saqarTvelos axal sisxlis samarTlis saproceso kodeqSi gaTvaliswinebul ignas iuridiul pirTa rehabilitaciis ganmsazRvrel normebi.
- ganxilul ignas ekonomikuri TanamSromlobisa da ganviTarebis organizaciis `saerTaSoriso biznes operaciebSi ucxo qveynis sajaro Tanamdebobis pirTa meqrTameobis winaaRmdeg~ konvenciis principebis saqarTvelos kanonmdeblobaSi danergvis sakiTxi am konvenciiT gaTvaliswinebul danaSaulebis SemTxvevaSi iuridiul pirTa pasuxismgeblobis dawesebis kuTxiT.
- dasruldes gaeros `transnacionaluri organizebuli danaSaulis winaaRmdeg~ konvenciasTan mierTebis procesi, romelic aseve awesebs am konvenciiT gaTvaliswinebul danaSaulebis Cadenis SemTxvevaSi iuridiul pirTa pasuxismgeblobas.
- dasruldes evropis sabWos `korufciaze sisxlis samarTlis~konvenciasTan mierTebis procesi, romelic aseve awesebs am konvenciiT gaTvaliswinebul danaSaulebis Cadenis SemTxvevaSi iuridiul pirTa pasuxismgeblobas.

muxli 27. danaSaulSi monawileoba an xelyofa

1. *TiToeuli monawile saxelmwifo atarebs iseT sakanonmdeblo da sxva RonisZiebebs, romlebic SeiZleba saWiro gaxdes imisTvis, rom sisxlissamarTlebrivad dasjad qmedebad, Tavisi Sida kanonmdeblobis Sesabamisad, CaiTvalos, magaliTad raime danaSaulis Cadenasi Tanamzraxveloba (Tanamonawileoba), danaSaulis Cadenasi xelSewyoba an wamqzebloba, romlebic aseTad cnobilia am konvenciis Sesabamisad.*
2. *TiToeuli monawile saxelmwifos SeuZlia ganaxorcielos iseTi sakanonmdeblo da sxva RonisZiebebi, romlebic SeiZleba saWiro gaxdes imisTvis, rom sisxlissamarTlebrivad dasjad qmedebad, Tavisi Sida kanonmdeblobis Sesabamisad, CaiTvalos raime danaSaulis Cadenis mdeloba, romelic aseTad cnobilia am konvenciis Sesabamisad.*
3. *TiToeul monawile saxelmwifos SeuZlia gaataros iseTi sakanonmdeblo an sxva RonisZiebebi, romlebic aucilebelia imisaTvis, rom sisxlissamarTlebrivad dasjad qmedebad, misi Sida kanonmdeblobis Sesabamisad CaiTvalos raime danaSaulis CadenisaTvis mzadeba, romelic aseTad cnobilia am konvenciis Sesabamisad.*



konvenciis 27-e muxli rekomendacias aZlevs wevr saxelmwifoebis, rom sisxlissamarTlebrivad dasjad qmedebad CaiTvalos danaSaulis Cadenasi Tanamonawileoba, aseve danaSaulis Cadenasi xelSewyoba an misi wamqzebloba. konvencia aseve avaldebulebs wevr saxelmwifoebis, TavianTi Sida kanonmdeblobis Sesabamisad, danaSaulad gamoacxadon danaSaulis CadenisaTvis mzadeba da danaSaulis mdeloba.

konvenciiT SemoTavazebuli normebi srul SesatyvisobaSia qarTuli sisxlis samarTlis kodeqsis zogadi nawilis me-7 TavSi mocemul debulebebTan. TanamonawileobiT Cadenili danaSauli ufro didi saSiSroebis Semcvelia, radganac am dros xdeba damnaSaveTa rogorc inteleqtualuri, ise fizikuri Zalebis gaerTianeba. swored amitom TanamonawileobiT Cadenili danaSaulisaTvis pasuxismgeloba qarTuli kanonmdeblobiT ufro mkacria. danaSaulSi Tanamonawileoba ssk-is mixedviT niSnavs ori an meti piris ganzrax erTobliv monawileobas danaSaulis Cadenasi. amsruleblad iTvleba piri, vinc uSualod Caidens danaSauls an sxvasTan (TanaamsrulebelTan) erTad uSualod monawileobs mis Cadenasi. ssk cnobs aseve amsruleblobis iseT saxes, rogoricaa SualobiTi amsrulebeli – anu piri, vinc danaSaulis Cadenis iaraRad gamoiyenebs iseT adamians, romelmac ar SeiZleba pasuxi agos Tavisi moqmedebisaTvis (magaliTad, piri asakis an Seuracxaobis gamo ver

miecema sisxli samarTlis pasuxisgebaSi.) am SemTxvevaSi pasuxismgebloba daekisreba SualobiT amsrulebels. TanamonawileTa Soris ssk ganasxvavebs organizators, wamqezebelsa da damxmares. ssk-is 24-e muxlSi mocemulia maTi definiciebi. saqarTvelos sisxli samarTlis kodeqsis zogadi nawilis 25-e da 27-e muxlebSi ki gawerilia danaSaulSi TanamonawileobisaTvis gaTvaliswinebuli pasuxismgeblobis sakiTxebi.

rac Seexeba konvenciis 27-e muxlis me-2 da me-3 punqtebiT gaTvaliswinebul normebs, maT srulad moicavs ssk-is me-18 da me-19 muxlebi. ssk-is me-18 muxlis 1-li nawilis Tanaxmad: `danaSaulis momzadebad iTvleba danaSaulis CadenisaTvis pirobebis ganzrax Seqmna~. aqve unda aRiniSnos, rom moqmedi kanonmdebloba dasjadad acxadebs mxolod gansakuTrebiT mZime danaSaulis momzadebas, rac savsebiT marTebulad gveCveneba. amgvvari pozicia aixsneba Semdegi mosazrebis gamo: pirveli, danaSaulis mosamzadebeli moqmedeba sakmaod Sorsaa danaSaulis bolomde miyvanamde, amitom momzadeba ar qmnis obieqtis dazianebis realur safrTxes, ris gamoc es etapi mcire mniSvnelobisaa. meore, momavalSi danaSaulis Cadenisken gamiznuli garkveuli saqmianoba xSirad ar atarebs konkretul xasiaTs, xolo mniSvnelovani samarTlebrivi sikeTis dacvisas kanonmdebeli aRar elodeba misTvis uSualo safrTxis Seqmnis moments da am mosazrebiT gansakuTrebiT mZime danaSaulis momzadebas dasjadad acxadebs.

daumTavrebeli danaSaulis meore da momzadebasTan SedarebiT ufro saSiS saxes mcdeloba warmoadgens, romelic saqarTvelos ssk-is me-19 muxlis 1-li nawilis Sesabamisad, ase Camoyalibebuli: `danaSaulis mcdelobad iTvleba ganzrax qmedeba, romelic Tumca mimarTuli iyo danaSaulis Casadenad, magram danaSauli bolomde ar iqna miyvanili.”

SeniSvnebi da rekomendaciebi

- **konvenciis 27-e muxliT gaTvaliswinebuli debulebebi sruladaa asaxuli saqarTvelos sisxli samarTlis kodeqsis zogadi nawilis Sesabamis normebsi.**

muxli 28. ganzraxva, gulzraxva da Secnoba, rogorc danaSaulis Semadgeneli elementebi

ganzraxva, gulzraxva da Secnoba, rogorc danaSaulis Semadgeneli elementebi, romlebic aseTad cnobilia am konvenciis Sesabamisad, SeiZleba dadgindes saqmidan obieqturi faqtobrivi garemoebelis gaTvaliswinebiT.



konvenciis 28-e muxliT gaTvaliswinebulia saqmis obieqturi, faqtobrivi garemoebelis GGgaTvaliswinebis safuZvelze pirs fsiqikuri damokidebulebis dadgena qmedebis Sedegis mimarT. zemoaRniSuli kriteriumebiT dadgenilia pirdapiri da arapirdapiri ganzraxvisa da TviTimedovnebis saxiT bralis sakiTxis gadawyveta. es sakiTxebi reglamentirebulia saqarTvelos sisxli samarTlis kodeqsis zogadi nawilis me-9 da me-10 muxlebiT.

muxli 9. ganzraxi danaSauli

1. ganzrax danaSaulad iTvleba qmedeba, romelic Cadenilia pirdapiri an arapirdapiri ganzraxviT.
2. 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.
3. qmedeba arapirdapiri ganzraxviTaa Cadenili, Tu pirs gacnobierebuli hqonda Tavisi qmedebis marTlwinaaRmdegoba, iTvaliswinebda marTlsawinaaRmdego Sedegis dadgomis SesaZleblobas da ar surda es Sedegi, magram Segnebulad uSvebda an gulgrilad ekideboda mis dadgomas.

muxli 10. gaufrTxileblobiT danaSauli

1. gaufrTxileblobiT danaSaulad iTvleba qmedeba, romelic Cadenilia TviTimedovnebiT an daudevrobiT.
2. qmedeba TviTimedovnebiTaa Cadenili, Tu pirs gacnobierebuli hqonda windaxedulobis normiT akrZaluli qmedeba, iTvaliswinebda marTlsawinaaRmdego Sedegis dadgomis SesaZleblobas, magram usafuZvlod imedovnebda, rom am Sedegs Tavidan acilebda.
3. qmedeba daudevrobiTaa Cadenili, Tu pirs gacnobierebuli ar hqonda windaxedulobis normiT akrZaluli qmedeba, ar iTvaliswinebda marTlsawinaaRmdego Sedegis dadgomis SesaZleblobas, Tumca amis gaTvaliswineba mas evaleboda da SeeZlo kidec.
4. gaufrTxileblobiT Cadenili qmedeba mxolod maSin CaiTvleba danaSaulad, Tu amis Sesaxeb miTiTebulia am kodeqsis Sesabamis muxlSi.

SeniSvnebi da rekomendaciebi

- **konvenciis 28-e muxliT SemoTavazebuli normebi asaxulia sisxli samarTlis kodeqsis Sesabamis muxlebsi.**

muxli 29. xandazmulobis vada

TiToeuli monawile saxelmwifo, saTanado SemTxvevebSi, Tavisi Sida kanonmdeblobis Sesabamisad, adgens xangrZliv xandazmulobis vadas saqmismwifoebis aRZvris mizniT nebismieri danaSaulis mimarT, romelic aseTad cnobilia am konvenciis Sesabamisad, agreTve adgens ufro xangrZliv vadas an xangrZlivobis vadis SeCerebis, (Sewyvetis) SesaZleblobas im SemTxvevebSi, rodesac piri romelic eWvmitanilia danaSaulis CadenaSi, Tavs aridebs marTlmsajulebas.



saqarTvelos sisxlis samarTlis saproceso kodeqsis 28-e muxli mTlianad eZRvneba sisxliissamarTlebrivi devnisa da winaswari gamoZiebis Sewyvetis safuZvlebs. aRniSnuli muxlis 1-li nawilis `e~ punktis Sesabamisad, sisxliissamarTlebrivi devna ar unda daiwyos, xolo dawyebuli devna da winaswari gamoZieba unda Sewydes, Tu gasulia sisxlis samarTlis kodeqsiT dadgenili sisxliissamarTlebrivi devnis xandazmulobis vada anu am SemTxvevaSi vrceldeba is vadebi, romelic mocemulia ssk-is 76-e muxliSi¹⁹.

saqarTvelos sisxlis samarTlis saproceso kodeqsis 29-e muxli ki iZleva sisxliissamarTlebrivi devnis SeCerebis safuZvlebsa da vadebs. aqve kanonmdebeli sagangebod gamoyofs im SemTxvevas, roca *braldebuli Tanamdebobis piria da Tavs aridebs sagamoZiebo organoebSi gamocxadebas*. am SemTxvevaSi moqmedi kanonmdeblobis Tanaxmad, sisxliissamarTlebrivi devna ar Cerdeba.

amavdroulad unda aRiniSnos, rom kanonmdebelma ganaxorciela cvlilebebi sisxlis samarTlis saproceso kodeqsis, riTac gaauqma winaswari gamoZiebis vadebi. am cvlilebebidan gamomdinare, winaswari gamoZieba SeiZleba mimdinareobdes gonivrul vadebSi, magram ara umetes Sesabamisi danaSaulisaTvis sisxlis samarTlis kanoniT dadgenili sisxliissamarTlebrivi xandazmulobis vadisa. (ix. muxli 271-e). sisxlis samarTlis saproceso kodeqsis 420-e muxlis Tanaxmad ki: *Tu braldebuli Tanamdebobis piri, reketiri an qurduli samyaros wevria da Tavs aridebs sagamoZiebo organoebSi gamocxadebas, sisxliissamarTlebrivi devna ar SeCerdeba*.

amasTanave, saproceso kodeqsis 451-e muxlis mixedviT sisxliissamarTlebrivi devna aseve ar SeCerdeba, *Tu gansasjeli Tanamdebobis piri, reketiri an qurduli samyaros wevria da mis mimarT gamocxadebulia Zebna*.

SeniSvnebi da rekomendaciebi

- *sisxlis samarTlis saproceso kodeqsis Sesabamisi muxlebis analizis safuZvelze SeiZleba davaskvnaT, rom konvenciis 29 e muxliT SemoTavazebuli norma SesabamisobaSia ssk-Si ganmtkicebul debulebebTan.*
- *aqve SevniSnavT, rom konvencia avaldebulebs wevr saxelmwifoebis, rom konvenciiT gaTvaliswinebuli danaSaulebisaTvis dawesebul iqnas xandazmulobis ufro xangrZlivi vada. es moTxovna qarTuli kanonmdeblobiT nawilobriv Sesrulebulia Tanamdebobis pirTan mimarTebaSi. upriani iqneboda, analogiuri normebi sisxliissamarTlebrivi devnis SeCerebis Sesaxeб gagvevrcelebina ssk-is 194—e muxliT (ukanono Semosavlis legalizacia) gaTvaliswinebul qmedebaSi eWvmitanil pirebzec.*
- *sasurvebia, xandazmulobis ufro xangrZlivi vada dawesdes im qmedebepisTvis, romlebic jer ar aris aRiarebuli danaSaulad saqarTvelos sisxlis samarTlis kodeqsiT, magram gaTvaliswinebulia iusticiis saministros mier momzadebuli kanonproeqtis Tanaxmad (magaliTad, korufciuli zegavlana, ucxo qveynisa da saerTaSoriso organizaciis sajaro Tanamdebobis pirebis mier Cadenili korufciuli samarTaldarRvevebi da a.S.).*

¹⁹ muxli 76. sasjelis moxdisagan gaTavisufleba gamamtyunebeli ganaCenis xandazmulobis gamo

1. msjavrdebuli Tavisufleba sasjelis moxdisagan, Tu kanonier ZalaSi Sesuli gamamtyunebeli ganaCeni ar aRsrulebula Semdeg vadebSi:

a) or welSi im danaSaulis Cadenidan, romlisTvisac am kodeqsis kerZo nawilis muxliT an muxlis nawiliT gaTvaliswinebuli maqsimaluri sasjeli ar aRemateba ori wliT Tavisuflebis aRkveTas;

b) eqvs welSi sxva, naklebad mZime danaSaulisaTvis msjavrdebis dros;

g) aT welSi mZime danaSaulisaTvis msjavrdebis dros;

d) TxuTmet welSi gansakuTrebiT mZime danaSaulisaTvis msjavrdebis dros.

2. xandazmulobis vadis dineba SeCerdeba, Tu msjavrdebulma Tavi aarida sasjelis moxdisagan. am SemTxvevaSi xandazmulobis vadis dineba ganaxldeba msjavrdebulis dakavebis an bralis aRiarebiT gamocxadebis momentidan. xandazmulobis vadaSi CaiTvleba sasjelis moxdisagan Tavis aridebamde gasuli dro.

3. sakiTxs, unda Seefardos Tu ara xandazmulobis vada uvado Tavisuflebis aRkveTiT msjavrdebul, wyvets sasamarTlo. Tu sasamarTlo SeuZleblad miiCnevs xandazmulobis gamoyenebas, uvado Tavisuflebis aRkveTa Seicvleba vadiani Tavisuflebis aRkveTiT.

4. xandazmuloba ar gamoiyeneba saqarTvelos saerTaSoriso xelSekrulebiT gaTvaliswinebul SemTxvevaSi.

5. xandazmulobis vadis dineba SeCerdeba im vadiT, ra vadaSi pirs icavs imuniteti. (05.05.2000)

muxli 30. devna, sasamarTlo gadawvyvetelebis gamotana da sanqciebi.

1. *TiToeuli monawile saxelmwifo raime danaSaulis CadenisaTvis, romelic aseTad cnobilia am konvenciis Sesabamisad, iTvaliswinebs iseTi sisxlissamarTlebrivi sanqciebis gamoyenebas, romlebiTac gaTvaliswinebulia am danaSaulis saSiSroebis xarisxi.*
2. *TiToeuli monawile saxelmwifo atarebs iseT RonisZiebebs, romlebic aucilebelia imisaTvis, rom dadgindes an uzrunvelyofil iqnes, Tavisi samarTlebrivi sistemisa da konstituciuri principebis Sesabamisad, saTanado balansi nebismier imunitetsa da iurisdicciul privilegiebs Soris, romlebic gadaecemaT sajaro Tanamdebobis pirebs TavianTi funqciebis SesrulebasTan dakavSirebiT da aucileblobis SemTxvevaSi, im SesaZleblobaTa Soris, romlebic iTvaliswineben efeqtiani gamoZiebis sisxlissamarTlebrivi devnisa da sasamarTlo gadawvyvetelebis gamotanis SesaZleblobas im danaSaulebebTan dakavSirebiT, romlebic aseTad cnobilia am konvenciis Sesabamisad.*
3. *TiToeuli monawile saxelmwifo iswrafvis, uzrunvelyos misi Sida kanonmdeblobiT gaTvaliswinebuli nebismieri diskreciuli iuridiuli uflebamosilebis gamoyeneba, romlebic Seexeba pirTa sisxlissamarTlebriv devnas iseT danaSaulebze, romlebic aseTad cnobilia am konvenciis Sesabamisad, danaSaulTan dakavSirebiT samarTaldacviTi RonisZiebis maqsimalurad efeqtianobis uzrunvelyofisaTvis da aucileblobidan gamomdinare, aseT danaSaulebebis CadenisaTvis winaaRmdegobis gawevis mizniT.*
4. *im danaSaulebebTan mimarTebaSi, romlebic aseTad cnobilia am konvenciis Sesabamisad, TiToeuli monawile saxelmwifo atarebs saTanado RonisZiebebs Tavisi Sida kanonmdeblobis Sesabamisad da samarTlebrivi dacvis gaTvaliswinebiT, raTa daculi iqnes pirobebi, romlis mixedviT sasamarTlomde gaTavisuflebis Sesaxeb gadawvyvetelebasTan dakavSirebiT an sakasacio saCivarTan an protestTan dakavSirebiT, gadawvyvetelebis miRebamde gaTvaliswinebul iqnes Semdgom sisxlissamarTlebriv warmoebaSi braldebulis aucilebeli monawileoba.*
5. *TiToeuli monawile saxelmwifo iTvaliswinebs Sesabamisi daniSnulebebis saSiSroebis xarisxis iseTi sakiTxis ganxilvasTan dakavSirebiT, romelic Seexeba im pirTa vadamdel an pirobiT gaTavisuflebas, romlebic msjavrdebulni arian aseTi danaSaulebebisaTvis.*
6. *TiToeuli monawile saxelmwifo, Tavisi samarTlebrivi sistemis fuZemdebluri principebis Sesabamisad, ganxilavs iseTi procedurebis SemuSavebis SesaZleblobebs, romelTa meSveobiT sajaro Tanamdebobis piri, romelic braldebulia danaSaulis Cadenasi, romelic aseTad cnobilia am konvenciis Sesabamisad, saTanado SemTxvevebSi, SeiZleba Canacvlebul iqnes, droebiT CamoSordes Tavisi samsaxureobrivi movaleobebis Sesrulebas an gadayvanil iqnes sxva Tanamdebobaze Sesabamisi organos mier, udanaSaulobis prezumpciis principebis mimarT pativiscemis aucileblobis gaTvaliswinebiT.*
7. *danaSaulis saSiSroebis xarisxis gaTvaliswinebiT TiToeuli monawile saxelmwifo, Tavisi samarTlebrivi sistemis fuZemdebluri principebis Sesabamisad ganxilavs iseTi procedurebis SemuSavebis SesaZleblobas, romelTa Tanaxmad unda ganisazRvros vada, romelic dadgenilia misi Sida kanonmdeblobiT, sasamarTlos gadawvyvetelebiT an sxva nebismieri saSualebiT im pirTa uflebebis CamosarTmevad, romlebic msjavrdebulni arian danaSaulebisaTvis, romlebic aseTad cnobilia am konvenciis Sesabamisad. aseT pirebs CamoerTmevaT ufleba:*
 - a) *daikavon sajaro Tanamdeboba;*
 - b) *daikavon Tanamdeboba romelime sawarmoSi, romelic mTlianad an nawilobrivi saxelmwifos sakuTrebaa.*
8. *am muxlis pirveli punqtiT ziani ar adgeba kompetenturi organoebis mier disciplinuri uflebamosilebis ganxorcielebas samoqalaqo mosamsaxureTa mimarT.*
9. *am konvenciis arcerTi debuleba ar Seexeba princips, romlis Tanaxmad danaSaulebebis gansazRvra, romlebic aseTad cnobilia am konvenciis Sesabamisad da gamosayenebeli iuridiuli misageblebi an sxva samarTlebrivi principebi, romlebiTac gansazRvrulia qmedebaTa marTlzomiereba, Sedis TiToeuli monawile saxelmwifos Sida kanonmdeblobis sferoSi, xolo aseTi danaSaulebebisaTvis sisxlissamarTlebrivi devna da sasjeli xorcieldeba am kanonmdeblobis Sesabamisad.*
10. *monawile saxelmwifoebi iswrafvian, xeli Seuwyon im pirTa sazogadoebaSi reintegracias, romlebic msjavrdebulni arian danaSaulebebisaTvis, romlebic aseTad cnobilia am konvenciis Sesabamisad.*



konvenciis 30-e muxlSi saubaria saTanado balansis arsebobaze erTis mxriv nebismier imunitets, privilegiasa, romlebic gaaCniaT sajaro Tanamdebobis pirebs TavianTi funqciebis SesrulebasTan dakavSirebiT, da meores mxriv im samarTlebriv SesaZleblobebs Soris, riTac xeli ar SeeSleba efeqturi winaswari gamoZiebis, sisxlissamarTlebrivi devnisa da marTlmsajulebis ganxorcielebas. amasTan, muxlSi aRniSnulia sasamarTlo warmoebaSi braldebulis aucilebeli monawileobis Taobaze. 30-e muxlSi miTiTebulia agreTve am pirTa Tanamdebobidan gadayenebisa da sxva Tanamdebobaze gadayvanis, maT mimarT pirobiTi msjavris daniSvnis,

sasjelisagan gaTavisuflebis SesaZleblobeZe, aseve maTi msjavrdebisas maTTvis Tanamdebobis dakavebis uflbis CamorTmevis SesaxeB.

konvenciis 30-e muxlis me-2 nawilis moTxovna daculia saqarTvelos kanonmdeblobiT. kerZod, saqarTvelos sisxlis samarTlis saproceso kodeqsis me-9 muxlis me-2 nawilis Tanaxmad, saqarTvelos parlamentis wevris, saqarTvelos sakonstitucio sasamarTlos wevris, saqarTvelos uzenaesi sasamarTlos wevrisa da saqarTvelos sxva saerTo sasamarTlos mosamarTlis, saqarTvelos kontrolis palatis Tavmjdomaris, saqarTvelos saxalxo damcvelis mimarT gansazRvrulia sisxlis samarTlis pasuxisgebaSi micemis, dpatimrebisa da sisxlis samarTlis saproceso iZulebis sxva RonisZiebis gamoyenebis gansakuTrebuli wesi. amasTan, saqarTvelos sisxlis samarTlis saproceso kodeqsis me-9 muxlis me-3 nawilis mixedviT, dauSvebelia aRniSnul pirTa mier privilegiebisa da imunitetis gamoyeneba sisxlissamarTlebrivi pasuxismgeblobisagan Tavis asarideblad.

konvenciis 30-e muxlis me-4 nawilis moTxovna winaaRmdegobaSi modis saqarTvelos kanonmdeblobasTan. kerZod, saqarTveloSi SesaZlebelia Tanamdebobis pirisaTvis braldebis dauswreblad wayeneba: saqarTvelos sisxlis samarTlis saproceso kodeqsis 284-e muxlis 1¹-li nawilis Tanaxmad, Tu braldebuli Tanamdebobis piria da TavS aridebs sagamoZiebo oraganoebSi gamocxadebas, gamomZiebeli an prokurori Tanamdebobis piris mimarT braldebis wasayeneblad iZaxebS mis damcvelS da gaacnobs dadgenilebas Tanamdebobis piris braldebulad pasuxisgebaSi micemis SesaxeB, rac CaiTvleba braldebis wayenebad. amasTan, SesaZlebelia gansasjeli Tanamdebobis piris dauswreblad sasamarTloSi saqmis arsebiTi ganxilvac: saqarTvelos sisxlis samarTlis saproceso kodeqsis 443-e muxlis me-2 nawilis `g~ qvepungtis mixedviT, gansasjelis dauswreblad saqmis ganxilva SeiZleba, roca gansasjeli Tanamdebobis piria da TavS aridebs sagamoZiebo organoebSi gamocxadebas.

konvenciis 30-e muxlis me-5 nawilis moTxovna daculia saqarTvelos sisxlis samarTlis kodeqsis XII TavSi, romelic iTvaliswinebs zogadad pirobiTi msjavris daniSvnis SesaZleblobas, xolo saqarTvelos sisxlis samarTlis kodeqsis XIV Tavi da saqarTvelos sisxlis samarTlis saproceso kodeqsi – iTvaliswinebs zogadad sasjelisagan gaTavisuflebis SesaZleblobas.

konvenciis 30-e muxlis me-6 nawilis moTxovnaTa Sesabamisad saqarTvelos sisxlis samarTlis saproceso kodeqsis XXIII Tavi iTvaliswinebs braldebulis, maT Soris Tanamdebobis piris, Tanamdebobidan gadayenebis SesaZleblobas mosamarTlis brZanebis, sasamarTlos ganCinebis (dadgenilebis) safuZvelze. Tumca sisxlis samarTlis saproceso kodeqsi ar iTvaliswinebs konvenciiT moTxovnil ufro farTo regulaciebs, rogoricaa sajaro Tanamdebobis piris droebiT CamoSoreba samsaxurebrivi movaleobis Sesrulebisagan, misi Canacvleba an sxva Tanamdebobaze gadayvana.

konvenciis 30-e muxlis me-7 nawilis moTxovna aseve daculia saqarTvelos kanonmdeblobiT: saqarTvelos sisxlis samarTlis kodeqsis me-40 da 43-e muxlebis Tanaxmad, saqarTveloSi sasjelis erT-erTi saxea Tanamdebobis dakavebis uflbis CamorTmeva anu msjavrdebuls ekrZaleba daniSvniTi Tanamdeboba dakaveba saxelmwifo samsaxurSi an adgilobrivi TviTmmarTvelobisa da mmarTvelobis organoebSi. amasTan, saqarTvelos sisxlis samarTlis kodeqsis 43-e muxlis me-2 nawilis mixedviT, Tanamdebobis dakavebis uflbis CamorTmeva ZiriTad sasjelad iniSneba erTidan xuT wlamde vadiT, xolo damatebiT sasjelad _ eqvsi Tvidan sam wlamde vadiT.

SeniSvnebi da rekomendaciebi

- konvenciis 30-e muxlis moTxovnebi ZiriTadad harmonizaciaSi saqarTvelos kanonmdeblobasTan, Tumca 30-e muxlis me-4 nawili winaaRmdegobaSi modis saqarTvelos sisxlis samarTlis saproceso kodeqsis 284-e muxlis 1¹-li nawilTan da 443-e muxlis me-2 nawilis `g~ qvepungtTan.
- konvenciis 30-e muxlis me-4 nawilis moTxovna winaaRmdegobaSi modis saqarTvelos kanonmdeblobasTan: kerZod, saqarTveloSi SesaZlebelia Tanamdebobis pirisaTvis braldebis dauswreblad wayeneba, saqarTvelos sisxlis samarTlis saproceso kodeqsis 284-e muxlis 1¹-li nawilis Tanaxmad, Tu braldebuli Tanamdebobis piria da TavS aridebs sagamoZiebo oraganoebSi gamocxadebas, gamomZiebeli an prokurori Tanamdebobis piris mimarT braldebis wasayeneblad iZaxebS mis damcvelS da gaacnobs dadgenilebas Tanamdebobis piris braldebulad pasuxisgebaSi micemis SesaxeB, rac CaiTvleba braldebis wayenebad. amasTan, SesaZlebelia gansasjeli Tanamdebobis piris dauswreblad sasamarTloSi saqmis arsebiTi ganxilvac, saqarTvelos sisxlis samarTlis saproceso kodeqsis 443-e muxlis me-2 nawilis `g~ qvepungtis mixedviT, gansasjelis dauswreblad saqmis ganxilva SeiZleba, roca gansasjeli Tanamdebobis piria da TavS aridebs sagamoZiebo organoebSi gamocxadebas.
- konvenciis 30-e muxlis me-6 nawilis moTxovna arasruladaa asaxuli saqarTvelos sisxlis samarTlis saproceso kanonmdeblobaSi. saproceso kodeqsi iTvaliswinebs Tanamdebobis piris mxolod Tanamdebobidan gadayenebis SesaZleblobas da ara konvenciiT moTxovnil ufro farTo regulaciebs.

muxli 31. operaciis SeCereba (gayinva), dapetimreba da konfiskacia

1. *TiToeuli monawile saxelmwifo, maqsimaluri SesaZleblobebiT, Tavisi Sida samarTlebrivi sistemis farglebSi atarebs iseT RonisZiebebs, romlebic aucilebelia konfiskaciis uzrunvelsayofad. Kkonfiskacia dasaSvebia:
a) danaSaulebebidan miRebul Semosavalze, romlebic aseTad cnobilia am konvenciis Sesabamisad, an qonebaze, romlis Rirebuleba Seesabameba aseTi Semosavlis Rirebulebas;
b) qonebaze, mowyobilobebsa da sxva saSualebebze, romlebic gamoyenebuli an gankuTvnila iqnen danaSaulis Casadenad, romlebic aseTad cnobilia am konvenciis Sesabamisad;*
2. *TiToeuli monawile saxelmwifo atarebs iseT RonisZiebebs, romlebic aucilebelia imisaTvis, rom uzrunvelyofil iqnes danaSaulis gamovlenis, Tvalyuris devnebis, gayinvis an dapetimrebis SesaZleblobebi am muxlis pirveli punqtiT gaTvaliswinebuli CamonaTvalis Sesabamisad, Semdgoni konfiskaciis mizniT.*
3. *TiToeuli monawile saxelmwifo atarebs Tavisi Sida kanonmdeblobis Sesabamisad iseT sakanonmdeblo da sxva RonisZiebebs, romlebic aucilebelia kompetenturi organoebis mier am muxlis pirveli da meore punqtebiT gansazRvruli gayinuli, dapetimrebuli an konfiskaciis Sedegad CamorTmeuli qonebis marTvis regulirebisaTvis.*
4. *Tu danaSaulebebidan miRebuli aseTi Semosavali gadaiqca an gardaiqmna, mTlinad an nawilobriv sxva qonebad, maSin RonisZiebebi, romelic am muxliTaa gansazRvruli, gatardeba aseTi qonebis mimarTac.*
5. *Tu danaSaulebebidan miRebuli Semosavali SeuerTda im qonebas, romelic kanonieri gziTaa SeZenili, maSin konfiskacias, nebismieri uflebamosilebisaTvis zianis miyenebis gareSe, romelic Seexeba qonebis gayinvas an dapitimrebas, eqvemdebareba qonebis is nawili, romelic Seesabameba mierTebuli Semosavlis Sefasebul Rirebulebas.*
6. *mogebis an sxva sargeblis mimarT, romelic miRebulia aseTi danaSaulebebidan Semosuli Semosavliidan, qonebidan, romladac gadaiqca an gardaiqmna danaSaulebebidan miRebuli aseTi Semosavali an qonebidan, romelsac SeuerTda aseTi danaSaulebebidan miRebuli Semosavali, agreTve tardeba RonisZiebebi, romlebic gansazRvrulia am muxlis Tanaxmad iseTi saxiTa da xasiaTiT, rogorc danaSaulebidan miRebuli Semosavlis mimarT.*
7. *am konvenciis 31-e da 55-e muxlebis Sesabamisad TiToeuli monawile saxelmwifo uflebamosilebas aniWebs Tavis sasamarTloebisa da sxva kompetentur organoebis, gamoscen dadgenilebebi sabanko, safinanso an komerciuli dokumentebis wardgenisa da dapitimrebis Sesaxeb. monawile saxelmwifo sabanko saidumloebis Senaxvis aucileblobis gamo Tavs ar aridebs am punqtis debulebaTa Tanaxmad Sesabamisi RonisZiebebis gatarebas.*
8. *monawile saxelmwifoebis SeuZliaT ganixilon im moTxovnaTa dadgenis SesaZleblobebi, romelTa Tanaxmad pirma, romelmac Caidina danaSauli, unda daamtikos danaSaulebebidan an sxva qonebidan miRebuli aseTi savaraudo Semosavlis kanonieri warmomavloba, romlebic eqvemdebareba konfiskacias imdenad, ramdenadac es moTxovna Seesabameba maTi Sida kanonmdeblobebis fuZemdeblur principebs da sasamarTlo da sxva ganxilvebis xasiaTs.*
9. *am muxlis debulebebi ar unda iqnes ise gagebuli, rom ziani miadges keTilsindisieri mesame mxaris uflebebs.*
10. *m muxliT gansazRvruli arcerTi debuleba ar Seexeba principals, romlis Tanaxmad, RonisZiebebi, romlebzedac aq saubarია, tardeba monawile saxelmwifos Sida kanonmdeblobis debulebaTa Sesabamisad maTi dacvis pirobebis Tanaxmad.*



konvenciis 31-e muxlSi saubarია saxelmwifos mier im saWiro RonisZiebebis gatarebis Taobaze, rac aucilebelia konfiskaciis uzrunvelyofisaTvis, rogorc danaSaulidan miRebul Semosavalze an qonebaze, romlis Rirebuleba Seesabameba aseTi Semosavlis Rirebulebas, ise im qonebasa da sxva saSualebebze, rac gamoyenebuli an gankuTvnila iyo danaSaulis Casadenad. amasTan, muxlSi aRniSnulia konfiskaciis mizniT Sesabamisi sakanonmdeblo da sxva RonisZiebebis Sesaxeb. 31-e muxlSi miTiTebulia agreTve danaSaulidan an sxva qonebidan miRebuli aseTi savaraudo Semosavlis kanonieri warmomavlobis Tavad piris mier damtkicebis Taobaze.

danaSaulebrivad mopovebuli qonebis CamorTmevis procedurebisa da samarTlebrivi reglamentaciis mimarTulebebis arCevis sakiTxi saqarTveloSi kvlavac aqtualuria. didi xnis manZilze miuTiTebden qonebis CamorTmevis antikonstituciurobaze, saqarTvelos konstituciis 21-e muxlze dayrdnobiT. amasTanave, argumentad iSveliebden saqarTvelos sakonstitucio sasamarTlos 1997 wlis 21 ivlisis #1/51 gadawyvetilebas, romlis mixedviTac arakonstituciurad iqna cnobili saqarTvelos sixxlis samarTlis kodeqsis is normebi, romelSic damatebiTi sasjelis saxiT gaTvaliswinebuli iyo qonebis konfiskacia.

qonebis CamorTmevis definicia da misi Sefardebis sakiTxi ukve saTanadod gadawyda da gaiwera saqarTvelos sixxlis samarTlis kodeqsis 52-e muxlis axal redaqsiaSi (dawvrilebiT ix. qvemoT, konvenciis 54-e muxlis

analizi). konvenciis 31-e muxlis pirveli nawilis moTxovnaTa Sesabamisad, saqarTvelos sisxlis samarTlis saproceso kodeqsis 44-e muxlis 48-e nawiliT saproceso konfiskacia ganimarta, rogorc danaSaulis iaraRis da sagnis usasyidlod CamorTmeva. saqarTvelos sisxlis samarTlis saproceso kodeqsis 44-e muxlis 49-e nawili aseve iTvaliswinebs danaSaulebrivi gziT mopovebuli qonebis agreTve am qonebidan miRebuli Semosavlebis, aqciebis (wilis) an am qonebis ekvivalenturi fuladi saxsrebs CamorTmevas.

sisxlis samarTlis saproceso kodeqsis saproceso konfiskaciis paralelurad SemoRebuli iqna danaSaulebrivi gziT mopovebuli qonebis CamorTmevis instituti. gamamtyunebeli ganaCeniT sasamarTlom unda gadawyvitos danaSaulebrivi gziT mopovebuli qonebis CamorTmevis sakiTxi. saqarTvelos sisxlis samarTlis kodeqsis 41-e muxlis me-3 nawilis mixedviT, danaSaulis Camdeni piris mimarT am kodeqsis 214-e muxliTa (sabaJo wesis darRveva) da 344-e muxliT (saqarTvelos saxelmwifo sazRvris ukanonod gadakveTa) gaTvaliswinebul SemTxvevaSi sasjelTan erTad SeiZleba gamoyenebul iqnes sisxlissamarTlebrivi iZulebiTi RonisZieba danaSaulis sagnis an saSualebis CamorTmevis saxiT.

saqarTvelos administraciul samarTaldarRvevaTa kodeqsis 24-e, 25-e da 29-e muxlebis Tanaxmad, rogorc ZiriTadi, ise damatebiTi administraciuli saxdelis saxiT gansazRvulia im sagnis konfiskacia, romelic administraciuli samarTaldarRvevis Cadenis iaraRs, uSualo obieqts an sabaJo wesebis darRvevis sagns, saqonlis transportirebisa da miwodebis saSualebas warmoadgenda.

konvenciis 31-e muxlis me-2 nawilis moTxovnebi asaxulia saqarTvelos sisxlis samarTlis saproceso kodeqsis XXIV TavSi, romlis Tanaxmad, sarCelis, qonebrivi saxdelis, agreTve saproceso konfiskaciis da sisxlissamarTlebrivi iZulebiTi RonisZiebis uzrunvelsayofad sasamarTlos SeuZlia, yadaRa daados eWvmitanilis, braldebulis an gansasjelis, misi moqmedebisaTvis materialurad pasuxismgebeli piris qonebas, maT Soris, sabanko angariSebs, Tu aris monacemebi, rom qonebas gadamalaven an daxarjaven, anda rom qoneba danaSaulebrivi gziT aris mopovebuli. amasTan, saqarTvelos sisxlis samarTlis saproceso kodeqsis 124-e muxlis pirveli nawilis `a~ qvepunctis mixedviT, Tu danaSaulis iaraRs raime Rirebuleba aqvs, xdeba misi saproceso konfiskacia.

konvenciis 31-e muxlis me-3 nawilis moTxovnebi konfiskaciis Sedegad CamorTmeuli qonebis marTvis regulirebis Sesaxeb saqarTvelos kanonmdelobas asaxuli ar aris. sruliad gaurkvevelia ra samarTlebrivi aqtis safuZvelze da rogor xdeba konfiskaciis gziT CamorTmeuli qonebis Semdgomi marTva da gamoyeneba. aucilebelia aRniSnulis gamosworeba da sakiTxis gamWirvalobisa da sajarobis uzrunvelyofa²⁰.

konvenciis 31-e muxlis me-4, me-5 da me-6 nawilebis moTxovnebis Tanaxmad, saqarTvelos sisxlis samarTlis saproceso kodeqsis 44-e muxlis 49-e nawili iTvaliswinebs danaSaulebrivi gziT mopovebuli qonebidan miRebuli Semosavlebis, aqciebis (wilis) an am qonebis ekvivalenturi fuladi saxsrebs CamorTmevas.

konvenciis 31-e muxlis me-7 nawilis Sesabamisad da saqarTvelos sisxlis samarTlis saproceso kodeqsis XXXVIII Tavis mixedviT, Sesazlebelia amoRebisa da Cxrekis Catareba im mizniT, rom aRmoaCinon da amoiRon danaSaulis iaraRi, sagani, romelsac danaSaulis kvali atyvia, danaSaulebrivi gziT mopovebuli nivTi da faseuloba, sxva sagani da dokumenti (maT Soris sabanko, safinanso, komerciuli), romelic saWiroa saqmis garemoebaTa gasarkvevad. sisxlis samarTlis saproceso kodeqsis 190-e muxlis Tanaxmad, sarCelis, sxva qonebrivi saxdelis, agreTve saproceso konfiskaciisa da sisxlissamarTlebrivi iZulebiTi RonisZiebis uzrunvelsayofad sasamarTlos SeuZlia, yadaRa daados eWvmitanilis, braldebulis an gansasjelis, misi moqmedebisaTvis materialurad pasuxismgebeli piris qonebas, maT Soris sabanko angariSebs, Tu aris monacemebi, rom qonebas gadamalaven an daxarjaven, anda rom qoneba danaSaulebrivi gziT aris mopovebuli. am nawilSi miTiTebuli pirobebis arsebobisas, Tu eWvmitanili, braldebuli an gansasjeli Tanamdebobis piria, prokurori valdebulia, aRZras Suamdgomloba sasamarTlos winaSe Tanamdebobis piris qonebis, maT Soris sabanko angariSebis, dayadaRebis, agreTve Tanamdebobis piris mier saxelmwifos saxeliT dadebuli xelSekrulebebiT nakisri valdebulebebis Sesrulebis SeCerebis an sarCelis uzrunvelyofis sxva RonisZiebebis ganxorcielebis Taobaze.

`komerciuli bankebis saqmianobis Sesaxeb~ saqarTvelos kanonis me-17 muxlis me-2 punctis Tanaxmad, cnobebi fizikuri da iuridული pirebis angariSebis, am angariSebidan ganxorcielebuli operaciebisa da angariSebze

²⁰ am TvalsazrisiT sainteresoa italiis gamocdileba. italiis 1965 wlis 31 maisis #575 kanoni `mafiis winaarmddeg` awesrigebs CamorTmeuli da konfiskaciis gziT CamorTmeuli qonebis Semdgomi gankargvis sakiTxebs. CamorTmeuli qonebis marTvisaTvis iniSneba specialuri administratori, romlis movaleobasac Seadgens sekvestirebuli qonebis dacva, Senaxva da administrireba, aseve Sesazleblobis SemTxvevaSi qonebis gazrda. yovelive es xorcieldeba mosamarTlis uSualo zedamxedvelobiT. mkacradaa gansazRvruli administratoris saqmianobis reglamenti, raTa Tavidan iqnas acilebuli CamorTmeuli qonebis gankargva misi uwindeli mflobelis mier. amgvარი qonebis marTvisas Semosuli fuladi saxsrebi akumulirdeba prefekturasTan arsebuli fondSi, raTa Semdgom Sesazleblobis farglebSi CamorTmeuli uZravi qoneba gaices institucionaluri, socialuri da sajaro interesebis gansaxorcieleblad. italiaSi arsebobis CamorTmeuli qonebis erovnuli samsaxuri, romlis wevrebsac aqVT mafiisaTvis CamorTmeuli qonebis ekonomikuri ganviTarebis mizniT reutilizaciis mniSvnelovani gamocdileba. aRniSnuli samsaxuri warmoadgens informaciis wyaros CamorTmeuli qonebis marTvisa da gamoyenebis sakiTxebiT dainteresebuli pirTaTvis (dawvrilebiT ix. `italiis antikoruციული da antimafiური kanonmdelobა – qonebis konfiskaciis sakiTxebi~. Tbilisi. 1984. aseve www.libera.it).

arsebuli naSTebis Sesaxeb SeiZleba mieces Sesabamisi angariSebis mflobelebs da maT warmomadgenlebs, agreTve, kanonmdeblobiT gaTvaliswinebul SemTxvevebSi, saqarTvelos finansuri monitoringis samsaxurs. sxva pirebs es informacia miecemaT mxolod sasamarTlos Sesabamisi aqtis safuZvelze.

konvenciis 31-e muxlis me-8 nawilis moTxovnis Tanaxmad, faqtobrivad dadgenilia piris mier mtkicebaTa uaryofis tvirTi, radgan Tavad am pirma unda daamtkicos danaSaulebidan an sxva qonebidan miRebuli aseTi savaraudo Semosavlis kanonieri warmomavloba.

saqarTvelos sisxlis samarTlis saproceso kodeqsi braldebuli pirisaTvis mtkicebaTa uaryofis tvirTis dakisrebis Sesazleblobas faqtobrivad ar iTvaliswinebs. Tumca, saqarTvelos administraciuli saproceso kodeqsis VII^{II} Tavisi Sesabamisad, Tanamdebobis pirTa ukanono da dausabuTebeli qonebis CamorTmevasa da saxelmwifosaTvis gadacemasTan dakavSirebiT administraciuli samarTalwarmoebisas, qonebas sasamarTlo mosarCelis mier wardgenili mtkicebulebebis Sefasebis safuZvelze cnobs dausabuTeblad, Tu saqmis warmoebis procesSi mopasuxem ver warudgina sasamarTlos qonebis an am qonebis SeZenisaTvis saWiro finansuri saSualebebis kanonieri gziT mopovebis an am qonebaze kanonmdeblobiT dadgenili gadasaxadebis gadaxdis damadasturebeli dokumentebi.

SeniSvnebi da rekomendaciebi

- *konvenciis 31-e muxlis me-3 nawilis moTxovnebi konfiskaciis Sedegad CamorTmeuli qonebis marTvis regulirebis Sesaxeb saqarTvelos kanonmdeblobaSi asaxuli ar aris. sruliad gaurkvevelia ra samarTlebrivi aqtis safuZvelze da rogor xdeba konfiskaciis gziT CamorTmeuli qonebis Semdgomi marTva da gamoyeneba. aucilebelia aRniSnulis gamosworeba da sakiTxis gamWirvalobisa da sajarobis uzrunvelyofa.*

muxli 32. mowmeTa, eqspertTa da dazaralebulTa dacva

1. *TiToeuli monawile saxelmwifo atarebs saTanado RonisZiebebs Tavisi Sida samarTlebrivi sistemis Sesabamisad da Tavisi Sesazleblobebis farglebSi imisaTvis, rom uzrunvelyos Sesazlo SurisZiebisagan an daSinebisagan mowmeTa da eqspertTa efeqtianad dacva, romlebic Cvenebebs aZleven danaSaulebebTan dakavSirebiT, romlebic aseTad cnobilia am konvenciis Sesabamisad, saTanado SemTxvevebSi, maTi naTesavebisa da sxva axlobebis CaTvliT.*

2. *RonisZiebebi, romlebic am muxlis pirveli punqtiTaa gansazRvruli, braldebulis uflebebis SeuZRudavad, maT Soris, saTanado ganxilvis uflebisatvis SeiZleba iTvaliswinebdes:*

a) *procedurebis dadgenas aseT pirTa fizikuri dacvisaTvis, magaliTad, im farglebSi, rac aucilebeli da praqtikulad ganxorcielebadia, maTi sxva adgilze gadasaxlebisaTvis da iseTi debulebebis miRebas, romlebiTac, saTanado SemTxvevebSi nebadarTulia ar gaxmaurdes pirovnebis Sesaxeb an aseT pirTa adgilsamyoflis Sesaxeb informacia, adgens aseTi informaciis gaxmaurebaze SezRudvebs.*

b) *mtkicebulebis wesebis miReba, romlebiTac mowmeebisa da eqspertebis SeuZliat Cvenebebi miscen iseTi saxiT, rom uzrunvelyofili iyos aseT pirTa usafrTxoeba, magaliTad, Cvenebis miscemad kavSirgambulobis iseTi saSualebebis gamoyeneba rogoricaa videokavSiri an sxva saTanado saSualebebi.*

3. *monawile saxelmwifoebi ganxilaven sxva saxelmwifoebTan SeTanxmebebis dadebis Sesazleblobebis, romelic Seexeba am muxlis pirveli punqtiT gansazRvrul pirTa gadasaxlebas.*

4. *am muxlis debulebebi gamoiyeneba ageTve dazaralebulTa mimarT imdenad, ramdenadac isini mowmeebad iTvlebian.*

5. *TiToeuli monawile saxelmwifo Tavisi Sida kanonmdeblobis dacviT qmnis imis Sesazleblobebis, rom dazaralebulebma sisxlissamarTlebrivi warmoebis Sesabamis stadienze gamoTqvan Tavianti Sexedulebebi da Sida pirTa mimarT, romlebmac Caidines danaSaulebebi, iseTi saxiT, rom ziani ar miadges dacvis uflebebs.*



konvenciis 32-e muxlSi saubarია saxelmwifოს მხრიდან სათანადო რონისზეების გატარების ტაობაზე, რაც უზრუნველყოფს სესაზლო სურისზეებისა და დასინებისაგან მოვმეების, დazaralebulebisa და eqspertebis efeqtur dacvas. amasTan, muxlSi aRniSnulia iseTi specialური RonisZiebebis Sesaxeb, rogoricaa: maTi sxva adgilas saxovreblad gadayvana, maT Sesaxeb informaciis gaxmaurebis SezRudva, Cvenebis micemis specificური saxis dadgena.

32-e muxlis pirveli, me-4 და me-5 ნაწილებში მოქონები საკარტველოს კანონმდებლობით დაცულია: კერძოდ, 2006 წლის 11 იანვრამდე მოქმედი საკარტველოს სისხლის სამართლის პროცესო კოდექსის 109-ე მუხლის ტანახმად,

dadgenili iyo procesis monawileTa dacva danaSaulebrivi xelyofisagan. amasTan, aRniSnuli muxliT dadgenili garantiebi exeboda rogorc dazaralebul, mowmes, eqsperts, ise maTi ojaxis wevrebsa da axlo naTesavebs, romelTac ufleba hqondaT, gancxadebiT miemarTaT sisxlis samarTlis saqmis mwarmoebeli pirisaTvis (organosaTvis) maTi sicocxlis, janmrTelobis, pativis, Rirsebisa da qonebis marTIsawinaaRmdego xelyofisagan dacvis RonisZiebebis gatarebis Taobaze, Tu maT winaaRmdeg Cadenili iyo ukanono qmedeba, anda arsebobda misi Cadenis realuri safrTxe sisxlis samarTlis saqmis warmoebaSi maT monawileobasTan dakavSirebiT.

2006 wlis 11 ianvridan amoqmedebuli `saqarTvelos sisxlis samarTlis saproceso kodeqsSi cvlilebebisa da damatebebis Setanis Sesaxeb~ saqarTvelos kanonis Tanaxmad, saqarTvelos sisxlis samarTlis saproceso kodeqss daemata axali specialuri Tavi _ XIV¹ Tavi _ `sisxlis samarTlis procesis monawileTa dacvis specialuri RonisZiebani~. masSi mocemulia debulebebi sisxlis samarTlis procesis monawileTa dacvis specialuri RonisZiebebis Sesaxeb.

gaeros antikorufciuli konvenciis 32-e muxlis me-2 nawilis moTxovnebi daculia: kerZod, 2006 wlis 11 ianvramde moqmedi saqarTvelos sisxlis samarTlis saproceso kodeqsis 109-e muxlis me-6 nawilis mixedviT, gaTvaliswinebuli iyo dacvis iseTi RonisZiebebis gatareba, rogoricaa: saxelisa da gvaris, piradobis damadasturebeli dokumentis an garegnobis Secvla, sxva adgilas gadasaxleba, sxva samuSaoze mowyoba. 2006 wlis 11 ianvridan ki dadgenilia Semdegi saxis dacvis specialuri RonisZiebebi: sajaro reestridan an sxva sajaro xasiaTis Canaweridan dazaralebulis an mowmis amocnobisa da identifikaciis SesaZleblobis mqone monacemTa, kerZod, saxelis, gvaris, misamarTis, samuSao adgilis, profesiis an sxva Sesabamisi informaciis Secvla an amoReba; dazaralebulis an mowmis amocnobisa da identifikaciis SesaZleblobis Semcveli saproceso da sxva dokumentis gasaidumloeba; fsevdonimis miniWebi; garegnobis Secvla; sacxovrebeli adgilis droebiTi an mudmivi Secvla; marTIsawinaaRmdego xelyofisagan fizikuri dacvis specialuri RonisZieba.

saqarTvelos sisxlis samarTlis saproceso kodeqsis proeqtiT dadgenilia aseve Cvnebis micema daburuli ekranis an fardis ukan, gamosaxulebis an xmis Semcveleli mowyobilobis gamoyeneba an imavdrouli (sinqronuli) Cvnebis micema sxva adgilas, romelic sasamarTlo darbazSi translirdeba daxuruli qselis satelevizio an gamosaxulebisa da xmis gadamcemi sxva teqniki saSualebebiT, aseve Cvnebis videoCanaweris translireba; sasamarTlos daxuruli sxdomis Catareba; sasamarTlo sxdomis darbazidan braldebulis droebiTi gayvana (aRniSnul sxdomas unda eswrebodes braldebulis damcveli); dadgenileba mowmis sruli anonimurobis dacvis Sesaxeb.

amasTan, niSandoblivia isic, rom saqarTvelos parlamentma sul axlaxan, 2006 wlis aprilSi, miiRo kanoni `adamianiT vaWrobs (trefikingis) winaaRmdeg brZolis Sesaxeb~. am kanonis erT-erT mizans warmoadgens adamianiT vaWrobs (trefikingis) msxverpITa dacva, daxmareba da rehabilitacia maTi uflebebis sruli pativiscemis safuZvelze. aRniSnulis efeqturad ganxorcielebis mizniT iqmneba sajaro samarTlis iuridiuli piri _ adamianiT vaWrobs msxverpITa dacvisa da daxmarebis saxelmwifo fondi. fondis Semosavlebis wyaros warmoadgens: saxelmwifo sabiujeo saxsrebi, saerTaSoriso organizaciebisagan miRebuli saxsrebi, adamianiT movaWreTaTvis Camortmeuli qoneba, iuridiuli da fizikuri pirebis Semowirulobebi da anonimuri wyarobidan miRebuli Tanxebi, sxva nebadarTuli Semosavlebi.

`adamianiT vaWrobs (trefikingis) winaaRmdeg brZolis Sesaxeb~ saqarTvelos kanoniT dadgenilia rogorc adamianiT vaWrobs (trefikingis) danaSaulis msxverpITa, dazaralebulTa da mowmeTa dacvis specialuri saSualebebi (rac aRniSnuli dacvis specialuri RonisZiebebis identuria), ise maTTvis miyenebuli moraluri, fizikuri Tu qonebrivi zianis anazRaurebis, kompensaciis, daxmarebisa da rehabilitaciis meqanizmebi; gaTvaliswinebulia ufaso samedicino da fsiqologiuri daxmarebisa da ufaso iuridiuli konsultaciis gawevis SesaZlelobebi; saxelmwifo biujetidan yovelTviuri materialuri daxmarebis gacema; adamianiT vaWrobs (trefikingis) msxverpITa droebiTi sacxovreblis (TavSesafris) Seqmna da a.S.

SeniSvnebi da rekomendaciebi

- 32-e muxlis moTxovnebi faqtobrivad harmonizaciaSia saqarTvelos kanonmdelobasTan.
- sasurvebia sisxlis samarTlis procesis monawileTa dacvis specialuri RonisZiebebis praqtikaSi efeqturad da realurad gatarebisaTvis specialuri kanonis an kanonqvemdebare normatiuli aqtebis miReba mowmeTa, eqspertTa da dazaralebulTa dacvis Sesaxeb, sadac Tavmoyrili iqneba saxelmwifos mier aRniSnuli problemis mosawesrigeblad Sesabamisi finansuri da materialur-teqniki uzrunvelyofis RonisZiebebis ganxorcielebis strategia da samoqmedo gegma.
- moxdes saqarTvelos antikorufciuli strategiis samoqmedo gegmis 5.6. punktis implementacia, romelic iTvaliswinebs mowmeTa dacvis sistemis amoqmedebas 2007 wlis bolomde.

muxli 33. informaciis mimwodebel pirTa dacva

TiToeuli monawile saxelmwifo ganxilavs SesaZleblobas Tavis Sida samarTlebriv sistemaSi Seitanos saTanado RonisZiebebi nebismieri piris dasacavad, romelic keTilsindisierad da gonivrulad awvdis informacias kompetentur organoebis danaSaulTan dakavSirebuli faqtebis Sesaxeb, romlebic aseTad cnobilia am konvenciis Sesabamisad, nebismieri ukanono mopyrobisagan.



33-e muxlSi saubarია saxelmwifos mxridan saTanado RonisZiebebis gatarebis Taobaze, rac uzrunvelyofs nebismieri ukanono mopyrobisagan im piris dacvas, romelic keTilsindisierad da gonivrulad awvdis informacias kompetentur organoebis danaSaulTan dakavSirebuli faqtebis Sesaxeb.

33-e muxlis moTxovnebi nawilobrив asaxulia `operatiul-samZebro saqmianobis Sesaxeb~ saqarTvelos kanonSi. kanonis pirveli muxlis `i~ qvepunctis Tanaxmad, saidumlo TanamSromeli (konfidenti) aris 18 wels miRweuli qmedunariani fizikuri piri, romelic nebayoflobiT, kontraqtis safuZvelze TanamSromlobis operatiul-samZebro organosTan da asrulebs kontraqtiT gaTvaliswinebul valdebulebebs.

`operatiul-samZebro saqmianobis Sesaxeb~ saqarTvelos kanonis me-17 muxlis me-2 punctis mixedviT, Tu operatiul-samZebro saqmianobis ganmaxorcielebeli organoebisaTvis xelSewyobis gamo calkeul pirebs, aseve maTi ojaxis wevrebs, axloblebs SeeqmnebaT sicocxlis, janmrTelobis an qonebis marTlsawinaaRmdego xelyofis realuri safrTxe, es organoebi valdebulni arian, miiRon saWiro zomebi aseTi moqmedebis Tavidan asacileblad, braleuli pirebis dasadgenad da pasuxisgebaSi miscemad. amasTan, amave muxlis me-7 punctis Sesabamisad, saWiroebis SemTxvevaSi piri, romelic TanamSromlobis operatiul-samZebro saqmianobis ganmaxorcielebel organoebTan, aseve misi ojaxis wevrebis uSiSroebis uzrunvelyofis mizniT tardeba maTi dacvis specialuri RonisZiebebi saqarTvelos kanonmdeblobiT dadgenili wesiT, xolo me-17 muxlis me-8 da me-9 punctebis Tanaxmad, Tu aRniSnuli piri daiRupa operatiul-samZebro RonisZiebaSi monawileobisas, daRupulis ojaxsa da mis kmayofaze myofT Sesabamisi biujetis saxsrebidan eZlevaT erTdrouli Semweoba daRupulis aTi wlis xelfasis odenobiT da kanoniT dadgenili wesiT eniSnebaT pensia marCenalis dakargvis gamo; im SemTxvevaSi ki, Tu pirma operatiul-samZebro RonisZiebaSi monawileobisas miyenebuli Wrilobis, kontuziis, dasaxiCrebis Sedegad miiRo travma, romelic gamoricxavs misi Semdgomi TanamSromlobis SesaZleblobas, mas Sesabamisi biujetis saxsrebidan eZleva erTdrouli Semweoba xuTi wlis xelfasis odenobiT da eniSneba invalidobis pensia.

aRsaniSnavia isic, rom saqarTvelos sisxlis samarTlis saproceso kodeqsis me-16 muxlis me-4 nawilis Tanaxmad, sisxlis samarTlis saqmis ganxilvisas mxaris moTxovnis safuZvelze sasamarTlos (mosamarTlis) ganCinebiT (dadgenilobiT) SeiZleba Catardes daxuruli sasamarTlo sxdoma, Tu amas moiTxovs procesis monawilis (maT Soris, mowmis saxiT dasakiTxi konfidentis) da misi ojaxis wevrebis an axlo naTesavebis piradi usafrTxoebis dacva.

SeniSvnebi da rekomendaciebi

- *33-e muxlis moTxovnebi faqtobrivad harmonizaciaSia saqarTvelos kanonmdeblobasTan. aRsaniSnavia isic, rom konfidenti Tavisi samarTlebrivi statusiT ar warmoadgens sisxlis samarTlis saproceso kodeqsiT dadgenil procesis monawiles da Sesabamisad ver Seexeba verc 2006 wlis 11 ianvramde moqmedi saqarTvelos sisxlis samarTlis saproceso kodeqsis 109-e muxliT, verc 2006 wlis 11 ianvridan amoqmedebuli `saqarTvelos sisxlis samarTlis saproceso kodeqsiT cvlilebebisa da damatebebis Setanis Sesaxeb~ saqarTvelos kanoniTa da verc saqarTvelos sisxlis samarTlis saproceso kodeqsis axali proeqtiT gaTvaliswinebuli dacvis specialuri RonisZiebebi.*
- *amasTan, sasurvelia, rom miRebul iqnes specialuri kanoni an kanonqvemdebare normatiuli aqti saidumlo TanamSromlis (mamxileblis) dacvis Sesaxeb²¹.*
- *mizanSewonilia aseve saidumlo TanamSromlis (konfidentis) dacvis sakiTxis srulyofisaTvis Sesabamisi finansuri da materialur-teqnikuri uzrunvelyofis RonisZiebebis ganxorcieleba.*

muxli 34. korufciuli qmedebebis Sedegebi

mesame mxaris mier keTilsindisierad mopovebuli uflebebis saTanadod gaTvaliswinebiT TiToeuli monawile saxelmwifo atarebs RonisZiebebs Tavis Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad imisaTvis, rom moawesrigos sakiTxebi korufciis Sedegebis Sesaxeb. am konteqstSi monawile saxelmwifoebis SeuZliaT ganxilom korufcia rogorc faqtori, romelsac mniSvneloba aqvs kontraqtebis anulirebisa da gadawyvetis

²¹ magaliTisaTvis SeiZleba moviyvanoT aSS-s specialuri aqti `informatoris dacvis Sesaxeb~, riTac moxda konstituciis pirveli damatebiT gaTvaliswinebuli uflebis ganxorcieleba. Sesabamisad, Crdilo da samxreT amerikuli qveynebis warmomadgenlebmec Seitanes informatoris dacvis Sesaxeb muxli korufciis winaaRmdeg inter-amerikul konvenciaSi. didi britaneTis parlamentmac ramdenime wlis win miiRo kanonebi informatorebis dacvis Taobaze da a.S.

warmoebaSi, an koncesiebis an sxva analogiuri instrumentebis gamoTxovaSi, an Seqmnil mdgomareobis gamosaworeblad sxva RonisZiebebis gatarebaSi.



korufcia ZirSive ewinaaRmdegeba samarTlis nebismieri dargis fuZemdeblur normebs. es principebi gansakuTrebiT naTladaa asaxuli im muxlebSi, romlebic iTvaliswineben sisxlissamarTlebriv pasuxismgeblobas qrTamis micemasa da aRebisaTvis. vinaidan am sakiTxebeze sakmaod vrclad da amomwuravad gvqonda saubari Sesabamisi muxlebis analizisas, aRar SevudgebiT maT detalur ganxilvas. korufciis meSveobiT Cadenili samsaxurebrivi qmedeba ukanono qmedebad iTvleba da saamiso debulebebi asaxulia saqarTvelos samoqalaqo kodeqsSi.

samoqalaqo kodeqsi korufciul garigebas ukanono garigebad Tvlis da mas ukavSirebs uaryofiT samarTlebriv Sedegebs xelSekrulebis monawile braleuli mxarisaTvis. unda aRiniSnos, rom sisxlissamarTlebriv sasjels iwvevs aramarto meqrTameoba anu korufcia, aramed sxva monaTesave qmedebelic, romelic ukanono garigebis safuZvelze daideba. imavdroulad, samoqalaqo kodeqsi calke iTvaliswinebs (kerZod, sk-is 997-e muxli) piris valdebulebas aanazRauros ziani, romelic miadga mesame pirs misi muSakis mier ganxorcielebuli marTIsawinaaRmdego moqmedebiT. amave kodeqsis 1005-e muxliSi sagangebodaa gaTvaliswinebuli sakuTriv saxelmwifos pasuxismgebloba misi mosamsaxuris mier miyenebuli zianisaTvis.

muxli 1005. saxelmwifos pasuxismgebloba misi mosamsaxuris mier miyenebuli zianisaTvis

1. Tu saxelmwifo mosamsaxure ganzrax an uxeSi gaufrTxilelobiT arRvevs Tavis samsaxurebriv movaleobas sxva pirTa mimarT, maSin saxelmwifo an is organo, romelSi mosamsaxure muSaobs, valdebulia aanazRauros damdgari ziani. ganzraxvis an uxeSi gaufrTxilelobis dros mosamsaxure saxelmwifosTan erTad solidarulad agebs pasuxs.

2. zianis anazRaurebis valdebuleba ar warmoiSoba, Tu dazaralebuli ganzrax an uxeSi gaufrTxilelobiT ar Seecada samarTlebrivi gzebiT Tavidan aecilebina ziani.

3. rehabilitirebuli pirisaTvis ukanono msjavrdadebis, sisxlis samarTlis pasuxisgebaSi ukanonod micemis, aRkveTis RonisZiebis saxiT patimrobis an gausvlelobis xelwerilis ukanonod gamoyenebis, patimrobis an gamasworebeli samuSaoebis saxiT administraciuli saxdelis arasworad dakisrebis Sedegad miyenebuli ziani anazRaurdeba saxelmwifos mier mokvlevis²², winaswari gamoZiebis, prokuraturis organoebisa da sasamarTlos Tanamdebobis pirTa bralis miuxedavad. ganzraxvis an uxeSi gaufrTxilelobisas es pirebi saxelmwifosTan erTad solidarulad ageben pasuxs.

SeniSvnebi da rekomendaciebi

- *konvenciis 34-e muxliT gaTvaliswinebuli debuleba asaxulia saqarTvelos kanonmdeblobaSi.*
- *rogorc cnobilia, mokvlevis instituti gauqmda da Sesabamisi cvlilebebi ganxorcielda sisxlis samarTlis kanonmdeblobaSi. rogorc Cans, aRniSnuli institutis gauqmebam adekvaturi asaxva ver hpova saqarTvelos samoqalaqo kodeqsSi.*

muxli 35. zianis anazRaureba

TiToeuli monawile saxelmwifo axorcielebs iseT RonisZiebebs, romlebic aucilebelia misi Sida kanonmdeblobis principebis Sesabamisad da imis uzrunvelsayofad, rom fizikur da iuridiul pirebs, romlebsac ziani miadgaT raimo korufciuli qmedebis Sedegad, ufleba hqondeT saqmismarmoeba aRZran im pirTa mimarT, romlebic pasuxismgebelni arian aseTi zianis miyenebisaTvis, kompensaciis misaRebad.



konvenciis 35-e muxli garkveulwilad exmianeba 34-e muxliSi mocemul debulebebs. kerZod, am muxliT SemoTavazebuli normis Tanaxmad, iuridiul da fizikur pirebs, romlebsac ziani miadgaT korufciuli qmedebis Sedegad, ufleba unda hqondeT, am zianis miyenebisaTvis moiTxovon saTanado kompensacia. SeiZleba iTqvas, rom saqarTvelos kanonmdeblobaSi konvenciis es moTxovna asaxulia rogorc samoqalaqo, aseve sisxlis samarTlis kanonmdeblobaSi. samoqalaqo kanonmdeblobis kuTxiT Cven ukve visaubreT 34-e muxlis ganxilvisas.

rac Seexeba sisxlis samarTlis kanonmdeblobas, saqarTvelos sisxlis samarTlis saprocso kodeqsis 219–221-e muxlebiT reglamentirebulia rehabilitaciis safuZvlebi, romlebic garkveulwilad exmianeba konvenciis 35-e muxliT SemoTavazebul normas. kerZod, kanonis Sesabamisad unda anazRaurdes saqmis Sedegis miuxedavad ziani, romelic pirs miadga ukanonod an dausabuTeblad dakavebis, dapatimrebis da sxva. moqmedebaTa Sedegad.

²² rogorc cnobilia, mokvlevis instituti gauqmda da Sesabamisi cvlilebebi ganxorcielda sisxlis samarTlis kanonmdeblobaSi. rogorc Cans, aRniSnuli institutis gauqmebam adekvaturi asaxva ver hpova saqarTvelos samoqalaqo kodeqsSi.

reabilitaciis dros sixxlis samarTalwarmoebis organoebis ukanono an dausabuTebeli moqmedebis Sedegad miyenebuli zianis anazRaurebisas yvela gadasaxdeli gadaixdevineba, am organoebis Tanamdebobis pirTa bralis miuxedavad. aRniSnul zians saxelmwifo biujetidan anazRaureben safinanso organoebi an socialuri uzrunvelyofis organoebi. dazaralebulisadmi miyenebuli zianis anazRaurebis wessa da pirobebs gansazRvravs saproceso kodeqsis 225-e muxli. ukanono da dausabuTebeli saproceso moqmedebis Sedegad miyenebuli ziani, 226-e muxlis Sesabamisad, unda aunazRaurdes moqalaqes agreTve ziani sabinao sferoSi da SromiTi urTierTobis sferoSi, saswavlebelSi aRdgena, wodebebis aRdgena, ordenebisa da jildoebis dabruneba. sayuradReboa sixxlis samarTlis saproceso kodeqsis 227-e muxlic, romelic gansazRvravs reabilitaciisa da sixxlis samarTlis procesis organoebis ukanono an dausabuTebeli moqmedebis Sedegad miyenebuli zianis anazRaurebis saproceso wessac.

SeniSvnebi da rekomendaciebi

- *saqarTvelos kanonmdebloba faqtobrivad SesabamisobaSia konvenciis 35-e muxliT SemoTavazebul debulebasTan.*
- *ramdenadac qarTul kanonmdeblobaSi aqtiurad ganixileba sakiTxi iuridiuli piris sixxlissamarTlebrivi pasuxismgeblobis SemoRebis Sesaxeb, marTebulad migvaCnia, SemdgomSi gvefigra aseve iuridiuli piris reabilitaciis sakiTxebzec.*

muxli 36. specializebuli organoebi

TiToeuli monawile saxelmwifo uzrunvelyofs Tavisi samarTlebrivi sistemis fuZemdebluri principebis Sesabamisad organos an organoebis an pirTa arsebobs, romlebic specializebulni arian korufciasTan brZolaSi samarTaldacviTi RonisZiebebis saSualebiT. aseTi organo an organoebi an pirebi uzrunvelyofilni arian aucilebeli damoukideblobiT monawile saxelmwifos samaTlebrivi sistemis fuZemdebluri principebis Sesabamisad imisaTvis, rom maT TavianTi funqciebi Seasrulon efeqtianad da raime arasaTanado zegavlenis gareSe. aseTi organos an organoebis aseTi pirebi an TanamSromlebi unda flobdnen saTanado kvalifikacias da resursebs TavianTi amocanebis Sesasruleblad.



36-e muxliSi saubaria saxelmwifos mier samarTaldacviTi RonisZiebebis saSualebebiT korufciasTan sabrZolvelad damoukidebeli specializebuli organos, organoebis an Tanamdebobis pirebis arsebobis uzrunvelyofis Taobaze.

saqarTvelos prezidentis 2004 wlis 4 Tebervlis #40-e brZanebulebis mixedviT, antikorufciuli politikis koordinaciis gaZlierebis mizniT Sesabamisi uflbamosileba gadaeca saqarTvelos erovnuli uSiSroebis sabWos, riTac uflbamosileba Seuwyda yofili antikorufciuli politikis sakoordinacio sabWos da Zaladakargulad CaiTvala `antikorufciuli politikis sakoordinacio sabWos debulebis damtkicebis Sesaxeb~ saqarTvelos prezidentis 2001 wlis 13 aprilis #131-e brZanebuleba. `erovnuli uSiSroebis sabWos Sesaxeb~ saqarTvelos organuli kanonis Tanaxmad, erovnuli uSiSroebis sabWo aris saqarTvelos prezidentis saTaTbiro organo, romelic Seqmnilia samxedro aRmSeneblobisa da qveynis Tavdacvis organizaciis, erovnul uSiSroebasTan dakavSirebuli saSinao da sagareo politikis, stabilurobisa da marTlwesrigis uzrunvelyofis strategiul sakiTxebze, agreTve qveynis usafrTxoebis sferoSi umaRlesi politikuri gadawyvetilebis misaRebad. amasTan, erovnuli uSiSroebis sabWo saqarTvelos prezidentis davalebiT organizebas uwevda saxelmwifo strategiis SemuSavebas korufciasTan brZolis sferoSi. maT Soris `saqarTvelos erovnuli uSiSroebis sabWos aparatis struqturuli qvedanayofebis debulebis damtkicebis Taobaze~ saqarTvelos prezidentis 2005 wlis 3 Tebervlis #815-e brZanebulebis Sesabamisad, saqarTvelos erovnuli uSiSroebis sabWos aparatis saxelmwifo da sazogadoebrivi usafrTxoebis departamenti axorciebs korufciasTan brZolis sferoSi Sesabamisi samarTaldacvisa da specialuri samsaxurebis saqmianobis koordinacias. amasTanave, prezidentis 2006 wlis 28 martis # 155-e gankargulebiT saqarTvelos erovnuli antikorufciuli strategiis da misi samoqmedo gegmis Sesrulebaze koordinaciis ganxorciebis uflbamosileba gadaeca saxelmwifo ministrs reformebis koordinaciis sakiTxebSi (dawvrilebiT ix. zemoT konvenciis me-5 da me-6 muxlebis analizi).

antikorufciuli strategiis erT-erT mimarTulebas warmoadgens saqarTvelos generalur prokuraturaSi mxolod maRali Tanamdebobis pirebis korufciul danaSaulobebze orientirebuli specialuri qvedanayofisa da saqarTvelos Sinagan saqmeTa saministroSi mxolod maRali Tanamdebobis pirebis korufciul danaSaulobebze orientirebiuli specialuri qvedanayofis Seqmna.

korufciis winaaRmdeg brZolis sferoSi aRsaniSnavia saqarTvelos Sinagan saqmeTa saministros konstituciuri usafTxoebis departamenti, romlis erT-erT ZiriTad amocanas, `saqarTvelos Sinagan saqmeTa saministros debulebis damtkicebis Sesaxeb~ saqarTvelos prezidentis 2004 wlis 27 dekembris #614-e brZanebulebis Tanaxmad, warmoadgens korufciul danaSaulTa gamovlena da aRkveTa.

aRsaniSnavia isic, rom saqarTvelos sisxlis samarTlis kodeqsis XXXIX TaviT gaTvaliswinebul samoxeleo danaSaulTa winaswari gamoZiebis Catarebis uflebamobileba, saqarTvelos sisxlis samarTlis saproceso kodeqsis 62-e muxlis me-2 nawilis mixedviT, gaaCnia mxolod saqarTvelos prokuraturas. amasTan, `saqarTvelos generaluri prokuraturis debulebis damtkicebis Sesaxeb~ saqarTvelos generaluri prokuroris 2004 wlis 22 oqtombris #6 brZanebis mixedviT, saqarTvelos prokuraturaSi Seqmnilia ukanono Semosavlis legalizaciaze sisxlissamarTlebrivi devnis specialuri samsaxuri, romlis erT-erT amocanasac warmoadgens qrTamis aRebis, kanoniT akrZaluli saCuqris miRebis da sxva danaSaulTa faqtebeze saTanado reagirebac, saWiorebis SemTxvevaSi, saqmeebze winaswari gamoZiebis sruli moculobiT Catareba da sxva.

SeniSvnebi da rekomendaciebi

- 36-e muxlis moTxovnebi faqtobrivad harmonizaciaSia saqarTvelos kanonmdeblobasTan, Tumca jer kidev saxezea sxvadasxva uwyebes Soris funqciaTa dublirebisa da gadafarvis procesi.
- mniSvnelovania saxelmwifos mier samarTaldacviTi RonisZiebebis saSualebebiT korufciasTan sabrZolvelad damoukidebeli specializebuli organos, organoebis an Tanamdebobis pirebis arsebobis uzrunvelyofis sakiTxis srulyofisaTvis Sesabamisi samarTalSemoqmedebiTi, sakadro, finansuri da materialur-tegnikuri RonisZiebebis ganxorcieleba.
- amasTan, mizanSewonilia sakanonmdeblo aqtis safuZvelze korufciis winaaRmdeg sabrZolvelad aRmasrulebel xelisuflebaSi specialuri strukturuli danayofis Segmna, romelic igneba damoukidebeli nebismeri samTavrobo Tu sxva dawesebulebisagan da misi xelmZRvaneli pirdapir daeqvemdebareba da angariSvaldebuli igneba saqarTvelos prezidentis winaSe. mxolod aRniSnuli strukturuli erTeulis uflebamobilebas unda ganekuTvnos korufciis winaaRmdeg brZolis prevenciuli RonisZiebebis gatareba, danaSaulis gamovlenis, winaswari gamoZiebisa da sisxlissamarTlebrivi devnis ganxorcielebisa da sasamarTloSi saxelmwifo braldebis mxardaWeris RonisZiebebis ganxorcieleba.

muxli 37. samarTaldamcav organoebTan TanamSromloba

1. TiToeuli monawile saxelmwifo atarebs saTanado RonisZiebebs im pirTa waxalisebisaTvis, romlebic monawileoben an monawileobdnen raime danaSaulis CadenaSi, romelic aseTad cnobilia am konvenciis Sesabamisad, raTa maT gamoZiebisa da mtkicebulebis mizniT, miawodon kompetentur organoebis sasargeblo da saWiro informacia, gauwion am organoebis faqtobrivi, konkretuli daxmareba, rac xels Seuwyobs damnaSaveebisaTvis danaSaulis ebidan miRebuli Semosavlis CamorTmevaSi da Sesabamisi RonisZiebebis gatarebas aseTi Semosavlis dabrunebasTan dakavSirebiT.

2. TiToeuli monawile saxelmwifo ganxilavs sakiTxis imis Taobaze, rom saTanado SemTxvevebSi, gaTvaliswinebul iqnes im braldebulis mimarT sasjelis Semsuqebis SesaZlebloba, romelic arsebiTad monawileobs gamoZiebaSi an sisxlissamarTlebriv devnaSi raime danaSaulTan dakavSirebiT, romelic aseTad cnobilia am konvenciis Sesabamisad.

3. TiToeuli monawile saxelmwifo ganxilavs sakiTxis imis Taobaze, rom Tavisi Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad gaTvaliswinebul iqnes SesaZlebloba sisxlissamarTlebrivi devnisagan im pirisaTvis imunitetis miniWebis Taobaze, romelic monawileobs gamoZiebaSi an sisxlissamarTlebriv devnaSi raime danaSaulis gamo, romelic aseTad cnobilia am konvenciis Sesabamisad.

4. aseT pirTa dacva mutatis mutandis, xorcieldeba am konvenciis 32-e muxliT gansazRvruli wesiT.

5. im SemTxvevaSi, rodesac piri, romelzedac miTiTebulia am muxlis pirvel punktSi, imyofeba erT-erTi monawile saxelmwifoSi da mas SeuZlia arsebiTad iTanamSromlos sxva monawile saxelmwifos kompetentur organoebTan, dainteresebul monawile saxelmwifoebis ufleba aqvT dadon SeTanxmebebi, Tavisi Sida kanonmdeblobis Sesabamisad, sxva monawile saxelmwifos mier aseTi pirisaTvis am muxlis me-2 da me-3 punqtebiT gaTvaliswinebuli reJimis SemoRebis Taobaze.



konvenciis 37-e muxliSi saubarია saxelmwifos mxridan saTanado RonisZiebebis gatarebis Taobaze im braldebulTa waxalisebisaTvis, romlebic TanamSromloben gamoZiebasTan, maT Soris, am braldebulTaTvis sasjelis Semsuqebisa da sisxlissamarTlebrivi devnisagan maTTvis imunitetის miniWebis SesaZleblobaze,

aseve maTi dacvis Sesaxeb. 37-e muxlSi miTiTebulia, agreTve, zemoaRniSnuli urTierTobebidan gamomdinare, am pirTa mimarT saxelmwifoTa Soris Sesabamisi SeTanxmebis dadebis SesaZleblobaze.

37-e muxlis moTxovnebi faqtobrivad asaxulia saqarTvelos sisxlis samarTlis saproceso kodeqsis LXIV¹ TavSi. am kodeqsis 679¹-e muxlis Tanaxmad, SesaZlebelia saproceso SeTanxmebis dadeba prokurorsa da braldebuls (gansasjels, msjavrdebuls) Soris, Tumca aRsaniSnavia isic, rom saproceso SeTanxmebis amoqmedebis dRidan man mniSvnelovani cvlilebebi ganicada. saqarTvelos sisxlis samarTlis saproceso kodeqsis me-15¹ muxlis Tanaxmad, saproceso SeTanxmeba xorcieldeba sasamarTlos damoukideblobis principis dacviT. saproceso SeTanxmebis mizania swrafi da efeqturi marTlmsajulebis uzrunvelyofa.

saproceso SeTanxmebis instituti saqarTvelos sisxlis samarTlis saproceso kodeqsis SemoRebuli iqna 2004 wlis 13 Tebervalis. am redaqsii dros saproceso SeTanxmebisas aucilebeli iyo Semdegi winaprobebis arseboba:

- a) braldebuli Tanaxma iyo eTanamSromla braldebasTan;
- b) braldebuli aRiarebda danaSaulis Cadenas;
- g) braldebuli miawvdida sagamoZiebo organoebis utyuar informacias an/da mtkicebulebebs mZime danaSaulis an Tanamdebobis piris mier Cadenili danaSaulis Sesaxeb, rac xels Seuwyobda am danaSaulis gaxsnas.

2004 wlis 24 ivniss saqarTvelos sisxlis samarTlis saproceso kodeqsis Setanili cvlilebebisa da damatebebis Sedegad, saproceso SeTanxmebis safuZvlad ganisazRvra garigeba bralze an SeTanxmeba sasjelze. amasTan, bralze garigebisas braldebuli aRiarebs danaSauls an/da TanamSromlobis gamoZiebasTan, xolo sasjelze SeTanxmebis dros braldebuli ar aRiarebs danaSauls, Tumca eTanxmeba prokurors sasjelis zomaze an misgan srulad gaTavisuflebase da TanamSromlobis gamoZiebasTan.

saproceso SeTanxmebis institutma faqtobrivad saboloo saxe miiRo saqarTvelos sisxlis samarTlis saproceso kodeqsis 2005 wlis 25 martiT daTariRebuli cvlilebebiTa da damatebebis Setanis Sedegad, romlis Tanaxmadac, sasamarTlos mier saqmis arsebiTi ganxilvis gareSe ganaCenis gamotanis safuZvelia saproceso SeTanxmeba, xolo saproceso SeTanxmebis safuZvelia SeTanxmeba bralze an sasjelze.

saproceso SeTanxmebis SeTavazeba SeuZlia rogorc braldebuls (gansasjels), ise prokurors. saqmis arsebiTi ganxilvisas sasamarTlo kamaTis dawyebamde sasamarTlo (mosamarTle) uflbamosilia, mxareebis SesTavazos werilobiTi saproceso SeTanxmebis dadeba. saproceso SeTanxmeba ideba zemdgom prokurorTan, winaswari werilobiTi SeTanxmebiT. saproceso SeTanxmeba SeiZleba daidos sasjelze SeTanxmebiT, rodesac braldebuli (gansasjeli) ar aRiarebs danaSauls, Tumca eTanxmeba prokurors sasjelis zomaze an misgan srulad gaTavisuflebase. amasTan, sasjelze SeTanxmebis Sedegia piris nasamarTloba. bralze SeTanxmebisas ki braldebuli (gansasjeli) aRiarebs danaSauls, xolo savaldebulo TanamSomlobis Taobaze daTqma dReis mdgomareobiT aRar arsebobs.

saproceso SeTanxmeba unda gaformdes werilobiT da damtkices sasamarTlos mier sajaro sxdomaze garda im SemTxvevisa, rodesac arsebobs daxuruli sasamarTlo sxdomis Catarebis mniSvnelovani safuZveli. saproceso SeTanxmeba unda aisaxos sasamarTlos mier gamotanil ganaCenSi. amasTan, sasamarTlo unda darwmundes, rom SeTanxmeba dadebulia Zaladobis, daSinebis, motyuebis an raime sxva ukanono dapirebis gareSe, nebayoflobiT da rom braldebuls (gansasjels) hqonda SesaZlebloba, mieRo kvalificiuri iuridiuli daxmareba.

aRsaniSnavia isic, rom saqarTvelos sisxlis samarTlis kodeqsis 55-e muxlis me-2 nawilis Sesabamisad, saproceso SeTanxmebis ganxilvisas sasamarTlo uflbamosilia, daniSnos kodeqsis Sesabamisi muxliT dawesebuli sasjelis zomis ara umetes naxevari. saqarTvelos sisxlis samarTlis saproceso kodeqsis 679⁹-e muxlis mixedviT, gansakuTrebul SemTxvevebSi, rodesac braldebulis sagamoZiebo organoebTan TanamSromlobis Sedegad gamovlinda Tanamdebobis piris an/da gansakuTrebiT mZime danaSaulis Camdeni piris vinaoba da misi uSualo xelSewyobiT Seiqmna am danaSaulis gaxsnisTvis arsebiTi pirobebi, saqarTvelos generalur prokurors SeuZlia, sasamarTlos mimarTos SuamdgomlobiT braldebulis sasjelisagan srulad gaTavisuflebis moTxovniT. Suamdgomlobis dakmayofilebis SemTxvevaSi piri Tavisufleba sasjelisagan, Tumca igi iTvleba nasamarTlevad. aRsaniSnavia isic, rom saqarTvelos sisxlis samarTlis saproceso kodeqsis 679¹-e muxlis Tanaxmad, gansakuTrebul SemTxvevaSi, generalur prokurors an mis moadgiles uflaba aqvs sasamarTlos mimarTos SuamdgomlobiT piris samoqalaqo pasuxismgeblobisagan ganTavisuflebis Sesaxeb, ra drosac samoqalaqo pasuxismgebloba ekisreba saxelmwifos.

niSandoblivia, rom saqarTvelos sisxlis samarTlis saproceso kodeqsi aseve iTvaliswinebs samarTlebrivi daxmarebisaTvis sxva saxelmwifos Sesabamis Tanamdebobis pirTan specialurad konkretuli SemTxvevisaTvis SeTanxmebis dadebis SesaZleblobas, xolo am kategoriis braldebulis (gansasjelis, msjavrdebulis) dasacavad arsebobs analogiuri wesebi, romelTa Taobazec saubarია 32-e muxlis komentarebSi.

aqve unda aRiniSnos, rom saqarTveloSi saproceso SeTanxmebis sistemis funcionirebisas, mravali samarTlebrivi xarvezi gamoikveTa, rasac saerTaSoriso organizaciebisa da gansakuTrebiT evropis sabWos saparlamento asambleis mkveTri kritika mohyva. evropis sabWos monitoringis angariSSi saqarTvelos mier valdebulebebis Sesrulebis Sesaxeb²³ miTiTebulia, rom `saqarTvelos saproceso SeTanxmebis versiis Taviseburebani, kerZod ki finansuri komponentis Semotana da misi aSkarad araTanmimdevruld gamoyeneba sxvadasxva SemTxvevebis mixedviT, cxadyofs, rom arsebuli sistema ar Seesabameba evropis sabWos standartebis. sistema aramarto qmnis STabeWdilebas, rom msxvil korumpirebulebs SeuZliaT iyidon imuniteti, aramed SemaSfoTebelia, radgan saqarTvelos policiaSi, prokuratura da sasamarTloSi ar arsebobs samarTlebrivi da administraciuli kontrolisa da balansis sistema, rac qmnis Zaladobis risks. TanamomxsenebelT esmiT, rom saproceso garigebiT miRebuli Tanxebi (am dromde 30 milioni aSS dolari) Zalian mniSvnelovania da xeli Seuwyo pensiebis gadaxdasa da sxva aucilebeli RonisZiebebis dafinansebas, Tumca isini ar eTanxmebian generalur prokurors, romelmac ganaxxada, rom marTlmsajulebis efeqturoba SeiZleba gaizomos biujetSi Caricxuli TanxebiT. wlebis ganmavlobaSi farTod gavrcelbuli korufciis Semdeg da kanonis uzenaesobis ugulebelyofis pirobebSi, saqarTvelos esaWiwoeba efeqturi da Tanaswori marTlmsajuleba. Sesabamisad, momxseneblebi mouwodeben saqarTvelos mTavrobas, dauyovnebliv da arsebiTad gadasinjos arsebuli saproceso garigebis sistema da moyivanos SesabamobaSi evropis sabWos standartebTan~.

analogiuri kritika kidev ufro gamZafrebulia arasamTavrobo organizaciaTa angariSebSic. magaliTad, `saerTaSoriso gamWirvaloba - saqarTvelo~ miuTiTebis, rom: `saproceso SeTanxmebis Semosavlebis mTavar mizans warmoadgens damnaSave pirebis finansuri angariSvaldebulebis uzrunvelyofa saxelmwifos winaSe da Sedegad, saxelmwifo biujetis Sevseba. miuxedavad amisa, am Tanxebis moZraobis aRricxvianobis mdgomareoba ara~damakmayofilebelia. Semosavlebis klasifikatorSi ar arsebobs calke muxli am Semosavlebis erT mTlianobaSi aRSaricxavad. es Tanxebi saxelmwifo xazinaSi iricxeba generaluri prokuraturisa da Sinagan saqmeTa saministros mier. mogvianebiT, sasamarTlos saboloo dadgenilebis safuZvelze, Tanxebis nawili gadamxdelebs ukan ubrundebaT. dokumenturad dauzustebeli informaciit, Tanxebis nawili aseve iricxeba samarTaldamcavi organoebis ganviTarebis biujetgareSe fondSi, Tumca misi arsebobis damadasturebeli dokumentebi ar moipoveba. saqarTvelos sabiujeto sistemis universalurobis principidan gamomdinare, ar arsebobs informacia, Tu ra muxlebe ixarjeba saproceso SeTanxmebis Semosavlebi, romlebic sablood Cairicxa saxelmwifo biujetSi~²⁴.

SeniSvnebi da rekomendaciebi

- *moxdes saproceso SeTanxmebis sistemis finansuri komponentis saTanado samarTlebrivi aqtiT regulireba am SeTanxmebidan miRebuli Semosavlebis Semdgomi gankargvis gamWirvalobisa da sajarobis uzrunvelyofis mizniT.*

muxli 38. erovnul organoebis Soris TanamSromloba

TiToeuli monawile saxelmwifo atarebs RonisZiebebs, romlebic aucilebelia TanamSromlobis waxalisebisaTvis, misi Sida kanonmdებლობის შესაბამისად, erTi mxriv, mis sajaro organoebis Soris, agreTve sajaro Tanamdebobis პირებს Soris და მეორე მხრივ, თავის ორგანოებს Soris, რომლებიც პასუხისმგებელი არიან სისჯილმარტლბრვი დანაშაულებების გამოზებასა და დევნაში. ასეტი TanamSromlobა SeiZleბა iTvaliswineბდეს:

a) am pasuxismgebeli organoebisaTvis sakuTari iniciativiT informaciis miwodebas, Tu arsebobs imis gansjis safuZveli, rom Cadenil iqna nebismieri im danaSaulebebidan, romlebic aseTad cnobilia am konvenciis me-15, 21-e da 23-e muxlebis Sesabamisad,

b) Sesabamisi Txovnis safuZvelze aseTi pasuxismgebeli organoebisaTvis yvela aucilebeli informaciis miwodebas.



konvenciis 38-e muxliSi saubarია saxelmwifos mxridan saTanado RonisZiebebis gatarebis Taobaze, rac aucilebelია, erTis mxriv, winaswari gamoZieბისა და სისჯილმარტლბრვი დენის მwarmobel organoebსა და მეორეს მხრივ, სხვა საქარო organoebსა და Tanamdebobის პირებს Soris TanamSromlobის wasaxaliseბლად, rac გულისხმობს Tanamdebobის პირის, საქარო ორგანოს მერ როგორც საკუტარი ინიციაციტი, ისე Txovnis safuZvelze Sesabამისი informaciis miwodebas.

²³ <http://assembly.coe.int/Documents/WorkingDocs/doc04/EDOC10383.htm#IIA>

²⁴ http://www.transparency.ge/index.php?lang_id=GEO&sec_id=200&info_id=163

saqarTvelos sisxli samarTlis saproceso kodeqsis 55-e muxlis me-4 nawilis Tanaxmad, kanonis safuZvelze gamotanili prokuroris dadgenilebis, miTiTebisa da moTxovnis Sesruleba savaldebuloa rogorc fizikuri da iuridiuli pirebisaTvis, ise saxelmwifos Sesabamisi organoebisa da Tanamdebobis pirebisaTvis, xolo saqarTvelos sisxli samarTlis saproceso kodeqsis 58-e muxlis me-5 nawilis mixedviT, kanonis Sesabamisad gamomZieblis mier gamotanili dadgenilebis Sesruleba savaldebuloa yvela sawarmos, dawesebulebis, organizaciis, Tanamdebobis pirisa da moqalaqisaTvis. gamomZieblis dadgenilebis Seusrulebloba ki iwvevs kanoniT dawesebul pasuxismgeblobas.

amasTan, saqarTvelos sisxli samarTlis saproceso kodeqsis 263-e muxlis Sesabamisad, winaswari gamoZiebis dawyebis safuZvels aseve warmoadgens cnobebi danaSaulis Cadenis Sesaxeb, romlebic gamomZiebels an prokurors miawodes saxelmwifo an TviTmmarTvelobisa da mmarrTvelobis organoebma, Tanamdebobis pirma. aRsaniSnavia isic, rom Tanamdebobis pirisaTvis faqtoibrivad arsebobs kanonis moTxovnebis dacvisa da movaleobebis Sesrulebis ufro maRali standartebi, xolo `sajaro samsaxuris Sesaxeb~ saqarTvelos kanonis me-13 muxlis mixedviT, sajaro samsaxuris ZiriTad principebs warmoadgens saqarTvelos konstituciisa da kanonebis uzenaesobis dacva da adamianisa da moqalaqis uflebebis, Tavisuflebebis da Rirsebis pativiscema.

sisxli samarTlis kodeqsis 376-e muxli adgens pasuxismgeblobas danaSaulis SeutyobineblobisaTvis: kerZod, Seutyobinebloba imis mier, vinc namdvilad icis, rom mzaddeba gansakuTrebiT mZime danaSauli,- isjeba jarimiT an tusaRobiT vadiT samidan eqvs Tvemde anda Tavisuflebis aRkveTiT vadiT xuT wlamde, xolo sisxli samarTlis kodeqsis 375-e muxliT gansazRvrulia pasuxismgebloba danaSaulis dafarvisaTvis, anu gansakuTrebiT mZime danaSaulis dafarva winaswar Seupireblad,- isjeba jarimiT an tusaRobiT vadiT samidan eqvs Tvemde anda Tavisuflebis aRkveTiT vadiT oTx wlamde, Tumca sisxlissamarTlebrivi pasuxismgeblobisagan Tavisufleba is, vinc winaswar Seupireblad dafara axlo naTesavis danaSauli.

amasTan, mniSvnelovania saqarTvelos parlamentis droebiTi sagamoZiebo komisiis uflebamosilebebi, radgan saqarTvelos konstituciis 56-e muxlis Sesabamisad da saqarTvelos parlamentis reglamentis Tanaxmad, parlamentSi iqmneba droebiTi sagamoZiebo komisia saxelmwifo organoebisa da Tanamdebobis pirebis mier saqarTvelos kanonmdeblobis darRvevis faqtebis gamokvlevisa da Sesabamisi reagirebis mizniT, an gansakuTrebiT mniSvnelovani saxelmwifo da sazogadoebrivi sakiTxebis Sesaswavlad.

droebiTi sagamoZiebo komisiis Seqmnis safuZvelia informacia:

- a) saxelmwifo organoebis, Tanamdebobis pirebis kanonsawinaaRmdego qmedebis Sesaxeb, romelic safrTxes uqmnis saqarTvelos saxelmwifo uSiSroebas, suverenitets, teritoriul mTlianobas, politikur, ekonomikur Tu sxva interesebs;
- b) saxelmwifo da adgilobrivi biujetis aramarTlzmieri xarjvis Sesaxeb;
- g) romlis Seswavlac saxelmwifo da sazogadoebrivi TvalsazrisiT gansakuTrebiT mniSvnelovania.

droebiTi sagamoZiebo komisia iqmneba mxolod konkretuli sakiTxis Sesaswavlad da uqmdeba reglamentiT dadgenili wesiT, sakiTxis Sesawalis amowurvisTanave. droebiTi sagamoZiebo komisiis moTxovniT mis sxdomaze gamocxadeba savaldebuloa, xolo droebiTi sagamoZiebo komisiis moTxovniT saxelmwifo organoebi, Tanamdebobis pirebi, iuridiuli da fizikuri pirebi valdebulni arian, komisiis mier gansazRvul vadaSi dadgenili wesiT waradginon sakiTxis gamokvlevisaTvis aucilebeli daskvnebi da sxva saWiro masalebi. amasTan, droebiTi sagamoZiebo komisia uflebamosilia, werilobiTi moTxovniT, saqarTvelos generaluri prokuroris nebarTviT, saqarTvelos sisxli samarTlis saproceso kodeqsiT dadgenili wesiT adgilze gaecnos winaswari gamoZiebis stadiaSi arsebul sisxli samarTlis saqmes. droebiTi sagamoZiebo komisiis werilobiTi moTxovnis safuZvelze, saqarTvelos generaluri prokuroris davalebiT ki gamomZiebeli valdebulia, uzrunvelyos komisiis wevrebisaTvis saqmis masalebis adgilze gacnobis Sesazlebloba.

droebiT sagamoZiebo komisiis ufleba aqvs, Sesaswavi sakiTxTan dakavSirebiT ama Tu im garemoebis gamo moiwvios da werilobiTi axsna-ganmarteba CamoarTvas nebis mier pirs, garda kanoniTa da reglamentiT gaTvaliswinebuli SemTxvevebisa. axsna-ganmartebis CamorTmevis win pirs afrTxileben axsna-ganmartebis micemaze uaris TqmisaTvis an mis micemaze Tavis ardebisaTvis da Segnebulad cru axsna-ganmartebis micemisaTvis sisxli samarTlis pasuxismgeblobis Sesaxeb, rac aRiniSneba axsna-ganmartebis teqstSi da dasturdeba mowveuli piris xelmoweriT.

droebiT sagamoZiebo komisiis ufleba aqvs, gansaxilvel sakiTxze informaciis mosmenis, kontrolisa da Semowmebis Sedegad gamovlenili kanonmdeblobis darRvevis faqtis Sesaxeb dasvas sakiTxi im saxelmwifo organos an Tanamdebobis piris winaSe, romelic valdebulia, aRkveTos kanonmdeblobis darRveva, xolo kanonmdeblobis darRvevis xasiaTis gaTvaliswinebiT Sesabamisi organos an Tanamdebobis piris winaSe dasvas sisxli samarTlis saqmis, administraciuli an disciplinuri warmoebis aRZvris, ukanono mflobelobidan saxelmwifo qonebis gamoTxovis an saxelmwifosaTvis miyenebuli zaralis anazRaurebis Sesaxeb gadawyvetilebis miRebis sakiTxi.

droebiTi sagamoZiebo komisiis mier SemuSavebuli gadawyvetilebis proeqti an daskvna parlamentis plenaruli sxdomis dRis wesrigSi Sesatanad waredgineba parlamentis biuros. biuro valdebulia, sakiTxi Seitanos uaxloesi plenaruli sxdomis dRis wesrigSi.

SeniSvnebi da rekomendaciebi

- **38-e muxlis moTxovnebi faqtobrivad harmonizaciaSia saqarTvelos kanonmdeblobasTan, Tumca sasurvelia TanamSromlobis waxalisebisen mimarTuli RonisZiebebis sakiTxis srulyofa.**

muxli 39. erovnul organoebisa da kerZo seqtors Soris TanamSromloba

1. *TiToeuli monawile saxelmwifo atarebs RonisZiebebs, romlebic aucilebelia TanamSromlobis waxalisebisaTvis misi Sida kanonmdeblobis Sesabamisad erovnul sagamoZiebo organoebisa da prokuraturis organoebis da kerZo seqtoris organizaciebs Soris, kerZod, finansur dawesebulbebs Soris im sakiTxebTan dakavSirebiT, romelic Seexeba danaSaulis Cadenas da romelic aseTad cnobilia am konvenciis Sesabamisad.*

2. *TiToeuli monawile saxelmwifo ganixilavs sakiTxis imis Taobaze, rom waaxalisos Tavisi moqalaqeebi da sxva pirebi, romlebic Cveulebrivad mis teritoriaze cxovroben, raTa maT erovnul sagamoZiebo organoebis da prokuraturis organoebis acnobon raime danaSaulis Cadenis Sesaxeb, romelic aseTad cnobilia am konvenciis Sesabamisad.*



konvenciis 39-e muxlSi saubarია saxelmwifos mxridan saTanado RonisZiebebis gatarebis Taobaze, rac aucilebelia, erTis mxriv, sagamoZiebo organoebisa da prokuraturis organoebis da, meores mxriv, kerZo safinanso dawesebulebebs Soris TanamSromlobis wasaxaliseblad. 39-e muxlSi aseve miTiTebulia saxelmwifos mxridan saTanado RonisZiebebis gatarebis Taobaze, riTac waxalisebuli iqnebian misi moqalaqeebi da mis teritoriaze mcxovrebi sxva fizikuri pirebi, romlebic sagamoZiebo organoebisa da prokuraturis organoebis miawvdian informacias danaSaulis Sesaxeb.

komerciuli bankebis saqmianobis Sesaxeb~ saqarTvelos kanonis me-17 muxlis me-2 punktis Tanaxmad, cnobebi fizikuri da iuridული პირების ანგარიშების, ამ ანგარიშებიდან განხორციელებული ოპერაციებისა და ანგარიშზე არსებული ნაშტების Sesaxeb SeiZleba mieces Sesabamisi ანგარიშების მფლობელებს და maT warmomadgenლებს, აგრეTვე კანონმდებლიT გაTვალისწინებულ SemTxveებSi saqarTvelos ფინანსური მონიტორინგის სამსახურს. sxva პირებს es informacia miecemaT mxolod sasamarTლოს Sesabamisi აქტის საფუZველზე~.

amasTan, saqarTvelos სისხლის სამართლის საპროცესო კოდექსის 263-ე მუხლის Sesabamisad, winaswari gamoZiebis dawyebis საფუZველს aseve warmoadგენს cnobebi danaSaulis Cadenis Sesaxeb, romlebic gamomZiebels an პროკურორს miawoda fizikურმა პირმა.

SeniSvnebi da rekomendaciebi

- **39-e muxlis moTxovnebi faqtobrivad harmonizaciaSia saqarTvelos kanonmdeblobasTan, Tumca sasurvelia kerZo seqtoris samarTaldამცავ organoebTan TanamSromlobis waxalisebisen RonisZiebebis sakiTxis srulyofa.**

muxli 40. sabanko saidumloeba

TiToeuli monawile saxelmwifo uzrunvelyofs Sida სისხლის სამართლის დანაშაულებების გამოZიებისას im danaSaulebebTan dakavSirebiT, romlebic aseTad cnobilia am konvenciის Sesabამისად, Tavisi SidasamarTლევრivi სისტემის ფარგლებSi saTanado მექანიზმების არსებობას im winaarმდებობების გადასალახად, romlebic SesaZლებელია warmoiSvas sabanko saidumloების Sesaxen კანონმდებლობის გამოყენების Sedegად.



ბოლო ათწლებლში გააქტიურებულმა ბრძოლამ ფულის გატეობისა და ტერორიზმის დაფინანსების winaarმდებობების განსაკუთრებული აქტუალობა SesZინა პრინციპის იცნობდა Sens კლიენტს~ და da ამ კონტექსტში მას გარკვეულად უპირატესი ზალაკი მიანიშნავდა~ საბანკო საიდუმლოების პრინციპთან~ მიმართებაში. სწორედ es გაქვალვთ კონვenciის me-40 მუხლის სულისკვეთება. პარალელურად es პრინციპი გაცხადებულია კონვenciის 31-მუხლის, რომლის მიხედვითაც *TiToeuli monawile saxelmwifo უწლებამოსილებას ანიშნავს Tavის სამართლებრივ საიდუმლოებას და sxva კომპეტენტურ ორგანოებს, გამოსცენ დადგენილებები საბანკო, საფინანსო ან კომერციული დოკუმენტების უარდგენისა და დაყვანის შესახებ. monawile saxelmwifo საბანკო საიდუმლოების შესახებ აუცილებლობის გამო Tavს არ არიან*

am punqtis debulebaTa Tanaxmad Sesabamisi RonisZiebebis gatarebas~ (dawvrilebiT ix. zemoT konvenciis 31-e muxlis analizi) da aseve konvenciis 46-e muxlis me-8 punqtSic, rodesac `monawile saxelmwifoebi ar acxadeben uars samarTlebriv urTierTdaxmarebaze am muxlis Sesabamisad sabanko saidumloebis safuZvelze~.

`icnobde Sens klientis~ principi sabanko kanonmdeblobaSi upirvelesad bankebis klientebis identifikaciis sistemis da bankebis Sida kontrolis gaumjobesebis kuTxiT aisaxeba, rac SesaZlebels xdis ukanono Semosavlebis legalizaciis operaciebisaTvis damaxasiaTebeli garemoebesisa da niSnebis, saeWwo sabanko operaciebis droul gamovlenas.

saqarTvelos sabanko seqtoris damoukidebel sistemaSi transformaciis procesi me-20 saukunis 90-ian wlebSi ganxorcielda da amJamad mas gaaCnia orsafexuriani universaluri struqtura, romelic moicavs monetaruli politikis warmmarTvel da maregulirebel organos – erovnul banks da komerciul bankebs. sabanko saidumloebasTan dakavSirebul sakiTxs aregulirebs saqarTvelos kanoni `komerciuli bankebis saqmianobis Sesaxeb” me-17 muxliT²⁵.

`ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos kanonis Sesabamisad, komerciuli bankebi valdebulni arian, miawodon informacia monitorings daqvemdebarebuli garigebebis Sesaxeb saqarTvelos finansuri monitoringis samsaxurs, sadac xdeba am informaciis sistematizacia da gaanalizeba, xolo sakmarisi safuZvlebis arsebobis SemTxvevaSi masalebi im garigebebis Taobaze, romlebic SesaZloa, dakavSirebuli iyos ukanono Semosavlis legalizaciasTan an terorizms dafinansebasTan, gadaecema ukanono Semosavlis legalizaciaze sisxlissamarTlebrivi devnis specialur samsaxurs, romelic Seqmnilia saqarTvelos generalur prokuraturaSi. imave kanonis me-6 muxliT komerciuli bankebi valdebulni arian, moaxdinon agreTve sabanko angariSis gamxsneli yvela piris, mis gaxsnaze an gankargvaze uflebamosili yvela warmomadgenlisa da im mesame piris identifikacia, romlis saxelzedac ixsneba angariSi.

saqarTvelos finansuri monitoringis samsaxurma `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos kanonis safuZvelze SeimuSava da daamtkica kanonqvemdebare normatiuli aqtebi, romlebiTac ganisazRvra monitoringis ganmaxorcielebeli pirebi da maT Soris, komerciuli bankebis mier informaciis miRebis, damuSavebis, Senaxvisa da finansuri monitoringis samsaxurisaTvis gadacemis wesebi da pirobebi.

amavdroulad, saqarTvelos sisxlis samarTlis kodeqsis 202-e muxli iTvaliswinebs pasuxismgeblobas komerciuli an sabanko saidumloebis Semcveli informaciis ukanonod Segrovebis an gavrcelbis gamo²⁶. saqarTvelos sisxlis samarTlis saproceso kodeqsis XXXVIII Tavis mixedviT, SesaZlebelia amoRebisa da Cxrekis Catareba im mizniT, rom aRmoaCinon da amoiRon sabanko dokumentebi, romelic saWiroa saqmis garemoebaTa gasarkvevad. sisxlis samarTlis saproceso kodeqsis 190-e muxlis Tanaxmad, sasamarTlos SeuZlia yadaRa daados eWvmitanilis, braldebulisa an gansasjelis, misi moqmedebisaTvis materialurad pasuxismgebeli piris qonebas, *maT Soris sabanko angariSebs*, Tu aris monacemebi, rom qonebas gadamalaven an daxarjaven, anda rom qoneba danaSaulebrivi gziT aris mopovebuli. Tu eWvmitanili, braldebuli an gansasjeli Tanamdebobis piria, prokurori valdebulia, aRZras Suamdgomloba sasamarTlos winaSe Tanamdebobis piris qonebis, maT Soris *sabanko angariSebis*, dayadaRebis, agreTve Tanamdebobis piris mier saxelmwifos saxeliT dadebuli xelSekrulebebiT nakisri valdebulebebis Sesrulebis SeCerebis an sarCelis uzrunvelyofis sxva RonisZiebebis ganxorcielebis Taobaze.

SeniSvnebi da rekomendaciebi

²⁵ **muxli 17.** aravis ara aqvs ufliba dauSvas vinme konfidencialur informaciasTan, gaTqvas da gaavrcelos aseTi informacia an gamoiyenos piradi sargeblobisaTvis. aseTi informacia SeiZleba mieces mxolod saqarTvelos erovnul banks, misi kompetenciis farglebSi.

2. cnobebi fizikuri da iuridiuli pirebis angariSebis, am angariSebidan ganxorcielebuli operaciebisa da angariSebbe arsebuli naSTebis Sesaxeb SeiZleba mieces Sesabamisi angariSebis mflobelbs da maT warmomadgenlebs, agreTve kanonmdeblobiT gaTvaliswinebul SemTxvevebSi saqarTvelos finansuri monitoringis samsaxurs. sxva pirebs es informacia miecema mxolod sasamarTlos Sesabamisi aqtis safuZvelze. (20.06.2003 N2474)

3. sasamarTlo da sagamomZieblo organoebis, agreTve sagadasaxado samsaxurebs ekvZalebaT sasamarTlos ganaCenis gamotanamde informaciis gadacema sxva organoebisaTvis masobrivi informaciis saSualebebis CaTvliT, agreTve am informaciebis gamoyeneba sajaro gamosvlebSi.

²⁶ **muxli 202. komerciuli an sabanko saidumloebis Semcveli informaciis ukanonod Segroveba an gavrcelba**

1. komerciuli an sabanko saidumloebis Semcveli informaciis ukanonod Segroveba misi ukanonod gaxmaurebis an ukanonod gamoyenebis mizniT,-

isjeba jarimiT an gamasworebeli samuSaoTi vadiT erT wlamde an tusaRobiT vadiT or Tvemde anda Tavisuflebis aRkveTiT vadiT or wlamde, Tanamdebobis dakavebis an saqmianobis uflebis CamorTmeviT vadiT sam wlamde an uamisod.

2. komerciuli an sabanko saidumloebis Semcveli informaciis ukanonod gaxmaureba an gamoyeneba angarebiT an sxva piradi motiviT, ramac mniSvnelovani ziani gamoiwvia,-

isjeba jarimiT an Tavisuflebis SezRudviT vadiT sam wlamde anda Tavisuflebis aRkveTiT vadiT oTx wlamde, Tanamdebobis dakavebis an saqmianobis uflebis CamorTmeviT vadiT xuT wlamde an uamisod.

- ukanono Semosavlis legalizaciis aRkveTis xelSewyobis~ Sesaxeb kanonis miRebisa da sabanko kanonmdeblobaSi masTan harmonizaciis mizniT Setanili cvlilebebisa da damatebebis Semdeg SeiZleba iTqvas, rom konvenciis me-40 muxlis moTxovnebi saqarTvelos kanonmdeblobiT daculia.
- Tumca, SeSfoTebis safuZvels iZleva saqarTvelos parlamentSi sakanonmdeblo iniciativis wesiT mTavrobis mier 2006 wlis aprilSi warmodgenili kanonproeqtebi: `ukanono Semosavlebis legalizaciis aRkveTis xelSewyobis Sesaxeb saqarTvelos kanonSi cvlilebebisa da damatebebis Setanis Taobaze~ da `komerciuli bankebis saqmianobis Sesaxeb saqarTvelos kanonSi cvlilebebisa da damatebebis Setanis Taobaze».²⁷ kerZod:
- ukanono Semosavlebis legalizaciis aRkveTis xelSewyobis Sesaxeb~ kanonproeqtiT gaTvaliswinebuli me-6 muxlis redaqtia ewinaaRmdegeba evrokavSiris direktivis 91/308/EEC me-3(1) muxlis, romlis Tanaxmadac safinanso dawesebuleba valdebulia, moaxdinos klientis identifikacia masTan saqmiani urTierTobebis damyarebisas. es moTxovna ar SeiZleba damokidebuli iyos garigebis Tanxis odenobaze, rogorc es kanonproeqtSia mocemuli (6 000 lari).
- komerciuli bankebis saqmianobis Sesaxeb saqarTvelos kanonSi cvlilebebisa da damatebebis Setanis Taobaze~ kanonproeqtiT gaTvaliswinebulia mTeli rigi im moTxovnebis gauqmeba da Sesusteba, romelic amJamad aris dawesebuli mniSvnelovani wilis mflobeli aqcionerebis mimarT. aRniSnuli moTxovnebi ganapirobebs adekvaturi sazedamxedvelo sistemis funqcionirebas, romelic dadgenilia evrogaerTianebis 2000 wlis 20 martis 2000/12/EC sabanko direktiviT da srulad Seesabameba saukeTeso saerTaSoriso pragtikas. amitom am moTxovnebis gauqmeba sruliad mizanSeuwonlad migvaCnia.

muxli 41. cnobebi nasamarTlobis Sesaxeb

TiToeul monawile saxelmwifos SeuZlia gaataros iseTi sakanonmdeblo an sxva RonisZiebebi, romlebic aucilebelia aRricxvisaTvis, iseTi pirobebiTa da im mizniT, romlebsac igi CaTvlis saWirod, sxva saxelmwifoSi nebismier adre gamotanil gamamtyunebel ganaCenTan dakavSirebiT im piris mimarT, romelic eWvmitanilia gamoZiebaSi arsebuli danaSaulis CadenaSi, raTa aseTi informacia gamoyenebul iqnes sisxlissamarTlebriv warmoebaSi im danaSaulTan dakavSirebiT, romelic aseTad cnobilia am konvenciis Sesabamisad.



saqarTvelos sisxlis samarTlis kodeqsi nasamarTlobis Sesaxeb Seicavs ramdenime debulebas. rogorc cnobilia, nasamarTloba aris sasamarTlos ganaCeniT damnaSavis msjavrdebis samarTlebrivi Sedeგი, romelic msjavrdebulis zogierTi uflebis SezRudvaSi gamoixateba. nasamarTlobas ukavSirdeba saerTo-samarTlebrivi da wminda sisxlissamarTlebrivi Sedegebi. nasamarTlobis saerTo-samarTlebrivi Sedegebi aisaxeba saxelmwifo, samoqalaqo, administraciuli da samarTlis sxva dargis normebSi (magaliTad, sajaro samsaxurSi Tanamdebobis dakavebis uflebis CamorTmeva, saarCevno uflebis SezRudva da sxva). sisxlis samarTlis kodeqsis 79-e muxli gansazRvavs, Tu rodis CaiTvleba piri nasamarTlevad da piriqiT, rodis aRar iTvleba nasamarTlevad. nasamarTlobis samarTlebrivi Sedegebi arsebiTad zRudavs pirovnebis uflebebsa da Tavisuflebas sasjelis moxdis Semdegac. amitom kanonmdebelma zustad gansazRvra nasamarTlobis gaqarwylebisa da moxsnis pirobebi. ssk-is 79-e muxlma daadgina vada, romlis ganmavlobaSi piri iTvleba nasamarTlevad. gamamtyunebeli ganaCenis kanonier ZalaSi Sesvylis dRidan nasamarTlobis gaqarwylebis an moxsnis momentamde piri iTvleba nasamarTlevad. aRniSnuli wesi moqmedebs im SemTxvevaSi, roca gamamtyunebeli ganaCeniT pirs daeniSna sasjeli. nasamarTloba grZeldeba sasjelis moxdis Semdegac, romlis vadac kanoniT zustadaa gansazRvruli Cadenili danaSaulis simZimisa da daniSnuli sasjelis saxis Sesabamisad da mTavrdeba nasamarTlobis gaqarwylebis an moxsnis momentisaTvis. aqve unda aRiniSnos, rom nasamarTlobis gaqarwyleba avtomaturad xdeba da savaldebulo xasiaTisaa, xolo nasamarTlobis moxсна sasamarTlos gadasawyvetia.

rac Seexeba ucxo saxelmwifoSi Cadenil danaSauls, amasTan dakavSirebiT unda mivuTiToT sisxlis samarTlis kodeqsis me-5 muxlze, romlis me-4 nawilic Seicavs normas sazRvargareT Cadenili danaSaulisaTvis sisxlissamarTlebrivi pasuxismgeblobis Sesaxeb. am muxlis Tanaxmad, saqarTvelos moqalaqes da agreTve saqarTveloSi mudmivad mcxovrebe moqalaqebis armqone pirs sazRvargareT Cadenili danaSaulisaTvis sisxlissamarTlebrivi pasuxismgebloba daekisrebaT, Tu es qmedeba danaSaulad iTvleba im saxelmwifoSi, sadac igi Cadenilia. im SemTxvevaSi, Tu igi am qmedebisaTvis ucxoETSi ar yofila msjavrdebuli, mas pasuxismgebloba daekisreba saqarTvelos sisxlis samarTlis kodeqsiT.

SeniSvnebi da rekomendaciebi

- sruliad logikuri da bunebrivia, rom ucxoETSi Cadenili danaSaulisaTvis nasamarTloba da misi gaqarwylebis vadebi gamoiTvleba zemoxsenebuli muxlebis mixedviT. amdenad, konvenciis 41-e

²⁷ aRniSnuli kanonproeqtebi parlamentma pirveli mosmeniT 2006 wlis 25 maiss miiRo.

muxliT gaTvaliswinebuli debulebebi zogadad harmonizaciaSia saqarTvelos sisxlis samarTlis kodeqsis Sesabamis muxlebTan.

- **konvenciis 41-e muxliTan saqarTvelos kanonmdeblobis sruli harmonizaciis mizniT aucilebelia sisxlis samarTlis kodeqsiT danaSaulad ganisazRvros konvenciiT miCneuli yvela danaSauli, ucxo qveynis sajaro Tanamdebobis pirTa da saerTaSoriso organizaciebis sajaro Tanamdebobis pirTa mosvidvisa da iuridiul pirTa sisxlissamarTlebrivi pasuxismgeblobis CaTvliT.**

muxli 42. iurisdicia

1. TiToeuli monawile saxelmwifo atarebs iseT RonisZiebebs, romlebic aucilebelia imisaTvis, rom daadginos Tavisi iurisdicia im danaSaulebebis mimarT, romlebic aseTad cnobilia am konvenciis Sesabamisad maSin rodesac:

- a) danaSauli Cadenilia am monawile saxelmwifos teritoriaze;
- b) danaSauli Cadenilia gemis bortze, romelic atarebda am monawile saxelmwifos droSas danaSaulis Cadenis momentSi an sahaero xomaldze, romelic daregistrirebulia am monawile saxelmwifos kanonmdeblobiT am momentSi.

2. am konvenciis me-4 muxlis debulebebis Sesabamisad monawile saxelmwifos SeuZlia agreTve daadginos Tavisi iurisdicia nebismier iseT danaSaulTan dakavSirebiT, rodesac igi:

- a) Cadenilia am monawile saxelmwifos moqalaqis winaaRmdeg; an
- b) Caidina im monawile saxelmwifos moqalaqem an moqalaqebis ar mqone pirma, romelic Cveulebrivad cxovrobs mis teritoriaze; an
- g) aris erT-erTi im danaSaulebebidan, romlebic aseTad cnobilia am konvenciis 23-e muxlis pirveli punktis ii) qvepunktis Sesabamisad da Cadenilia misi teritoriis farglebs gareT raime danaSaulis Cadenis mizniT, romelic aseTad cnobilia am konvenciis me-2 muxlis pirveli punktis (a)(i) an (b) an (b)(i) qvepunktis Sesabamisad, mis teritoriaze;
- d) Cadenilia am monawile saxelmwifos winaaRmdeg.

3. am konvenciis 44-e muxlis miznebisaTvis TiToeuli monawile saxelmwifo atarebs iseT RonisZiebebs, romlebic aucilebelia Tavisi iurisdiciis dasadgenad danaSaulebebTan dakavSirebiT, romlebic aseTad cnobilia am konvenciis Sesabamisad, rodesac piri, romelic eWymitanilia danaSaulis CadenaSi, imyofeba mis teritoriaze da igi ar gascems aseT pirs mxolod imis gamo, rom igi misi moqalaqea.

4. TiToeul monawile saxelmwifos SeuZlia, gaataros iseTi RonisZiebebi, romlebic aucilebelia Tavisi iurisdiciis dasadgenad im danaSaulTan dakavSirebiT, romelic aseTad cnobilia am konvenciis Sesabamisad, rodesac piri, romelic eWymitanilia danaSaulis CadenaSi, imyofeba mis teritoriaze da ar gascems mas.

5. Tu monawile saxelmwifo, romelic Tavisi iurisdicias axorciebs am muxlis pirveli da me-2 punktis Tanaxmad, Setyobinebas iRebs an sxva saSualebebiT igებს imis Sesaxeb, rom nebismieri sxva saxelmwifo axorciebs gamoZiebas an sisxlissamarTlebriv devnas an sasamarTlo ganxilvas imave qmedebasTan dakavSirebiT, maSin am monawile saxelmwifoTa kompetenturi organoebi atareben, saTanado SemTxvevebSi, erTmaneTTan konsultaciebs TavianTi moqmedebobis koordinaciis mizniT.

6. zogadi saerTaSoriso samarTlis normebisaTvis zianis miyenebis gareSe, es konvencia ar gamoricxavs nebismieri sisxlissamarTlebrivi iurisdiciis ganxorcielebas, romelic dadgenilia monawile saxelmwifos mier Tavisi Sida kanonmdelobis Sesabamisad.



saqarTvelos sisxlis samarTlis kodeqsis me-4 muxli Seicavs normas kodeqsis moqmedebis Sesaxeb saqarTvelos teritoriaze Cadenili danaSaulis mimarT. aRniSnuli kodeqsis Tanaxmad, saqarTvelos teritoriaze Cadenilad iTvleba danaSauli, romelic daiwyo, grZeldeboda, Sewyda an damTavrda saqarTvelos teritoriaze. yvela pirs, maT Soris ucxoel moqalaqes da moqalaqebis armqones, danaSaulis CadenisaTvis saqarTvelos teritoriaze sisxlissamarTlebrivi pasuxismgebloba daekisrebaT saqarTvelos sisxlis samarTlis kodeqsiT. am zogadi wesidan ssk-is me-4 muxlis me-4 nawiliT daSvebulia gamonaklisi im pirebis mimarT, romlebic diplomatiuri imunitetiT sargebloben. saqarTvelos sisxlis samarTlis kodeqsi danaSaulis Cadenis adgilis gansazRvrisas aRiarebs `suyvelganobis~ Teorias. sisxlissamarTlebrivi iurisdiciis TvalsazrisiT saxelmwifo teritoriasTan gaTanabrebulia sahaero, samdinaro, sazRvao xomaldebi.

konvenciis 42-e muxliT gaTvaliswinebuli sakiTxebs awesrigebs aseve saqarTvelos sisxlis samarTlis saproceso kanonmdeblobac. am kodeqsis me-4 muxlis Tanaxmad, sisxlis samarTalwarmoeba saqarTvelos teritoriaze xorcieldeba saqarTvelos konstituciisa da saqarTvelos sisxlis samarTlis saproceso kanonmdeblobis Sesabamisad. danaSaulis Cadenis adgilis miuxedavad. saqarTvelos sisxlis samarTlis saproceso kanonmdebloba gamoiyeneba agreTve saqarTvelos droSiT an amosacnobi niSniT saqarTvelos farglebs gareT myof sahaero Tu sazRvao xomaldze Cadenili danaSaulis an sxva marTlsawinaaRmdego qmedebis gamo samarTalwarmoebis dros, Tu saqarTvelos saerTaSoriso xelSekrulebebiTa da SeTanxmebebiT sxva ram ar aris dadgenili.

saerTaSoriso xelSekrulebaTa da SeTanxmebaTa Sesabamisad, saqarTvelos sisxlis samarTlis saproceso kanonmdebloba SeiZleba gamoyenebul iqnes ucxo saxelmwifos teritoriazec. saqarTvelos teritoriaze sasamarTlo

an sagamoZiebo moqmedebis Catarebis Sesaxeb ucxo saxelmwifos sasamarTlosa Tu sagamoZiebo organos davalebis Sesrulebisas, SeiZleba am saxelmwifos sisxlis samarTlis saproceso kanonmdeblobis gamoyenebac, Tu es gaTvaliswinebulia saqarTvelosa da aRniSnul saxelmwifos Soris dadebuli saerTaSoriso xelSekrulebiT an SeTanxmebiT.

saqarTvelos sisxlis samarTlis saproceso kodeqsis me-5 muxli gansazRvavs sisxlis samarTlis saproceso kanonmdeblobis gamoyenebas ucxo saxelmwifos moqalaqisa da moqalaqebis armqone piris mimarTac, romlebzec es kanonmdebloba vrceldeba maTi saqarTvelos teritoriaze yofnis SemTxvevaSi. diplomatiuri privilegiebisa da imunitetis mqone piris, agreTve misi ojaxis wevrebis mimarT am kodeqsiT gaTvaliswinebuli saproceso moqmedeba tardeba mxolod maTi TxovniT an TanxmobiT.

aqve unda aRiniSnos, rom amave kodeqsis 248-e muxli gansazRvavs pirobebs, rodesac xdeba ucxo saxelmwifoSi saproceso moqmedebis Catarebis Sesaxeb davalebis gagzavna; iqve 252-e muxliT gaTvaliswinebulia ucxo saxelmwifos moqalaqis an moqalaqebis armqone piris mier saqarTvelos teritoriaze Cadenili danaSaulis Sesaxeb masalebis gagzavnis wesi da pirobebi. 256-e muxli ki gansazRvavs ucxo qveynis moqalaqis eqstradiiciis wessa da pirobebs. sssk-is 620-e muxliT reglamentirebulia ucxo saxelmwifos sasamarTlos ganaCenis saqarTveloSi aRsrulebasTan dakavSirebuli sakiTxebis gadawyvetis wesi.

SeniSvnebi da rekomendaciebi

- *saqarTvelos sisxlis samarTlis saproceso kodeqsis Sesabamisi muxlebi srulad asaxaven konvenciis 42-e muxliT gaTvaliswinebul debulebs.*

Tavi IV. saerTaSoriso TanamSromloba

muxli 43. saerTaSoriso TanamSromloba

1. monawile saxelmwifoebi TanamSromloben sisxlissamarTlebriv sakiTxebze am konvenciis 44-50-e muxlebis Sesabamisad. rodesac es mizanmimarTulad Seesabameba maT Sida samarTlebriv sistemebs, monawile saxelmwifoebi ganxilaven erTmaneTisaTvis daxmarebis gawevis SesaZleblobas im samoqalaqosamarTlebrivi da administraciuli sakiTxebis gamoZiebasa da saqmiswarmoebaSi, romlebic dakavSirebulia korufciasTan.

2. saerTaSoriso TanamSromlobis sakiTxebTan dakavSirebiT, rodesac aucilebelia Sesabamisi qmedebis danaSaulad ormxivad cnobis principis dacva, es principi daculad CaiTvleba miuxedavad imisa, Setanilia Tu ara moTxovnis mimRebi monawile saxelmwifos kanonmdeblobaSi Sesabamisi qmedeba danaSaulis imave kategoriaSi an aRwers Tu ara igi mas iseTive terminebiT, rogorc moTxovnis warmdgeni monawile saxelmwifo, Tu qmedeba, romelic qmnis danaSaulis Semadgenlobas da ris gamoc moTxovnila daxmarebis gaweva. sisxlissamarTlebrivad dasjadia orive monawile saxelmwifos kanonmdeblobiT.

SeniSvnebi da rekomendaciebi

- *saqarTvelos sisxlis samarTlis saproceso kodeqsis XXXII Tavi iTvaliswinebs samarTlebrivi daxmarebis Sesaxeb saqarTvelos saerTaSoriso xelSekrulebebis Sesabamisad TanamSromlobis SesaZleblobes, rac vrceldeba sisxlis samarTlis kanonmdeblobiT aRiarebul yvela, da maT Soris korufciul danaSaulzec (dawvrilebiT ixile qvemoT, konvenciis momdevno 44-50 muxlebis analizi).*

muxli 44. gacema

44/1. es muxli gamoiyeneba iseT danaSaulebebze, romlebic aseTad cnobilia am konvenciis Sesabamisad, Tu piri, romlis mimarT aris gacemis moTxovna, imyofeba moTxovnis mimReb monawile saxelmwifos teritoriaze im pirobiT, rom qmedeba romlis gamoc ganxorcielda gacemis moTxovna iTvleba sisxlissamarTlebrivad dasjadad rogorc moTxovnis warmdgeni monawile saxelmwifos, aseve moTxovnis mimRebi monawile saxelmwifos Sida kanonmdeblobiT.



saqarTvelo mierTebulia eqstradiiciis Sesaxeb ramdenime konvencias, riTac ukve aRiarebuli aqvs Cvens mier gansaxilveli konvenciis 44-e muxlis pirveli punqtiT gaTvaliswinebuli movaleobebi. kerZod: saqarTvelos parlamentis 2001 wlis 16 Tebervlis ##729,730,731 dadgenilebebiT saqarTveloSi ZalaSia 1957 wlis 13

dekembris `eqstradiiciis Sesaxe~ parizis evropuli konvencia da misi damatebiTi oqmebi. konvenciis Tanaxmad, eqstradiicias eqvemdebarebian Txovnis gamgzavni an mimRebi mxaris samarTlis mixedviT Tavisuflebis aRkveTiT an dakavebis orderis Sesabamisad maqsimum erTi wliT mainc an ufro mkacri sasjeliT dasjadi danaSaulebi. rodesac Txovnis gamgzavni saxelmwifos teritoriaze gamotanili iqneba gamamtyunebeli ganaCeni da pirs miesjeba patimroba an mis winaaRmdeg gacemuli iqneba dakavebis orderi, gamotanili sasjeli unda iTvaliswinebdes sul mcire oTxi TviT Tavisuflebis aRkveTas. amasTan, eqstradicia ar ganxorcieldeba, Tuki danaSauli, romlis CadenisTvisac moiTxoveba piris gadacema, Txovnis mimRebi mxaris mier ganixileba politikur danaSaulad an danaSaulad, romelic dakavSirebulia politikur danaSaulTan. igive wesi gamoiyeneba, Tu Txovnis mimReb mxares gaaCnia sakmarisi safuZveli ivaraudos, rom eqstradiiciis moTxovna Cveulebrivi sisxlis samarTlis danaSaulisaTvis gakeTebulia piris devnisa da dasjis mizniT misi rasis, religiis, erovnebis an politikuri mosazrebis gamo an im mizniT, rom am piris mdgomareobas miadges raime ziani romelime aRniSnuli mizezis gamo.

Tumca, 1975 wlis 15 oqtombris straburgis damatebiTi oqmis pirveli muxlis mixedviT, konvenciis me-3 muxlis gamoyenebisas, politikuri danaSaulobebi ar moicaven:

- a) kacabriobis winaaRmdeg Cadenil danaSaulebs, romlebic gansazRvrulni arian gaerTianebuli erebis generaluri asableis mier 1948 wlis 9 dekembers miRebuli `genocidis prevenciisa da dasjis konvenciiT~;
- b) darRvevebs, romlebic gansazRvruli arian `velze daWrili da avadmyofi SeiaraRebuli Zalebis wevrebis pirobebis gaumjobesebis Sesaxe~ 1949 wlis Jenevis konvenciis 50-e muxlSi; `Ria zRvaSi SeiaraRebuli Zalebis daWrili, avadmyofi da gemze katastrofagancdili wevrebis pirobebis gaumjobesebis Sesaxe~ 1949 wlis Jenevis konvenciis 51-e muxlSi; `samxedro tyveebis mimarT mopyrobis Sesaxe~ 1949 wlis Jenevis konvenciis 130-e muxlSi, da `omis dros samoqalaqo mosaxleobis dacvis Sesaxe~ 1949 wlis Jenevis konvenciis 147-e muxlSi;
- g) omis kanonebis nebismier SedarebiT darRvevas, romelsac adgili eqneba am oqmis ZalaSi Sesvlis dros da omis Cveulebebis darRvevas, romlebsac adgili eqneba im dros, rodesac isini ar iqnebian gansazRvruli Jenevis konvenciaTa zemoxsenebuli debulebebiT.

parizis konvenciis me-6 muxlis Tanaxmad, xelSemkvrel mxares ufleba aqvs, uari Tqvas Tavis moqalaqeebis gadacemaze, xolo me-11 muxlis Sesabamisad, Tuki danaSauli, romlis CadenisaTvisac moiTxoveba piris gadacema, isjeba sikvdiliT Txovnis gamgzavni saxelmwifos kanonis mixedviT da Tu imave danaSaulis CadenisaTvis Txovnis mimRebi mxaris kanonmdelobiT ar aris gaTvaliswinebuli sikvdiliT dasja an rogorc wesi, igi sisruleSi ar moyvaneba, SeiZleba eqstradiiciaze uaris Tqma, Tu Txovnis mimRebi mxaris Txovnis safuZvelze, Txovnis gamgzavni mxare ver warmoadgens sakmaris garantihs imisa, rom sasikvdilo ganaCeni ar iqneba sisruleSi moyvanili.

saqarTvelos parlamentis 1997 wlis 17 oqtombris #979-e dadgenilebiT saqarTvelo SeuerTda `msjavrdebul pirTa gadacemis Sesaxe~ evropul konvencias, romlis me-3 muxlis Tanaxmadac, msjavrdebuli piri SeiZleba gadacemul iqnes winamdebare konvenciis Tanaxmad, mxolod Semdegi pirobebis gaTvaliswinebiT:

- a) Tu es piri mimRebi saxelmwifos moqalaqea;
- b) Tu sasamarTlos ganaCeni sabolooa;
- g) Tu gadacemis moTxovnis miRebis momentisaTvis, msjavrdebulis mosaxdelad rCeba sul cota 6 Tve an patimroba daumTavrebelia;
- d) Tu gadacema xdeba msjavrdebulis TanxmobiT, an misi asakis an fizikuri Tu gonebrivi mdgomareobis gaTvaliswinebiT erT-erTi saxelmwifo saWirod Tvlis msjavrdebulis gadacemas, rac xorcieldeba misi iuridiuli warmomadgenlis TanxmobiT;
- e) Tu is moqmedeba an darRveva, romlis safuZvelzec gamotanil iqna ganaCeni, moicavs sisxlissamarTlebriv danaSauls mimRebi saxelmwifos kanonmdelobis Tanaxmad an Tu es darRveva ganxilul iqneboda, rogorc sisxlissamarTlebrivi darRveva im SemTxvevaSi Tu igi Cadenil iqneboda am ukanasknelis teritoriaze da
- v) Tu sasjelis aRmasrulebeli da mimRebi saxelmwifoebi Tanaxmani arian gadacemaze.

gansakuTrebul SemTxvevebSi mxareebi SeiZleba SeTanxmdnen gadacemaze im pirobebSi ki, rodesac msjavrdebulis mier mosaxdeli sasjeli naklebia vidre zemoT gansazRvruli.

`samoqalaqo, saojaxo da sisxlis samarTlis saqmeebze samarTlebrivi daxmarebisa da samarTlebriv urTierTobaTa Sesaxe~ damoukidebel saxelmwifoTa Tanamegobrobis konvenciis (romelic saqarTvelosTvis ZalaSia 1996 wlis 11 ivnisidan) 56-e muxlis mixedviT, mxareebi kisruloben valdebulebas, moTxovnisamebr erTmaneTs gadascen maT teritoriaze myofi pirebi sisxlis samarTlis pasuxisgebaSi misacemad an ganaCenis aRsrulebisaTvis. gadacema sisxlis samarTlis pasuxisgebaSi misacemad xdeba iseTi qmedebebisaTvis, romlebic momTxovni da im xelSemkvreli mxaris kanonebiT, romelsac gadacemas sTxoven, dasjadia da romelTa CadenisTvisac gaTvaliswinebulia Tavisuflebis aRkveTa sul cota erTi wlis vadiT an ufro mZime sasjeli, xolo gadacema ganaCenis aRsasruleblad xdeba iseTi qmedobebisaTvis, romlebic momTxovni da im xelSemkvreli mxaris kanonmdelobiT, romelsac gadacemas sTxoven, dasjadia da romelTa CadenisTvisac pirs, romlis

gadacemasac moiTxoven, misjili hqonda Tavisuflebis aRkveTa aranakleb eqvsi Tvis vadiT an ufro mZime sasjeli. saqarTvelos parlamentis 2002 wlis 21 ivnisis #1570-IIs dadgenilebiT aseve ratificirebulia `sasjelis Semdgomi moxdis mizniT msjavrdebul pirTa gadacemis Sesaxeb~ damoukidebel saxelmwifoTa Tanamegobrobis konvenciac.

aRsaniSnavia is, rom saqarTvelos konstituciis me-13 muxlis me-4 punktis Tanaxmad, saqarTvelos moqalaqis ucxo saxelmwifosaTvis gadacema dauSvebelia, garda saerTaSoriso xelSekrulebiT gaTvaliswinebuli SemTxvevebisa. gadawyvetileba moqalaqis gadacemis Sesaxeb SeiZleba gasaCivrdes sasamarTloSi. igive normaa mocemuli saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlSi (damnaSavis gadacema da eqstradicia), romlis pirveli nawilis mixedviT, saqarTvelos moqalaqe, agreTve saqarTveloSi mudmivad mcxovrebi moqalaqebis armqone piri sisxlissamarTlebriv pasuxisgebaSi misacemad an sasjelis mosaxdelad ar SeiZleba iyvnen eqstradirebulni sxva saxelmwifoSi, Tu saqarTvelos saerTaSoriso xelSekrulebiT sxva ram ar aris gaTvaliswinebuli, anu saqarTvelos kanonmdbloba uSvebs SesaZleblobas, rom rogorc saqarTvelos moqalaqe, ise saqarTveloSi mudmivad mcxovrebi moqalaqebis armqone piri eqstradirebulni iyvnen sxva saxelmwifoSi mxolod im SemTxvevaSi, rodesac amis SesaZlebloba gaTvaliswinebulia saqarTvelos saerTaSoriso xelSekrulebiT.

amasTan, aRsaniSnavia isic, rom SesaZlebelia moxdes saqarTvelos moqalaqis, agreTve saqarTveloSi mudmivad mcxovrebi moqalaqebis armqone piri sisxlis samarTlis saerTaSoriso sasamarTlosaTvis gadacema, rac unda ganxorcieldes `sisxlis samarTlis saerTaSoriso sasamarTlos wesdebiT~ (romis statutiT~) da `sisxlis samarTlis saerTaSoriso sasamarTlosTan saqarTvelos TanamSromlobis Sesaxeb~ saqarTvelos kanoniT gaTvaliswinebul SemTxvevebSi da dadgenili wesiT.

saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis me-2 nawilis Sesabamisad, analogiuri wesebia dadgenili danaSaulis Camdeni ucxo qveyinis moqalaqisa da moqalaqebis armqone piri mimarT, romlebic saqarTvelos teritoriaze imyofebian da saqarTvelos saerTaSoriso xelSekrulebis Sesabamisad sisxlissamarTlebriv pasuxisgebaSi misacemad an sasjelis mosaxdelad SeiZleba eqstradirebulni iyvnen sxva saxelmwifoSi an gadaecnen sisxlis samarTlis saerTaSoriso sasamarTlos.

44/2. am muxlis pirveli punktis debulebis miuxedavad monawile saxelmwifos, Tu misi kanonmdbloba dauSvebs amas, SeuZlia, nebarTva gasces romelime piri gacemaze nebismieri im danaSaulebis gamo, romelic gaTvaliswinebulia am konvenciiT da romelic ar aris sisxlissamarTlebrivad dasjadi misi Sida kanonmdblobis Sesabamisad.



konvencii 44-e muxlis me-2 punkti winaaRmdegobaSi modis saqarTvelos kanonmdblobasTan, radgan saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis me-3 nawilis Sesabamisad, ar SeiZleba sxva saxelmwifos gadaecis is, vinc Caidina qmedeba, romelic saqarTvelos kanonmdblobiT danaSaulad ar iTvleba, Tumca aqve arsebobs specialuri daTqma imis Taobaze, rom aseT pirTa sisxlissamarTlebrivi pasuxismgeblobis sakiTxi gadawydeba saerTaSoriso samarTliT gaTvaliswinebuli wesiT.

44/3. Tu gacemis Sesaxeb Txovna Seexebe ramdenime calkeul danaSauls, romelTagan aranakleb erTis gamo SeiZleba ganxorcieldes gacema am muxlis Sesabamisad, xolo danarCenebis mimarT ar SeiZleba gamoyenebul iqnes gacema sasjelis vadis gamo, magram isini miekuTvneba iseT danaSaulebebs, romlebic aseTad cnobilia am konvencii Sesabamisad, moTxovnis mimReb monawile saxelmwifos es muxli SeuZlia gamoiyenos aseTi danaSaulis mimarTac.



konvencii 44-e muxlis me-3 punkti winaaRmdegobaSi modis saqarTvelos kanonmdblobasTan, radgan saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis me-3 nawilis Tanaxmad, ar SeiZleba sxva saxelmwifos gadaecis piri, Tu Cadenili danaSaulisaTvis sikvdiliT dasjaa dawesebuli im saxelmwifoSi, romelic gadacemas moiTxovs, anu im SemTxvevebSi, rodesac sxva saxelmwifo iTxovs piri eqstradicias im danaSaulis gamo, risTvisac am saxelmwifoSi sikvdiliT dasjaa dawesebuli, saqarTvelos kanonmdblobiT dauSvebelia am piri gadacema, miuxedavad danaSaulis kategoriisa. amasTan, aseT pirTa sisxlissamarTlebrivi pasuxismgeblobis sakiTxi gadawydeba saerTaSoriso samarTliT gaTvaliswinebuli wesiT.

44/4. TiToeuli am danaSaulebebidan romelTa mimarT gamoiyeneba es muxli, iTvleba monawile saxelmwifoTa Soris arsebul nebismier xelSekrulebaSi CarTulad im danaSaulis saxiT, romelsac SeuZlia gamoiwvrios gacema. Mmonawile saxelmwifoebi valdebulebas iReben CarTon aseTi danaSaulebebi, romlebsac SeuZliaT gamoiwvion gacema, gacemis Sesaxeb nebismier xelSekrulebaSi, romelic daideba maT Soris. monawile saxelmwifo, romlis kanonmdblobac amas iTvaliswinebs, im SemTxvevaSi, rodesac igi iyenebs am konvencias gacemis safuZvlad ar Tvlis nebismiers am danaSaulebebidan, romlebic aseTad cnobilia am konvencii Sesabamisad, politikur danaSaulad.



saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis me-3 nawilis mixedviT, ar SeiZleba sxva saxelmwifos gadaeces Semoxiznuli, danaSaulis Camdeni piri, romelsac devnian politikuri mrwamsisaTvis. aseT pirTa sisxlissamarTlebrivi pasuxismgeblobis sakiTxi gadawydeba saerTaSoriso samarTliT gaTvaliswinebuli wesiT.

44/5. Tu monawile saxelmwifo, romelic gacemis safuZvlad Tvlis xelSekrulebis arsebobs, iRebs Txovnas gacemis Sesaxeb sxva monawile saxelmwifosagan, romelTanac mas ara aqvs dadebuli xelSekruleba gacemis Sesaxeb, am saxelmwifos SeuZlia ganxilos es konvencia, rogorc samarTlebrivi safuZveli gacemis nebismier danaSaulTan dakavSirebiT, romlis mimarTac gamoiyeneba es muxli.



konvenciis 44-e muxlis me-5 punqti winaaRmdegobaSi modis saqarTvelos konstituciasTan da saqarTvelos sisxlis samarTlis kodeqstan, radgan saqarTvelos konstituciis me-13 muxlis me-4 punqtis Tanaxmad, saqarTvelos moqalaqis ucxo saxelmwifosaTvis gadacema dauSvebelia, garda saerTaSoriso xelSekrulebiT gaTvaliswinebuli SemTxvevebisa. gadawyvetileba moqalaqis gadacemis Sesaxeb SeiZleba gasaCivrdes sasamarTloSi. igive normaa mocemuli saqarTvelos sisxlis samarTlis kodeqsis me-6 muxliSi (damnaSavis gadacema da eqstradicia), romlis pirveli nawilis mixedviT, saqarTvelos moqalaqe, agreTve saqarTveloSi mudmivad mcxovrebi moqalaqebis armqone piri sisxlissamarTlebriv pasuxisgebaSi misacemad an sasjelis mosaxdelad ar SeiZleba iyvnen eqstradirebulni sxva saxelmwifoSi, Tu saqarTvelos saerTaSoriso xelSekrulebiT sxva ram ar aris gaTvaliswinebuli, anu saqarTvelos kanonmdebloba uSvebs SesaZleblobas, rom rogorc saqarTvelos moqalaqe, ise saqarTveloSi mudmivad mcxovrebi moqalaqebis armqone piri eqstradirebulni iyvnen sxva saxelmwifoSi mxolod im SemTxvevaSi, rodesac amis SesaZlebloba gaTvaliswinebulia saqarTvelos saerTaSoriso xelSekrulebiT.

saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis me-2 nawilis Sesabamisad, analogiuri wesebia dadgenili danaSaulis Camdeni ucxo qveyinis moqalaqisa da moqalaqebis armqone piri mimarT, romlebic saqarTvelos teritoriaze imyofebian da saqarTvelos saerTaSoriso xelSekrulebis Sesabamisad sisxlissamarTlebriv pasuxisgebaSi misacemad an sasjelis mosaxdelad SeiZleba eqstradirebulni iyvnen sxva saxelmwifoSi an gadaecnen sisxlis samarTlis saerTaSoriso sasamarTlos.

44/6. monawile saxelmwifo, romelic gacemis safuZvlad Tvlis xelSekrulebis arsebobs:

a) am konvenciis saratifikacio sigelis an miRebis an damtkicebis Sesaxeb an konvenciasTan mierTebis Sesaxeb dokumentis Sesanaxad Cabarebisas acnobebs gaeros generalur mdivans imis Taobaze gamoiyenebs Tu ara igi am konvencias samarTlebriv safuZvlad gacemis sakiTxebTan dakavSirebiT TanamSromlobisaTvis am konvenciis monawile sxva saxelmwifoebTan: da

b) Tu igi ar iyenebs am konvencias samarTlebriv safuZvlad gacemis sakiTxebTan dakavSirebiT TanamSromlobisaTvis, iswrafvis, saTanado SemTxvevebSi, am muxlis gamoyenebis mizniT dados xelSekrulebebi gacemis Sesaxeb am konvenciis monawile sxva saxelmwifoebTan.



konvenciis 44-e muxlis me-6 punqtTan dakavSirebiT gasaTvaliswinebelia saqarTvelos konstituciis me-13 muxlis me-4 punqtiTa da saqarTvelos sisxlis samarTlis kodeqsis me-6 muxliT (damnaSavis gadacema da eqstradicia) gansazRvruli sakiTxebi, rac faqtoibrivad winaaRmdegobaSi modis konvenciis moTxovnasTan, radgan saqarTvelos konstituciis me-13 muxlis me-4 punqtis mixedviT, saqarTvelos moqalaqis ucxo saxelmwifosaTvis gadacema dauSvebelia, garda saerTaSoriso xelSekrulebiT gaTvaliswinebuli SemTxvevebisa, xolo saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis (damnaSavis gadacema da eqstradicia) pirveli nawilis mixedviT, saqarTvelos moqalaqe, agreTve saqarTveloSi mudmivad mcxovrebi moqalaqebis armqone piri sisxlissamarTlebriv pasuxisgebaSi misacemad an sasjelis mosaxdelad ar SeiZleba iyvnen eqstradirebulni sxva saxelmwifoSi, Tu saqarTvelos saerTaSoriso xelSekrulebiT sxva ram ar aris gaTvaliswinebuli, anu saqarTvelos kanonmdebloba uSvebs SesaZleblobas, rom rogorc saqarTvelos moqalaqe, ise saqarTveloSi mudmivad mcxovrebi moqalaqebis armqone piri iyvnen eqstradirebulni sxva saxelmwifoSi mxolod im SemTxvevaSi, rodesac amis SesaZlebloba gaTvaliswinebulia saqarTvelos saerTaSoriso xelSekrulebiT. amasTan, aRsaniSnavia isic, rom saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis me-2 nawilis Sesabamisad, analogiuri wesebia dadgenili danaSaulis Camdeni ucxo qveyinis moqalaqisa da moqalaqebis armqone piri mimarT, romlebic saqarTvelos teritoriaze imyofebian da isini sisxlissamarTlebriv pasuxisgebaSi misacemad an sasjelis mosaxdelad SeiZleba eqstradirebulni iyvnen sxva saxelmwifoSi an gadaecnen sisxlis samarTlis saerTaSoriso sasamarTlos mxolod saqarTvelos saerTaSoriso xelSekrulebis Sesabamisad. saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis me-3 nawilis mixedviT ki, ar SeiZleba sxva saxelmwifos gadaeces Semoxiznuli, danaSaulis Camdeni piri, romelsac devnian politikuri mrwamsisaTvis, agreTve is, vinc Caidina qmedeba, romelic saqarTvelos kanonmdeblobiT danaSaulad ar iTveba, an Tu Cadenili danaSaulisaTvis sikvdiliT dasjaa dawesebuli im saxelmwifoSi, romelic gadacemas moiTxovs. aseT pirTa sisxlissamarTlebrivi pasuxismgeblobis sakiTxi gadawydeba saerTaSoriso samarTliT gaTvaliswinebuli wesiT.

44/7. monawile saxelmwifoebi, romlebic gacemis safuZvlad ar Tvlian xelSekrulebis arsebobs, erTmaneTTan urTierTobaSi danaSaulad, romlis mimarTac gamoiyeneba es muxli, cnoben iseTi saxis danaSaulebs, romlebic iwveven gacemas.

44/8. gacema xorcieldeba im pirobebis Sesabamisad, romlebic gaTvaliswinebulia moTxovnis mimRebi monawile saxelmwifos Sida kanonmdeblobiT an gacemis Sesaxeb gamoyenebadi xelSekrulebebiT. im pirobebis CaTvliT romlebic Seexeba moTxovnebs gacemasTan dakavSirebuli minimaluri sasjelis Sesaxeb, ris safuZvelzedac moTxovnis mimReb monawile saxelmwifos SeuZlia uari Tqvas gacemaze.



saqarTvelos sisxlis samarTlis saproceso kodeqsis 247-e muxlis Tanaxmad, samarTlebrivi daxmarebis Sesaxeb saqarTvelos saerTaSoriso xelSekrulebebis Sesabamisad, sasamarTlos, prokurorsa da gamomZiebels ufleba aqvT, saqarTvelos iusticiis saministros an saqarTvelos generaluri prokuraturis meSveobiT moiTxovon saqarTvelos moqalaqis gadmocema sisxlis samarTlis pasuxisgebaSi mis misacemad da saqarTvelos teritoriaze ganaCenis aRsasruleblad; amave mizniT gadascen ucxo saxelmwifos misi moqalaqe; an moiTxovon ucxo saxelmwifoSi msjavrdebuli saqarTvelos moqalaqis gadmocema saqarTveloSi sasjelis mosaxdelad; saqarTveloSi msjavrdebuli ucxo saxelmwifos moqalaqe gadascen mis qveyanaSi sasjelis mosaxdelad.

saqarTvelos sisxlis samarTlis saproceso kodeqsis 254-e muxlis mixedviT, saqarTvelos kanonmdeblobiTa da saerTaSoriso xelSekrulebebiTa Tu SeTanxmebebiT gaTvaliswinebul SemTxvevebSi da wesiT saqarTvelos generaluri prokuratura ucxo saxelmwifos Sesabamis dawesebulebas mimarTavs moTxovniT saqarTvelos moqalaqis gadmocemis Sesaxeb, romelmac danaSauli Caidina saqarTvelos teritoriaze, Tu am moqalaqis mimarT gamotanilia dadgenileba braldebulad sisxlis samarTlis pasuxisgebaSi micemis Sesaxeb, an Tu mis mimarT gamamtyunebeli ganaCeni gamotanilia da kanonier ZalaSia Sesuli. es wesebi gamoiyeneba mxolod im SemTxvevaSi, roca pirs bralad edeba iseTi qmedebis Cadena, romelic saqarTvelos sisxlis samarTlis kanonmdeblobiT dasjadia Tavisuflebis aRkveTiT erT welze meti vadiT, an roca is msjavrdebulia amgvარი danaSaulisaTvis.

amasTan, saqarTvelos sisxlis samarTlis saproceso kodeqsis 255-e muxlis Sesabamisad, ar SeiZleba ucxo saxelmwifos mier gadmocemuli piri gadaeces mesame saxelmwifos am an sxva danaSaulisaTvis, gadmomcemi saxelmwifos Tanxmობის gareSe, Tumca es wesebi ar vrceldeba gadmocemis Semdeg piris mier danaSaulis Cadenis SemTxvevaze.

saqarTvelos sisxlis samarTlis saproceso kodeqsis 256-e muxlis Tanaxmad, samarTlebrivi daxmarebis Sesaxeb saerTaSoriso xelSekrulebis~ Sesabamisad, ucxo saxelmwifos SeuZlia, moiTxovos saqarTvelos teritoriaze myofi Tavisi moqalaqis eqstradicia, Tu mas bralad edeba Tavisi qveynis teritoriaze danaSaulis Cadena an Cadenili danaSaulisaTvis msjavri dasdo Tavisi qveynis sasamarTlom anda Tu Tavisi qveynis winaaRmdeg danaSauli Caidina saqarTvelos teritoriaze. eqstradiciis moTxovna unda Seesabamebodes saerTaSoriso xelSekrulebiT dadgenil rekvizitebs da momdinareobdes kompetenturi organodan. moTxovna SeiZleba gadaices teqniki saSualebebis gamoyenebiT, Semdeg ki dadasturdes werilobiT. Tu saqarTvelos generaluri prokurori moTxovnas dasabuTebulad da kanonierad miiCnevs, igi izleva miTiTebas misi Sesrulebis Sesaxeb, saWiroebis SemTxvevaSi ki xelSewyobas sTxovs saqarTvelos sagareo saqmeTa saministros. Tu pirs eqstradicias ramdenime ucxo saxelmwifo moiTxovs, maSin gadawyvetilebas, Tu romel saxelmwifos unda gadaeces igi, saqarTvelos generaluri prokurori iRebs saqarTvelos sagareo saqmeTa ministrsa da saqarTvelos iusticiis ministrTan konsultaciebis Semdeg.

Tu ucxo saxelmwifos moqalaqe, romlis mimarTac Semosulia moTxovna eqstradiciis Sesaxeb, sasjels ixdis saqarTvelos teritoriaze Cadenili sxva danaSaulisaTvis, eqstradicia SeiZleba gadavaddes sasjelis moxdamde an sxva kanonieri safuZvliT sasjelisagan gaTavisuflebamde. Tu ucxo saxelmwifos moqalaqe braldebulad micemulia sisxlis samarTlis pasuxisgebaSi saqarTvelos teritoriaze Cadenili danaSaulisaTvis, eqstradicia SeiZleba gadavaddes ganaCenis gamotanamde, sasjelis moxdamde an sxva kanonieri safuZvliT mis gaTavisuflebamde. am SemTxvevaSi saqarTvelos uzenaes sasamarTlos ufleba aqvs, ucxo saxelmwifos Sesabamis organoTa TxovniT, gamoitanos dadgenileba garkveuli vadiT am saxelmwifos moqalaqis eqstradiciis Sesaxeb. Tu am pirs Tavisi qveynis sasamarTlo Seufardebs ufro mkacr an saqarTveloSi mouxdeli sasjelis Tanabar sasjels, igi sasjels moixdis Tavis qveyanaSi da saqarTveloSi dabrunebas ar eqvemdebareba. aseTive wesebiT xdeba moqalaqebობის armqone pirs eqstradiciac.

saqarTvelos sisxlis samarTlis saproceso kodeqsis 257-e muxli iTvaliswinebs eqstradiciaze uaris Tqmის safuZvlebs, kerZod:

eqstradicia ar daiSveba, Tu:

a) pirs micemuli aqvs politikuri TavSesafari saqarTveloSi;

b) qmedeba, romelic iyo gadacemis, eqstradiciis moTxovnis safuZveli, ar iTvleba danaSaulad saqarTveloSi, Tu saqarTvelos saerTaSoriso xelSekrulebiT sxva ram ar aris dadgenili;

g) piris mimarT ukve gamotanilia imave danaSaulTan dakavSirebiT kanonier ZalaSi Sesuli ganaCeni an dadgenileba (ganCineba) sisxlissamarTlebrivi devnis Sewyvetis Sesaxeb, Tu saqarTvelos saerTaSoriso xelSekrulebiT sxva ram ar aris dadgenili;

d) saqarTvelos sisxlis samarTlis kodeqsiT dadgenili sisxlissamarTlebrivi devnis xandazmulobis vada gasulia, Tu saqarTvelos saerTaSoriso xelSekrulebiT sxva ram ar aris dadgenili.

44/9. nebismieri danaSaulis, romlis mimarTac gamoiyeneba es muxli, monawile saxelmwifoebi, TavianTi Sida kanonmdeblobebis pirobaTa dacviT, yvela Rones xmaroben, raTa daaCqaron gacemis procedurebi da gaamartivon gacemasTan dakavSirebuli moTxovnebi mtkicebulebaTa wardgenis Sesaxeb.



saqarTvelos sisxlis samarTlis saproceso kodeqsis 247-e muxlis Tanaxmad, samarTlebrivi daxmarebis Sesaxeb saqarTvelos saerTaSoriso xelSekrulebebis Sesabamisad, sasamarTlos, prokurorsa da gamomZiebels ufleba aqvT saqarTvelos iusticiis saministros an saqarTvelos generaluri prokuraturis meSveobiT moiTxovon ucxo saxelmwifos teritoriaze sagamoZiebo da sasamarTlo moqmedebebis Catareba; aseTi moqmedebebi Caataron saqarTvelos teritoriaze ucxo saxelmwifos kompetenturi organoebis davalebiT. sssk-is 248-e muxlis mixedviT ki, Tu aucibleloba moiTxovs ucxo saxelmwifos teritoriaze am kodeqsiT gaTvaliswinebuli saproceso moqmedebis Catarebas, gamomZiebeli, prokurori an sasamarTlo maT Catarebas avalebs im saxelmwifos Sesabamis organos, romelTanac dadebulia xelSekruleba samarTlebrivi daxmarebis Sesaxeb.

davaleba sagamoZiebo moqmedebis Catarebis Sesaxeb igzavneba saqarTvelos generaluri prokuroris an mis mier saamiso uflebamosilebiT aRWurvili prokuroris meSveobiT, xolo sasamarTlo moqmedebis Catarebis Sesaxeb – saqarTvelos iusticiis ministris meSveobiT. Tu saproceso moqmedebis Casatareblad auciblelia gansakuTrebuli sasamarTlo gadawyvetileba (brZaneba), mosamarTlis xelmoweriTa da gerbiani beWdiT damowmebuli es gadawyvetileba unda daerTos davalebas. davaleba dgeba im saxelmwifos enaze, sadac is igzavneba, Tu saerTaSoriso xelSekrulebiT sxva ram ar aris gaTvaliswinebuli. sagangebo SemTxvevaSi davaleba SeiZleba gadaices teqnikuri saSualebebis gamoyenebiT, Semdeg ki dadasturdes werilobiT.

saqarTvelos sisxlis samarTlis saproceso kodeqsis 250-e muxlis Sesabamisad, ucxo saxelmwifos moqalaqe misi TanxmobiT SeiZleba, moiwvion sisxlis samarTlis saqmeSi monawileobisaTvis, rogorc mowme, dazaralebuli, eqsperti, samoqalaqo mosarCele an samoqalaqo mopasuxe, xolo braldebulis SuamdgomlobiT _ rogorc damcveli an kanonieri warmomadgeneli. am pirebis (garda advokatisa, romelTanac dadebulia SeTanxmeba) saqarTveloSi Camosvlisa da yofnis xarjebi anazRaurdeba saxelmwifo biujetidan. Tu Suamdgomloba am pirebis gamoZaxebis Sesaxeb uaryofilia, maTi gamoZaxebis xarjebi ekisreba im mxares, romelmac Seitana Suamdgomloba. sagamoZiebo moqmedebasa da sasamarTloSi monawileobisaTvis ucxo saxelmwifodan konkretuli pirebis gamoZaxebis Sesaxeb Txovna imavdroulad SeiZleba gaegzavnoT gamosaZaxebel pirebsac.

ucxo saxelmwifos moqalaqis monawileobiT sagamoZiebo da sasamarTlo moqmedebebi tardeba saqarTvelos sisxlis samarTlis saproceso kodeqsiT dadgenili wesebiT, Tu saerTaSoriso xelSekrulebiT sxva ram ar aris gaTvaliswinebuli. Tuki gamoZaxebulia ucxo saxelmwifos moqalaqe, dauSvebelia misi iZulebiT moyvana, dakaveba, dapatimreba, samedicino dawesebulebaSi moTavseba, Cxreka, mis mimarT iZulebiTi xasiaTis sxva RonisZiebis gamoyeneba, gafrTxileba Cvenebis micemaze uaris Tqmisa da cru Cvenebis micemisaTvis pasuxismgeblobis Sesaxeb.

saqarTvelos sisxlis samarTlis saproceso kodeqsis 251-e muxlis Tanaxmad, sasamarTlo, prokurori an gamomZiebeli saqarTvelos teritoriaze saqarTvelos moqalaqis mimarT sagamoZiebo da sasamarTlo moqmedebaTa Catarebis Sesaxeb ucxo saxelmwifos davalebas asrulebs saqarTvelos sisxlis samarTlis saproceso kodeqsiT dadgenili wesebiT. sagamoZiebo moqmedebis Catarebis Sesaxeb davaleba sruldeba saqarTvelos generaluri prokuroris an mis mier saamiso uflebamosilebiT aRWurvili prokuroris miTiTebiT, xolo sasamarTlo moqmedebis Catarebis Sesaxeb – saqarTvelos iusticiis ministris davalebiT.

ucxo saxelmwifos davaleba sruldeba, Tu is Seicavs saerTaSoriso xelSekrulebiTa da saqarTvelos sisxlis samarTlis saproceso kodeqsis 249-e muxliT gaTvaliswinebul monacemebs. Tu davalebaSi ar aris es monacemebi, an Tu isini arasakmarisia, gamoiTxoveba damatebiTi monacemebi.

sagamoZiebo da sasamarTlo moqmedebebi, romlebic dakavSirebulia moqalaqis iZulebasTan da misi konstituciuri uflebebsa da Tavisuflebebis SezRudvasTan, tardeba, Tu isini sanqcionirebulia ucxo saxelmwifos sasamarTlos an sxva kompetenturi organos mier. davalebis Sesrulebas Sesazlebelia ucxo saxelmwifos saproceso normebs gamoyeneba, Tu es gaTvaliswinebulia saerTaSoriso xelSekrulebiT. saerTaSoriso xelSekrulebiT gaTvaliswinebul SemTxvevaSi davalebis Sesrulebas SeiZleba eswrebodes ucxo saxelmwifos Sesabamis organos warmomadgeneli. Tu davalebis Sesruleba SeuZlebelia, miRebuli dokumentebi saqarTvelos iusticiis saministros an saqarTvelos generaluri prokuraturis meSveobiT unda daubrundebs ucxo saxelmwifos,

amasTan, unda mieTiTos misi Sesrulebis xelSemSleli mizezebi. davaleba brundeba im SemTxvevaSi, roca misma Sesrulebam SeiZleba ziani miayenos saqarTvelos erovnul interesebs, suverenitetsa da uSiSroebas.

saqarTvelos sisxli samarTlis saproceso kodeqsis 260-e muxlis mixedviT, eqstradicias daqvemdebarebuli pirisaTvis CamorTmeuli sagnebi da dokumentebi, romlebic SeiZleba gamoyenebul iqnes mtkicebulebad sisxli samarTlis saqmeze, egzavneba eqstradiiciis momTxovn organos. materialuri Rirebulebis mqone sagnebis da dokumentebis gagzavna, Tu isini ar ekuTvnis eqstradicias daqvemdebarebul pirs, unda moxdes maTi Senaxvisa da mesakuTrisaTvis dabrunebis garantiis miRebis Semdeg. garantias iZleva organo, romelic moiTxovs piris eqstradicias.

44. 10. moTxovnis mimReb monawile saxelmwifos Tavisi Sida kanonmdeblobis debulebaTa da gacemis Sesaxeb xelSekrulebaTa dacviT, Tu darwmunebulia, rom amas moiTxovs gadaubeli xasiaTis garemoebeli, moTxovnis warmdgeni monawile saxelmwifos TxovniT SeuZlia daapatimros mis teritoriaze myofi piri, romlis gacemazec aris moTxovna an gaataros sxva saTanado RonisZiebeli, gacemis proceduraSi aseTi piris monawileobasTan dakavSirebiT.



saqarTvelos sisxli samarTlis saproceso kodeqsis 259-e muxlis Sesabamisad, saqarTvelos teritoriaze ucxo saxelmwifos samarTaldamcavi organoebis mier Zebnili piris dakavebisTanave unda ecnobos Sesabamisi raionis prokurors, romelic 48 saaTSi SuamdgomlobiT mimarTavs dakavebis adgilis mixedviT Sesabamisi raionul (saqalaqo) sasamarTlos piris mimarT saeqstradicio patimrobis Sefardebis moTxovniT. sasamarTlos gadawyvetileba SeiZleba gasaCivrdes pirisaTvis gadawyvetilebis gadacemidan 15 dRis vadaSi, Sesabamisad avtonomiuri respublikis umaRles sasamarTloSi an saolqo sasamarTloSi, romelic saCivars ganxilavs 10 dRis vadaSi. aRniSnuli RonisZiebis gamoyenebis Sesaxeb dauyovnebliv unda ecnobos gadacemis momTxovni mxaris kompetentur organos.


saqarTvelos teritoriaze dakavebuli ucxo saxelmwifoSi eqstradicias daqvemdebarebuli piris saeqstradicio patimrobis vada ganisazRvreb 3 TviT, romelic eqstradiiciis ganxorcielebisaTvis gamowveuli saWiroebis gamo SeiZleba gagrZeldes 2 TviT, magram ara umetes orjer. am SemTxvevaSi prokuroris motivirebuli Suamdgomlobis safuZvelze Sesabamisi raionuli sasamarTlos mosamarTle 2 Tvemde, xolo avtonomiuri respublikis umaRlesi sasamarTlos an saolqo sasamarTlos sagamoZiebo kolegia kidev 2 Tvemde agrZeleben saeqstradicio patimrobis vadas.

eqstradiiciis mizniT dakavebuli piri dauyovnebliv unda gaTavisuflde patimrobidan Tu dadginda, rom igi saqarTvelos moqalaqea. am SemTxvevaSi, Tu arsebobs sakmarisi safuZveli imisaTvis, rom pirma ucxo saxelmwifoSi Caidina saqarTvelos sisxlissamarTlebrivi kanonmdeblobiT dasjadi qmedeba, saqarTvelos generaluri prokuratura sisxlissamarTlebrivi devnis ganxorcielebis mizniT Sesabamisi qveynidan gamoiTxovs piris mimarT aRZrul sisxli samarTlis saqmes.


44. 11. monawile saxelmwifo, romlis teritoriazedac imyofeba piri, romelic eWymitanilia danaSaulis CadenaSi, Tu igi ar gascems aseT pirs im danaSaulTan dakavSirebiT, romlis mimarTac gamoiyeneba es muxli, mxolod im mizeziT, rom igi aris misi erT-erTi moqalaq, valdebulia moTxovnis warmdgeni monawile saxelmwifos TxovniT gacemis Sesaxeb, gaumarTlebeli Seferxebebis gareSe saqme gadasces Tavis kompetentur organoebis devnis ganxorcielebis mizniT. Ees organoebi iReben gadawyvetilebebs da saqmis warmoebas axorcieleben iseve, rogorc nebismieri sxva saSiSi xasiaTis danaSaulis dros am monawile saxelmwifos Sida kanonmdeblobis Sesabamisad. dainteresebuli monawile saxelmwifoebi TanamSromloben erTmaneTTan, kerZod, procesualur da mtkicebulebis sakiTxebTan dakavSirebiT, aseTi devnis efeqtianobis uzrunvelsayofad.

44. 12. yvela SemTxvevaSi, rodesac monawile saxelmwifos Tavisi Sida kanonmdeblobis Sesabamisad ufleba eZleva gascens an sxva saxiT gadasces Tavisi erT-erTi moqalaq im pirobiT, rom pirs daabruneben am monawile saxelmwifoSi sasjelis mosaxdelad, rac Seefarda mas sasamarTlo ganxilvisa da saqmiswarmoebis Sedegad da ris gamoc moiTxoveboda piris gacema an gadacema da Tu es monawile saxelmwifo da is monawile saxelmwifo, romelic iTxovda am piris gacemas, Tvlian aseT wesebsa da sxva pirobebs saTanadod, am SemTxvevaSi aseTi pirobiTi gacema an gadacema sakmarisia am muxlis me-11 punqtiT gansazRvruli movaleobebis Sesaruleblad.


44. 13. Tu gacemaze, romelic moTxovnilia gamotanili ganaCenis sisruleSi mosayvanad, iTqva uari imis gamo, rom Zebnili aris moTxovnis mimRebi monawile saxelmwifos moqalaq, maSin moTxovnis mimRebi monawile saxelmwifo, Tu amas iTvaliswinebs misi Sida kanonmdebloba an Tu igi Seesabameba aseTi kanonmdeblobis moTxovnebs, moTxovnis warmdgeni monawile saxelmwifos mimarTvis safuZvelze, ganxilavs sakiTxs ganaCenis sisruleSi moyvanis Taobaze an ganaCenis darCenili nawilis sisruleSi moyvanis Sesaxeb, romelic gamotanili iqna moTxovnis warmdgeni monawile saxelmwifos Sida kanonmdeblobis Sesabamisad.

 saqarTvelos sisxli samarTlis saproceso kodeqsis 259-e muxlis Tanaxmad, eqstradiiis mizniT dakavebuli piri dauyovnebliv unda gaTavisufldes patimrobidan, Tu dadginda, rom igi saqarTvelos moqalaqea. am SemTxvevaSi, Tu arsebobs sakmarisi safuZveli imisaTvis, rom pirma ucxo saxelmwifoSi Caidina saqarTvelos sisxlissamarTlebrivi kanonmdeblobiT dasjadi qmedeba, saqarTvelos generaluri prokuratura sisxlissamarTlebrivi devnis ganxorcielebis mizniT Sesabamisi qveynidan gamoiTxovs piris mimarT arZrul sisxli samarTlis saqmes.


44. 14. nebismier pirs, romlis saqmezedac xorcieldeba saqmiswarmoeba nebismier danaSaulTan dakavSirebiT, romlis mimarT gamoiyeneba es muxli, saqmiswarmoebis yvela stadiaze gaaCnia samarTlianad mopyrobis ufleba, agreTve im uflebebisa da garantiebis ganxorcielebiT, romlebic gaTvaliswinebulia im monawile saxelmwifos Sida kanonmdeblobiT, romlis teritoriazedac imyofeba es piri.

 saqarTvelos sisxli samarTlis saproceso kodeqsis 259¹-e muxlis mixedviT, eqstradiacias daqvemdebarebuli piri sargebobs saqarTvelos saproceso kanonmdeblobiT braldebulisTvis miniWebuli yvela uflebiT. eqstradiacias daqvemdebarebul pirs ufleba aqvs, misi gadacemis Sesaxe saqarTvelos generaluri prokuroris mier gamotanili dadgenilebis miRebidan ara ugvia nes 15 dRis gaasaCivros igi Sesabamisi raionul sasamarTloSi, romelic saCivars ganxilavs 15 dRis vadaSi. raionuli sasamarTlos gadawyvetileba kerZo sakasacio saCivris Setanis gziT SeiZleba gasaCivrdes mxareebis mier saqarTvelos uzenaesi sasamarTlos sisxli samarTlis saqmeTa palataSi dadgenilebis miRebidan 10 dRis vadaSi, romelic saCivars ganxilavs 10 dRis vadaSi.

44. 15. araferi am konvenciaSi ar ganxileba, rogorc gacemis Sesaxe valdebuleba, Tu moTxovnis mimReb monawile saxelmwifos aqvs arsebiTi safuZveli varaudisa, rom gacemis Sesaxe Txovnis mizania romelime piri mimarT ganxorcielides devna an dasja misi qsis, rasis, armsareblobis, moqalaqebis, eTnikuri warmomavlobis an politikuri mrwamsis gamo an moTxovnis Sesrulebis SemTxvevaSi ziani miadgebra aseTi piri mdgomareobas nebismier CamoTvliL mizezTa gamo.


 saqarTvelos sisxli samarTlis saproceso kodeqsis me-9 muxlis Sesabamisad, yvela Tanasworia kanonisa da sasamarTlos winaSe _ rasis, erovnebis, enis, sqesis, socialuri warmoSobis, qonebrivi da Tanamdebobrivi mdgomareobis, saxovrebili adgilis, religiisadmi damokidebulebis, rwmenis, agreTve sxva garemoebis miuxedavad. amasTan, saqarTvelos sisxli samarTlis kodeqsis me-6 muxlis me-3 nawilis mixedviT, ar SeiZleba sxva saxelmwifos gadaecis Semoxiznuli, danaSaulis Camdeni piri, romelsac devnian politikuri mrwamsisaTvis, xolo saqarTvelos sisxli samarTlis saproceso kodeqsis 257-e muxlis Tanaxmad, eqstradiacia ar daiSveba, Tu pirs micemuli aqvs politikuri TavSesafari saqarTveloSi.

44. 16. monawile saxelmwifoebis ar SeuZliaT uari ganaxadon gacemis Sesaxe Txovnis dasakmayofileblad mxolod imis gamo, rom danaSauli agreTve dakavSirebulia sagadasaxado sakiTxebTan.

 saqarTvelos sisxli samarTlis kodeqsis me-6 muxlis me-3 nawiliT mkafiod aris gansazRvruli is pirobebi, romelTa SemTxvevaSiac xdeba piri gacemaze uaris Tqma. arNiSnuli norma da Sesabamisad saqarTvelos kanonmdebloba ar iTvaliswinebs sagadasaxado sakiTxebTan dakavSirebuli danaSaulis gamo piri eqstradiaciaze uaris Tqmis SesaZleblobas.

44. 17. gacemis Sesaxe uaris gaxadebamde moTxovnis mimRebi monawile saxelmwifo saTanado SemTxvevaSi atarebs konsultaciebs moTxovnis warmdgen monawile saxelmwifosTan imisaTvis, rom misces mas SesaZlebloba sakuTari azris gamosaTqmelad da im informaciis misaRebad, romelic dakavSirebulia mis TxovnaSi gadmocemul faqtebTan.

44. 18. monawile saxelmwifoebi iswrafvian dadon ormxrivi an mravalmxrivi SeTanxmebebi gacemis ganxorcielebis an misi efeqtianobis amarlebis mizniT.

 eqstradiaciasTan dakavSirebuli procedurebidan gamomdinare aucilebelia, konkretuli sakiTxebis gadawyvetis mizniT saxelmwifoTa Soris mWidro urTierTobebis arseboba. aseve unda ariniSnos, rom konvenciis 44-e muxli bevri monawile saxelmwifosaTvis daTqmisa da gancxadebis sagani gaxda. magaliTad, el salvadoris respublika am muxli ar miiCnevs mxare-saxelmwifoebTan eqstradiiis sakiTxebze TanamSromlobis iuridiul safuZvlad, xolo mavrikia axorciebs eqstradiacias xelSekrulebis safuZvelze, Tumca eqstradiiis Sesaxe kanoni amJamad ar aZlevs mas saSualebas konvencia eqstradiiis safuZvlad gamoiyenos²⁸.

²⁸ sxva monawile saxelmwifoebis mxridan konvenciis 44-e muxliTan dakavSirebuli daTqmebisa da gancxadebebis Sesaxe ix. http://www.unodc.org/unodc/en/crime_signatures_corruption.html

SeniSvnebi da rekomendaciebi

- konvenciis 44-e muxlis me-2 punqti winaaRmdegobaSi modis saqarTvelos kanonmdeblobasTan, radgan saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis me-3 nawilis Sesabamisad, ar SeiZleba sxva saxelmwifos gadaeces is, vinc Caidina qmedeba, romelic saqarTvelos kanonmdeblobiT danaSaulad ar iTvleba, Tumca aqve arsebobs specialuri daTqma imis Taobaze, rom aseT pirTa sisxlissamarTlebrivi pasuxismgeblobis sakiTxi gadawydeba saerTaSoriso samarTliT gaTvaliswinebuli wesiT.
- konvenciis 44-e muxlis me-3 punqti winaaRmdegobaSi modis saqarTvelos kanonmdeblobasTan, radgan saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis me-3 nawilis Tanaxmad, ar SeiZleba sxva saxelmwifos gadaeces piri, Tu Cadenili danaSaulisaTvis sikvdiliT dasjaa dawesebuli im saxelmwifoSi, romelic gadacemas moiTxovs, anu im SemTxvevebSi, rodesac sxva saxelmwifo iTxovs piris eqstradiacias im danaSaulis gamo, risTvisac am saxelmwifoSi sikvdiliT dasjaa dawesebuli, saqarTvelos kanonmdeblobiT dauSvebelia am piris gadacema, miuxedavad danaSaulis kategoriisa. amasTan, aseT pirTa sisxlissamarTlebrivi pasuxismgeblobis sakiTxi gadawydeba saerTaSoriso samarTliT gaTvaliswinebuli wesiT.
- konvenciis 44-e muxlis me-5 punqti winaaRmdegobaSi modis saqarTvelos konstituciasTan da saqarTvelos sisxlis samarTlis kodeqTan, radgan saqarTvelos konstituciis me-13 muxlis me-4 punqtis Tanaxmad, saqarTvelos moqalaqis ucxo saxelmwifosaTvis gadacema dauSvebelia, garda saerTaSoriso xelSekrulebiT gaTvaliswinebuli SemTxvevebisa. gadawyvetileba moqalaqis gadacemis Sesaxeb SeiZleba gasaCivrdes sasamarTloSi. igive norma mocemulia saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlSi (damnaSavis gadacema da eqstradiacia), romlis pirveli nawilis mixedviT, saqarTvelos moqalage, agreTve saqarTveloSi mudmivad mcxovrebi moqalageobis armgone piri sisxlissamarTlebriv pasuxisgebaSi miscemad an sasjelis mosaxdelad ar SeiZleba iyvnen eqstradirebulni sxva saxelmwifoSi, Tu saqarTvelos saerTaSoriso xelSekrulebiT sxva ram ar aris gaTvaliswinebuli, anu saqarTvelos kanonmdebloba uSvebs SesaZleblobas, rom rogorc saqarTvelos moqalage, ise saqarTveloSi mudmivad mcxovrebi moqalageobis armgone piri eqstradirebulni iyvnen sxva saxelmwifoSi mxolod im SemTxvevaSi, rodesac amis SesaZlebloba gaTvaliswinebulia saqarTvelos saerTaSoriso xelSekrulebiT.
- saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis me-2 nawilis Sesabamisad, analogiuri wesebia dadgenili danaSaulis Camdeni ucxo qveynis moqalaqisa da moqalageobis armgone piris mimarTac, romlebic saqarTvelos teritoriaze invofebian da saqarTvelos saerTaSoriso xelSekrulebis Sesabamisad sisxlissamarTlebriv pasuxisgebaSi miscemad an sasjelis mosaxdelad SeiZleba eqstradirebulni iyvnen sxva saxelmwifoSi an gadaecnen sisxlis samarTlis saerTaSoriso sasamarTlos.
- konvenciis 44-e muxlis me-6 punqtTan dakavSirebiT gasaTvaliswinebelia saqarTvelos konstituciis me-13 muxlis me-4 punqtiTa da saqarTvelos sisxlis samarTlis kodeqsis me-6 muxliT (damnaSavis gadacema da eqstradiacia) gansazRvruli sakiTxebi, rac faqtobrivad winaaRmdegobaSi modis konvenciis moTxovnasTan. amasTan, aRsaniSnavia isic, rom saqarTvelos sisxlis samarTlis kodeqsis me-6 muxlis me-2 nawilis Sesabamisad, analogiuri wesebia dadgenili danaSaulis Camdeni ucxo qveynis moqalaqisa da moqalageobis armgone piris mimarTac, romlebic saqarTvelos teritoriaze invofebian da isini sisxlissamarTlebriv pasuxisgebaSi miscemad an sasjelis mosaxdelad SeiZleba eqstradirebulni iyvnen sxva saxelmwifoSi an gadaecnen sisxlis samarTlis saerTaSoriso sasamarTlos mxolod saqarTvelos saerTaSoriso xelSekrulebis Sesabamisad.
- 44-e muxlis debulebebi ZiriTadad SesabamisobaSia saqarTvelos kanonmdeblobasTan, Tumca konvenciis 44-e muxlis me-6 punqtis moTxovnis da imis gaTvaliswinebiT, rom konvenciis 44-e muxlis me-2, me-3 da me-5 punqtebi winaaRmdegobaSi modis rogorc saqarTvelos sisxlis samarTlis kodeqsis da saqarTvelos sisxlis samarTlis saproceso kodeqsis, ise garkveulwilad saqarTvelos konstituciis moTxovnebTan, mizanSewonili iqneba, konvenciasTan mierTeba moxdes konvenciis 44-e muxlis me-2, me-3 da me-5 punqtebze Sesabamisi daTqmis gakeTebiT.

muxli 45. msjavrdebul pirTa gadacema

monawile saxelmwifoebis SeuZliaT ganixilon ormxrivi an mrvalemrxrivi SeTanxmebebis dadebis SesaZlebloba imis Sesaxeb, rom msjavrdebulebma, romlebsac misjili aqvT patimroba an Tavisuflebis sxvavari SezRudva danaSaulebisaTvis, romelic aseTad cnobilia am konvenciis Sesabamisad, SeZlon sasjelis moxda maT teritoriaze.

SeniSvnebi da rekomendaciebi

ixileT komentari konvenciis 44-e muxliTan dakavSirebiT.

muxli 46. samarTlebrivi urTierTdaxmarebis gaweva

46. 1. monawile saxelmwifoebi am konvenciiT gaTvaliswinebul danaSaulebebTan dakavSirebiT gamoZiebaSi, sisxlissamarTlebriv devnasa da sasamarTlo ganxilvaSi erTmaneTs uweven samarTlebriv urTierTdaxmarebas.

46. 2. samarTlebrivi urTierTdaxmarebis gaweva xorcieldeba moTxovnis mimRebi monawile saxelmwifos saTanado kanonebis, saerTaSoriso xelSekrulebebisa da SeTanxmebebis Tanaxmad maqsimaluri moculobiT gamoZiebasTan, sisxlissamarTlebriv devnasa da sasamarTlo ganxilvasTan dakavSirebiT im danaSaulebebis gamo, romelTa CadenisaTvis moTxovnis warmdgeni monawile saxelmwifos iuridiul pirs SeiZleba daekisros pasuxismgebloba am konvencii 26-e muxlis Tanaxmad.



iuridiuli pirisaTvis sisxlissamarTlebrivi pasuxismgeblobis dakisrebis SesaZleblobis Taobaze ixileT zemoT, konvencii 26-e muxlis analizi.

46. 3. samarTlebrivi urTierTdaxmareba, romelic gaweul unda iqnes am muxlis Sesabamisad, SeiZleba moTxovnil iyos Semdegi nebismieri mizniT:

- a) mowmisgan Cvenebebis an calkeul pirTagan ganxadebebis miReba;
- b) sasamarTlo dokumentebis gacema;
- g) Cxrekis Catareba da yadaRis dadeba, agreTve operaciis SeCereba (gayinva);
- d) obieqtisa da nakveTebis daTvaliereba;
- e) informacii sagnobrivi mtkicebulebebisa da eqspertiTa Sefasebebis miwodeba;
- v) Sesabamisi dokumentebisa da masalis dednebis an maTi damowmebuli aslebis wardgena, samTavrobo, sabanko, safinanso, korporaciuli an komerciuli dokumentebis CaTvliT;
- z) mtkicebis mizniT danaSaulebebidan miRebuli Semosavlis, qonebis, danaSaulis Cadenis saSualebebis an sxva sagnebis gamovlena an maTze Tvalyuris devna;
- T) moTxovnis warmdgeni monawile saxelmwifos organoebSi Sesabamis pirTa nebayoflobiT gamocxadebisaTvis xelis Sewyoba;
- i) nebismieri sxva saxis daxmarebis gaweva, Tu igi ar ewinaaRmdegeba moTxovnis mimRebi monawile saxelmwifos Sida kanonmdeblobas;
- k) am konvencii mexuTe Tavis debulebaTa Sesabamisad danaSaulebebidan miRebuli Semosavlis gamovlena gayinva da masze Tvalyuris devna;
- l) aqivebis amoReba am konvencii mexuTe Tavis debulebaTa Sesabamisad;

46. 4. monawile saxelmwifos kompetentur organoebS Sida kanonmdeblobisaTvis zianis miuyebenlad, winaswari Txovnis gareSe SeuZliaT sxva monawile saxelmwifos kompetentur organoebS gadascen informacia, romelic Seexeba sisxlissamarTlebriv sakiTxebS, Tu isini CaTvlian, rom aseTi informacia SeiZleba daexmaros am organos gamoZiebis da sisxlissamarTlebrivi devnis ganxorcielebasa da mis warmatebiT dasrulebaSi an SeiZleba gamoiwvios am konvencii Sesabamisad monawile saxelmwifos mier Txovnis Sedgena.

46. 5. informacii gadacema am muxlis me-4 punktis Sesabamisad xorcieldeba gamoZiebis da sisxlissamarTlebrivi warmoebisaTvis zianis miyenebis gareSe im kompetenturi organoebis saxelmwifoSi, romelic awvdis informacias. Kkompetenturi organoebi, romelmac miiRes informacia, asruleben Txovnas aseTi informacii konfidencialurobis dacvasTan dakaSirebiT, Tundac droebiT, an icaven SezRudvis wesebs aseTi informacii gamoyenebasTan dakavSirebiT. miuxedavad amisa, es ar abrkolebs monawile saxelmwifos, romelmac miiRo informacia, iq mimdinare saqmiswarmoebisas gaamJRavnos informacia, romliTac braldebuli marTldeba. aseT SemTxvevaSi am informacii gamJRavnebamde monawile saxelmwifo, romelic iRebs informacias, atyobinebs im monawile saxelmwifos, romelmac gasca es informacia, da Tu iqneba Sesabamisi Txovna, atarebs konsultaciebs im monawile saxelmwifosTan, romelmac miawoda informacia. Tu calkeul SemTxvevebSi winaswar Setyobineba SeuZlebelia, maSin monawile saxelmwifo, romelic iRebs iformacias, dauyovnebliv acnobebs aseTi informacii gamJRavnebis Sesaxeb informacii momwodebel monawile saxelmwifos.

46. 6. am muxlis debulebebi ar Seexeba im valdebulebebs raime xelSekrulebasTan dakavSirebiT, es iqneba ormrxivi Tu mravalmrxivi, romliTac mTlianad an nawilobrivi regulirdeba an momavaliSi daregulirdeba samarTlebrivi urTierTdaxmareba.

46. 7. am muxlis 9-29-e punqtebi gamoiyeneba im TxovnebTan dakavSirebiT, romlebic mimarTulia am muxlis safuZvelze, Tu Sesabamisi monawile saxelmwifoebi ar arian dakavSirebulni samarTlebrivi urTierTdaxmarebis Sesaxeb aseTi xelSekrulebiT. Tu monawile saxelmwifoebi dakavSirebulni arian raime xelSekrulebiT, maSin gamoiyeneba am xelSekrulebis debulebebi im SemTxvevaSi, rodesac monawile saxelmwifoebi ar arian Tanaxma

gamoijenon am muxlis 9-29-e punqtebi. Mmonawile saxelmwifoebi mowodebulni arian gamoijenon es punqtebi, Tu es xels uwyobs TanamSromlobas.

46. 8. monawile saxelmwifoebi ar acxadeben uars samarTlebriv urTierTdaxmarebaze am muxlis Sesabamisad sabanko saidumloebis safuZvelze.²⁹

46. 9. a) moTxovnis mimRebi saxelmwifo daxmarebis gawevis Sesaxeb Txovnaze pasuxis gacemas am muxlis Sesabamisad, Sesabamis qmedebis danaSaulad urTierTcnobis ararsebobisas mxedvelobaSi iRebs am konvenciis miznebs, romelzedac miTiTebulia pirvel muxlSi;

b) monawile saxelmwifoebis SeuZliaT uari ganaxadon daxmarebis gaweveze am muxlis Sesabamisad saTanado qmedebis danaSaulad urTierTcnobis ararsebobis safuZvelze. amasTan, moTxovnis mimRebi monawile saxelmwifo axorcielebs daxmarebas, rodesac es Seesabameba misi samarTlebrivi sistemis ZiriTad koncepciebs, Tu aseTi daxmareba ar ukavSirdeba iZulebiT zomebs. aseTi daxmarebis gaweveze SeiZleba uari iTqvas, rodesac Txovna ukavSirdeba de minimis xasiaTis sakiTxebis an sakiTxebis, romlebTan dakavSirebiTac moTxovnili TanamSromloba da daxmareba SeiZleba uzrunvelyofili iqnes am konvenciis sxva debulebaTa Sesabamisad;

g) TiToeul monawile saxelmwifos SeuZlia ganixilos iseTi RonisZiebebis miRebis SesaZlebloba, romlebic aucilebelia imisTvis rom mas SeeZlos ufro meti moculobiT daxmarebis gaweva. Aam muxlis Sesabamisad saTanado qmedebis danaSaulad urTierTcnobis ararsebobisas.



saqarTvelos sisxlis samarTlis saproceso kodeqsis 247-e muxlis Tanaxmad, samarTlebrivi daxmarebis Sesaxeb saqarTvelos saerTaSoriso xelSekrulebebis Sesabamisad, sasamarTlos, prokurorsa da gamomZiebels ufleba aqvT, saqarTvelos iusticiis saministros an saqarTvelos generaluri prokuraturis meSveobiT moiTxovon ucxo saxelmwifos teritoriaze sagamoZiebo da sasamarTlo moqmedebis Catareba; aseTi moqmedebebi Caataron saqarTvelos teritoriaze ucxo saxelmwifos kompetenturi organoebis davalebiT.

sssk-is 248-e muxlis mixedviT, Tu aucilebloba moiTxovs ucxo saxelmwifos teritoriaze am kodeqsiT gaTvaliswinebuli saproceso moqmedebis Catarebas, gamomZiebels, prokurori an sasamarTlo avalebs maT Catarebas im saxelmwifos Sesabamis organos, romelTanac dadebulia xelSekruleba samarTlebrivi daxmarebis Sesaxeb. davaleba sagamoZiebo moqmedebis Catarebis Sesaxeb igzavneba saqarTvelos generaluri prokuroris an mis mier saamisio uflebamosilebiT aRWurvili prokuroris meSveobiT, xolo sasamarTlo moqmedebis Catarebis Sesaxeb – saqarTvelos iusticiis ministris meSveobiT. Tu saproceso moqmedebis Casatareblad aucilebelia gansakuTrebuli sasamarTlo gadawyvetileba (brZaneba), mosamarTlis xelmoweriTa da gerbiani beWdiT damowmebuli es gadawyvetileba unda daerTos davalebas. davaleba dgeba im saxelmwifos enaze, sadac is igzavneba, Tu saerTaSoriso xelSekrulebiT sxva ram ar aris gaTvaliswinebuli. sagangebo SemTxvevaSi, davaleba SeiZleba gadaices teqniki saSualebebis gamoyenebiT, Semdeg ki dadasturdes werilobiT.

saqarTvelos sisxlis samarTlis saproceso kodeqsis 250-e muxlis Sesabamisad, ucxo saxelmwifos moqalaqe, misi TanxmobiT, SeiZleba moiwvion sisxlis samarTlis saqmeSi monawileobisaTvis, rogorc mowme, dazaralebuli, eqsperti, samoqalaqo mosarCele an samoqalaqo mopasuxe, xolo braldebulis SuamdgomlobiT _ rogorc damcveli an kanonieri warmomadgeneli. am pirebis (garda advokatisa, romelTanac dadebulia SeTanxmeba) saqarTveloSi Camosvlisa da yofnis xarjebi anazRaurdeba saxelmwifo biujetid. Tu Suamdgomloba am pirebis gamoZaxebis Sesaxeb uaryofilia, maTi gamoZaxebis xarjebi ekisreba im mxares, romelmac Seitana Suamdgomloba. sagamoZiebo moqmedebasa da sasamarTloSi monawileobisaTvis ucxo saxelmwifodan konkretuli pirebis gamoZaxebis Sesaxeb Txovna imavdroulad SeiZleba gaegzavnos gamosaZaxebel pirebsac.

ucxo saxelmwifos moqalaqis monawileobiT sagamoZiebo da sasamarTlo moqmedebebi tardeba saqarTvelos sisxlis samarTlis saproceso kodeqsiT dadgenili wesebiT, Tu saerTaSoriso xelSekrulebiT sxva ram ar aris gaTvaliswinebuli. Tuki gamoZaxebulia ucxo saxelmwifos moqalaqe, dauSvebelia misi iZulebiT moyvana, dakaveba, dapatimreba, samedicino dawesebulebaSi moTavseba, Cxreka, mis mimarT iZulebiTi xasiaTis sxva RonisZiebis gamoyeneba, gafrTxileba Cvenebis micemaze uaris Tqmisa da cru Cvenebis micemisaTvis pasuxismgeblobis Sesaxeb. saqarTvelos sisxlis samarTlis saproceso kodeqsis 251-e muxlis Tanaxmad, sasamarTlo, prokurori an gamomZiebels saqarTvelos teritoriaze saqarTvelos moqalaqis mimarT sagamoZiebo da sasamarTlo moqmedebaTa Catarebis Sesaxeb ucxo saxelmwifos davalebas asrulebs saqarTvelos sisxlis samarTlis saproceso kodeqsiT dadgenili wesebiT.

sagamoZiebo moqmedebis Catarebis Sesaxeb davaleba sruldeba saqarTvelos generaluri prokuroris an mis mier saamisio uflebamosilebiT aRWurvili prokuroris miTiTebiT, xolo sasamarTlo moqmedebis Catarebis Sesaxeb – saqarTvelos iusticiis ministris davalebiT. ucxo saxelmwifos davaleba sruldeba, Tu is Seicavs saerTaSoriso xelSekrulebiTa da saqarTvelos sisxlis samarTlis saproceso kodeqsis 249-e muxliT gaTvaliswinebul

²⁹ aRniSnulTan dakavSirebiT ixile konvenciis me-14, 23-e da 40-e muxlebis analizi.

monacemebs. Tu davalebaSi ar aris es monacemebi, an Tu isini arasakmarisia, gamoiTxoveba damatebiTi monacemebi. sagamoZiebo da sasamarTlo moqmedebebi, romlebic dakavSirebulia moqalaqis iZulebasTan da misi konstituciuri uflebebisa da Tavisuflebebis SezRudvasTan, tardeba, Tu isini sanqcionirebulia ucxo saxelmwifos sasamarTlos an sxva kompetenturi organos mier. davalebis Sesrulebisas SesaZlebelia ucxo saxelmwifos saproceso normebis gamoyeneba, Tu es gaTvaliswinebulia saerTaSoriso xelSekrulebiT. saerTaSoriso xelSekrulebiT gaTvaliswinebul SemTxvevaSi davalebis Sesrulebas SeiZleba eswrebodes ucxo saxelmwifos Sesabamisi organos warmomadgeneli. Tu davalebis Sesruleba SeuZlebelia, miRebuli dokumentebi saqarTvelos iusticiis saministros an saqarTvelos generaluri prokuraturis meSveobiT unda daubrundes ucxo saxelmwifos, amasTan, unda mieTiTos misi Sesrulebis xelSemSleli mizezebi. davaleba brundeba im SemTxvevaSi, roca misma Sesrulebam SeiZleba ziani miayenos saqarTvelos erovnul interesebs, suverenitetsa da uSiSroebas.

saqarTvelos sisxlis samarTlis saproceso kodeqsis 260-e muxlis mixedviT, eqstradicias daqvmedbarebuli pirisaTvis CamorTmeuli sagnebi da dokumentebi, romlebic SeiZleba gamoyenebul iqnes mtkicebulebebad sisxlis samarTlis saqmeze, egzavneba eqstradiiciis momTxovn organos. materialuri Rirebulebis mqone sagnebisa da dokumentebis gagzavna, Tu isini ar ekuTvnis eqstradicias daqvmedbarebul pirs, unda moxdes maTi Senaxvisa da mesakuTrisaTvis dabrunebis garantiis miRebis Semdeg. garantias iZleva organo, romelic moiTxovs pirs eqstradicias.

46. 10. *piri, romelic datatimrebulia an sasjels ixdis erT-erTi monawile saxelmwifos teritoriaze, da am piris sxva monawile saxelmwifoSi gadayvana aucilebelia misi pirovnebis dasadgenad, Cvnebebis CamosarTmevad an mtkicebulebebis misaRebad sxva saxis daxmarebis gawevis mizniT gamoZiebisaTvis, sisxlisamarTlebrivi devnisaTvis an sasamarTlo ganxilvisaTvis danaSaulebebTan dakavSirebiT, romlebic gaTvaliswinebulia am konvenciiT, igi SeiZleba gadaeces Semdegi pirobebis dacvisas:*

- a) *es piri Tavisuflad aZlevs gacnobierebul Tanxmobas;*
- b) *orive monawile saxelmwifos kompetenturi organoebma miaRwies SeTanxmenbas iseT pirobebze, romlebsac es monawile saxelmwifoebi Tvlian saWirod.*

46. 11. *am muxlis me-10 punqtis miznebisTavis:*

- a) *monawile saxelmwifo, romelsac gadaecema piri, valdebulia patimrobaSi amyofos igi, Tu monawile saxelmwifo, romelmac gadasca es piri ar iTxovs sxva rames an sxva rameze ar gasca sanqcia;*
- b) *monawile saxelmwifo, romelsac gadaeca piri, dauyovnebliv asrulebs Tavis movaleobas, raTa daabrunos es piri im monawile saxelmwifos gankargulebaSi, romelmac igi gadasca, adre miRebuli SeTanxmebis safuZvelze an orive monawile mxaris kompetenturi organoebis mier sxvagvarad iqna SeTanxmebuli;*
- g) *monawile saxelmwifo, romelsac gadaeca piri, ar iTxovs monawile saxelmwifosagan, romelmac gadasca es piri, gadacemis proceduris aRZvras mis dasabruneblad;*
- d) *gadacemul pirs sasjelis vadad, romelsac igi ixdis mis gadamcem saxelmwifoSi, CaeTvleba patimrobaSi yofnis vada im monawile saxelmwifoSi, romelsac igi gadaeca.*

46. 12. *im monawile saxelmwifos Tanxmobis gareSe, romelmac am muxlis me-10 da me-11 punqtების Tanaxmad unda gadascეს romelime piri, es piri miuxedavad misi moqalaqebisa, ar eqvemdebareba sisxlissamarTlebriv devnas, datatimrebas, dasjas an sxva raime SezRudvas mis pirad TavisuflebasTan dakavSirebiT im saxelmwifos teritoriaze, romelsac gadaecema es piri raime moqmedebasTan, umoqmedobasTan an braldebasTan dakavSirebiT, romelsac Dadgili hqonda am piris gadamcemi saxelmwifos teritoriidan gadayvanamde.*



konvencii 46-e muxlis me-10 da me-12 punqtებიT daregulirebulი საკითხები საკარტველოს კანონმდებლობით დაკავშირებული მოვლენების არ არის, რადგან საკარტველოს სისხლის სამართლის საპროცესო კოდექსის 247-ე მუხლის თანახმად, სამართლებრივი დამხმარების შესახებ საკარტველოს საერთაშორისო ხელშეკრულებების შესაბამისად, სასამართლოს, პროკურორსა და გამომწველების უფლება აკვთ, საკარტველოს იუსტიციის მინისტროს ან საკარტველოს გენერალური პროკურატურის მეშვეობით:

- *მოიტხოვონ მხოლოდ საკარტველოს მოკალაქის გადმოცემა სისხლის სამართლის პასუხისმგებლობის მიხედვით და საკარტველოს ტერიტორიაზე განაცენიან რესურსები; ამავდროულად მიზნით გადაცენ უცხო სახელმწიფოს მიხედვით*
- *მოიტხოვონ უცხო სახელმწიფოში მსჯავრდებული საკარტველოს მოკალაქის გადმოცემა საკარტველოში სასჯელის მოსაძლად; საკარტველოში მსჯავრდებული უცხო სახელმწიფოს მოკალაქე გადაცენ მისი ქვეყანაში სასჯელის მოსაძლად.*

46. 13. *ტიტოული მონაწილე სახელმწიფო ნიშნის ცენტრალური ორგანო, რომელიც პასუხისმგებელია ტხოვნის მიხედვით სამართლებრივი ურთიერთდამხმარების გავლენის ან მათი შესრულების დახმარებაზე ან მათი გაგზავნაზე კომპეტენტური ორგანოსათვის შესაბამისი უფლებამოსილებანი. Tu monawile saxelmwifoSi aris specialuri*

regioni an teritoria samarTlebrivi urTierTdaxmarebis calke sistemiT, mas SeuZlia daniSnos gansakuTrebuli centraluri organo, romelic Sesarulebs imave funqciis an regionis an teritoris mimarT centraluri organoebi uzrunvelyofen miRebuli Txovnis operatiul da saTanado Sesarulebas an maT gadagzavnas. Tu centraluri organo Txovnas Sesaruleblad ugzavnis kompetentur organos, igi xels uwoybs kompetenturi organos mier am Txovnis operatiulad da saTanadod Sesarulebas. TiToeuli monawile saxelmwifos mier am konvenciis miRebis, damtkicebis an masTan mierTebis Sesaxeb saratifikacio sigelis Sesanaxad Cabarebis Semdeg gaeros generaluri mdivani iRebs Setyobinebas am mizniT Seqmnili centraluri organos Sesaxeb. samarTlebrivi urTierTdaxmarebis Sesaxeb Txovna da masTan dakavSirebuli nebismieri mimarTva gaegzavneba centralur organos, romelsac niSnavs monawile saxelmwifo. Ees moTxovna zians ar ayenebs monawile saxelmwifos uflebas moiTxovos, rom aseTi Txovna da mimarTva gaegzavnos mas diplomatiuri arxebiT, xolo sagangebo mdgomareobis dros, Tu arsebobs moanwile saxelmwifoTa SeTanxmeba amasTan dakavSirebiT aseTi Txovna da mimarTva gaegzavnos sixslis samarTlis policiis saerTaSoriso organizaciis saSualebiT, Tu es SesaZlebelia.



saqarTvelos kanonmdblobis mixedviT, aseT organoebad miCneulia saqarTvelos iusticiis saministro da saqarTvelos generaluri prokuratura. amasTan, saqarTvelos generaluri prokuroris mier SeiZleba saamiso uflebamosilebiT aRiWurvos qvemdgomi prokurori.

46. 14. Txovna igzavneba werilobiT an, Tu es SesaZlebelia, sxva saSualebebiT, romlebiTac iqneba werilobiTi Canaweri im enaze, romelic misaRebia moTxovnis mimRebi saxelmwifosaTvis da im pirobebiT, romlebiTac am monawile saxelmwifos ufleba eZleva daadginos misi avTentikuroba. Aam konvenciis miRebis an damtkicebis an am konvenciasTan mierTebis Sesaxeb saratifikacio sigelis Sesanaxad Cabarebis Semdeg gaeros generaluri mdivani iRebs Setyobinebas im enis an enebis Sesaxeb, romlebic misaRebia TiToeuli monawile saxelmwifosaTvis. sagangebo mdgomareobis, an monawile saxelmwifoTa Soris SeTanxmebisas Txovna SeiZleba gaegzavnos zepiri formiT, Tu amas dauyovnebliv mohyveba misi werilobiTi damtkiceba.

46. 15. samarTlebrivi urTierTdaxmarebis Sesaxeb TxovnaSi unda mieTiTos:

- a) organos dasaxeleba, romelic TxovniT mimarTavs;
- b) SekiTxvis arsi da gamoZiebis, sixslisamarTlebrivi devnis an sasamarTlo ganxilvis xasiaTi, romelsac Seexeba Txovna, agreTve organos funqciis dasaxeleba, romelic atarebs gamoZiebas, sixslisamarTlebriv devnas an sasamarTlo ganxilvas;
- g) Sesabamisi faqtების mokle aRwera, garda imisa, rac Seexeba Txovnas sasamarTlo dokumentebis gadacemasTan dakavSirebiT;
- d) moTxovnili daxmarebis aRwera da sruli informacia nebismieri konkretuli proceduris Sesaxeb, romlis dacva surda uzrunvelyo moTxovnis warmdgen moanwile saxelmwifos;
- e) SeZlebisdagvarad nebismieri Sesabamisi piris monacemebi pirovnebis, misi adgilsamyofelis da moqalaeobis Sesaxeb;
- v) moTxovnili mtkicebulebebis, informaciis an RonisZiebebis mizani.



saqarTvelos sixslis samarTlis saproceso kodeqsis 248-e muxlis mixedviT, davaleba dgeba im saxelmwifos enaze, sadac is igzavneba, Tu saerTaSoriso xelSekrulebiT sxva ram ar aris gaTvaliswinebuli. sagangebo SemTxvevaSi davaleba SeiZleba gadaices teqniki saSualebebis gamoyenebiT, Semdeg ki dadasturdes werilobiT. amasTan, saproceso moqmedebis Catarebis Sesaxeb davaleba unda Sedges werilobiT, davalebis gangzavnis xelmoweriT. davaleba damowmebuli unda iyos dawesebulebis gerbiani beWdiT. davaleba unda Seicavdes:

- a) davalebis mimcemi organos dasaxelebasa da misamarTs;
- b) im organos dasaxelebasa da misamarTs, romelsac davaleba egzavneba;
- g) saqmის faqtobriv garemoebes;
- d) Txovnis arss, kerZod, im sagamoZiebo Tu sasamarTlo moqmedebis Sinaarss, romelic unda Catardes;
- e) monacemebs im pirTa vinaobis Sesaxeb, romelTac egzavnebaT davaleba, agreTve monacemebs maTi moqalaeobis, saxovrebeli da samuSao adgilebis, saqmianobisa da sixslis samarTlis saqmისadmi damokidebulebis Sesaxeb;
- v) gamoTxovili dokumentebisa da nivTierit mtkicebulebebis nusxas.

46. 16. moTxovnis mimReb monawile saxelmwifos SeuZlia moiTxovos damatebiTi informacia, Tu es informacia aucilebelia Txovnis dasakmayofileblad misi Sida kanonmdblobis Sesabamisad an, Tu es informacia gauadvilebs mas aseTi Txovnis Sesarulebas.

46. 17. Txovna sruldeba SesakiTxi saxelmwifos Sida kanonmdblobis Sesabamisad ise, rom igi ar ewinaaRmdegebodes moTxovnis mimRebi moanawile saxelmwifos kanonmdblobas, SeZlebisdagvarad, TxovnaSi miTiTebuli procedurebis Sesabamisad.



ucxo saxelmwifos davaleba sruldeba, Tu is Seicavs saerTaSoriso xelSekrulebiTa da saqarTvelos sisxlis samarTlis saproceso kodeqsis 249-e muxliT gaTvaliswinebul monacemebs. Tu davalebaSi ar aris es monacemebi, an Tu isini arasakmarisia, gamoiTxoveba damatebiTi monacemebi. sagamoZiebo da sasamarTlo moqmedebebi, romlebic dakavSirebulia moqalaqis iZulebasTan da misi konstituciuri uflebebisa da Tavisuflebebis SezRudvasTan, tardeba, Tu isini sanqcionirebulia ucxo saxelmwifos sasamarTlos an sxva kompetenturi organos mier. davalebis Sesrulebas SesaZlebelia ucxo saxelmwifos saproceso normebs gamoyeneba, Tu es gaTvaliswinebulia saerTaSoriso xelSekrulebiT. saerTaSoriso xelSekrulebiT gaTvaliswinebul SemTxvevaSi davalebis Sesrulebas SeiZleba eswrebodes ucxo saxelmwifos Sesabamisi organos warmomadgeneli. Tu davalebis Sesruleba SeuZlebelia, miRebuli dokumentebi saqarTvelos iusticiis saministros an saqarTvelos generaluri prokuraturis meSveobiT unda daubrundes ucxo saxelmwifos, amasTan, unda mieTiTos misi Sesrulebis xelSemSleli mizezebi. davaleba brundeba im SemTxvevaSi, roca misma Sesrulebam SeiZleba ziani miayenos saqarTvelos erovnul interesebs, suverenitetsa da uSiSroebas.

46. 18. ramdenadac es SesaZlebelia da Seesabameba Sida kanonmdeblobis fundamentur principebs, Tu romelime piri imyofeba monawile saxelmwifos teritoriaze da igi mosmenili unda iqnes, rogorc mowme an eqsperti sxva monawile saxelmwifos sasamarTlo organoebis mier, pirvel monawile saxelmwifos meore monawile saxelmwifos TxovniT SeuZlia neba darTos, mosmena Catardes videokavSiris saSualebiT, Tu Sesabamisi piris piradi monawileoba moTxovnis warmdgeni monawile saxelmwifos teritoriaze SeuZlebelia an ar aris sasurveli. Mmonawile saxelmwifoebis SeuZliaT SeTanxmdnen, rom mosmena Catardes moTxovnis warmdgeni moanwile saxelmwifos sasamarTlo organos mier moTxovnis mimRebi monawile saxelmwifos sasamarTlo organos warmomadgenelTa TandawrebiT.



sagamoZiebo da sasamarTlo moqmedebebis Catarebisas videokavSiris gamoyenebis SesaZleblobas saqarTvelos kanonmdebloba jerjerobiT ar iTvaliswinebs.

46. 19. moTxovnis warmdgeni monawile saxelmwifo ar gascems da ar iyenebs informacias an mtkicebulebas, romelic waradgina moTxovnis mimRebma monawile saxelmwifom, gamoZiebis, sisxlissamarTlebrivi devnis an sasamarTlo garCevis Casatareblad, imis garda, rac miTiTebulia TxovnaSi, moTxovnis mimReb monawile saxelmwifosTan winaswari SeTanxmebis gareSe. araferi am punqtiT gansazRvruli ar ewinaaRmdegeba moTxovnis warmdgen monawile saxelmwifos iq mimdinare warmoebisas gaamJRavnos iformacia an mtkicebulebebi, romlebic amarTleben braldebuls. Aam SemTxvevaSi informaciis an mtkicebulebis gamJRavnebamde moTxovnis warmdgeni monawile saxelmwifo atyobinebs moTxovnis mimReb monawile saxelmwifos da Tu miiRebs amis Sesaxeb Txovnas, maSin atarebs konsultaciebs moTxovnis mimReb monawile saxelmwifosTan. Tu calkeul SemeTxvevebSi drouli Setyobineba SeuZlebelia, maSin moTxovnis warmdgeni monawile saxelmwifo dauyovnebliv acnobebs aseTi informaciis gamJRavnebis Sesaxeb moTxovnis mimReb monawile saxelmwifos.

46. 20. moTxovnis warmdgen monawile saxelmwifos SeuZlia moiTxovos, rom moTxovnis mimRebma monawile saxelmwifom daicvas aseTi Txovnis arsebobis da arsis konfidencialuroba, imis garda, rac aucilebelia TviT Txovnis Sesaruleblad. Tu moTxovnis mimRebi monawile saxelmwifos ar SeuZlia Seasrulos moTxovnebi konfidencialurobis Sesaxeb, igi dauyovnebliv acnobebs amis Sesaxeb moTxovnis warmdgen monawile saxelmwifos.



moTxovnis konfidencialobis da damatebiTi informaciis wardgenisa da gamoyenebis Taobaze specialur daTqmas saqarTvelos kanonmdebloba ar iTvaliswinebs.

46. 21. samarTlebrivi urTierTdaxmarebis gaweveze SeiZleba uari iTqvas, Tu:

- a) Txovna ar iqna wardgenili an muxlis debulebaTa Sesabamisad;*
- b) moTxovnis mimRebi monawile saxelmwifo Tvlis, rom Txovnis Sesrulebam SeiZleba ziani miayenos mis suverenitets, usafrTxoebas, sajaro wesrigs an sxva sasicocxlo interesebs;*
- g) moTxovnis mimRebi monawile saxelmwifos organoebis Sida kanonmdeblobiT ekrZalebaT gaataron moTxovnili RonisZiebebi nebismieri analogiuri danaSaulis mimarT, Tu aseTi danaSauli iqneba gamoZiebis, sisxlissamarTlebrivi devnis an sasamarTlo ganxilvis sagan, misi iurisdicqciis farglebSi;*
- d) Txovnis Sesruleba ewinaaRmdegeba moTxovnis mimRebi monawile saxelmwifoebis samarTlebriv sistemebs samarTlebrivi urTierTdaxmeris sakiTxebeze.*



saqarTvelos sisxlis samarTlis saproceso kodeqsis 251-e muxlis Sesabamisad, davaleba brundeba im SemTxvevaSi, roca misma Sesrulebam SeiZleba ziani miayenos saqarTvelos erovnul interesebs, suverenitetsa da uSiSroebas.

46. 22. monawile saxelmwifos ar SeuZlia uari ganaxados samarTlebrivi urTierTdaxmarebis Txovnis SesrulebaSi mxolod im safuZvelze, rom danaSauli agreTve dakavSirebulia sagadasaxado sakiTxebTan.



saqarTvelos kanonmdebloba ar iTvaliswinebs sagadasaxado sakiTxebTan dakavSirebuli danaSaulis gamo raime SeRavaTis dawesebis Sesazleblobas.

46. 23. nebismieri uari samarTlebrivi urTierTdaxmarebis gawevasTan dakavSirebiT unda iyos motivirebuli.

46. 24. moTxovnis mimRebi monawile saxelmwifo asrulebs Txovnas samarTlebrivi urTierTdaxmarebis Sesaxeb rac SeiZleba mokle vadaSi da ramdenadac es Sesazlebelia, srulad iRebs mxedvelobaSi nebismier ukidures vadebs, romlebic mocemulia moTxovnis warmdgeni monawile saxelmwifos mier da romelic motivirebulia am TxovnaSi. MmoTxovnis warmdgen monawile saxelmwifos SeuZlia govni vruli TxovniT mimarTos, raTa miiRos informacia statusis Sesaxeb da RonisZiebTa gatarebis mimdinareobis Sesaxeb, romlebic miiRo moTxovnis mimRebi monawile saxelmwifom misi Txovnis dasakmayofileblad. MmoTxovnis mimRebma monawile saxelmwifos Txovnaze upasuxeb moTxovnis warmdgeni monawile saxelmwifos statusTan dakavSirebiT da Txovnis Sesrulebis mimdinareobaze. moTxovnis warmdgeni monawile saxelmwifo operatiulad acnobebs SesakiTx monawile saxelmwifos imis Sesaxeb, rom moTxovnili daxmarebis Sesaxeb aucilebloba aRar arsebobs.

46. 25. samarTlebrivi urTierTdaxmarebis gaweva SeiZleba gadavadebul iqnes moTxovnis mimRebi monawile saxelmwifos mier imis gamo, rom es xels uSlis gamoZiebas, sixlissamarTlebriv devnas an sasamarTlo ganxilvas.

46. 26. Txovnis Sesrulebaze uaris ganxadebamde am muxlis 21-e punqtis Tanaxamd an Txovnis Sesrulebis gadavadebamde am muxlis 25-e punqtis Sesabamisad moTxovnis mimRebi monawile saxelmwifo atarebs konsultaciebs moTxovnis warmdgen monawile saxelmwifosTan, raTa gansazRvros, SeiZleba Tu ara daxmareba gaewios miRebul vadebSi da iseTi pirobebis Tanaxmad, romelbsac moTxovnis mimRebi monawile saxelmwifo aucileblad Tvlis. Tu moTxovnis warmdgeni monawile saxelmwifo iRebs daxmarebas aseT pirobebe, maSin man unda daicvas mocemuli pirobebi.



aRniSnuli valdebulebebidan gamomdinare aucilebelia konkretuli sakiTxebis gadawyvetis mizniT saxelmwifoTa Soris mWidro urTierTobebis arseboba.

46. 27. am muxlis me-12 punqtisaTvis zianis miyenebis gareSe, mowme, eqsperti an sxva piri, romelic moTxovnis warmdgeni monawile saxelmwifos Txovnis Sesabamisad Tanaxmaa misces Cvnebebi warmoebis dros an gauwios daxmareba gamoZiebis, sixlissamarTlebrivi devnis an sasamarTlo ganxilvis ganxorcielebaSi moTxovnis warmdgeni monawile saxelmwifos teritoriaze, ar eqvemdebarebian sixlissamarTleriv devnas, dapatimrebas, dasjas an maTi piradi Tavisuflebis sxva raime formiT SezRudvas am teritoriaze moqmedebasTan, umoqmedobasTan an msjavris dadebasTan dakavSirebiT, romelic Seexeba moTxovnis mimRebi monawile saxelmwifos teritoriadan maT gamgzavrebamdel periods. Ppiradi usafrTxoebis aseTi garantiis moqmedeba wydeba, Tu mowme, eqsperti an sxva piri momdevno TxuTmet dReSi an monawile saxelmwifoebs Soris SeTanxmebul nebismier vadaSi, im TariRidan dawyebuli, rodesac am pirs oficialurad Seatyobines, rom sasamarTlo organoebisaTvis aRar warmoadgens saWiroebas misi iq yofna da mas hqonda saSualeba daetovebina moTxovnis warmdgeni monawile saxelmwifos teritoria, magram igi nebayoflobiT darCa am teritoriaze an misi datovebis Semdeg dabruna Tavisi nebiT.



saqarTvelos sixlis samarTlis saproceso kodeqsis 250-e muxlis Sesabamisad, ucxo saxelmwifos moqalaqe, misi TanxmobiT, SeiZleba moiwvion sixlis samarTlis saqmeSi monawileobisaTvis, rogorc mowme, dazaralebuli, eqsperti, samoqalaqo mosarCele an samoqalaqo mopasuxe, xolo braldebulis SuamdgomlobiT _ rogorc damcveli an kanonieri warmomadgeneli. sagamoZiebo moqmedebasa da sasamarTloSi monawileobisaTvis ucxo saxelmwifodan konkretuli pirebis gamoZaxebis Sesaxeb Txovna imavdroulad SeiZleba gaegzavnos gamosaZaxebel pirebsac. ucxo saxelmwifos moqalaqis monawileobiT sagamoZiebo da sasamarTlo moqmedebebi tardeba saqarTvelos sixlis samarTlis saproceso kodeqsiT dadgenili wesebiT, Tu saerTaSoriso xelSkrulebiT sxva ram ar aris gaTvaliswinebuli. Tuki gamoZaxebulia ucxo saxelmwifos moqalaqe, dauSvebelia misi iZulebiT moyvana, dakaveba, dapatimreba, samedicino dawesebulebaSi moTavseba, Cxreka, mis mimarT iZulebiTi xasiaTis sxva RonisZiebis gamoyeneba, gafrTxileba Cvnebis micemaze uaris Tqmisa da cru Cvnebis micemisaTvis pasuxismgeblobis Sesaxeb.

46. 28. Cveulebriv xarjeb, romlebic dakavSirebulia Txovnebis SesrulebasTan, aanazRaurebs moTxovnis mimRebi monawile saxelmwifo, Tu dainterebuli monawile saxelmwifoebi sxva rameze ar SeTanxmdnen. Tu Txovnis Sesruleba moiTxovs an SemdgomSi moiTxovs arsebiT an sagangebo xarjeb, maSin monawile

saxelmwifoebi atareben konsultaciebs im pirobebis gansazRvris mizniT, romelTa safuZvelzedac moxdeba Txovnis dakmayofleba, agreTve SeimuSaveben xarjebis dafarvis wesebs.

46. 29. moTxovnis mimRebi monawile saxelmwifo:

a) warudgens moTxovnis warmdgen monawile saxelmwifos samTavrobo masalis, dokumentebis an informaciis aslebs, romelbsac igi flobs da romlebic misi Sida kanonmdeblobis Sesabamisad Riaa sajaro daSvebisaTvis;

b) Tavisi Sexedulebisamebr SeuZlia warudginos moTxovnis warmdgen monawile saxelmwifos mTlianad an nawilobriv, an im pirobebis dacviT, romlebsac igi Tvlis saWirod, nebismieri samTavrobo masalis, dokumentebis an informaciis aslebi, romlebsac igi flobs da romlebic misi Sida kanonmdeblobiT daxurulia sajaro daSvebisaTvis.

46. 30. monawile saxelmwifoebi ganxilaven, aucileblobidan gamomdinare, ormxrivi an mravalmxrivi SeTanxmebis dadebis SesaZleblobas, romelic upasuxebis am muxlis miznebs, uzrunvelyofs praqtikaSi mis ganxorcielebas an ganamtkicebs mis debulebebs.



saqarTvelos sisxlis samarTlis saprocso kodeqsis 250-e muxlis Sesabamisad, sisxlis samarTlis saqmeSi monawileobisaTvis mowveuli ucxo saxelmwifos moqalaqebis (garda advokatisa, romelTanac dadebulia SeTanxmeba) saqarTveloSi Camosvlisa da yofnis xarjebi anazRaurdeba saxelmwifo biujetidan. Tu Suamdgomloba am pirebis gamoZaxebis Sesaxeb uaryofilia, maTi gamoZaxebis xarjebi ekisreba im mxares, romelmac Seitana Suamdgomloba.

SeniSvnebi da rekomendaciebi

- 46-e muxlis debulebebi ZiriTadad SesabamisobaSi saqarTvelos kanonmdeblobasTan, Tumca gasaTvaliswinebelia saqarTvelos kanonmdeblobis konvenciis 46-e muxlis me-2, me-10, me-11, me-12, me-18 da me-20 punktების მოქონებთან შესაბამისობაში მოყვანის საკითხი, კერძოდ:
- konvenciis 46-e muxlis me-10 da me-12 punktებით დარეგულირებული საკითხები საკარტელის კანონმდებლობით დაკავშირებული არ არის, რადგან საკარტელის სისხლის სამართლის პროცესო კოდექსის 247-ე მუხლის თანახმად, სამართლებრივი დამარცხების შესახებ საკარტელის საერთაშორისო სექრულეების შესაბამისად, სასამართლოს, პროკურორსა და გამომწვევების უფლება აკრძალავს საკარტელის იუსტიციის სამინისტროს ან საკარტელის გენერალური პროკურატურის მსახურებით:
 - (a) მოქონის მოლოდ საკარტელის მოგალის გამოცემა სისხლის სამართლის პასუხისმგებლობის მიხედვით და საკარტელის ტერიტორიაზე განაცხადის რეგისტრაცია; ამავდროულად მისი უფლებები საკარტელის მიმართ და
 - (b) მოქონის უცხო საკარტელი მსჯავრდებული საკარტელის მოგალის გამოცემა საკარტელი სასჯელის მოხდად; საკარტელი მსჯავრდებული უცხო საკარტელის მოგალე გადამცემის გვეყვანის სასჯელის მოხდად.
- საგამომწვევი და სასამართლო მომდებლების კატარების ვიდეოკავშირის გამოყენების შესაზღვრება საკარტელის კანონმდებლობაში დასაშვანების შესახებ.
- მოქონის კონფიდენციალობის და დამატებითი ინფორმაციის შეგროვების და გამოყენების თაობაზე სპეციალური დატყობის საკარტელის კანონმდებლობაში დასაშვანების შესახებ.

მუხლი 47. სისხლის სამართლებრივი დამატების დამატება

monawile saxelmwifoebi ganxilaven sisxლის სამართლებრივი დამატების ურთიერთდადამხმარებლობის შესაზღვრება სისხლის სამართლებრივი დამატების მისი მიზნით დასაშვანების დასაშვანების, რომელიც ასევე დასაშვანების მიხედვით დასაშვანების შესაბამისად, Tu დამატება პასუხისმგებლობის სათანადო რეგისტრაციის ინტერესებს, კერძოდ, im SemTxvevaSi rodesac saqme Seexeba ramdenime იურისდიქციის, სისხლის სამართლის საკმეების გაერთიანებას.



konvenciis 47-e muxlis ganmartebis mizniT unda aRiniSnos, rom იურისდიქცია, როგორც სამართალდამატების დამატების Sedegi, warmoadgens warmomadgenლობითი იურისდიქციის ფორმას, რომელიც დამოკიდებულია im saxelmwifos konkretul moTxovnaze, romelsac gaaCnia იურისდიქციაზე პრეტენზიის გამოტყობის პირველი (ZiriTadi) უფლება. sami elementi gansazRvრავს იურისდიქციის, როგორც სამართალდამატების დამატების Sedegs: (1) arsebobs moTxovna sisxლის სამართლებრივი დამატების aRZvრის შესახებ, (2) aseTi moTxovna modis qveynidan, romelsac SeuZlia sisxლის სამართლებრივი დამატების განხორციელება და (3) sisxლის სამართლებრივი დამატების იყვანა moTxovil qveყვანაSi an grZeldeba aseTi Txovnis safuZvelze. იურისდიქციის შესახებ განხორციელება warmoadgens e.w. marTlmsajulebis saTanadod განხორციელებას. aseT SemTxvevebSi saxelmwifo adgens იურისდიქციის არა იმიტომ,

rom mas SeuZlia, daasabuTos Zlieri Sexebis wertilis arseboba, aramed imitom rom imyofeba ukeTes mdgomareobaSi.³⁰ saxelmwifoeb ar SeuZliaT calmxrivad iurisdiciis ganawileba marTlmsajulebis saTandod ganxorcielebis safuZvelze, imitom rom mxolod es principi arasakmarisia. amdenad, iurisdicia marTlmsajulebis saTandod ganxorcielebis safuZvelze SeiZleba dadgindes mxolod im saxelmwifos konkretuli Txovnis safuZvelze, romelsac gaaCnia pirveladi iurisdicia. aqcenti keTdeba saxelmwifoze, romelic miiCnevs, rom sxva saxelmwifo imyofeba ukeTes mdgomareobaSi sisxlis samarTlebrivi devnis ganxorcielebisaTvis da ara saxelmwifo, romelic adgens (ganaxorcielebs) iurisdicias.

evropis saxelmwifoTa umravlesobam iurisdicia aqturi erovnuli dacvis principis safuZvelze daadgina korufciuli danaSaulisaTvis. saerTo samarTlis iseTi saxelmwifoebic ki, rogoricaa gaerTianebuli samefo da aSS, romelTac gaaCniaT teritoriuli iuridiciis aRiarebis tradicia, iurisdicias avrceleben sakuTari moqalaqis mier sazRvargareT Cadenil korufciul danaSaulze (mag. gaerTianebuli samefos 2001 wlis kanoni `antiterorizmis, danaSaulisa da usafRxoebis Sesaxe~ da aSS-is 1977 wlis kanoni `ucxouri korufciuli praqtikis Sesaxe~)³¹.

SeniSvnebi da rekomendaciebi

- *sixlissamarTlebrivi warmoebis gadacemis Taobaze specialur daTqmas saqarTvelos kanonmdbloba ar iTvaliswinebs.*
- *amave dros saqarTvelos kanonmdblobiT saerTod ar regulirdeba sisxlis samarTlis saqmeebis gaerTianebis sakiTxi im SemTxvevaSi, rodesac saqme Seexeba ramdenime iurisdicias.*

muxli 48. samarTaldamcav organoebis Soris TanamSromloba

1. monawile saxelmwifoebi mWidrod TanamSromloben erTmaneTTan TavianTi Sida samarTlebrivi da administraciuli sistemis Sesabamisad im danaSaulebebTan sabrZovelad, romlebic aseTad cnobilia am konvenciis Sesabamisad, samarTalgamoyenebis RonisZiebaTa efeqtianobis amaRlebis mizniT. Mmonawile saxelmwifoebi atareben Semdeg efeqtian RonisZiebebs, romlebic iTvaliswinebs:

a) kavSirgambulobis arxebis gaxsnas an maT ganmtkicebas kompetentur organoebis, dawesebulebebs an samsaxurebs Soris imisTvis, rom uzrunvelyofil iqnes informaciis saimedod an swrafad gacvla danaSaulis yvela aspeqtTan dakavSirebiT, rac gaTvaliswinebulia am konvenciiT, agreTve Tu Mmonawile saxelmwifoebi CaTvlian amas saWirod, uzrunvelyofs danaSaulebrivi saqmianobis sxva saxeebTan kavSirs;

b) sxva Mmonawile saxelmwifoebTan TanamSromlobas gamoZiebis Casatareblad im danaSaulebTan dakavSirebiT, romlebic gaTvaliswinebulia am konvenciiT, raTa gamovlindes:

i) im pirTa adgilsamyofeli da saqmianoba, romlebic eWvmitanilni arian aseTi danSaulebebis CadenaSi an am saqmesTan dakavSirebuli sxva pirebi;

ii) danaSaulebebidan miRebuli Semosavlis an qonebis gadaadgileba, romelic aseTi danaSaulebebis Cadenis Sedegad aris miRebuli;

iii) qonebis, mowyobilobebis an sxva saSualebebis gadaadgileba, romelic gamoyenebuli iqna an gamoiyeneba aseTi danaSaulebebis Cadenisas;

g) saTanado SemTxvevaSi saWiro sagnebis an saWiro raodenobis nivTierebis gadacemas analizisa da gamoZiebis mizniT;

d) saTanado SemTxvevebSi, sxva monawile saxelmwifoebTan informaciis gacvlas konkretul saSualebebsa da meTodebze, romlebic gamoiyeneba danaSaulis Casadenad, am konvenciis Sesabamisad, agreTve yalbi piradobis mowmobebs, falsificirebuli, Secvlili an yalbi dokumentebisa da sxva saSualebebis gamoyenebas aseTi saqmianobis dasafarad;

e) maT kompetentur organoebis, dawesebulebebsa da samsaxurebs Soris koordinaciis efeqtianobisaTvis xelSewyobas da TanamSromlebisa da sxva eqspertebis gacvlas waxalisebis mizniT, maT Soris, dainteresebul monawile saxelmwifoebis Soris ormxrivi SeTanxmebis dadebisas, urTierTkavSiris ganmaxorcielebel TanamSromelTa gatzavnas;

v) informaciis gacvlas da administraciuli da sxva RonisZiebis koordinacias, romlebic, saTanado SemTxvevebSi, gamoiyeneba danaSaulebebis winaswar gamovlenaSi, am konvenciis Sesabamisad.

2. am konvenciis praqtikuli gamoyenebis mizniT, monawile saxelmwifoebi ganxilaven Sesazleblobebs, dadon ormxrivi an mravalmxrivi SeTanxmebebi maT samarTaldamcav organoebis Soris uSualo TanamSromlobis Sesaxe, xolo im SemTxvevaSi, rodesac ukve arsebobs aseTi SeTanxmebebi, Secvalon isini. dainteresebul monawile saxelmwifoebis Soris SeTanxmebebis ararsebobs SemTxvevaSi, SeiZleba es konvencia ganxilul iqnes, rogorc safuZveli urTierTTanamSromlobisaTvis samarTaldamcav organoebis Soris im danaSaulebTan

³⁰ ix. Prof. dr. Tom Vander Beken. The best place for prosecution of international corruption cases. Avoiding and solving conflicts of jurisdiction. <http://www.ircp.org/uploaded/I-1%20Tom%20Vander%20Beken.pdf>

³¹ ix. D. CHAIKIN, "Extraterritoriality and the Criminalization of Foreign Bribes", in B. RIDER (ed.), *Corruption: The Enemy Within*, The Hague-London-Boston, Kluwer Law International 1997, 285-301.

dakavSirebiT, romlebsac iTvaliswinebs es konvencia. saTanado SemTxvevebSi monawile saxelmwifoebi srulad iyeneben SeTanxmebebs, agreTve saerTaSoriso da regionuli organizaciebis meqanizmebs Tavisi samarTlebrivi organoebis Soris TanamSromlobis gafarToebisaTvis.

3. monawile saxelmwifoebi iswrafvian, iTanamSromlon TavianiT Sesazleblobis farglebSi am konvenciiT gaTvaliswinebuli im danaSaulebebis winaaRmdeg, romlebic Cadenilia Tanamedrove teqnologiebis gamoyenebiT.



saqarTvelos organuli kanoni `prokuraturis Sesaxe~ iTvaliswinebs saqarTvelos generaluri prokuraturis TanamSromlobas sxva qveynis Sesabamis organoebTan (47-e muxli).

SeniSvnebi da rekomendaciebi

- *saqarTvelos sisxli samarTlisis saproceso kanonmdbloba zogadad SesabamisobaSia konvencii 48-e muxlis principebTan, Tumca ar moicavs amgvarad detalurad gaweril normebs samarTaldamcav organoebis Soris TanamSromlobis Taobaze, maT Soris miTiTebas Tanamedrove teqnologiebis gamoyenebis Sesaxe.*
- *sasurvelia samarTaldamcavma organoebma gaaqtiuron TanamSromloba sxva qveynis analogiur struqturebTan korufciuli danaSaulebis winaaRmdeg brZolis mizniT ormxrivi an mravalmxrivi SeTanxmebebis da urTierTgabebis memorandumebis dadebis gziT.*

muxli 49. erToblivi gamoZieba

monawile saxelmwifoebi ganxilaven ormxrivi an mravalmxrivi SeTanxmebis dadebis Sesazleblobas, romelTa Tanaxmad, im saqmeebTan dakavSirebiT, romlebic warmoadgens gamoZiebis, sisxlissamarTlebrivi devnis an sasamarTlo ganxilvis sagans erT an ramdenime saxelmwifoSi, dainteresebul kompetentur organoebis SeuZliaT Seqmnan organoebi, romlebic Caatareben erToblivi gamoZiebas. aseTi SeTanxmebebis da xelSekrulebebis ararsebobs SemTxvevaSi erToblivi gamoZiebi SeiZleba Catardes TiToeul konkretul SemTxvevaSi specialuri SeTanxmebis safuZvelze. Sesabamisi monawile saxelmwifoebi icaven im monawile saxelmwifos suverenitets, romlis teritoriazec unda Catardes aseTi gamoZieba.

SeniSvnebi da rekomendaciebi

- *erToblivi warmoebisaTvis specialuri organoebis Seqmnis Taobaze specialur daTqmas saqarTvelos kanonmdbloba ar iTvaliswinebs.*

muxli 50. gamoZiebis specialuri meTodebi

1. korufciasTan efeqhuri brZolis mizniT TiToeuli monawile saxelmwifo Tavisi SidasamarTlebrivi sistemis ZiriTadi principebis Sesabamisad da im pirobebis Tanaxmad, romlebic dadgenilia misi Sida kanonmdblobiT, sakuTari Sesazleblobebis farglebSi axorcielebs iseT RonisZiebebs, romlebic aucilebelia imisaTvis, rom misma kompetenturma organoebma saTanadod gamoiyenon kontrolirebadi miwodebebi da im SemTxvevebSi, rodesac igi amas CaTvlis saWirod, gamoiyenon gamoZiebis sxva specialuri meTodebi, magaliTad, eleqtronuli dakvirveba an dakvirvebis sxva formebi, agreTve agenturi operaciebi sakuTar teritoriebze, agreTve imisaTvis, rom mtkicebulebi, romlebic aseTi meTodebis gamoyenebis Sedegad Segrovda, daSvebul iqnas sasamarTloze.

2. danaSaulebebis gamoZiebis mizniT, am konvencii Sesabamisad, monawile saxelmwifoebi xels uwyoben, aucileblobis SemTxvevaSi, Sesabamisi ormxrivi an mravalmxrivi SeTanxmebis dadebas, saerTaSoriso doneze TanamSromlobis konteqstSi gamoZiebis specialuri meTodebis gamosayeneblad. aseTi SeTanxmebebi ideba da sruldeba saxelmwifoTa suverenuli Tanasworobis principebis sruli dacviTa da amave SeTanxmebebis pirobebTan SesabamisobaSi.



operatiul-samZebro saqmianobis Sesaxe~ saqarTvelos kanonis Tanaxmad, operatiul-samZebro saqmianoba aris am kanoniT dadgenili saxelmwifo organoebis specialuri samsaxurebis mier TavianiT kompetencii farglebSi Ria Tu faruli meTodiT Catarebuli RonisZiebebis sistema, romlis mizania adamianis uflebebis da Tavisuflebebis, iuridiuli piri uflebebis, sazogadoebrivi uSiSroebis dacva danaSaulebrivi da sxva marTlsawinaaRmdego xelyofisagan. operatiul-samZebro RonisZieba aris am kanoniT dadgenili wesiT uflebamosili saxelmwifo organos an Tanamdebobis piri moqmedeba, romelic Tavisi kompetencii farglebSi

uzrunvelyofs am kanonis me-2 muxliT gaTvaliswinebul amocanaTa Sesrulebas. am amocanaTa Sesasruleblad operatiul-samZebro saqmianobis ganmaxorcielebeli organoebis mier Riad an konspiraciis wesebis dacviT gamoiyeneba:

- a) piris gamokiTxva;
- b) cnobebis Segroveba da vizualuri kontroli;
- g) sakontrolo Sesyidva;
- d) kontrolirebadi miwodeba;
- e) sagnebisa da dokumentebis gamokvleva;
- v) pirovnebis identifikacia (gaigiveba);
- z) dakavebulis, daptimrebulisa da msjavrdebulis korespondenciis cenzura;

T) mosamarTlis brZanebiT satelefono saubrebis faruli miyuradeba da Cawera, informaciis moxna da fiqsacia kavSirgabmulobis arxidan (kavSirgabmulobis saSualebebTan, kompiuterul qselebTan, saxazo komunikaciebTan da sasadguro aparaturasTan mierTebiT), safosto-satelegrafo gzavniTa kontroli (garda diplomatiuri fostisa);

i) mosamarTlis brZanebiT faruli video da audioCawera, kino da fotogadaReba; eleqtruli Tvalyuris devneba teqnikiuri saSualebebiT, romelTa gamoyeneba zians ar ayenebs adamianis sicocxles, janmrTelobas da garemos;

k) dadgenili wesiT danaSaulebriv jgufSi saidumlo TanamSromlis an operatiuli muSakis CarTva;

l) dadgenili wesiT konspiraciuli organizaciis Seqmna.

amasTan, kanonis me-7 muxlis me-2 punktis `T~ da `i~ qvepunqtebiT gaTvaliswinebuli operatiul-samZebro RonisZiebebi, romelTa Catareba saWiroebs mosamarTlis brZanebas, gadaudebeli aucileblobisas, roca dayovnebam SeiZleba gamoiwvios saqmisaTvis (gamoZiebisaTvis) mniSvnelovani faqtobrivi monacemebis ganadgureba an SeuZlebelis gaxdis aRniSnuli monacemebis mopovebas, prokuroris motivirebuli dadgenilebiT SeiZleba Catardes mosamarTlis brZanebis gareSe. aseT SemTxvevaSi operatiul-samZebro RonisZiebis dawyebidan 12 saaTsi (xolo Tu am vadis amowurva emTxveva arasamuSao dros, maSin am drois gasvlidan ara ugvianes erTi saaTisa) prokurori valdebulia, SuamdgomlobiT mimarTos raionuli (saqalaqo) sasamarTlos mosamarTles, romlis samoqmedo teritoriazedac tardeba aRniSnuli operatiul-samZebro RonisZieba, operatiul-samZebro RonisZiebis dakanonebis moTxovniT. sasamarTlo valdebulia, prokuroris Suamdgomloba ganxilos misi wardgenidan 24 saaTis ganmavlobaSi daxurul sasamarTlo sxdomaze. prokuroris ganmartebebis mosmenis Semdeg mosamarTle amowmebs operatiul-samZebro RonisZiebis kanonierebas, aseve mocemuli RonisZiebis gadaudebeli Catarebis aucileblobas da gamoaqvs erT-erTi Semdegi dadgenileba:

a) operatiul-samZebro RonisZiebis kanonierad cnobis Sesaxeb;

b) operatiul-samZebro RonisZiebis ukanonod cnobis, misi Sedegebis gauqmebisa da am RonisZiebiT mopovebuli monacemebis ganadgurebis Sesaxeb.

amasTan, mosamarTlis mier miRebuli gadawyvetileba (brZaneba, dadgenileba) sabolooa da igi ar gasaCivrdeba.

aRsaniSnavia isic, rom `operatiul-samZebro saqmianobis Sesaxeb~ saqarTvelos kanonis mixedviT:

Aa) piris gamokiTxva aris operatiuli muSakis an gamomZieblis piradi gasaubreba fizikur pirTan, romelmac raime icis gamosakvlevi SemTxvevis an masTan dakavSirebul pirTa Sesaxeb. (gamokiTxva nebayoflobiTia da gamosakiTx pirs ar afrTxileben cru Cvenebis micemisaTvis an Cvenebis micemaze uaris TqmisaTvis sisxlissamarTlebrivi pasuxismgeblobis Sesaxeb. operatiuli muSaki an gamomZiebeli gamokiTxvis Sesaxeb dadgenili wesiT adgens pataks, romelic gasacnobad ar waredgineba gamokiTxul pirs);

b) cnobebis Segroveba aris operatiuli muSakis an gamomZieblis mier kriminalistikuri, operatiul-samZebro an informaciis Senaxvis sxva wyarodan im faqtobrivi monacemebis oficialurad mopoveba, romlebsac arsebiTi mniSvneloba aqvs;

g) vizualuri kontroli aris operatiuli TvalTvali, romelic konspiraciulad tardeba operatiuli muSakis, gamomZieblis an operatiul-samZebro organos mier uSualod an operatiul-teqnikiur saSualebaTa gamoyenebiT;

d) sakontrolo Sesyidva aris operatiuli muSakis, gamomZieblis an operatiul-samZebro organos mier operatiuli informaciis safuZvelze sagnis an nivTierebis SeZena anda SeZenis situaciis Seqmna (misi gasaRebis an moxmarebis miznis gareSe);

e) kontrolirebadi miwodeba aris danaSaulis gasaxsnelad, danaSaulis Camdeni piris gamosavlenad saqarTvelos farglebSi (xolo saerTaSoriso xelSekrulebiT gaTvaliswinebul SemTxvevaSi – saqarTvelos farglebs gareTac), saqarTvelos farglebs garedan saqarTveloSi an saqarTvelos gavliT nivTieri mtkicebulebis an iseTi sagnis kontrolirebadi gadaadgileba, romlis Tavisufali realizeba kanoniT akrZaluli an SezRudulia;

v) pirovnebis identifikacia (gaigiveba) aris Sesamowmebeli piris an eWvmitanilis dadgena daqtiloskopiuri kartoTekis, SemTxvevis adgilze datovebuli kvalis, sunis an gamonayofis mixedviT;

z) sagnebisa da dokumentebis gamokvleva aris sagnebisa da dokumentebis gamokvleva vizualurad an teqnikiur saSualebaTa gamoyenebiT, rac ar iTvleba eqspertis daskvnad;

T) informaciis moxna kavSirgabmulobis arxidan aris operatiul-samZebro organos mier eleqtronuli kavSiridan (eleqtrofosta), kompiuteruli qselidan, satelekomunikacio da sainformacio sistemebidan gadacemuli, Sekrebili, damuSavebuli an dagrovebuli informaciis moxna da fiqsacia teqnikiur saSualebaTa gamoyenebiT;

i) saidumlo TanamSromeli (konfidenti) aris 18 wels miRweuli qmedunariani fizikuri piri, romelic nebayoflobiT, kontraqtis safuZvelze TanamSromlobis operatiul-samZebro organosTan an gamomZiebelTan da asrulebs kontraqtiT gaTvaliswinebul valdebulebebs;

k) konspiraciuli organizaciis Seqmna aris operatiul-samZebro organos an gamomZieblis mier danaSaulebriv formirebaSi SesaRwevad nebismieri organizaciul-samarTlebrivi formis organizaciis Seqmna.

amasTan, aRsaniSnavia isic, rom saqarTvelos sisxlis samarTlis saproceso kodeqsis 130-e muxlis mixedviT, mtkicebulebis mniSvnelobis mqone cnoba SeiZleba gamoyenebul iqnes sisxlis samarTlis procesSi, Tu is saproceso wesiT aris damagrebuli, ese igi Setanilia sagamoZiebo moqmedebis an sasamarTlo ganxilvis oqmSi, romelic Sedgenilia am kodeqsis moTxovnaTa Sesabamisad, anu operatiul-samZebro saqmianobis Sedegad mopovebuli masalebi mtkicebulebad unda gadaicqes mxolod saqarTvelos sisxlis samarTlis saproceso kodeqsiT dadgenili wesis Sesabamisad gaTvaliswinebuli mtkicebulebaTa saproceso damagrebis gziT.

SeniSvnebi da rekomendaciebi

- *sasurvelia, samarTaldamcavma organoebma sxva qveynis analogiur struqturebTan korufciuli danaSaulebis winaaRmddeg brZolis Taobaze dadebul ormxrivi an mravalmxrivi SeTanxmebebis da urTierTgagebis memorandumebis formatSi gansakuTrebuli yuradReba dauTmon gamoZiebis specialuri meTodebis gamoyenebis mizanSewonilobas.*

Tavi V. aqtivebis dasabrunblad gasatarebeli RonisZiebebi

muxli 51. zogadi debuleba

am Tavis Tanaxmad, aqtivebis dabruneba aris am konvenciis fuZemdebluri principi da amasTan dakavSirebiT monawile saxelmwifoebi mWidrod TanamSromloben da exmarebian erTmaneTs.



aqtivebis dabrunebis Sesaxeb specialuri nawilis SemoRebiT gaeros konvencia `korufciis winaaRmddeg-erTgvar konceptualur revoluciad Seiracxa saerTaSoriso sisxlis samarTalsi. man Seajama bolo 15 wlis manZilze evropis ekonomikuri TanamSromlobisa da ganviTarebis organizaciis iurisdicciisa da sxva regionaluri organizaciebis is mcdelobebi aqtivebis dabrunebis kuTxiT, romlebic adre samarTlebrivad mxolod ormxrivi xelSekrulebebis formatSi regulirdeboda. V Tavi SemTxveviT ar saxeldeba konvenciis fuZemdeblur principad. is namdvili gamowvevaa monawile saxelmwifoebisaTvis, raTa, erTis mxriv, gadaWran yovelgvari konflikti suverenulobisa da saerTaSoriso TanamSromlobis principebs Soris da, meores mxriv, daamkvidron unificirebuli samarTlebrivi standartebi transnacionaluri aqtivebis dabrunebis mizniT³².

SeniSvnebi da rekomendaciebi

- *konvenciis 51-e muxli, romelic Seicavs zogad debulebebs aqtivebis dabrunebis Sesaxeb, nawilobriv mowesrigebulia saqarTvelos kanonmdelobiT, sxdasxa normatiuli aqtebiT. am aqtebis Sinaarsi*

³²saxelmwifo qonebis miTvisebis makro-ekonomikuri aspektesa da aqtivebis dabrunebis mniSvnelobis sailustraciad moviyvanT ramdenime magaliTs.

zairis yofilma prezidentma mobutu sese sekam saxelmwifo xazinidan 5 miliardi aSS dolari miiTvisa, rac im droisaTvis qveynis sagareo vali toli iyo.

meqsikis yofili prezidentis - karlos salinasis Zmas – raul salinas de gortaris fulis gaTeTrevisaTvis 50 wliT patimroba miesaja da 220 milioni dolaris qoneba CamoerTva.

awgansvenebulma nigerielma diqtatorma sani abaCam 5,5 miliardamde aSS dolari gaitana qveynidan. Sveicariis 6 sxvadasxa bankSi 1 miliardamde dolari ukve gaiyina mis angariSebze.

aseve awgansvenebulma yofilma filipinelma diqtatorma ferdinand markosma 10 miliardamde aSS dolari miiTvisa. misi angariSebi dapatimrebulia, qonebis konfiskaciis procesi ki ukve 18 weliwadia, rac mimdinareobs.

abaCas da markosis Semdeg Sveicariis bankeSi slobodan miloSeviCis angariSebi daapatimres. angariSebze mxolod 500 aSS milioni dolari iyo.

haitis yofilma diqtatorma, qveynidan gaqceulma Jan klod diuvaliem, 120 mln aSS dolari gaitana amerikaSi.

alberto fuximorim perus xelisuflebis saTaveSi yofnis periodSi 227 milioni aSS dolari gaitana qveynidan.

ukrainis yofili premier-ministri pablo lazarenko 1999 wels niu-iorkSi iqna dakavebuli saxelmwifo xazinidan 1 miliardi aSS dolaris miTvisebisa da aqedan 114 milioni aSS dolaris gaTeTrebis braldebIT. aRsaniSnavia, rom misi sabanko angariSebi ukve dapatimrebulia rogorc Sveicariis, aseve ofSoruli antiguas kunZulebis bankeSi. aqedan ukrainas 6 milioni aSS dolari ukve daubruna.

dakonkretdeba Semdgomi muxlebis analizisas. zogadad ki konvenciis V Tavis principebsa da debulebebs saqarTvelos kanonmdebloba saerTod ar icnobs.

muxli 52. danaSaulebidan miRebuli Semosavlis gadaricxvis Tavidan acileba da gamovlena

1. am konvenciis me-14 muxlisaTvis zianis miyenebis gareSe, TiToeuli monawile saxelmwifo atarebs iseT RonisZiebebs, romlebic misi Sida kanonmdeblobis Sesabamisad SeiZleba aucilebeli gaxdes imisaTvis, rom finansuri dawesebulebebisagan, romlebzedac vrceldeba misi iurisdicqia, moiTxovos klientTa piradobis Semowmeba, miiRos gonivruli zomebi mesakuTre-beneficiaris piradobis dasadgenad, im fuladi saSualebebis mimarT, romlebic deponirebulia angariSebze didi moculobiT da gaataros kontrolis mkacri RonisZiebebi im angariSebTan dakavSirebiT, romelTa gaxsna surT, an am angariSebs awarmoeben iseTi pirebi, romlebic floben an adre flobdnen mniSvnelovan sajaro uflebamosilebebs, maTi ojaxis wevrebi da maTTan dakavSirebuli partniorebi, an sxva nebismier zemoT CamoTvliL pirTa saxeliT. aseTi ufro mkacri kontrolis gonieri zomebi aucilebelia imisaTvis, rom gamovlindes saeWvo operaciebi kompetenturi organoebisaTvis maT Sesaxeb informaciis warsadgenad da es RonisZiebebi ise ar unda iqnas gagebuli, TiTqos isini finansur dawesebulebebs winaaRmdogobas uweven an ukrZalaven saqmianobas nebismier kanontier klientTan.

2. am muxlis pirveli punqtiT gaTvaliswinebuli RonisZiebebis gatarebis xelSewyobisaTvis, TiToeuli monawile saxelmwifo Tavis Sida kanonmdeblobis Sesabamisad da regionuli, regionTaSorisi da mravalmxrivi organizaciebis Sesabamisi iniciativebiT fuladi saSualebebis `gaTeTrebis~ sawinaaRmdogod:

a) gamoscems sarekomendacio miTiTebebs im kategoriis fizikuri da iuridiuli pirebis mimarT, romelTa angariSebze finansuri dawesebulebebidan, romlebzedac vrceldeba misi iurisdicqia, mosalodnelia kontrolis ufro mkacri RonisZiebebis gatareba angariSebsa da operaciebis im saxeebze, romlebsac unda mieqces gansakuTrebuli yuradReba, da angariSebis gaxsnisa da mis warmoebasTan dakavSirebul saWiro RonisZiebebze, agreTve angariSze im angariSgebis warmoeba, romlebic miRebuli unda iqnes aseTi angariSebis mimarT;

b) aucilebel SemTxvevaSi atyobinebs finansur dawesebulebebs, romlebzedac vrceldeba misi iurisdicqia, sxva monawile saxelmwifos Txovnis safuZvelze an Tavis iniciativiT, konkretuli fizikuri an iuridiuli piris piradobis Sesaxeb, romlis angariSebis mimarT aseTi dawesebulebebidan mosalodnelia kontrolis ufro mkacri RonisZiebebis gamoyeneba, damatebiT im pirTa mimarT, romelTa pirovnebis Sesaxeb, finansur dawesebulebebs SeuZliaT daadginon sxva wesiT.

3. am muxlis me-2 punqtis `a~ qvepunqtis Sesabamisad, TiToeuli monawile saxelmwifo atarebs RonisZiebebs, raTa misma finansurma dawesebulebebma Seinaxon garkveuli droiT saTanado angariSgeba im angariSebisa da operaciebis Sesaxeb, romlebic Seexebs am muxlis pirveli punqtiT gansazRvrul pirebs da romelsac unda daerTos informacia klientis pirovnebis Sesaxeb, agreTve, ramdenadac es SesaZlebelia, mesakuTre-beneficiaris Sesaxeb.

4. danaSaulebebidan, romlebic aseTad cnobilia am konvenciis Sesabamisad, miRebuli Semosavlis gadaricxvis Tavidan acilebisa da gamovlenis mizniT TiToeuli monawile saxelmwifo atarebs saTanado da qmediT RonisZiebebs, Tavis maregulirebeli da meTvalyureobis gamwevi organoebis daxmarebiT, raTa gaafRtxilon dawesebulebebi, bankebi, romlebsac ar gaaCniaT fizikuri daswreba da romlebic ar arian afilirebuli romelime regulirebad finansur jgufTan. garda amisa, monawile saxelmwifoebs SeuZliaT ganixilon TavianTi finansuri dawesebulebebis mimarTY iseTi moTxovnebis dadgenis SesaZleblobebi, romlebiTac TavianTma finansurma dawesebulebebma uari unda Tqvan sabanko sakorespondento urTierTobebis warmoebaze an aseTi urTierTobebis gagrZelebaze, agreTve unda gamoiCinon sifrTxile iseT ucxour finansur organizaciebTan urTierTobaSi, romlebic nebas rTaven, gamoiyenen TavianTi angariSebi im bankebis mimarT, romlebsac ar gaaCniaT fizikuri daswreba an romlebic ar arian afilirebuli romelime regulirebad finansur jgufTan.

5. TiToeuli monawile saxelmwifo ganixilavs SesaZleblobas, Seqmnas Tavis Sida kanonmdeblobis Sesabamisad efeqtiani sistemebi, romlebiTac gaTvaliswinebuli unda iqnes Sesabamisi sajaro Tanamdebobis pirTa mimarT finansuri informaciis gamJRavneba da adgens saTanado sanqciebs aseTi moTxovnebis SeusruleblobisaTvis. TiToeuli monawile saxelmwifo agreTve ganixilavs SesaZleblobas iseTi RonisZiebis miRebisa, romlebic saWiroa imisaTvis, rom neba darTos Tavis kompetentur organoebis, gacvalon informacia sxva monawile saxelmwifoebis kompetentur organoebTan, rodesac es aucilebelia gamoZiebisaTvis, uflebebis gacxadebisa da danaSaulebidan, romlebic aseTebad cnobilia am konvenciis Sesabamisad, miRebuli Semosavlis dasabrunblad gasatarebeli RonisZiebebisTvis.

6. TiToeuli monawile saxelmwifo ganixilavs iseTi RonisZiebebis miRebis SesaZleblobas, romlebic aucilebelia misi Sida kanonmdeblobis Sesabamisad imisaTvis, rom dadgindes Sesabamisi sajaro Tanamdebobis pirebisaTvis, romlebsac aqvT garkveuli interesi an xelmoweris ufleba an sxva uflebamosilebani raime saxis

finansuri angariSis mimarT romelime ucxo qveyanaSi, moTxovna, acnobos amis Sesaxeb Sesabamis organoebis da awarmoos saTanado angariSgeba angariSebTan dakavSirebiT. aseTi RonisZiebebiT agreTve gaTvaliswinebulia saTanado sanqciebis gamoyeneba am moTxovnaTa SeusruleblobisaTvis.



saqarTvelos, rogorc evropis sabWos wevr qveyanas, nakisri aqvs valdebuleba, moaxdinis sakuTari kanonmdeblobis harmonizacia evropis qveynebis kanonmdeblobasTan, maT Soris, ukanono Semosavlebis legalizaciis (fulis gaTeTrebiSi) winaaRmdeg brZolis sferoSi prevenciuli sakanomdeblo bazis Seqmna da Sesabamisi nabijebis gadagma. swored am mizans emsaxureboda 2003 wels saqarTvelos parlamentis mier `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos kanonis miReba. kanonSi mocemulia iseTi cnebebis ganmartebani, rogorc bicaa: ukanono Semosavali, misi legalizacia, monitoringi, Sida kontroli, ofSoruli zona, sazedamxedvelo organo, saeWvo garigeba, finansuri monitoringis samsaxuri, ararezidenti piri, piris identifikacia. aqve CamoTvllilia monitoringis ganmaxorcielebeli pirebi, romelTa daxmarebis gareSec praqtikulad SeuZlebelia ukanono Semosavlis legalizacia da romlebsac evalebaT garigebebis monitoringi da informacii miwodeba Sesabamisi organosadmi. kanoniT gansazRvruleba kontrols daqvemdebarebuli garigebebi, romlebisTvisac dawesebulia zRvruli limiti 10 000 laris odenobiT naRdi angariSsworebisa da 30 000 lari unaRdo angariSsworebis SemTxvevaSi.

am saqmianobas emsaxureba finansuri monitoringis samsaxuri, romelsac kanoniT ekisreba ukanono Semosavlis legalizaciasTan dakavSirebuli informacii miReba, damuSaveba da gadacema samarTaldacvis organoebisaTvis. es samsaxuri Camoyalibda saqarTvelos erovnul bankTan rogorc sajaro samarTlis iuridiuli piri. kanoniT gansazRvruleba aseve ukanono Semosavlebis legalizaciis sakiTxSi Sesabamisi organoebis saerTaSoriso TanamSromlobis sakiTxebi. ukanono Semosavlis legalizaciis gamovlenisa da aRkveTis RonisZiebebis gatarebisas iqmneba aucilebloba sxvadasxva qveynis Sesabamisi samsaxurebTan TanamSromlobisa, maT Soris informacii urTierTgacvlisa, risi samarTlebrivi safuZvlebic mocemulia kanonis me-13 muxlSi³³.

konvenciis 52-e muxlis me-2 punktis debulebebi gaTvaliswinebulia finansuri monitoringis samsaxuris uflebamosilebebiSi³⁴. konvenciis 52-e muxlis suliskveTebiT aris Sedgenili sxvadasxva samewarneo an ekonomikuri saqmianobis winaaRmdeg mimarTuli sakanomdeblo aqtebi. am TvalsazrisiT yuradsaRebia saqarTvelos sixxlis samarTlis kodeqsis 26-e Tavi. am TavSi ganTavsebulia 194-e muxli, romliTac gaTvaliswinebulia pasuxismgebloba ukanono Semosavlis legalizaciisaTvis. am muxliT gaTvaliswinebuli qmedebis kriminalizacia miznad isaxavs fulad-sakredito sistemis dacvas didi moculobis arakontrolirebadi fuladi saxsrebis Semosvligan. es muxli vrceldeba iseT moqmdebebeze, rac dakavSirebulia sabanko saqmianobidan, sabiTumo da sacalo vaWrobidan, saTamaSo biznesidan da a.S., ukanonod miRebuli saxsrebis gamoyenebasTan³⁵. 194-e muxlis dispoziciidan gamomdinare, unda vigulisxmoT, rom kanoni krZalavs ukanonod miRebuli fuladi saxsrebis legalur brunvaSi gaSvebas, nebismier finansur operaciisa da garigebas ukanono gziT mopovebuli Semosavlebidan an kidev maT gamoyenebas samewarneo an sxvagvar ekonomikur saqmianobaSi. aRniSnuli muxlis damamZimebel garemoebad miCneulia am muxliT gaTvaliswinebuli qmedebis Cadena saxelmwifo xelisuflebis an adgilobrivi TviTmmarTvelobis organos Tanamdebobis piris an kidev samewarneo Tu sxva organizaciaSi xelmZRvanelobiTi funqciis Semrulebeli piris mier.

konvenciis 52-e muxlis purveli punktis moTxovnebs garkveulwilad exmianeba samoqalaqo kodeqsi 2003 wels ganxorcielebuli cvlileba, romelic gamowveuli iyo `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ kanoniT gaTvaliswinebuli RonisZiebebis efeqturobisaTvis da saerTaSoriso organizaciebis rekomendaciebis Sesrulebis aucileblobiT, qveyanaSi anonimuri angariSebis arsebobis dauSveblobiT³⁶.

³³ **muxli 13. saerTaSoriso TanamSromloba**

1. ukanono Semosavlis legalizaciasTan dakavSirebul sakiTxebze saqarTvelos saamisod uflebamosili organoebi TavianTi kompetenciis farglebSi TanamSromloben sxva saxelmwifoTa uflebamosil organoebTan da saerTaSoriso organizaciebTan saWiro informacii miRebis, winaswari gamoZiebis, sasamarTlo ganxilvisa da gadawyvetilebebis aRrulebis stadiaze.

2. saqarTvelos finansuri monitoringis samsaxuris ufleba aqvs sxva saxelmwifoTa Sesabamisi organoebTan damoukideblad dados xelSekrulebebi (SeTanxmebebi), romlebiTac mowesrigdeba ukanono Semosavlis legalizaciisa da terorizms dafinansebis winaaRmdeg brZolis sferoSi informacii gacvlisa da maTi kompetenciisaTvis mikuTvnebuli sxva sakiTxebi. aRniSnuli xelSekrulebebi (SeTanxmebebi) unda iTvaliswinebdes informacii konfidencialobis dacvas da mis gamoyenebas mxolod kanonmdeblobiT gansazRvruleba mizniT. (25.02.2004 N 3422)

3. ukanono Semosavlis legalizaciasTan da terorizms dafinansebasTan dakavSirebul sakiTxebze saqarTvelos finansuri monitoringis samsaxuri nebismieri organosagan an pirisagan nebarTvis miRebis gareSe, sxva saxelmwifoTa uflebamosil organoebisa da saerTaSoriso organizaciebs ugzavnis Txovnebs saWiro informacii warmodgenis Taobaze da upasuxebis maT analogiur Txovnebs. (25.02.2004 N 3422)

4. ukanono Semosavlis legalizaciasTan dakavSirebul sakiTxebze saqarTvelos saamisod uflebamosili organoebi uzrunvelyofen Sesabamisi informacii konfidencialobis dacvas da mas iyeneben mxolod gagzavnil TxovnaSi miTiTebuli miznebisTvis.

³⁴ dawvrilebiT ix. konvenciis me-14 muxlis analizi, aseve finansuri monitoringis samsaxuris veb-gverdi:

<http://www.fms.gov.ge/fms.php?lang=geo>

³⁵ ufro dawvrilebiT ixileT konvenciis me-14 da 23-e muxlebis analizi, aseve finansuri monitoringis samsaxuris veb-gverdi:

<http://fms.gov.ge/fms.php?lang=geo>.

³⁶ saqarTvelos samoqalaqo samarTlis kodeqsi, muxli 875.

konvenciis 52-e muxlis pirveli da nawilobriv me-2 da me-3 nawiliT gaTvaliswinebuli moTxovnebi asaxulia `sajaro samsaxurSi interesTa SeuTavseblobisa da korufciis Sesaxeb~ saqarTvelos kanonSi, kerZod, me-15 muxlSi, romlis `v~ punqtis mixedviTac `Tanamdebobis piris qonebrivi mdgomareobis deklaracia Seicavs Semdeg informacias Tanamdebobis pirisa da misi ojaxis wevrebis Sesaxeb: v) sabanko an/da sxva sakredito dawesebulebaSi arsebuli angariSi - mesakuTris vinaoba, angariSis saxeoba, gaxsnis TariRi, Tanxis odenoba~.

konvenciis 52-e muxlis me-3 punqtTan dakavSirebiT unda aRiniSnos, rom `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ amJamad moqmed kanonTan mimarTebaSi evropis sabWos MONEYVAL-komitetis mier Tavis droze gamoTqmul SeniSvnebs Soris yvelaze mniSvnelovani exeboda swored saeWvo garigebebTan dakavSirebuli angariSgebis formebis wardgenis vadebs. kerZod, moqmedi kanonis me-9 muxlis Tanaxmad, saeWvo garigebebis angariSgebis formebis wardgenis vada 3 dRes Seadgens, xolo MONEYVAL-komitetis rekomendaciiT es vada erT dRemde unda Semcirebuliyo³⁷. am kuTxiT kvlav SeSfoTebas iwvevs 2006 wlis maisSi saqarTvelos parlamentSi mTavrobis iniciativiT gansaxilvelad Semosuli kanonproeqti `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb saqarTvelos kanonSi cvlilebebisa da damatebebis Sesaxeb~, romelic aRniSnuli vadis kidev ufro gazrdas iTvaliswinebs Semcirebis nacvlad. kerZod, kanonproeqtis 9.2-e muxlSi miTiTebulia, rom `angariSgeba gagzavnili unda iqnes garigebis dadebidan an Sesrulebidan an/da garigebis saeWvoobis Sesaxeb varaudis gaCenidaan araugvianes 3 samuSao dRisa~. aRniSnuli winadadeba saqarTvelos parlamentis mier ar unda iqnes gaziarebuli da mxardaWerili.

SeniSvnebi da rekomendaciebi

- *mTavrobis iniciativiT gansaxilvelad Semosul kanonproeqtebSi `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb saqarTvelos kanonSi cvlilebebisa da damatebebis Sesaxeb~ da komerciuli bankebis Sesaxeb saqarTvelos kanonSi cvlilebebisa da damatebebis Sesaxeb~ aseve darKveuli da rig SemTxvevebSi ignorirebulia konvenciis 52-e muxlis me-4 nawilis moTxovnebi. kerZod, kanonproeqtebiT aRar aris gaTvaliswinebuli, rom monitorings daeqvemdebaros arc ofSorul zonaSi registrirebul bankSi sabanko angariSis mflobelis mier Tanxis gadmoricxva saqarTveloSi arsebul sabanko angariSze an Tanxis gadaricxva saqarTvelodan aseT zonaSi registrirebul bankebSi arsebul sabanko angariSebze, da arc ofSorul zonaSi registrirebuli piris mier sexsis gacema an miReba an aseTi piris mier saqarTveloSi arsebuli sabanko dawesebulebis meSveobiT ganxorcielebuli nebismeri sxva garigeba.*
- *kanonproeqtiT `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb saqarTvelos kanonSi cvlilebebisa da damatebebis Sesaxeb~ grantebisa da saqvelmoqmedo daxmarebis gamcemi pirebi aseve aRar ignebian monitoringis ganmaxorcielebeli pirebi. aRniSnuli cvlilebebi mizanSeuwonlad migvaCnia, ramdenadac saqarTveloSi ukanono Semosavlebis legalizaciasTan brZolis bolo sami wlis praqtikam cxadyo rogorc ofSorul zonaSi registrirebuli iuridiuli pirebis, aseve saqvelmoqmedo organizaciebis kavSiri fulis gaTeTrevisa da terorizmis dafinansebis procesTan.*
- *amasTan, unda aRiniSnos, rom kanonproeqtiT warmodgenili bevri cvlileba gamomdinareobs mxolod bankebis saqmianobis specifikidan da ar iTvaliswinebs, rom `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos kanonis moTxovnebi vrceldeba sxva monitoringis ganmaxorcielebeli pirezec.*
- *kanonproeqtiT `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb saqarTvelos kanonSi cvlilebebisa da damatebebis Sesaxeb~ warmodgenili bevri cvlileba metismetad amartivebs identifikaciis process (identifikaciis valdebuleba yvela kategoriis monitoringis ganmaxorcielebeli pirisaTvis warmoiSveba mxolod im SemTxvevaSi, rodesac garigebis (operaciis) Tanxa aRemateba 6 000 lars; 6 000 laris tolfasi zRvaris daweseba gaumarTleblad migvaCnia. aseTi maRali zRvari ar Seesabameba FATF-is rekomendaciebs da evroqaerTianebis Sesabamis direqtivas. kerZod, orive zemoaRniSnuli saerTaSoriso dokumenti iTvaliswinebs safinanso institutebis da sxva Sesabamisi struqturebis klientebis savaldebulo identifikacias da dasaSvebad miiCnevs calkeul SemTxvevebSi gamartivebuli procedurebis gamovenebas.*
- *kanonproeqtiT ar aris gansazRvruli saidentifikacio dokumentebisa da monacemebis savaldebulo minimumi da sxva) da garTulebulia arsebuli situacia, vinaidan identifikaciis meqanizmis gansazRvris uflebamovaleoba eniWeba TiToeul monitoringis ganmaxorcielebel pirs, rac ara mxolod gaumarTleblad, aramed SeuZlebladac migvaCnia.*
- *saqarTvelos kanonmdeblobaSi ar aris asaxuli konvenciis 52-e muxlis me-6 punqtis moTxovna, rom Sesabamisma sajaro Tanamdebobis pirezma, romlebsac aqvT garkveuli interesi an xelmoweris ufleba an sxva uflebamosilebani raime saxis finansuri angariSis mimarT romelime ucxo qveyanaSi, acnobon amis Sesaxeb Sesabamis organoebis da awarmoon saTanado angariSgeba angariSebTan dakavSirebiT.*

³⁷ cnobisaTvis – evrokavSiris specialuri direqtivis Tanaxmad, informacia saeWvo garigebebis Sesaxeb unda waredginos Sesabamis organos dayovnebliv.

muxli 53. RonisZiebebi qonebis uSualo dabrunebisaTvis

TiToeuli monawile saxelmwifo Tavisi Sida kanonmdeblobis Sesabamisad:

a) *atarebs iseT RonisZiebebs, romlebic aucilebelia imisaTvis, rom neba darTos sxva monawile saxelmwifos waradginos Tavis sasamarTloSi samoqalaqo sarCelebi samarTlebrivi titulis dasadgenad an im qonebaze sakuTrebis uflabis dasadgenad, romelic raime danaSaulis, romelic aseTad cnobilia am konvenciis Sesabamisad, Cadenis Sedegadaa SeZenili;*

b) *atarebs iseT RonisZiebebs, romlebic aucilebelia imisTvis, rom neba darTos YTavis sasamarTloebis dauwesos im pirebs, romlebmec Caidines danaSauli, romelic aseTad cnobilia. am konvenciis Sesabamisad, kompensacia an sxva monawile saxelmwifosaTvis im zianis anazRaureba, romelic miadga aseTi danaSaulebebis Cadenis Sedegad, da*

g) *atarebs iseT RonisZiebebs, romlebic aucilebelia imisaTvis rom neba darTos Tavis sasamarTlos an kompetentur organoebis konfiskaciis Sesaxeb gadawyvetilebis gamotanisas cnos sxva monawile saxelmwifos moTxovnebi, rogorc qonebis kanoneri mesakuTrisa, Tu aseTi qoneba SeZenil iqna raime danaSaulis, romelic aseTad cnobilia am konvenciis Sesabamisad, Cadenis Sedegad.*



konvenciis 53-e muxlis pirveli nawili iTvaliswinebs samoqalaqo samarTalwarmoebis procesis gamoyenebas aqtiqebis dabrunebis mizniT da mas gansakuTrebuli datvirTva aqvs: aqtiqebis samoqalaqo samarTalwarmoebis wesiT dabruneba moiTxovs samoqalaqo sarCelebis ganmsazRvrel samarTlebriv bazas ZiriTadad sakuTrebis samarTlis an deliqtebis nawilSi. sakuTrebiTi samarTlis saqmeebSi mosarCele saxelmwifo TavadiTxovs aqtiqebis sruluflebian mesakuTred cnobas, an zogierT SemTxvevebSi gamodis sxva sruluflebian mesakuTreTa, sakuTari mosaxleobis saxeliT, raTa aqtiqebi miCneul iqnan mitacebulad, gayalbebulad da ukanonod miTvisebulad. deliqtebis SemTxvevebSi sarCelis arsi imaSi mdgomareobs, rom mopasuxis qmedebam korufciisa da araswori marTvis gamo gamoiwvia zarali da Tavadi miiRo sargebeli, rasac Sedegad unda mohyves kompensaciis gadaxda. samoqalaqo sarCelebs is upiratesoba gaaCniaT, rom aq gacilebiT dabilia mtkicebis tvirTi, xolo im saxelmwifoebSi, sadac ar aris daSvebuli sisxlissamarTlebrivi konfiskacia, rogorc aseTi, samoqalaqo saqmeebis SemTxvevaSi saWiro aRar xdeba sisxlissamarTlebrivi devnis gamocxadeba da sisxlissamarTlebrivi braleulobis dadgoma³⁸.

saqarTvelos sisxlis samarTlis kodeqsis Sesabamis muxlebi iTvaliswinebs sisxlissamarTlebriv pasuxismgeblobas sazRvargareT Cadenili danaSaulisaTvis:

muxli 5. sisxlis-samarTlebrivi pasuxismgebloba sazRvargareT Cadenili danaSaulisaTvis

1. saqarTvelos moqalaqes, agreTve saqarTveloSi mudmivad mcxovreba moqalaqebis armqone pirs, romlebmec sazRvargareT Caidines am kodeqsiT gaTvaliswinebuli iseTi qmedeba, romelic danaSaulad iTvleba im saxelmwifos kanonmdeblobiT, sadac is Cadenilia, sisxlissamarTlebrivi pasuxismgebloba daekisrebaT am kodeqsiT.

2. saqarTvelos moqalaqes, agreTve saqarTveloSi mudmivad mcxovreba moqalaqebis armqone pirs, romlebmec sazRvargareT Caidines am kodeqsiT gaTvaliswinebuli iseTi qmedeba, romelic danaSaulad ar iTvleba im saxelmwifos kanonmdeblobiT, sadac is Cadenilia, sisxlis-samarTlebrivi pasuxismgebloba daekisrebaT am kodeqsiT, Tu es aris saqarTvelos interesebis winaaRmdeg mimarTuli mZime an gansakuTrebiT mZime danaSauli anda Tu sisxlissamarTlebrivi pasuxismgebloba am danaSaulisaTvis gaTvaliswinebulia saqarTvelos saerTaSoriso xelSekrulebiT.

3. sazRvargareT danaSaulis Camden ucxo qveynis moqalaqes, agreTve moqalaqebis armqone pirs, romlebic mudmivad ar cxovroben saqarTveloSi, sisxlissamarTlebrivi pasuxismgebloba daekisrebaT am kodeqsiT, Tu es aris saqarTvelos interesebis winaaRmdeg mimarTuli mZime an gansakuTrebiT mZime danaSauli anda Tu sisxlis-samarTlebrivi pasuxismgebloba am danaSaulisaTvis gaTvaliswinebulia saqarTvelos saerTaSoriso xelSekrulebiT.

SeniSvnebi da rekomendaciebi

- *konvenciis 53-e muxliT gaTvaliswinebul debulebebTan dakavSirebiT unda aRiniSnos, rom arc sisxlis samarTlis materialuri da arc sisxlis samarTlis saproceso kanonmdebloba, iseve rogorc samoqalaqo da samoqalaqo saproceso kanonmdebloba, ar Seicavs normas konfiskaciis Sesaxeb gadawyvetilebis gamotanisas cnos sxva saxelmwifos moTxovnebi, rogorc qonebis kanoneri mesakuTrisa, Tu es qoneba SeZenilia am konvenciit gaTvaliswinebuli danaSaulebebis Cadenis*

³⁸ ix. The Global Programme against Corruption: UN Anti-Corruption Toolkit. 3rd Edition, Vienna, September 2004, page 579.

Sedegad. konvenciis am muxliT SemoTavazebuli debuleba ar aris gaTvaliswinebuli saqarTvelos sisxlis samarTlis kanonmdeblobaSi.

- mizanSewonilad migvaCnia, rom konvenciis 53-e muxliT SemoTavazebuli debulebebi aisaxox sisxlis samarTlis saproceso kanonSi, kerZod, XXXIII TavSi. swored aq unda gaiweros debulebebi, romlebic reglantirebuli iqneba konfiskaciaqmnili qonebis ucxo saxelmwofosaTvis gadacemis wesis Sesaxeb.

muxli 54. konfiskaciis saqmeze saerTaSoriso TanamSromlobis Sedegad qonebis amoRebis meqanizmebi

1. TiToeuli monawile saxelwifo am konvenciis 55-e muxlis Tanaxmad, samarTlebrivi urTierTdaxmarebis gawevis mizniT im qonebis mimarT, romelic SeZenilia raime danaSaulis, romelic aseTad cnobilia am konvenciis Sesabamisad, Cadenis Sedegad an gamoyenebuli iqna aseTi danaSaulebebis dros, Tavisi Sida kanonmdeblobis Sesabamisad:

- a) atarebs iseT RonisZiebebs, romlebic aucilebelia imisaTvis, rom neba darTos Tavis kompetentur organoebis, sisruleSi moiyyanon konfiskaciis Sesaxeb dadgenilebebi, romlebic gamoitanebs sxva monawile saxelmwifoTa sasamarTloebma;
- b) atarebs iseT RonisZiebebs, romlebic aucilebelia imisaTvis, rom neba darTos Tavis kompetentur organoebis, maTi iurisdicciis farglebSi, gamoitanon dadgenilebebi konfiskaciis Sesaxeb ucxouri warmoSobis iseT qonebaze sasamarTlo gadawyvetilebis gamotanisas fuladi saxsrebiS `gaTeTrebiS~ danaSaulebebTan dakavSirebiT an sxva aseT danaSaulebebTan dakavSirebiT, romlebic SeiZleba moeqces misi iurisdicciis qveS, an sxva procedurebis gamoyenebisas, romlebic nebadarTulia misi Sida kanonmdeblobiT;
- g) ganxilavs sakiTxs iseTi RonisZiebebis gatarebis Sesaxeb, romlebic aucilebelia imisaTvis, rom Seiqmnas SesaZlebloba ganaCenis gamotanisas gareSe aseTi qonebis konfiskaciisaTvis, sisxlis samarTlis warmoebis farglebSi iseT saqmeebze, romlebic ar SeiZleba ganxorcieldes damnaSaveze misi sikvdilis mizeziT, piris dafarviT an sxva saTanado SemTxvevebiT.

2. TiToeuli monawile saxelmwifo samrTlebrivi urTierTdaxmarebis gawevis mizniT im Txovnis safuZvelze, romelic igzavneba am konvenciis 55-e muxlis me-2 punktis Tanaxmad, Tavisi Sida kanonmdeblobis Sesabamisad:

- a) atarebs iseT RonisZiebebs, romlebic aucilebelia imisaTvis, rom neba darTos Tavis kompetentur organoebis gayinon an yadaRa daadon qonebas, gayinvisa da yadaRis dadebis Sesaxeb dadgenilebis Tanaxamd, romelic gamoitana moTxovnis mimRebi monawile saxelmwifos sasamarTlom an kompetenturma organom da romlis Tanaxmad, moTxovnis warmdgen monawile saxelmwifos SeuZlia ivaraudos, rom arsebobs sakmarisi motivebi iseTi RonisZiebebis gasatareblad, romlebic aseTi qonebis mimarT sabolood gamotanili iqneba dadgenileba konfiskaciis Sesaxeb am muxlis pirveli muxlis `a~ qvepunktis Tanaxmad;
- b) atarebs iseT RonisZiebebs, romlebic saWiroa imisaTvis, rom neba darTos Tavis kompetentur organoebis gayinon an yadaRa daadon qonebas Txovnis Tanaxmad, romelic moiTxovnis warmdgen monawile saxelmwifos aZlevs safuZvels ivaraudos, rom arsebobs sakmarisi motivebi aseTi RonisZiebebis gasatareblad da aseTi qonebis mimarT sabolood gamotanili iqneba dadgenileba konfiskaciis Sesaxeb am muxlis pirveli punktis «a» qvepunktis Tanaxmad;
- g) ganxilavs sakiTxs damatebiTi RonisZiebebis gatarebis Sesaxeb imisaTvis rom neba darTos Tavis kompetentur organoebis Seinaxon qoneba konfiskaciis mizniT, magaliTad, ucxo qveyinis dadgenilebis safuZvelze aseTi qonebis SeZenisaTvis daptimrebisa da sisxlis samarTlis braldebis wardgenasTan dakavSirebiT.



konvenciis 54-e muxlis mier SemoTavazebuli debulebebi avaldebulebs wevr saxelmwifoebis, ganaxorcielon iseTi RonisZiebebi, romlebic SesaZleblobas miscems kompetentur organoebis, sisruleSi moiyyanon sxva saxelmwifos sasamarTloTa mier gamotanili konfiskaciis Sesaxeb dadgenilebebi, aseve neba darTon Tavis kompetentur organoebis maTi iurisdicciis farglebSi gamoitanon dadgenilebebi konfiskaciis Sesaxeb fuladi saxsrebiS `gaTeTrebiS~ danaSaulebTan dakavSirebiT, rasTan dakavSirebiTac unda aRiniSnos, rom bolo periodSi saqarTvelos sisxlis samarTlis kodeqsis saqarTvelos parlamentma ganaxorciela cvlileba, romlis mizani iyo strasburgis konvenciis debulebebTan SesabamisobaSi moeyvana normebi, romlebic aregulireben qonebis CamorTmevis meqanizmebs. qonebis CamorTmevis definicia da misi Sefardebis sakiTxi dawvrilebiT aris gadmocemuli sisxlis samarTlis kodeqsis 52-e muxlis axal redaqtiaSi³⁹. es muxli iTvaliswinebs

³⁹ **muxli 52. qonebis CamorTmeva** (28.12.2005 N 2619)

1. qonebis CamorTmeva niSnavs danaSaulis sagnis an/da iaraRis, danaSaulis Casadenad gamiznuli nivTis an/da danaSaulebrivi gziT mopovebuli qonebis saxelmwifos sasargeblod usasyidlod CamorTmevas.

2. danaSaulis sagnis an/da iaraRis an danaSaulis Casadenad gamiznuli nivTis CamorTmeva niSnavs eWvmitanilisTvis, braldebulisTvis, msjavrdebulisTvis mis sakuTrebaSi an kanonier mflobelobaSi arsebuli, ganzraxi danaSaulis Casadenad gamoyenebuli an

mxolod danaSaulis sagnisa da saSualebis, danaSaulis Casadenad gamiznuli nivTisa da aseve danaSaulebrivi gziT mopovebuli qonebis an misi eqivalenturi Rirebulebis qonebis CamorTmevas.

cvlileba ganicada aseve ukanono Semosavlis legalizaciis cnebam (ssk-is 194-e muxli). kerZod, am terminis ganmarteba SesabamisobaSi iqna moyvanili `fulis gaTeTrebis, danaSaulebrivi saqmianobis Sedegad mopovebuli Semosavlebis moZiebis, amoRebisa da konfiskaciis Sesaxeb` strasburgis konvenciis pirvel da meeqvse muxlebTan⁴⁰. imavdroulad, am muxlSi cvlilebis Setana aucilebeli gaxda 52-e muxlis axali redaqqiit daregulirebuli qonebis CamorTmevis meqanizmebis efeqturobis uzrunvelsayofad.

cvlilebebi ganxorcielda aseve sisxlis samarTlis saprocso kodeqsSi, risi mizanic iyo qonebis dayadaRebis SesaZlebloba misi Semdgomi CamorTmevis uzrunvelsayofad⁴¹. rac Seexeba konvenciis 54-e muxlis pirveli nawilis `a~ qvepunqtiT gaTvaliswinebul debulebebs, aRniSnuli Cveni kanonmdelobiT gaTvaliswinebuli ar aris.

konvenciis 54-e muxlis pirveli nawilis `g~ qvepunqti iTvaliswinebs ganaCenis gamotanis gareSe qonebis konfiskaciis SesaZleblobas iseT saqmeebze, romlebic ar SeiZleba ganxorcieldes damnaSaveze misi sikvdilis mizeziT, piri dafarviT an sxva saTanado SemTxvevebSi. aRniSnuli moTxovna nawilobriv asaxulia saqarTvelos sisxlis samarTlis da administraciuli samarTlis saprocso kodeqsebSi, sadac gaTvaliswinebulia dausabuTebeli qonebis nawilSi administraciuli devnis ganxorcielebis SesaZlebloba Tanamdebobis pirTa mimarT im SemTxvevaSi, rodesac isini emalebian gamoZiebas. am mciredi gamonaklisis garda saqarTvelos sisxlis samarTlis kanonmdeloba ar Seicavs normebs, romlebiTac SesaZlebeli iqneba, rom Seiqmnas pirobebi ganaCenis gamotanis gareSe qonebis konfiskaciisaTvis, sisxlis samarTlis warmoebis farglebSi iseT saqmeebze, romlebic ar SeiZleba ganxorcieldes damnaSaveze misi sikvdilis mizeziT, piri dafarviT an sxva saTanado SemTxvevebSi.

saqarTvelos samoqalaqo saprocso kodeqsi aseve iTvaliswinebs reketuli da qurduli samyaros wevris qonebis CamorTmevasTan dakavSirebul regulaciebsac. Tavad am qonebis cneba gansazRvulia saqarTvelos kanonSi `organizebuli danaSaulisa da reketis Sesaxeb~, romelic 2005 wlis 20 dekembers iqna miRebuli⁴².

rac Seexeba qonebis dayadaRebis SesaZleblobas, sisxlis samarTlis saprocso kodeqsSi arsebobda `saprocso konfiskaciisa~ da `danaSaulebrivi gziT mopovebuli qonebis CamorTmevis~ cnebebi, magram evropis sabWos mier araerTxel dafiqsirebula, rom mocemuli cnebebi bundovania da vrceldeba mxolod Tanamdebobis pirezbe, amasTan es normebi yadaRis dadebisa da danaSaulebrivi gziT mopovebuli qonebis CamorTmevis Sesaxeb ar Seesabameboda `fulis gaTeTrebis, danaSaulebrivi saqmianobis Sedegad mopovebuli Semosavlebis moZiebis, amoRebisa da konfiskaciis Sesaxeb~ 1990 wlis 8 noembris konvenciis moTxovnebs, Sesabamisad, sssk-Si ganxorcielda cvlilebebi da sssk-is 44-e muxlis 48-e da 49-e nawilebi axleburad Camoyalibda⁴³.

amisaTvis raime saxiT gamiznuli qonebis saxelmwifos sasargeblod usasyidlod CamorTmevas. danaSaulis sagnis an/da iaraRis an danaSaulis Casadenad gamiznuli nivTis CamorTmeva xdeba sasamarTlos mier, am kodeqsiT gaTvaliswinebuli yvela ganzraxi danaSaulisaTvis, im SemTxvevaSi, rodesac saxezea danaSaulis sagan an/da iaraRi an danaSaulis Casadenad gamiznuli nivTi da maTi CamorTmeva saWiroa saxelmwifo da sazogadoebrivi aucileblobidan an calkeul pirTa uflebebis da Tavisuflebebis dacvis interesebidan gamomdinare anda axali danaSaulis Tavidan asacileblad.

3. danaSaulebrivi gziT mopovebuli qonebis CamorTmeva niSnavs msjavrdebulisTvis danaSaulebrivi gziT miRebuli qonebis (yvela nivTi da aramaterialuri qonebrivi sikeTe, aseve iuridiuli dokumentebi, romlebic iZleva uflebas qonebaze), agreTve am qonebidan miRebuli nebismeri formis Semosavlebis an maTi Rirebulebis ekvivalenturi qonebis saxelmwifos sasargeblod usasyidlod CamorTmevas. danaSaulebrivi gziT mopovebuli qonebis CamorTmeva sasamarTlos mier iniSneba am kodeqsiT gaTvaliswinebuli yvela ganzraxi danaSaulisaTvis, im SemTxvevaSi, Tu damtkicdeba, rom es qoneba danaSaulebrivi gziTaa mopovebuli.

⁴⁰ dawvrilebiT ix. konvenciis 23-e muxlis analizi.

⁴¹ dawvrilebiT ix. konvenciis 31-e muxlis analizi.

⁴² **muxli 5. reketuli qoneba, qurduli samyaros wevris qoneba**

1. reketuli qoneba aris reketidan miRebuli qoneba, am qonebidan miRebuli Semosavali, reketidan miRebuli SemosavliT SeZenili qoneba, agreTve reketuli dajufebis, reketiris, reketiris ojaxis wevris, axlo naTesavis an dakavSirebuli piri Semosavali, qoneba an qonebidan miRebuli Semosavali, romlis marTlomieri saSualebebiT miRebis damadasturebeli sabuTi an sxva mtkicebuleba ar arsebob.

2. qurduli samyaros wevris qoneba – qurduli samyaros wevris, misi ojaxis wevris, axlo naTesavis an dakavSirebuli piri Semosavali, qoneba an qonebidan miRebuli Semosavali, romlis marTlomieri saSualebebiT miRebis damadasturebeli sabuTi an sxva mtkicebuleba ar arsebob.

3. reketuli da qurduli samyaros wevris qoneba eqvemdebareba CamorTmevas da mesame piri kanonieri interesebis dakmayofilebis Semdeg gadaecema mis kanonier mesakuTres, xolo kanonieri mesakuTris dadgenis SeuZleblobis SemTxvevaSi – saxelmwifos.

4. reketuli da qurduli samyaros wevris qonebis CamorTmevis da saxelmwifosaTvis gadacemis wesi ganisazRvreb saqarTvelos samoqalaqo saprocso kodeqsiT.

⁴³ **muxli 190. qonebaze yadaRis dadebis mizani da safuZveli**

1. sarCelis, sisxlissamarTlebrivi iZulebiTi RonisZiebis, qonebis SesaZlo CamorTmevis uzrunvelsayofad sasamarTlos SeuZlia yadaRa daados eWvmitanilis, braldebulis an gansasjelis, misi moqmedebisaTvis materialurad pasuxismgebeli piri anda dakavSirebuli piri qonebas, maT Soris, sabanko angariSebs, Tu aris monacemebi, rom qonebas gadamalaven an daxarjaven, anda rom qoneba danaSaulebrivi gziT aris mopovebuli. am nawilSi miTiTebuli pirobebis arsebobisas, Tu eWvmitanili, braldebuli an gansasjeli Tanamdebobis piri, prokurori valdebulia sasamarTlos winaSe aRZras Suamdgomloba Tanamdebobis piri qonebis, maT Soris, sabanko angariSebis, dayadaRebis, agreTve Tanamdebobis piri mier saxelmwifos saxeliT dadebuli xelSkrulebebiT nakisri valdebulebebis Sesrulebis SeCerebis an sarCelis uzrunvelyofis sxva RonisZiebebis ganxorcielebis Taobaze. (28.12.2005 N 2620)

rac Seexeba sakiTxs, rom monawile saxelmwifoebma neba darTon Tavis kompetentur organoebis gayinon an yadaRa daadon qonebas sxva monawile saxelmwifos Txovnis safuZvelze, aRniSnulis ganxorcieleba amJamad moqmedi kanonmdeblobiT xdeba saqarTvelos saerTaSoriso xelSekrulebaTa da SeTanxmebaTa Sesabamisad.

sixlis samarTlis saproceso kodeqsis 32-e Tavi gansazRvrvavs sasamarTlos, prokuroris, gamomZieblis urTierTqmedebas sazRvargareTis saxelmwifoTa Sesabamis organoebis da Tanamdebobis pirebTan samarTlebrivi daxmarebis gawevis wesiT. 247-e muxlis Tanaxmad, sixlis samarTlis saproceso kodeqsiT dadgenili wesebi gamoiyeneba im SemTxvevaSi, Tu ucxo saxelmwifosTan ar aris dadebuli xelSekruleba samarTlebrivi daxmarebis Sesaxeb. kerZod, aseTi daxmarebis gawevis sakiTxi SeiZleba gadawydes iusticiis ministris an saqarTvelos generalur prokurorsa da aRniSnuli saxelmwifos Sesabamis Tanamdebobis pirebs Soris specialurad am SemTxvevisaTvis dadebuli SeTanxmebiT da xorcieldeba 248-260-e muxlebiT dadgenili wesebis dacviT.

SeniSvnebi da rekomendaciebi

- saqarTvelos sixlis samarTlis kanonmdebloba ar Seicavs normebs, romlebiTac SesaZlebeli iqneba, rom Seiqmnas pirobebi ganaCenis gamotanis gareSe qonebis konfiskaciisaTvis, sixlis samarTlis warmoebis farglebSi iseT saqmeebze, romlebic ar SeiZleba ganxorcieldes damnaSaveze misi sikvdilis mizeziT, piris dafarviT an sxva saTanado SemTxvevebSi.
- saqarTvelos sixlis samarTlis saproceso kanonmdebloba ar Seicavs normebs, ris Tanaxmadac SesaZlebeli iqneba ucxo (momTxovni) qveynis mier gamocemuli sakonfiskacio orderis aRsruleba.
- rac Seexeba konvenciis 54-e muxlis me-2 nawilis `b~ da `g~ qvepunqtebis debulebas, rom monawile saxelmwifoebma neba darTon Tavis kompetentur organoebis gayinon an yadaRa daadon qonebas sxva monawile saxelmwifos Txovnis safuZvelze, aRniSnulis ganxorcieleba amJamad moqmedi kanonmdeblobiT xdeba saqarTvelos saerTaSoriso xelSekrulebaTa da SeTanxmebaTa Sesabamisad.
- konvenciis 54-e muxlis meore nawilis `g~ qvepunqtiT SemoTavazebuli debulebis asaxva saqarTvelos sixlis samarTlis kanonmdeblobaSi mizanSeuwonlad migvaCnia.

muxli 55. saerTaSoriso TanamSromloba konfiskaciis mizniT

1. monawile saxelmwifom, romelmac miiRo sxva monawile saxelmwifosagan, romlis iurisdicciis qveSac moeqca raime danaSauli, romelic aseTad cnobilia am konvenciis Sesabamisad, Txovna konfiskaciis Sesaxeb am konvenciis 31-e muxlis pirveli punqtis Sesabamisad, danaSaulebebidan, qonebidan, mowyobilobebidan da danaSaulis Casadeni sxva saSualebebidan miRebul Semosavalze, romelic imyofeba mis teritoriaze, misi SidasamarTlebrivi sistemis farglebSi:

a) ugzavnis am Txovnas Tavis kompetentur organoebis im mizniT, rom miiRon dadgenileba konfiskaciis Sesaxeb da aseTi dadgenilebis gamotanis SemTxvevaSi, moyvnanos igi sistrulebi; an

b) ugzavnis Tavis kompetentur organoebis dadgenilebas konfiskaciis Sesaxeb, romelic gamoitana sasamarTlom moTxovnis warmdgeni monawile saxelmwifos teritoriaze am konvenciis 31-e muxlis pirveli punqtisa da 54-e muxlis pirveli punqtis «a» qvepunqtis Sesabamisad, misi Sesrulebis mizniT TxovnaSi miTiTebuli odenobiT da imdenad, ramdenadac es Seexeba moTxovnis mimRebi monawile saxelmwifos teritoriaze arsebul Semosavals, romelic aRniSnulia am konvenciis 31-e muxlis pirvel punqtSi, danaSaulebebidan, qonebidan, mowyobilobebidan da danaSaulis Cadenis sxva saSualebebidan.

2. Txovnis miRebisas, romelic gaagzavna sxva monawile saxelmwifom, romlis iurisdicciis qveS moeqca raime danaSauli, romelic aseTad cnobilia am konvenciis Sesabamisad, moTxovnis warmdgeni monawile saxelmwifo atarebs RonisZiebebs am konvenciis 31-e muxlis pirvel punqtSi aRniSnuli danaSaulebidan, qonebidan, mowyobilobebidan an danaSaulis Cadenis sxva saSualebebidan miRebuli Semosavlebis gamovlenis, Tval-yuris devnis, gayinvis an yadaRis dadebis mizniT maTi SemdgomSi konfiskaciisaTvis. Dadgenileba konfiskaciis Sesaxeb gamoaqvs moTxovnis warmdgeni monawile saxelmwifos an am muxlis pirveli punqtis Sesabamisad, Txovnis safuZvelze, moTxovnis mimReb monawile saxelmwifos.

3. am muxlis mimarT am konvenciis 46-e muxlis debulebebi gamoiyeneba mutatis mutandis. 46-e muxlis pirvel punqtSi aRniSnul informaciasTan erTad, damatebiT, am muxlis Sesabamisad gagzavnili Txovnebi Seicavs:

a) am muxlis pirveli punqtis `a~ qvepunqtSi aRniSnuli Txovnis mimarT _ qonebis aRweras, romelic eqvemdebareba konfiskacias, maT Soris, ramdenadac es SesaZlebeli, misi adgilmdebareobis Sesaxeb cnobebis miTiTeba, qonebis SefasebiT Rirebulebas, Tu es SesaZlebeli, da gancxadebas im faqtis aRweriT, romlebsac imowmebs moTxovnis warmdgeni monawile saxelmwifo da romlebic sakmarisia imisaTvis, rom moTxovnis

2. am kodeqsiT gaTvaliswinebuli qonebaze yadaRis dadebis RonisZieba aseve gamoiyeneba teroristuli aqtisa da sxva gansakuTrebiT mZime danaSaulTa momzadebisas, agreTve maTi aRkveTis uzrunvelsayofad, Tu aris sakmarisi monacemebi, rom es qoneba gamoyenebuli iqneba danaSaulis Casadenad. (28.12.2002 N1910).

mimRebma monawile saxelmwifom gaataros Sesabamisi RonisZiebebi Tavis Sida kanonmdeblobis Sesabamisad dadgenilebis gamosatanad;

b) am muxlis pirveli punktis `b~ qvepunktSi aRniSnuli Txovnis mimarT _ konfiskaciis Sesaxeb dadgenilebis iuridiulad dasaSveb asls gacemuls moTxovnis warmdgeni monawile saxelmwifos mier, romelzedac dafuZnebulia Txovna, gancxadebas faqtebis aRweriT da informacias moTxovnili dadgenilebis Sesrulebis moculobis Sesaxeb, gancxadebas, romelSic aRniSnuli iqneba is RonisZiebebi, romlebic gaataro moTxovnis wamngenma monawile saxelmwifom keTilsindisieri mesame mxarisaTvis saTanado Setyobinebebis gagzavisTvis da Sesabamisi samarTlebrivi procedurebis dacvis uzrunvelsayofad da gancxadebas imis Sesaxeb, rom konfiskaciis Sesaxeb dadgenileba sabolooa;

g) am muxlis me-2 punktSi aRniSnuli Txovnis mimarT _ gancxadebas faqtebis miTiTebiT, romelbsac imowmebs moTxovnis warmdgeni monawile saxelmwifo da moTxovnili RonisZiebebis aRwera, agreTve dadgenilebis iuridiulad dasaSvebi asli, Tu igi arsebobs, romelSic efuZneba Txovna.

4. am muxlis pirveli da me-2 punktetiT gaTvaliswinebul gadawyvetilebebs da RonisZiebebs moTxovnis mimRebi monawile saxelmwifo atarebs Tavis Sida kanonmdeblobis debulebebis da procesualuri normebs, nebismieri ormxrivi da mravalmxrivi SeTanxmebebis da xelSekrulebebis Sesabamisad, romlebiTac igi SeiZleba dakavSirebuli iyos moTxovnis warmdgen monawile saxelmwifosTan da maTi dacvis pirobiT.

5. TiToeuli monawile saxelmwifo warudgens gaeros generalur mdivans Tavis kanonebisa da wesebis teqstebs, romlebiTac uzrunvelyofilia am muxlis debulebaTaA Sesruleba, agreTve nebismieri Semdgomi cvlilebebis teqstebs an maT aRweras

6. Tu monawile saxelmwifo moindomebs am muxlis pirveli da me-2 punktetiT gaTvaliswinebuli RonisZiebebis gaterebas Sesabamisi xelSekrulebis arsebobiT, maSin es monawile saxelmwifo ganixilavs am konvencias, rogor aucilebel da sakmaris saxelSekrulebo-samarTlebriv safuZvels.

7. am muxlis Tanaxmad, TanamSromlobaze SeiZleba agreTve eTqvas uari an gauqmdes uzrunvelmyofi RonisZiebebi, Tu moTxovnis mimRebi monawile saxelmwifo Tavis droze ar miiRebs sakmaris mtkicebulebebs an Tu qonebas aqvs minimaluri Rirebuleba.

8. nebismieri uzrunvelmyofi RonisZiebebis gauqmebamde, romelic miRebulia am muxlis Sesabamisad, moTxovnis mimRebi monawile saxelmwifo, rodesac es SesaZlebelia, saSualebas aZlevs moTxovnis warmdgen monawile saxelmwifos, raTa Camoqyalibos yvela motivi aseTi RonisZiebebis gaterebis sasargeblod.

9. am muxlis debulebebi ar unda ganimartos ise, rom ziani miadges keTilsindisieri mesame mxaris uflebebs.



konvencii 55-e muxliT SemoTavazebul debulebebis analogiur normebs Seicaven amave konvencii 53-e da 54-e muxlebi, razec saubari gvqonda zemoaRniSnuli muxlebis analizisas. kidev erTxel unda aRiniSnos, rom saqarTvelos kanonmdebloba sxva saxelmwifos sasamarTlos mier gamotanili dadgenilebis aRsrulebas qonebis konfiskaciis Sesaxeb ar icnobs. saqarTvelos kanonmdeblobaSi sixxlissamarTlebriv saqmeebze saerTaSoriso TanamSromlobis maregulirebeli meqanizmebi ganxilulia zemoT, konvencii IV Tavis analizisas.

SeniSvnebi da rekomendaciebi

- konvencii 55-e muxli miznad isaxavs gaarRmavos urTierToba konvencii monawile wevr saxelmwifoTa Soris, rodesac saqme exeba konfiskaciis Sedegad miRebuli qonebis beds. saqarTveloSi dRes moqmedi sixxlis samarTlis kanonmdebloba ar Seicavs raime normas aRniSnul sakiTxze. amitom sakiTxis dasmis wesiT marTebulad migvaCnia, rom qonebis gadacemis sakiTxi saxelmwifoTa Soris mowesrigdes saxelmwifoTa Soris SeTanxmebebiT, xolo sakanonmdeblo aqtebSi Caiweros imperatiuli norma imis Sesaxeb, rom konfiskirebuli qoneba aRniSnuli SeTanxmebebis safuZvelze daubrundebs Sesabamis saxelmwifos.
- ufro konkretulad, normebi am qonebis gadacemis Sesaxeb gaTvaliswinebul unda iqnes saxelmwifoTa urTierTSeTanxmebis safuZvelze, rac aisaxeba amisaTvis gaTvaliswinebul saxelmwifoTaSor is aqtebSi, magaliTad, samTavrobo xelSekrulebebiSi. vfigrobt, aRdgenil unda iyos 2003 wlamde moqmedi sixxlis samarTlis saproceso kodeqsis 259-e muxlis redaacia⁴⁴, sadac dafiqsirebuli iyo, rom eqstradicias

⁴⁴ gTavazobT amonaris adre moqmedi sixxlis samarTlis saproceso kodeqsidan:

muxli 259. gadasacemi pirs mimarT sixxlis samarTlis saproceso iZulebiTi RonisZiebis gamoyeneba

1. gadasacemi pirs dakaveba, dapatimreba, samedicino dawesebulebaSi eqspertizisaTvis moTavseba, mis mimarT Cxrekis, amoRebis, sixxlis samarTlis saproceso iZulebis sxva RonisZiebis gamoyeneba, mis qonebaze yadaRis dadeba SeiZleba im SemTxvevaSi, roca gadacemis moTxovnas Tan erTvis saTanadod damowmebuli sasamarTlo orderi (brZaneba) iseTi saproceso moqmedebis Catarebis Sesaxeb, romelic zRudavs moqalaqeTa konstituciur uflebebs da Tavisuflebebs.

2. am muxlis pirvel nawilSi aRniSnul RonisZiebaTa gamoyenebis Sesaxeb dauyovneblil unda ecnobos gadacemis momTxovn organos.

3. gadacemis moTxovnis safuZvelze dapatimrebuli ucxo saxelmwifos moqalaqe SeiZleba patimrobaSi iyos ara umetes erTi Tvisa, Tu ar iqna Semosuli sasamarTlo orderi (brZaneba) am vadis gagrZebebis Taobaze.

4. gadasacem pirs ufleba aqvs dacvis mizniT mimarTos sasamarTlos.

daqvemdebarebuli piris dakaveba, mis mimarT Cxreka, amoReba, mis gonebaze vadaRis dadeba SeiZleboda im SemTxvevaSi, roca eqstradiiSi moTxovnas Tan erTvoda saTanadod damowmebuli Sesabamisi uflebamosili saxelmwifo organos mier gacemuli orderi (brZaneba, dadgenileba) iseTi saproceso moqmedebis Catarebis Sesaxeb, romelic zRudavs piris konstituciur uflebebsa da Tavisuflebebs.

muxli 56. specialuri TanaSromloba

Tavisi Sida kanonmdeblobisaTvis zianis miuyeneblad TiToeuli monawile saxelmwifo iswrafvis ganaxorcielos iseTi RonisZiebebi, romlebic saSualebas miscems ise, rom ziani ar miayenos sakuTar gamoZiebas, sisxlissamarTlebriv devnas an sasamarTlo garCevas danaSaulebebidan, romlebic aseTad cnobilia am konvenciis Sesabamisad, miRebuli Semosavlis Sesaxeb informacia gaugzavnos sxva monawile saxelmwifos winaswari Txovnis gareSe, rodesac igi CaTvliS, rom aseTi informaciis miwodebam SeiZleba mis mimReb monawile saxelmwifos xeli Seuwyos gamoZiebis aRZvrasa da CatarebaSi, sisxlissamarTlebriv devnasa da sasamarTlo ganxilvaSi da gamoiwvios monawile saxelmwifos mier aseTi Txovnis gagzavna am konvenciis Sesabamisad.



konvenciis 56-e muxliT rekomendirebulia monawile saxelmwifoebma ganaxorcielon iseTi RonisZiebebi, rom iseT danaSaulebebidan miRebul Semosavlebeze, romlebic cnobilia am konveciiT, informacia gaugzavnon sxva monawile saxelmwifoebis ise, rom ziani ar miayenos sakuTar gamoZiebas, sisxlissamarTlebriv devnas an sasamarTlo ganxilvas. `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos kanoni aregulirebs saqarTveloSi ukanono Semosavlis legalizaciis gamovlenasa da aRkveTasTan dakavSirebul urTierTobas uflebamosil organoebis da am kanoniT gaTvaliswinebul pirebs Soris, agreTve urTierTobas saqarTvelosa da ucxoeTis uflebamosil organoebis Soris. kanonis me-13 muxlis mixedviT gansazRvrulia ukanono Semosavlebis legalizaciis sakiTxSi Sesabamisi organoebis saerTaSoriso TanamSromlobis sakiTxebi.

konveciiT gansazRvruli sxva danaSaulebis winaaRmdeg specialuri TanamSromlobis regulaciebs saqarTvelos sisxlis samarTlis saproceso kanonmdebloba ar icnobs. saqarTvelos kanonmdeblobaSi sisxlis samarTlis saqmeebze saerTaSoriso TanamSromlobis maregulirebeli meqanizmebi ganxilulia zemoT, konvenciis IV Tavis analizisas.

SeniSvnebi da rekomendaciebi

- konvenciis 56-e muxliT SemoTavazebuli debulebebi nawilobriv asaxulia `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos kanonSi saqarTvelosa da ucxoeTis uflebamosil organoebis Soris ukanono Semosavlis legalizaciis gamovlenasa da aRkveTasTan dakavSirebul urTierTobebis kuTxiT.
- konveciiT gansazRvruli sxva danaSaulebis winaaRmdeg specialuri TanamSromlobis regulaciebs saqarTvelos sisxlis samarTlis saproceso kanonmdebloba ar icnobs.

muxli 57. aqtivebis dabruneba da maTi gankargva

1. qonebas, romelic TiToeul monawile saxelmwifoSi daeqvemdebara konfiskacias, am konvenciis 31-e da 55-e muxlebis safuZvelze, gankargavs am konvenciis debulebaTa da Tavisi Sida kanonmdeblobis Sesabamisad TviT monawile saxelmwifo, am muxlis me-3 punqtis safuZvelze aseTi qonebis yofil kanonier mesakuTresTan dabrunebis CaTvliT.

2. TiToeuli monawile saxelmwifo Tavisi Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad atarebs, keTilsindisieri mesame mxaris uflebebis gaTvaliswinebiT, iseT sakanonmdeblo da sxva RonisZiebebs, romlebic aucilebelia imisaTvis, rom neba darTos Tavis kompetentur organoebis, roca isini moqmedeben am konvenciis Sesabamisad sxva monawile saxelmwifos mier gagzavnili Txovnis safuZvelze, daabrunon qoneba, romelic daeqvemdebara konfiskacias.

3. am konvenciis 46-e da 55-e muxlebisa da am muxlis me-2 punqtis Sesabamisad moTxovnis mimRebi monawile saxelmwifo:

- a) am konvenciis me-17 da 23-e muxlebiSi aRniSnuli sajaro saSualebebis datacebis an datacebuli sajaro saSualebebis `gaTeTrebi~ SemTxvevaSi, TuU konfiskacia ganaxorcielda am kovenciis 55-e muxlis

Sesabamisad da saboloo sasamarTlo gadawyvetilebis safuZvelze, romelic gamoitana moTxovnis warmdgenma monawile saxelmwifom (amasTan, es moTxovna SeiZleba moixsnas moTxovnis warmdgeni monawile saxelmwifos mier) – ubrunebis konfiskaciis Sedegad CamorTmeul qonebas moTxovnis warmdgen monawile saxelmwifos;

b) am konvenciiT aseTad cnobili nebismieri sxva danaSaulebebidan miRebuli Semosavlis SemTxvevaSi, Tu konfiskacia ganxorcielda am konvencii 55-e muxlis Sesabamisad, da saboloo sasamarTlo gadawyvetilebis safuZvelze, romelic gamotanil iqna moTxovnis warmdgen monawile saxelmwifoSi (amasTan, es moTxovna SeiZleba moixsnas SesakiTxi monawile saxelmwifos mier) – ubrunebis moTxovnis warmdgen monawile saxelmwifos konfiskaciis safuZvelze CamorTmeul qonebas, Tu moTxovnis warmdgeni monawile saxelmwifo gonivrulad daumtkicebs moTxovnis mimReb monawile saxelmwifos konfiskaciis safuZvelze CamorTmeul qonebaze adre arsebuli sakuTrebis uflebas an Tu moTxovnis mimRebi monawile saxelmwifo aRiarebs zians, romelic miadga moTxovnis warmdgen monawile saxelmwifos sakmaris safuZvlad, konfiskaciis Sedegad CamorTmeuli qonebis dabrunebisaTvis;

g) yvela sxva SemTxvevaSi, pirvel rigSi, ganxilavs sakiTxs konfiskaciis safuZvelze CamorTmeuli qonebis dabrunebis Sesaxeb moTxovnis warmdgeni monawile saxelmwifos an aseTi qonebis dabrunebis Sesaxeb misi winandeli kanonieri mflobelisaTvis an danaSaulebebis gamo dazaralebulTa sasargeblod kompensaciis gacemis Sesaxeb.

4. saTanado SemTxvevebSi, Tu monawile saxelmwifoebma sxva gadawyvetileba ar miiRes, moTxovnis mimReb monawile saxelmwifos SeuZlia gamoqviTos im gamoZiebasTan, sixlissamarTlebriv devnasTan an sasamarTlo ganxilvasTan dakavSirebuli gonivruli xarjebi, romlis Sesabamisadac moxda CamorTmeuli qonebis dabruneba da misi gankargva am muxlis Tanaxmad.

5. saTanado SemTxvevebSi, monawile saxelmwifoebis SeuZliaT agreTve TiToeul konkretul SemTxvevaSi ganxilon urTierTmisaRebi SeTanxmebis dadebis Sesazlebloba konfiskaciis safuZvelze CamorTmeuli qonebis saboloo gankargvasTan dakavSirebiT.



konvencii 57-e muxli miznad isaxavs, gaaRrmavos urTierToba konvencii monawile wevr saxelmwifoTa Soris, rodesac saqme exeba konfiskaciis Sedegad dabrunebuli qonebis marTvas. dedaazri am debulebisa is aris, rom ufro dakonkretdes im subieqtTa wre, romlebic SeiZleba gaxdnen CamorTmeuli qonebis mesakuTreni. jer kidev konvencii 31-e muxlis me-3 nawilis analizisas aRiniSna, rom saqarTvelos kanonmdblobaSi asaxuli ar aris Tavad Sidasaxelmwifoebrivi konfiskaciis Sedegad CamorTmeuli qonebis marTvis regulirebis sakiTxi, sruliad gaurkvevelia, ra samarTlebrivi aqtis safuZvelze da rogor xdeba konfiskaciis gziT CamorTmeuli qonebis Semdgomi marTva da gamoyeneba. miTumetes gasakviri ar aris, rom saqarTvelos kanonmdblobiT saerTod ar regulirdeba transnacionaluri aqtivebis dabrunebis Sedegad maTi Semdgomi gankargvisa da mesakuTreTa identificirebis sakiTxic.

da bolos, unda aRiniSnos, rom konvencii 57-e muxli sakmaod mgrZnobiare debulebebs Seicavs da kanonmdblebisTvis damatebiT ganmartebes saWiroebis.

zogadad konfiskaciis sistemis damkvidreba uSualod ukavSirdeba fulis gaTeTrebis kriminalizacias, rac Tavis mxriv, narkotikebiT vaWrobasa organizebul danaSaulTan brZolis gZad moiazreboda. amgvar konteqstSi konfiskirebuli Semosavlebi, rogorc wesi, momdinareobs umsxverplo danaSaulTa Cadenis Sedegad da amdenad maTi meSveobiT gamiznulia im samarTaldamcav uwyebaTa biujetis Sevseba, romlebic uSualod monawileobdnen konkretuli saqmis gaxsnaSi. aqtivebis gadanawilebis sakiTxis regulireba Tavdapirvelad aSS-Si moxda, rasac mohyva misTvis saerTaSoriso masStabebis micema jer FATF-is 38-e da 39-e rekomendaciebis Tanaxmad, da SemdgomSi OECD-is wevri qveynebis mier, romelTac aRniSnuli karg finansur stimulat miiCnies saerTaSoriso TanamSromlobis gaZlierebisaTvis. transnacionaluri saqmeebis SemTxvevaSi konfiskirebuli aqtivebis gankargvis regulaciisas fulis gaTeTrebis winaaRmddeg mimarTul saerTaSoriso standartebsi Tavidan iqna acilebuli kanonmdblobaTa Soris konfliqti, ramdenadac prioriteti mieniWa im saxelmwifos Sida kanonmdblobas, sadac moxda sakonfiskacio orderis aRsruleba (*locus regit actum*-is doqtrina). OECD-is qveynebis umravlesoba uSvebs saerTaSoriso aqtivebis gadanawilebis procedurebs, rac Cveulebriv eqvemdebareba ormxrivi samarTlebrivi daxmarebis Sesaxeb xelSekrulebebSi dawesebul pirobebs. zogierTi iurisdicia zRudavs aqtivebis gadanawilebasa da miRebas im SemTxvevebSi, rodesac daxmareba xdeba aqtivebis gayinva/dayadaRebis an konfiskaciis Taobaze moTxovnis Sesabamisad da igi ar vrceldeba im SemTxvevebze, sadac gaweuli daxmareba mxolod sagramoZiebo xasiaTs atarebda.

miuxedavad imisa, rom TiTqmis yvela iurisdicia aRiarebs mesame mxareTa erTgvar uflebebs konfiskirebul aqtivebze, mainc gansxvavdeba Tu romel sistemaSi ras eniWeba upiratesoba: mesame mxareTa uflebebs aqtivebis gankargvaze Tu aqtivebis gadanawilebas. Sedegad danaSaulis msxverplni Semagebebeli sarCelebiT eZieben kompensacias, axali mTavrobebi cdiloben saxelmwifo fondebis dabrunebas da sxva saxelmwifoebi eswrafvian im aqtivTa gadanawilebas, romelTa konfiskaciis moxda maTi samarTaldamcavi uwyebebis mier gaweuli daxmarebis Sedegad.

miuxedavad imisa, rom sistema daeqvemdebareba xelSemkvrel saxelmwifoTa Sida kanonmdeblobas, gaeros konvencia miznad isaxavs amgvar situaciaTa gadawyvetas specialuri saxelmZRvanelo principebis dawesebiT konfiskirebuli aqtiwebis gankargvis Sesaxeb. mosazrebebi gansxvavebulia, Tu ras unda mieniWos upiratesoba - aqtiwebis gadanawilebis sistemas, Tu msxverpITa (saxelmwifoTa CaTvliT) kompensacias. nebismier SemTxvevaSi, xelSemkvreli saxelmwifoebi valdebuli iqnebian daareguliron rogorc aqtiwebis gadanawilebis, aseve kompensaciis sistemebic.⁴⁵

SeniSvnebi da rekomendaciebi

- konvenciis 57-e muxliT SemoTavazebul debulebebs saqarTvelos kanonmdebloba saerTod ar icnobs. metic, kanonmdeblobaSi asaxuli ar aris Tavad Sida saxelmwifoebri konfiskaciis Sedegad CamorTmeuli qonebis marTvis regulirebis sakiTxi.
- saqarTvelos sisxlis samarTlis saproceso kodeqsis XXXII TavSi sagangebodaa gaTvaliswinebuli normebi sasamarTlos, prokuroris, gamomZieblis urTierTqmedebis Sesaxeb sazRvargareTis saxelmwifoTa Sesabamis organoebisa da Tanamdebobis pirebTan samarTlebrivi daxmarebis gawevis wesis Sesaxeb. am TavSi CamoTvlilia samarTlebrivi urTierTdaxmarebis saxeebi. am samarTlebrivi saxeebis CamonaTvalSi mizanSewonilad migvaCnia, gaTvaliswinebul iqnes norma konfiskaciaqmili qonebis gankargvis Sesaxeb.
- saqarTvelos sisxlis samarTlis saproceso kodeqsis XXXII TavSi amave mimarTulebiT unda aisaxos konvenciis 57-e muxliT SemoTavazebuli debulebebi, romlebSic aseve daregulirdeba konfiskaciaqmili qonebis ucxo saxelmwifosaTvis gadacemis wesebi.

muxli 58. operatiuli finansuri informaciis Semkrebi qvedanayofebi

monawile saxelmwifoebi TanamSromloben erTmaneTTan danaSaulebebidan, romlebic aseTad cnobilia am konvenciis Sesabamisad, miRebuli Semosavlis gadaricxvis Tavidan acilebisa da masTan brZolis mizniT, agreTve im gzebisa da saSualebebis gamoyenebis xelSewyobisaTvis, romlebic aucilebelia aseTi Semosavlis amosaRebad da ganxilavs sakiTxs operatiuli finansuri informaciis Semkrebi qvedanayofis Seqmnis Sesaxeb, romelic pasuxismgebeli iqneba saeWvo finansuri operaciebis Taobaze mimarTvebis miRebaze, gaanalizebasa da kompetenturi organoebisaTvis am mimarTvebis gazavnaze.



2003 wels miRebuli saqarTvelos kanoniT `ukanono DSemosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ Seiqmna finansuri monitoringis samsaxuri, romelsac kanoniT daekisra ukanono Semosavlis legalizaciasTan dakavSirebuli informaciis miReba, damuSaveba da gadacema samarTaldacvis organoebisaTvis. samsaxuri Camoyalibda saqarTvelos erovnul bankTan, rogorc sajarო samarTlis iuridiuli piri.

kanonSi CamoTvlilia monitoringis ganmaxorcielebeli pirebi, romelTa daxmarebis gareSec praqtikulad SeuZlebelia ukanono Semosavlis legalizacia da romlebsac evalebaT garigebebis monitoringi da informaciis miwodeba Sesabamisi organosadmi. kanoni aseve gansazRvravs im sazedmxedvelo organoebis, romlebsac evalebaT monitoringis ganmaxorcielebeli pirebis mier am kanonis Sesrulebis kontroli. gansazRvrulia xuTi aseTi organo: saqarTvelos erovnuli banki, dazRvevis saxelmwifo zedamxedvelobis samsaxuri, fasiani qaRaldebis erovnuli komisia, saqarTvelos finansTa saministro, saqarTvelos iusticiis saministro. finansuri monitoringis samsaxuri valdebulia, Seqmnas sainformacio qseli, ganaxorcielos miRebuli informaciis sistematizacia da analizi, uzrunvelyos Sesabamis monacemTa bazis Seqmna da funqcionireba, identificirebuli informaciis analizis Sedegad eWvis gaCenis SemTxvevaSi, (rom SesaZlebelia, garigeba dakavSirebuli iyos ukanono Semosavlebis legalizaciasTan) gadaugzavnos Sesabamisi informacia da masalebi samarTaldamcav organoebis, mimarTos sasamarTlos qonebis dayadaRebis mizniT, YTu arsebobs safuZveli, rom piris qoneba aris ukanono Semosavlis legalizaciis Sedegi an saSualeba, anda raRac xerxiT gamoyenebulia ukanono Semosavlis legalizaciis raime instrumentad.

finansuri monitoringis samsaxuris mier samarTaldacvis organosaTvis im informaciis gadacema, romelic Seicavs monacemebs piris sabanko angariSebis, operaciebisa da naSTebis Sesaxeb, xorcieldeba sasamarTlos Sesabamisi gankargulebis wardgenis safuZvelze (ixile konvenciis me-14, 23-e, 52-e da 56-e muxlebis analizi)⁴⁶.

⁴⁵ ix. Prof. dr. Tom Vander Beken. The best place for prosecution of international corruption cases. Avoiding and solving conflicts of jurisdiction. <http://www.ircp.org/uploaded/I-1%20Tom%20Vander%20Beken.pdf>

⁴⁶ damatebiTi informacia finansuri monitoringis samsaxuris Sesaxeb ix. <http://www.fms.gov.ge/fms.php?lang=geo>

SeniSvnebi da rekomendaciebi

- *konvenciis 58-e muxliT gaTvaliswinebuli normebi asaxulia `ukanono Semosavlis legalizaciis aRkveTis xelSewyobis Sesaxeb~ saqarTvelos kanonis Sesabamis muxlebSi.*

muxli 59. ormxrivi da mravalmxrivi SeTanxmebebi

monawile saxelmwifoebi ganxilaven ormxrivi an mravalmxrivi SeTanxmebis dadebis Sesazleblobas am konvenciis mexuTe Tavis Sesabamisad, saerTaSoriso TanamSromlobis efeqtianobis amaRlebis mizniT.

SeniSvnebi da rekomendaciebi

- *am droisaTvis saqarTvelos arc erTi ormxrivi an mravalmxrivi SeTanxmeba ara aqvs dadebuli arcerT saxelmwifosTan, sadac nawilobrivi mainc iqneboda daregulirebuli aqotivebis dabrunebasTan dakavSirebuli sakiTxebi.⁴⁷ aRniSnuli sakiTxis Sida sakanonmdeblo mowesrigebis Semdeg sasurvelia saerTaSoriso TanamSromlobis swored am formatis waxaliseba da gaaqtiureba.*

Tavi VI. teqniki daxmareba da informaciis gacvla

muxli 60. kadrebis momzadeba da teqniki daxmareba

1. TiToeuli monawile saxelmwifo, ramdenadac es aucilebelia, SeimuSavebs, gaatarebs da srulyofs konkretul programebs Tavisi personalis mosamzadeblad, romelic pasuxismgebelia korufciis Tavidan acilebisa da masTan brZolis sferoSi. kadrebis momzadebis es programebi, sxvasTan erTad, iTvaliswinebs:

a) korufciuli qmedebebis Tavidan acilebis, gamovlenisa da gamoZiebis, agreTve am qmedebebisaTvis sasjels da masTan brZolis efeqtian RonisZiebebs, mtkicebulebebis Segrovebisa da gamoZiebis meTodebis gamoyenebis CaTvliT;

b) potencialis Seqmnas korufciis winaaRmdag mimarTuli strategiuli politikis SemuSavebisa da dagegmvis sferoSi;

g) kompetenturi organoebis TanamSromelTa momzadebis samarTlebrivi urTierTdaxmarebis sakiTxebze Txovnis SedgenasTan dakavSirebiT, am konvenciis moTxovnaTa Sesabamisad;

d) dawesebulebebis Sefasebasa da ganmtkicebas, sajaro samsaxuris marTvas, sajaro finansebis marTvas, maT OSoris, sajaro Sesyidvebisa da kerZo seqtorisa;

e) danaSaulebebidan, romlebic aseTad cnobilia am konvenciis Sesabamisad, miRebuli Semosavlis gadaricxvis Tavidan acilebas, agreTve aseTi Semosavlis amoRebas;

v) danaSaulebebidan, romlebic aseTad cnobilia am konvenciis Sesabamisad, miRebuli Semosavlis gadaricxvis operaciebis gamovlenasa da SeCerebas;

z) danaSaulebebidan, romlebic aseTad cnobilia am konvenciis Sesabamisad, miRebuli Semosavlis gadaadgilebaze, agreTve iseT meTodebze, romlebic gamoiyeneba aseTi Semosavlis gadaricxvis, dafarvisa da damalvisaTvis Tval-yuris devnas;

T) saTanado da qmediTi samarTlebrivi da administraciuli meqanizmebisa da meTodebis gamoyenebas, romlebic xels Seuwyobs, danaSaulebebidan, romlebic aseTad cnobilia am konvenciis ASesabamisad, miRebuli Semosavlis amoRebas;

i) meTodebs, romlebic gamoiyeneba im dazaralebulTa da mowmeTa dasacavad romlebic TanamSromloben sasamarTlo organoebTan;

k) TanamSromelTaA momzadebas im sakiTxebTan dakavSirebiT, romlebic Seesabameba erovnul da saerTaSoriso wesebs, ucxo enebis Seswavlas.

2. monawile saxelmwifoebi TavianiT Sesazleblobebis farglebSi ganxilaven erTmaneTisaTvis yovlismomcveli teqniki daxmarebis gawevis sakiTxs, gansakuTrebiT ganviTarebadi qveynebis interesebidan gamomdinare, maTi korufciasTan brZolis Sesabamisi gegmebisa da programebis gansazRvruli, materialuri mxardaWerisa da kadrebis momzadebis CaTvliT im dargebSi, romlebic am muxlis pirveli punqtiTaa gaTvaliswinebuli, agreTve iTvaliswinebs kadrebis momzadebas, daxmarebis gawevas da Sesabamisi gamocdielbisa da specialuri codnis gaziarebas, rac xels Seuwyobs saerTaSoriso TanamSromlobas monawile saxelmwifoTa Soris gadacemisa da samarTlebrivi urTierTdaxmarebis sakiTxebTan dakavSirebiT.

3. monawile saxelmwifoebi yovel Rones ixmaren, ramdenadac es aucilebelia, gaaqtiuron Zalisxmeva, romelic mimarTulia saerTaSoriso da regionalur organizaciebSi da Sesabamisi ormxrivi da mravalmxrivi SeTanxmebebis farglebSi praqtikuli da saswavlo RonisZiebebis efeqtianobis maqsimalurad asamaRleblad.

⁴⁷ sixlils samarTlis saqmeebze samarTlebrivi urTierTdaxmarebis Sesaxeb saqarTvelos mier dadebul ormxriv xelSekrulebebs ix. qvemoT, konvenciis me-60 muxlis analizi.

4. monawile saxelmwifoebi ganxilaven erTmaneTisaTvis daxmarebis gawevis Sesazleblobas, raTa Taviant Sesabamis qveynebi Catardes korufciis saxebis, mizezebis, Sedegebisa da masTan dakavSirebuli danaxarjebis Sefaseba da kvleva, kompetenturi organoebisa da sazogadoebis monawileobiT, korufciasTan brZolis strategiisa da taqtikis SemuSavebis mizniT.

5. danaSaulebebidan, romelebic aseTad cnobilia am konvenciis Sesabamisad, miRebuli Semosavlis amoRebis xelSesawyobad monawile saxelmwifoebis SeuZliaT gacvalon eqspertebTan dakavSirebuli informacia, romelic daexmareba maT dasaxuli miznis miRwevaSi.

6. monawile saxelmwifoebi ganxilaven Sesazleblobas gamoiyendon sub-regionuli, regionuli da saerTaSoriso konferenciebi da seminarebi TanamSromlobisa da teqniki daxmarebis gawevisaTvis, problemaTa ganxilvis stimulirebisaTvis, romelbic maT saerTo interesebSia, maT Soris, gansakuTrebuli problemebTan da moTxovnebTan dakavSirebiT, romlebic Seexeba ganviTarebad qveynebs da gardamavali ekonomikis mqone qveynebs.

7. monawile saxelmwifoebi ganxilaven nebayoflobiTi meqanizmebs Seqmnis Sesazleblobas fianhuri mxardaWris mizniT ganviTarebadi qveynebisa da im gardamavali ekonomikis mqone qveynebis ZalisxmevasTan dakavSirebiT, raTaA maT gamoiyendon es konvencia teqniki daxmarebis dargSi Sesabamisi programebisa da proeqtebis gansaxorcieblad.

8. TiToeuli monawile saxelmwifoebi ganxilavs nebayoflobiTi Senatanebis Setanis Sesazleblobas gaeros narkotikebisa da damnaSaveobis sammarTvelos saWiroebisaTvis, am sammarTvelos saSualebiT am konvenciis Sesasruleblad ganviTarebad qveynebi Sesabamisi programebisa da proeqtebis realizebis mizniT.



muxli ufro zogad xasiaTs atarebs da mouwodebs saxelmwifoebis SeimuSavon da ganaxorcielon programebi, romlebic iTvaliswineben korufciasTan brZolis Tavidan acilebsa da masTan brZolis sferoSi pasuxismgebeli personalis momzadebas. pirvel rigSi am personalSi moiazreba marTimsajulebis organoebi. saqarTvelos erovnuli antikorufciuli strategiit gaTvaliswinebulia mocemuli organoebis reforma. aseve, gaTvaliswinebulia sajaro dawesebulebebis strukturuLi, sakadro da saqmiswarmoebis optimizacia, adamianuri resursebis marTvis sistemis srulyofa. mocemuli naSromis me-11 muxlSi dawvrilebiTaa mocemuli informacia im RonisZiebebis Sesaxeb, romlebic gaTvaliswinebulia sasamarTlo organoebisa da prokuraturis reformirebis mizniT.

konvenciis me-60-e muxlis me-2, me-3, me-4, me-5 da me-6 nawilebi saubarია qveyanaTaSorის da saerTaSoriso urTierTobebze. saqarTvelo aris evropis sabWos korufciasTan brZolis jgufis (GRECO) da ekonomikuri TanamSromlobisa da ganviTarebis organizaciis, gardamavali ekonomikis mqone qveynebis antikorufciuli qselis (OECD-ACN for Transition Economies) wevri qveyana. aRniSnuli organizaciebi wevri saxelmwifoebis mimarT SeimuSaveben rekomendaciebs, romlis Sesrulebac gaaumjobesebs qveyanaSi korufciis winaaRmdeg brZolis meqanizmebs. saqarTvelo GRECO-Si 1999 wels gawevrianda. monitoringis pirveli raundi qveyanaSi 2001 wels ganxorcielda, romlis Sedegadac GRECO-s plenarulma sxdomam SeimuSava 25 rekomendacia. saWiroa daCqardes Sesabamisi reformebis gatareba, raTa droulad iqnes implementirebuli aRniSnuli rekomendaciebi. 1998 wels ekonomikuri TanamSromlobisa da ganviTarebis organizaciasTan erovnuli mTavrobebis, arasamTavrobo organizaciebisa da saerTaSoriso donori organizaciebis iniciativiT Seiqmna antikorufciuli qseli. mxedvelobaSi iqna miRebuli, rom aseTi organo uzrunvelyofda codnisa da gamocdilebis gaziarebas, donorTa koordinaciis gaumjobesebas da daexmereboda samoqalaqo sazogadoebasa da mTavrobas Soris TanamSromlobis gaZlierebas. 2004 wlis 18 ianvars ACN-is Sexvedraze saqarTvelosaTvis SemuSavda 21 rekomendaciis proeqti Semdegi mimarTulebebiT: erovnuli antikorufciuli politika, misi ganxorcieleba da institutebi, sakanonmdeblo baza da korufciis kriminalizacia, sajaro samsaxuris gamWvirvaloba. saWiroa, daCqardes Sesabamisi reformebis gatareba, raTa aRniSnuli rekomendaciebi droulad iqnes implementirebuli.

saqarTvelo aris wevri dsT-s konvenciis `samarTlebrivi daxmarebisa da samarTlebrivi urTierTobebis Sesaxeb samoqalaqo, saojaxo da sisxlis samarTlis saqmeebze-, dsT-s 1996 wlis 12 aprilis SeTanxmebis `ekonomikur sferoSi danaSaulTan brZolaSi TanamSromlobis Sesaxeb~. 1999 wlis 23 ivnisis saqarTvelos parlamentis #2143 dadgenilebiT saqarTvelo SeurTda `sisxlis samarTlis saqmeebze urTierTdaxmarebis Sesaxeb~ evropul konvencias (20.04.1959. strasburgi). konvenciiT saxelmwifoebi valdebulebas iReben aRmouCinon erTmaneTs farTo urTierTdaxmareba im danaSaulebze sisxlis samarTlebrivi devnis sakiTxebSi, sasjeli romlebzec daxmarebaze Txovnis miRebis momentSi eqvemdebareba momTxovni mxaris sasamarTlo organoebis iurisdicicias.

SeniSvnebi da rekomendaciebi

- *moxdes GRECO-s, MONEYVAL-is, ACN-is rekomendaciebisa da erovnuli anti-korufciuli strategiis im debulebebis implementacia, romlebic iTvaliswinebs kadrebis momzadebisa da teqniki daxmarebis gaumjobesebas.*

- saqarTvelos dadebuli aqvs ormxrivi xelSekrulebebi sisxlis samarTlis saqmeebze samarTlebrivi urTierTdaxmarebis Sesaxeb bulgareTis respublikasTan, TurqeTTan, latviasTan, TurqmeneTTan, belarusTan, azerbaijamTam, egviptesTan, rumineTTan.ukrainasTan. Tumca, am xelSekrulebebSi araa pirdapiri miTiTeba korufciul danaSaulebze.

muxli 61. korufciis Sesaxeb informaciis Sekreba, misi analizi da aseTi saxis informaciis gacvla

1. TiToeuli monawile saxelmwifo ganxilavs eqspertebTan konsultaciebis Catarebis, sakuTar teritoriaze korufciis sferoSi arsebuli tendenciebis analizis Sesazleblobas da im pirobebisa, romelSic xdeba korufciuli samarTaldarRvevebi.

2. monawile saxelmwifoebi, ramdenadac es Sesazlebelia, zogadi gansazRvrebis, standartebisa da meTodologiis SemuSavebis mizniT, ganxilaven statistikuri monacemebisa da korufciasTan dakavSirebuli analitikuri codnis da informaciis gafarToebis Sesazleblobebis, maT Soris korufciis Tavidan acilebisa da masTan brZolis saqmeSi praqtikis optimalur sakiTxebTan dakavSirebiT, agreTve aseTi praqtikis erTmaneTisTvis gasaziareblad saerTaSoriso da regionalur organizaciaTa meSveobiT.

3. TiToeuli monawile saxelmwifo ganxilavs Sesazleblobas sakuTar politikaze da korufciasTan brZolaSi praqtikul RonisZiebebze kontrolis dawesebis Sesaxeb, agreTve Sesazleblobas maTi efeqtianobisa da qmediTobis Sefasebis Sesaxeb.



msoflio bankis siRaribis daZlevis programასTan mimarTebaSi saqarTvelom ikisra valdebuleba 2006 wels msflio bankis daxmarebiT Caataros mosaxleobis gamokiTxva, romelic iTvaliswinebs saqarTveloSi korufciuli garigebis meqanizmebisa da uwebebsi amgvარი problemebis aRmoCenas. aRniSnuli meqanizmi xels Seuwyobs qveyanaSi arsebuli korufciis donis Semcirebas, korufciuli urTierTobebis saxeebis, maT Soris axali Sesazlo sqemebis gamovlenas, romlebic SemdegSi gaTvaliswinebuli iqneba samoqmedo gegmis ganaxlebis procesSi. Amgvარი kvlevebi uzrunvelyofs strategiis qmediTobasa da realobasTn Sesabamisobas mudmivad ganaxlebad safuZvelze.

organizacia `saerTaSoriso gamWvirvaloba~ (Transparency International) axorciebs da aqveynebs kvlevebs qveyanaSi korufciis sferoSi arseuli tendenciebis analizis Sesaxeb. `globaluri korufciis brometri~ aris sazogadoebrivi azris gamokiTxva, romelic ikvlevs moqalaqeebis damokidebulebas antkorufciuli RonisZiebebis Sedegebis mimarT. `korufciis aRqmis indeqsi~ axdens qveynebis rangirebas saxelmwifo moxeleTa da politikosTa Soris korufciis gavrcelebis xarixis mixedviT. “korufciis aRqmis indeqsi” efuZneba adgilobrivi da ucxoeli eqspertebis, analitikosebisa da biznesmenebis gamokiTxvebs da sxvadasxva warmomadgenlobiT organizaciebis kvlevebs. Kkvleva tardeba yovelwliurad. `korufciis aRqmis indeqsis~ bolo 2005 wlis Sedegebis mixedviT, saqarTvelos samwuxarod kvlav mZime mdgomareoba aqvs da 158 qveyanas Soris 2,3 quliT 130-e safexurs iyofs burundisTan, kambojasTan, kongos respublikasTan, yirgizeTTan, papua axial gvineasa da venesuelasTan erTad.

SeniSvnebi da rekomendaciebi

- korufciis Sesaxeb informaciis analizis da aseTi saxis informaciis gacvlis mizniT aucilebelia daingeros korufciis Sefasebisa da “gazomvis” apropierebuli standartebi da meTodologia.
- am mizniT saqarTvelos statistikis saxelmwifo departamentma unda gaataros saTanado RonisZiebebi.
- moxdes erovnuli anti-korufciuli strategiis samoqmedo gegmis 1.4. muxlis implementacia, romelic iTvaliswinebs 2006 wlis 1 agvistomde korufciis donis gansazRvris standartuli meTodis danergvas.

muxli 62. sxva RonisZiebebi: konvenciis Sestruleba ekonomikuri ganviTarebisa da teqniki daxmarebis saSualebebiT

1. monawile saxelmwifoebi atareben RonisZiebebs, romlebic xels uwyobs am konvenciis optimalurad Sestrulebas, ramdenadac es Sesazlebelia, saerTaSoriso TanamSromlobis Sedegad sazogadoebisaTvis korufciis negatiuri Sedegebis gaTvaliswinebiT, maT Soris, misi mdgradi ganviTarebisaTvis.

2. monawile saxelmwifoebi, ramdenadac es Sesazlebelia, erTmaneTTan koordinaciiTa da saerTaSoriso da regionuli organizaciebis daxmarebiT, gaatareben konkretul RonisZiebebs. Ees RonisZiebebi mimarTulia imisaTvis, rom:

a) gaaqtiuron TavianTi TanamSromloba sxvadasxva doneze ganviTarebad qveynebTan, maTi Sesazleblobebis ganmkicebisaTvis korufciis Tavidan acilebisa da masTan brZolis sfroSi;

b) gaafarTovon finansasuri da materialuri daxmareba ganviTarebadi qveynebis Zalixmevis mxardasaWerad korufciis Tavidan acilebisa da masTan brZolis efeqtianobis amaRlebisaTvis da gauwion maT daxmareba am konvenciis warmatebiT SesrulebaSi;

g) gauwion teqniki daxmareba ganviTarebad qveynebsa da gardamavali ekonomikis mqone qveynebs am konvenciis Sesasruleblad maTi moTxovnebis srulad dakmayofilebisaTvis. amisaTvis es monawile saxlemwifoebi iswrafvian, regularulad Seitanon sakmarisi nebayioflobiTi Senatanebi im angariSze, romelic finansirebis meqniZmSi gaeros mier konkretulad am mizniTvis Seiqmna. Mmonawile saxlemwifoebis SeuZliaT agreTve gansakuTrebulad ganixilon, TavianiTi Sida kanonmdeblobis Sesabamisad da am konvenciis debulebeze dayrdnobiT, zemoaRniSnul angariSze fuladi saSualebebis gansazRvruli nawilis gadaricxvis Sesazlebloba an am danaSaulebebidan an qonebidan, romelic daeqvemdebara konfiskacias am konvenciis debulebaTa Tanaxmad, miRebuli Semosavlis Sesabamisi Rirebulebis gadaricxva;

d) waaxalison da daarwmunon sxva saxlemwifoebi da finansuri dawesebulebebi, saTanado SemTxvevebSi, maTTan Zalixmevis gaerTianebiT, rac gaTvaliswinebulia am muxliT, maT Soris, ganviTarebadi qveynebisatvis kadrebi momzadebasa da Tanamedrove mowyobilobebTan dakavSirebiT mravalmxrivi programebis mosamzadeblad, raTa isini daexmaron maT am konvenciis miznebis miRvevaSi.

3. ramdenadac es Sesazlebelia, es RonisZiebebi zians ar ayenebs ucxour daxmarebasTan dakavSirebul arsebul movaleobebs an sxva xelSekrulebebs, finansur TanamSromlobasTan dakavSirebiT ormxriv, regionalur an saerTaSoriso doneze.

4. monawile saxlemwifoebis SeuZliaT dadon ormxrivi an mravalmxrivi SeTanxmeba matrialuri-teqniki daxmarebasTan dakavSirebiT, finansuri xelSekrulebebis gaTvaliswinebiT, romlebic aucilebelia am konvenciis Sesabamisad, saerTaSoriso TanamSromlobis efetianobis uzrunvelyofisaTvis, agreTve korufciis gamovelnis, Tavidan acilebisa da masTan brZolisaTvis.



konvenciis 62-e muxlis suliskveTebas Seadgens ganviTarebuli qveynebis mxridan ganviTarebadi qveynebisadmi daxmarebis waxaliseba korufciis Tavidan acilebisa da masTan brZolis efeqtianobis amaRlebis mizniT. am konteqstSi mizanSewonilad migvaCnia movixsenioT ramdenime saerTaSoriso proeqti, romelic saqarTveloSi xorcieldeba.

2004 wlis ivnisidan realizeba daiwoy saqarTvelos parlamentisa da gaerTianebuli erebis organizaciis ganviTarebis programis (UNDP) proeqtma `saqarTvelos parlamentisa da mTavrobis saqmianobis efeqtianobisa da gamWirvalobis gaumjobeseba~. proeqtis ZiriTadi mizania xeli Seuwyos sakanonmdeblo da aRmasrulebli xelisuflebis kanonSemqmedebiTi saqmianobis modernizebas, rac xelisuflebis am Stos Soris TanamSromlobas ufro efeqtians, gamWvirvalesa da harmoniuls gaxdis. proeqti erTdroulad sruldeba sakanonmdeblo da aRmasrulebeli xlisuflebis umaRles rgolebSi. saqarTveloSi aseve xorcieldeba evrokavSiris TACIS-is erovnuli programebi, romelTa mixedviTac saqarTvelosTvis gansazRvrulia ori prioriteti: 1. institucionaluri, samarTlebrivi da administraciuli reformis xelSewyoba; 2. gardamavli periodis socialuri Sedegebis mxardaWera.

evrokavSiris sabWom 2004 wlis 28 ivniss miiRo gadawyvetileba usafrTxoebisa da Tavdacvis evropuli politikis (ESDP) farglebSi, kanonis uzenaesobis ganmtkicebis mizniT saqarTveloSi evropel eqspertTa specialuri movlinebis Taobaze. `kanonis uzenaesobis misiis~ (EUJUST THEMIS Mission) gansakuTrebul amocanas warmoadgenda axali sisxlis samarTlis saproceso kodeqsis SemuSavebis xelSewyoba, antikorufciuli RonisZiebebis koordinacia, saerTaSoriso da regionaluri TanamSromlobis xelSewyoba xsenebul sferoSi. saqarTvelos mTavrobam 2004 wlis 10 ivliss miiRo 174 gankarguleba `saqarTeloSi evropel eqspertTa specialuri misiis – EUJUST THEMIS – saqmianobis xelSewyobis Sesaxeb~. misiis politikuri mniSvnelobidan gamomdinare, erokavSiris sabWos generalur samdivnosa da qarTul mxares Soris gaformda e.w. `misiis statusis Sesaxeb~ SeTanxmeba, romelic saqarTvelos parlamentis mier iqna ratificirebuli 2005 wlis 23 oebervals. evrokavSirma ufleba daitova monitoringi gauwios mis implemntacias, rogorc saqarTvlSi mimdinare progresuli procesebis SefasebisTvis saWiro erT-erT mniSvnelovan indikatoris.

SeniSvnebi da rekomendaciebi

- **bolo aTweulis manZilze saqarTveloSi saerTaSoriso Tu ormxrivi xelSekrulebis formatiT mravali donoruli proeqti ganxorcielda, romelTa umetesobaSiac korufciasTan brZola erT-erT prioritetis warmoadgenda da romelTa umetesi maTganic raime SesamCnevi pozitiuri Sedegebis gareSe dasrulda. aucilebelia qmediTi zomebis miReba korufciis Tavidan acilebis mizniT Tavad saerTaSoriso anti-korufciuli proeqtebis ganxorcielebisas. amavdroulad unda gamkacrdes am proeqtebeze monitoringis meganizmebic.**

Tavi VII. Kam konvenciis ganxorcielebis meqanizmebi

muxli 63. am konvenciis monawile saxelmwifoTa konferencia

1. am konvenciiT fuZn deba monawile saxelmwifoTa konferencia monawile saxelmwifoTa SesaZleblobebis gafarToebisa da maT Soris TanamSromlobis miznebiT, romlebic gansazRvrulia am konvenciiT, agreTve am konvenciis Sestrulebis xelSewyobisaTvis da mis Sestrulebaze mimoxilvis ganxorcielebis mizniT.

2. gaeros generaluri mdivani iwvevs monawile saxelmwifoTa konferencias ara ugvianes erTi wlisa am konvenciis ZalaSi Sesvlidan. SemdgomSi monawile saxelmwifoTa konferenciis mier miRebuli proceduris wesebis Sesabamisad, tardeba konferenciis rigiTi TaTbirebi.

3. monawile saxelmwifoTa konferencia iRebs procedurasTan dakavSirebul wesebs, wesebs, romlebic aregulirebs am muxliT gansazRvruli saqmianobis saxeebis ganxorcielebas, agreTve wesebs, romlebic Seexeba dankvirvebelTa daSvebasa da monawileobas da maTi xarjebis anazRaurebas aseTi saxis saqmianobis ganxorcielebisaTvis.

4. monawile saxelmwifoTa konferencia aTanxmebs saqmianobis saxeebis procedurebsa da meTodebs im miznis misaRwevad, romelic am muxlis pirveli punqtiTaa gaTvaliswinebuli, agreTve:

a) xels uwyobs monawile saxelmwifoTa saqmianobas am konvenciis me-60 da 62-e muxlebiT da II-V Tavebis Tanaxamd, maT Soris, nebayoflobiTi Senatanebis mobilizebis waxalisebisas;

b) xels uwyobs monawile saxelmwifoTa Soris korufciis formebsa da am sferoSi tendenciebis Sesaxeb informaciis gacvlas, agreTve korufciis Tavidan acilebisa da masTan brZolis warmatebuli meTodebis, danaSaulebebidan miRebuli Semosavlis dabrunebis Sesaxeb, am muxliT gauTvaliswinebeli Sesabamisi informaciis gamoqveynebiT;

g) xels uwyobs Sesabamisi saerTaSoriso da regionul organizaciebTan da meqanizmebTan, agreTve arasamTavrobo organizaciebTan TanamSromlobas;

d) xels uwyobs Sesabamisi informaciis saTanadod gamoyenebas, romelic moamzades sxva saerTaSoriso da regionulma meqanizmebma korufciis Tavidan acilebisa da masTan brZolis mizniT, muSaobaSi zedmeti dublirebis aRmosafxvrelad;

e) xels uwyobs monawile saxelmwifoTa mier am konvenciis Sestrulebis sakiTxebis periodulad ganxilvas;

v) xels uwyobs rekomendaciebis miRebas, romelic Seexeba am konvenciis srulyofasa da mis Sestrulebas;

z) xels uwyobs monawile saxelmwifoTa teqniki daxmarebisaTvis moTxovnaTa aRricxvas am konvenciis ganxorcielebasTan dakavSirebiT da Sesabamisi rekomendaciebis miRebas, nebismier moqmedebasTan dakavSirebiT, romelsac igi CaTvlis amisTvis saWirod.

5. am muxlis me-4 punqtis miznebisatvis, monawile saxelmwifoTa konferencia iRebs saWiro monacemebs im RonisZiebaTa Sesaxeb, romlebic gaatares monawile saxelmwifoebma am konvenciis Sesaruleblad da im siZneleebis Sesaxeb, romlebsac adgili hqonda maT mier miwodebuli informaciisa da mimoxilvis Casatarebeli damatebiTi meqanizmebis safuZvelze, romelic SeiZleba Seqmnas monawile saxelmwifoTa konferenciam.

6. TiToeuli monawile saxelmwifo monawile saxelmwifoTa konferencias warudgens informacias Tavisi programebis, gegmebisa da praqtikis Sesaxeb, agreTve sakanonmdeblo da administraciuli RonisZiebebis Sesaxeb, romlebic mimarTulia am konvenciis Sesaruleblad, rasac moiTxovs monawile saxelmwifoTa konferencia. monawile saxelmwifoTa konferencia swavlobs aseTi informaciis misaRebad da mis safuZvelze Sesabamisi gadawyvetilebebis miRebis ufro efeqtiani saSualebis gamonaxvis sakiTxebs, agreTve sxvasTan erTad sakiTxs im informaciis Sesaxeb, romelic miiRo monawile saxelmwifoebidan da kompetenturi saerTaSoriso organizaciebidan. SesaZlebelia aseve iseTi masalebis ganxilvac, romlebic miRebulia Sesabamisi arasamTavrobo organizaciebidan, romlebic saTanadod akreditebulni arian im procedurebis Sesabamisad, romlebsac gansazRvras monawile saxelmwifoTa konferencia.

7. am muxlis me-4-6 punqtebis Tanaxmad monawile saxelmwifoTa konferencia, Tu igi CaTvlis amas aucileblad, afuZnebs nebismier Sesabamisi meqanizms an organos am konvenciis Sestrulebis efeqtianobis xelSewyobisaTvis.

muxli 64. samdivno

1. gaeros generaluri mdivani uzrunvelyofs monawile saxelmwifoTa konferencias saWiro samdivnos momsaxurebiT.

2. samdivno:

a) daxmarebas uwevs monawile saxelmwifoTa konferencias im saqmianobaSi, romelic gaTvaliswinebulia am konvenciis 63-e muxliT, agreTve organizebas uwevs monawile saxelmwifoTa konferenciis sesiebs da uzrunvelyofs maT saWiro momsaxurebiT

b) Sesabamisi Txovnis safuZvelze exmareba monawile saxelmwifoebis, raTa maT warudginon informacia monawile saxelmwifoTa konferencias am konvenciis 63-e muxlis da me-5 da me-6 punqtebis Sesabamisad.

g) uzrunvelyofs sxva Sesabamisi saerTaSoriso da regionuli organizaciebis samdivnoebTan aucilebel koordinacias.

SeniSvnebi da rekomendaciebi

- konvenciis VII TaviT gaTvaliswinebuli debulebebi saqarTvelos Sida kanonmdeblobis kompetencias ar eqvemdebareba.

Tavi VII. daskvniTi debulebani

muxli 65. konvenciis Sesruleba

1. TiToeuli monawile saxelmwifo Tavisi Sida kanonmdeblobis fuZemdebluri principebis Sesabamisad atarebs aucilebel RonisZiebebs, sakanonmdeblo da administraciul RonisZiebebis CaTvliT, am konvenciiT gaTvaliswinebuli Tavisi movaleobebis Sesasruleblad.

2. TiToeuli monawile saxelmwifos SeuZlia miiRos SedarebiT ufro mkacri RonisZiebebi, vidre es gansazRvrulia am konvenciiT, korufciis Tavidan acilebisa da masTan brZolis mizniT.



saqarTvelos `saerTaSoriso xelSekrulebebis Sesaxeb~ kanonis me-6 muxlis Tanaxmad, saqarTvelos saerTaSoriso xelSekruleba saqarTvelos kanonmdeblobis ganuyofeli nawilia. saqarTvelos saerTaSoriso xelSekrulebas, Tu igi ar ewinaaRmdegeba saqarTvelos konstitucia, aqvs upiratesi iuridiuli Zala Sidasaxelmwifoebri normatiuli aqtebis mimarT. oficialurad gamoqveynebuli saqarTvelos saerTaSoriso xelSekrulebis debulebebi, romlebic adgenen konkretuli xasiaTis uflebebsa da movaleobebis da ar saWiroeben damazustebeli Sidasaxelmwifoebri normatiuli aqtis miRebas, saqarTveloSi moqmedeben uSualod. amave kanonis me-19 muxlis Tanaxmad, saqarTvelos parlamentma saerTaSoriso xelSekrulebis savaldebulo aRiarebis sakiTxis gadawyvetamde, saWiroebis SemTxvevaSi, unda ganxilos da Tavisi kompetenciis farglebSi miiRos gadawyvetileba saqarTvelos Sesabamis normatiul aqtSi cvlilebebisa da damatebebis Setanis Sesaxeb. saqarTvelos prezidenti saerTaSoriso xelSekrulebis savaldebulo aRiarebis sakiTxis gadawyvetamde, saWiroebis SemTxvevaSi, Tavisi kompetenciis farglebSi ixilavs da iRebs gadawyvetilebas saqarTvelos Sesabamis normatiul aqtSi cvlilebebisa da damatebebis Setanis Sesaxeb. kanonis 24-e muxlis Tanaxmad, Tu saqarTvelos kanonmdebloba saqarTvelos saerTaSoriso xelSekrulebis ZalaSi SesvlisaTvis moiTxovs romelime Sidasaxelmwifoebri proceduris Sesrulebas, aseTi xelSekruleba saqarTvelosTvis ZalaSi Seva mxolod saTanado proceduris Sesrulebis Semdeg.

saqarTvelos `saerTaSoriso xelSekrulebebis Sesaxeb~ kanonis Tanaxmad, saqarTvelos prezidentma da parlamentma zomebi unda miiRon saqarTvelos saerTaSoriso xelSekrulebebis uzrunvelsayofad. saqarTvelos aRmasrulebeli xelisuflebis centraluri organoebi, romelTa kompetencias ganekuTvneba saqarTvelos saerTaSoriso xelSekrulebiT gansazRvruli sakiTxebi, uzrunvelyofen saqarTvelos mier saerTaSoriso xelSekrulebiT nakisri valdebulebebis Sesrulebas, Tvalyurs adevneben xelSekrulebidan gamomdinare saqarTvelos uflebebis dacvasa da xelSekrulebis sxva mxareebis mier TavianTi valdebulebebis Sesrulebas. saerTaSoriso xelSekrulebis Sesrulebaze saerTo zedamxedvelobas axorciebs saqarTvelos sagareo saqmeTa saministro. saqarTvelos aRmasrulebeli xelisuflebis centraluri organoebi valdebulni arian miawodon saqarTvelos sagareo saqmeTa saministros sruli informacia saerTaSoriso xelSekrulebis Sesrulebis Sesaxeb.

SeniSvnebi da rekomendaciebi

- konvenciis 65-e muxlis debulebebi regulirdeba saqarTvelos konstituciis me-6 muxliT da kanoniT `saqarTvelos saerTaSoriso xelSekrulebebis Sesaxeb~.

muxli 66. davis gadawyveta

1. monawile saxelmwifoebi iswrafvian daareguliron dava, romelic dakavSirebulia am konvenciis ganmartebTan da mis gamoyenebasTan Sesabamisi molaparakebebiT.

2. nebismieri dava or an met monawile saxelmwifos Soris am konvenciis ganmartebTan an mis gamoyenebasTan dakavSirebiT, romelic ar regulirdeba molaparakebebis gziT garkveul droSi, erT-erT monawile saxelmwifos TxovniT eqvemdebareba saarbitraJo ganxilvas. Tu saarbitraJo ganxilvis TxovniT mimarTvis dRidan 6 TveSi es monawile saxelmwifoebi ver SeTanxmdebian mis organizebaze, nebismier am monawile saxelmwifos SeuZlia gadasces dava saerTaSoriso sasamarTlos da mimarTos mas ganxadebiT sasamarTlo statutis Sesabamisad.

3. *TiToeul monawile saxelmwifos ufleba aqvs am konvenciis xelmoweris, ratifikaciis, miRebis an damtkicebis dros an masTan mierTebisas ganaxados, rom igi ar uerTdeba am muxlis me-2 punqtis debulebebs. sxva monawile saxelmwifoebis am muxlis me-2 punqtis debulebebi arafers ar avaldebulebs sxva nebismieri monawile saxelmwifos winaSe, romelmac gaakeTa aseTi daTqma.*

4. *monawile saxelmwifos, romelmac gaakeTa daTqma am muxlis me-2 punqtis Sesabamisad, ufleba aqvs nebismier dros gaauqmos es daTqma gaeros generaluri mdivnisaTvis Setyobinebis gazavnis safuZvelze.*



saqarTvelos parlamentma 2006 wlis martSi pirveli mosmeniT miiRo kanonproeqti `arbitraJis Sesaxe~ da misgan gamomdinare kanonebi samoqalaqo saproceso kodeqsSi, `saaRsrulebo warmoebaTa Sesaxe~ da `saerTaSoriso kerZo samarTlis Sesaxe~ kanonebSi cvlilebebisa da damatebebis Setanis Sesaxe. kanonproeqtebi momzadebulia gaero-s saerTaSoriso savaWro samarTlis komisiis (UNCITRAL) mier miRebuli modeluri kanonis `saerTaSoriso komerciuli arbitraJis Sesaxe~ debulebaTa gaTvaliswinebiT. Aaseve, kanonproeqti Seesabameba `ucxoetis saarbitraJo gadawyvetilebaTa cnobisa da aRsrulebis Sesaxe~ 1958 wlis 31 dekembris niu-iorkis konvencias. kanonproeqtiT mowesrigebulia sazRvargareT qveynebiSi gamotanili saarbitraJo gadawyvetilebebis cnobisa da aRsrulebis sakiTxi. saqarTvelos farglebs gareT miRebul gadawyvetilebebTan dakavSirebiT aRsrulebaze uflebamosil sasamarTlod iTvleba uzenaesi sasamarTlo.

saqarTvelos parlamentma 1994 wlis 3 Tebervlis dadgenilebiT moaxdina `ucxoetis saarbitraJo gadawyvetilebaTa cnobisa da aRsrulebis~ konvenciis ratificireba. konvenciis Tanaxmad, yoveli xelSemkvreli saxelmwifo saarbitraJo gadawyvetilebebs cnobs rogorc savaldebulo da aRsrulebs maT im teritorii procesualuri normebiT, sadac moiTxoveba am gadawyvetilebaTa cnoba da aRsruleba. amasTanave, igulisxmeba ara marto yoveli calkeuli saqmisi gamo daniSnuli arbitrebis mier miRebuli saarbitraJo gadawyvetilebebi, aramed im mudmivi saarbitraJo organoebis mier miRebuli saarbitraJo gadawyvetilebebic, romelTac mxareebma mimarTes. konvenciis Tanaxmad Tu saarbitraJo ganxilvis TxovniT mimarTvis dRidan 6 TveSi es monawile saxelmwifoebi ver SeTanxmdebian mis organizebaze, nebismier am monawiles SeuZlia gadascas dava saerTaSoriso marTlmsajulebis sasamarTlos da mimarTos mas gancxadebiT sasamarTlo statusis Sesabamisad.

gaero-s marTlmsajulebis saerTaSoriso sasamarTlom (ICJ) 1946 wels, Camoyalibda, riTac man Caanacvla marTlmsajulebis mudmivi saerTaSoriso sasamarTlo. organizaciis Stab-bina mdebareobs q. haagaSi, niderlandebi. marTlmsajulebis saerTaSoriso sasamarTlo funqcionirebs missave statutis Sesabamisad, romelic gaero-s wesdebis ganuyofel nawils warmoadgens da misi ZiriTadi miznebia saerTaSoriso samarTlis mixedviT moagvaros saxelmwifoebis mier gadacemuli samarTlebrivi davebi, da SeimuSaos rekomendaciebi saTanadod uflebamosili saerTaSoriso organoebis da uwyebebis mier gadacemul samarTlebriv sakiTxebe. sasamarTlo Sedgeba gaero-s generaluri assembleis da uSiSroebis sabWos mier 9 wlis vadiT arCeuli 15 mosamarTlisagan. sasamarTlos wevrebi ar warmoadgenen maT mTavrobebs da arian damoukidebelni.

saqarTvelo gaero-s marTlmsajulebis saerTaSoriso sasamarTloSi gawevrianda 1992 wlis 31 ivliss Tavad gaero-Si Sesvlis Semdeg, ramdenadac gaero-s wesdebis 93-e muxlis Tanaxmad misi yvela wevri aris *ipso facto* marTlmsajulebis saerTaSoriso sasamarTlos statutis monawile. aqve aRsaniSnavia, rom monawile saxelmwifoebis mier konvenciaze gakeTebuli daTqmebis umravlesoba swored 66-e muxlis me-2 punqtTan dakavSirebiT modis.⁴⁸ saxelmwifoebi miiCneven, rom msgavsi davebi ar unda waredginos gansaxilvelad arbitraJis an marTlmsajulebis saerTaSoriso sasamarTlos davis monawile yvela mxaris Tanxmobis gareSe. amgvარი daTqmebis SesaZlebloba windawinve gaTvaliswinebuli gaxlavT 66-e muxlis muxlis me-3 punqtiT.

SeniSvnebi da rekomendaciebi

- *saqarTvelos parlamentma `saqarTvelos saerTaSoriso xelSkrulebebis Sesaxe~ kanonis 22-e muxlis Tanaxmad unda ganxilos konvenciis 66-e muxlis me-2 punqtze deklaraciisa da daTqmis gakeTebis SesaZlebloba davis monawile yvela mxaris Tanxmobis gareSe amgvარი davebis arbitraJisadmi an marTlmsajulebis saerTaSoriso sasamarTlosadmi wardgenis mizanSeuwonlobasTan dakavSirebiT.*

muxli 67. am konvenciis xelmowera, ratifikacia, miReba damtkiceba an masTan mierTeba

⁴⁸ ix. http://www.unodc.org/unodc/en/crime_signatures_corruption.html

1. winamdebare konvencia Riaa xelmosawerad yvela saxelmwifosaTvis 2003 wlis 9 dekembridan 11 dekembris CaTvliT merideSi, meqsikaSi, xolo SemdgomSi – 2005 wlis 9 dekembramde niu-iorkSi gaeros centralur dawesebulebebsi.

2. winamdebare konvencia Riaa xelmosawerad agreTve ekonomikuri integraciis regionuli organizaciebisaTvis im pirobiT, rom aseTi organizaciis erTma monawile saxelmwifom mainc xeli moawera am konvencias am muxlis pirveli punqtis Sesabamisad.

3. winamdebare konvencia eqvemdebareba ratifikacias, miRebas an damtkicebas. saratifikacio sigelebi an miRebis an damtkicebis Sesaxeb dokumentebi Sesanaxad gadaecema gaeros generalur mdivans. ekonomikuri integraciis regionul organizacias ufleba aqvs Tavisi saratifikacio sigeli an miRebis an damtkicebis Sesaxeb dokumenti Sesanaxad Caabaras, Tu misi monawile saxelmwifoebidan aranakleb erTi mainc aseve moiqceva. am saratifikacio sigelSi an miRebis an damtkicebis dokumentSi aseTi organizacia acxadebs Tavisi kompetencias sferoze im sakiTxebTan dakavSirebiT, romlebic regulirdeba am konvenciiT. aseTi organizacia agreTve acnobebs depozitars Tavisi kompetenciis sferos nebismier Sesabamisi cvlilebasTan dakavSirebiT.

4. winamdebare konvencia Riaa misaerTeblad nebismieri saxelmwifosaTvis an ekonomikuri integraciis nebismieri regionuli organizaciisaTvis, Tu monawile saxelmwifoTagan aranakleb erTi mainc aris am konvenciiis monawile. mierTebasTan dakavSirebuli dokumentebi Sesanaxad gadaecema gaeros generalur mdivans. mierTebisas ekonomikuri integraciis regionuli organizacia acxadebs Tavisi kompetenciis sferos Sesaxeb im sakiTxebTan dakavSirebiT, romlebic regulirdeba am konvenciiT. aseTi organizacia agreTve acnobebs depozitars Tavisi kompetenciis sferos nebismieri Sesabamisi cvlilebis Sesaxeb.

SeniSvnebi da rekomendaciebi

- konvencii 67-e muxlis debulebebi regulirdeba “saqarTvelos saerTaSoriso xelSekrulebebis Sesaxeb” kanonis 23-e muxliT, romlis Tanaxmad saqarTvelos sagareo saqmeTa saministro an misi davalebiT – saqarTvelos diplomatiuri warmomadgenloba, an saqarTvelos warmomadgenloba saerTaSoriso organizaciaSi axorcieles yvela saWiro RonisZiebas saqarTvelos mier saerTaSoriso xelSekrulebis savaldebulo aRiarebis Sesaxeb xelSemkvreli mxaris an depozitarisaTvis Setyobinebis mizniT.

muxli 68. konvencii ZalaSi Sesvla

1. winamdebare konvencia ZalaSi Sedis 30-e saratifikacio sigelis an miRebis damtkicebis an mierTebis Sesaxeb dokumentis Sesanaxad Cabarebidan 90-e dRes. am punqtis Tanaxmad, nebismieri aseTi sigeli an dokumenti, romelic ekonomikuri integraciis regionulma organizaciama Caabara Sesanaxad, ar ganixileba im sigelebisa da dokumentebis damatebad, romlebic aseTi organizaciis monawile saxelmwifoebma Caabares Sesanaxad.

2. TiToeuli saxelmwifosaTvis an ekonomikuri integraciis regionuli organizaciisaTvis, romelic axorcieles ratifikacias, iRebas an amtkicebs am konvencias an uerTdeba mas 30-e saratifikacio sigelis an aseTi moqmedebis Sesaxeb dokumentis Sesanaxad Cabarebis Semdeg es konvencia ZalaSi Sedis aseTi saxelmwifos an organizaciis mier Sesabamisi sigelis an dokumentis Sesanaxad Cabarebidan 30-e dRes an am konvenciiis ZalaSi Sesvlis dRidan am muxlis pirveli punqtis Sesabamisad, imisa da mixedviT, Tu romeli Sedis ZalaSi ufro gvian.

SeniSvnebi da rekomendaciebi

- konvencii 68-e muxliT gaTvaliswinebuli debulebebi saqarTvelos Sida kanonmdებლის kompetencias ar eqvemdebareba.

muxli 69. Sesworebebi

1. winamdebare konvenciiis ZalaSi Sesvlidan 5 wlis Semdeg monawile saxelmwifos ufleba aqvs SesTavazos Sesworeba da gaugzavnos igi gaeros generalur mdivans, romelic SemdgomSi gadaugzavnis warmodgenil Sesworebas monawile saxelmwifoebis da am konvenciiis monawile saxelmwifoTa konferencias am winadadebis ganxilvis mizniT da Sesabamisi gadawyvetilebis miRebasTan dakavSirebiT. Mmonawile saxelmwifoTa konferencia yvela Rones xmarobs TiToeul SesworebasTan dakavSirebiT konsensusis miRebis Taobaze. Tu konsensusis miRwevis yvela Zalisxmeva amoiwura da SeTanxmeba mainc ar iqna miRebuli, maSin rogorc ukiduresi zoma Sesworebis misaRebad saWiroa monawile saxelmwifoTa konferenciis sxdomaze damswre da kenWisyraSi monawile saxelmwifoTa xmebis ori mesamedi.

2. sakuTari kompetenciis sferoSi Semaval sakiTxebSi ekonomikuri integraciis regionuli organizaciebi axorcieleben Tavisi xmis uflebas am muxlis Sesabamisad, im xmaTa raodenobiT, romelic Tanabaria monawile saxelmwifoTa raodenobisa, romlebic arian am konvenciis monawileni.
3. Sesworeba romelic miRebulia am muxlis pirveli punqtis Sesabamisad, monawile saxelmwifoTa mier eqvemdebareba ratifikacias, miRebas an damtkicebas.
4. Sesworeba romelic miRebulia am muxlis pirveli punqtis Sesabamisad, monawile saxelmwifos mimarT ZalaSi Sedis mis mier gaeros generaluri mdivnisaTvis aseTi Sesworebis saratifikacio sigelis an misi miRebis an damtkicebis Sesaxeb dokumentis Sesanaxad Cabarebidan 90 dRis Semdeg.
5. Sesworebis ZalaSi Sesvlis Semdeg igi xdeba aucileblad Sesasrulebeli im monawile saxelmwifoTaTvis, romlebmac Tanxmoba ganaxxades misi miRebis Sesaxeb. sxva monawile saxelmwifoebi Cveulebriv dakavSirebulni arian am konvenciis debulebebTan da mis nebismier SesworebebTan, romlebic ratificirebuli, miRebuli an damtkicebulia maT mier ufro adre.

SeniSvnebi da rekomendaciebi

- konvenciis 69-e muxliT gaTvaliswinebuli debulebebi saqarTvelos Sida kanonmdeblobis kompetencias ar eqvemdebareba.

muxli 70. denonsacia.

1. monawile saxelmwifos SeuZlia am konvenciis denonsacia gaeros generaluri mdivnisaTvis werilobiTi Setyobinebis gagzavnis safuZvelze. aseTi denonsacia ZalaSi Sedis generaluri mdivnis mier Setyobinebis miRebidan erTi wlis Semdeg.
2. ekonomikuri integraciis regionuli organizacia aRar CaiTvleba am konvenciis monawiled mas Semdeg, rac yvela misi monawile saxelmwifo moaxdens am konvenciis denonsirebas.



`saqarTvelos saerTaSoriso xelSekrulebebis Sesaxeb~ kanoniT gaTvaliswinebulia saerTaSoriso xelSekrulebis moqmedebis Sewyveta an SeCereba. kanonis 37-e muxlis Tanaxmad, saqarTvelos parlamenti sruli Semadgenlobis umravlesobiT, dadgenilebis saxiT iRebs gadawyvetilebas saqarTvelos im saerTaSoriso xelSekrulebis moqmedebis Sewyveta an SeCerebis Sesaxeb, romlis saqarTvelosaTvis savaldebulo aRiarebaze Tanxmoba man gamoxata. saqarTvelos prezidenti brZanebulebis saxiT iRebs gadawyvetilebas saqarTvelos im saerTaSoriso xelSekrulebis moqmedebis Sewyveta an SeCerebis Sesaxeb, romlis saqarTvelosaTvis savaldebulo aRiarebaze Tanxmoba man gamoxata. saqarTvelos sagareo saqmeTa ministri brZanebis saxiT iRebs gadawyvetilebas saqarTvelos im saerTaSoriso xelSekrulebis moqmedebis Sewyveta an SeCerebis Sesaxeb, romlis saqarTvelosaTvis savaldebulo aRiarebaze Tanxmoba man gamoxata. saqarTvelos sagareo saqmeTa ministri oficialurad acnobebs xelSekrulebis monaqile mxares an depozitars saqarTvelos saerTaSoriso xelSekrulebis moqmedebis Sewyveta an SeCerebis Sesaxeb.

SeniSvnebi da rekomendaciebi

- konvenciis 70-e muxlis debulebebi regulirdeba saqarTvelos kanoniT `saerTaSoriso xelSekrulebebis Sesaxeb~.

muxli 71. am konvenciis depozitari da enebi

1. am konvenciis depozitarad iniSneba gaeros generaluri mdivani.
2. am konvenciis dedania inglisur, arabul, espanur, Cinur, rusul da frangul enebze Sesrulebuli teqtstebi, romlebic erTnairad avTentikuria da Sesanaxad gadaecema gaeros generalur mdivans. yovelive amis dasadastureblad qvemorexelis momwerni TavianTi mTavrobebis mier saTanadod uflbamოსილma warmomadgenlebma, xeli moaweres am konvencias.

SeniSvnebi da rekomendaciebi

- სასურველია, საqარTvelოს საგარეო საqმეTა სამინისტრომ კანონმდებლიT დადგენილი ვესiT გაITvalისwinოს კონვenciის qarTული teqtის მე-2 მუხლის `e~ პუნqtSi დაSვებუი ხარვეზის გამოსვრების Sesazleblobა⁴⁹.

⁴⁹ ix. კონვenciის მე-2 მუხლის ანალიზი.

angariSvaldebuleba – angariSvaldebuleba gulixmobs uflebis an legitimuri moTxovnis mflobelsa da im muSakebsa da dawesebulebebs, romlebic pasuxismgebelni arian, Seasrulon es moTxovna an pativi scen mas. angariSvaldebulebiTi urTierTobis erT-erTi ZiriTadi saxeoba aris urTierToba, erTis mxriv, im pirovnebas an dawesebulebas Soris, romelsac mindobili aqvs konkretuli davalebis Sesruleba an garkveuli uflebebi da resursebi da, meores mxriv, im pirs Soris, romlis saxeliTac sruldeba es davaleba. angariSvaldebulebis movaleoba SeiZleba ganxorcielebul iqnas sxvadasxvagarad, magram angariSvaldebulebis yvela meqanizmi sami principis mixedviT muSaobs:

gamWvirvaloba moiTxovs, rom gadawyvetilebebi miRebul iqnas da moqmedebebi ganxorcieldes Riad da rom sakmarisi informacia arsebobs imisaTvis, raTa sxva dawesebulebebsa da sazogadoebam SeZlos imis Sefaseba, dacul iqna Tu ara saTanado procedurebi mocemuli mandatis farglebSi;

dasabuTebuli niSnavs gadawyvetilebis mimRebis valdebulebas, rom maT sajarod daasabuTon TavianTi gadawyvetileba, raTa naTlad gamoCndes am gadawyvetilebis mizanSewoniloba, racionaluroba da is, rom gadawyvetileba miRebul iqna misi uflebamobilebis farglebSi.

gakontrolbas daqvemdebarebuli – exeba arsebul meqanizmebs, romlebic adgenen im moqmedebebsa da gadawyvetilebebs, romlebic mimarTulia mocemuli uflebamobilebebsa da procedurebis gasawonasworeblad – xSirad moxseniebulia, rogorc Semowmebisa da gawonasworebis an iZulebis meqanizmebi. Semowmeba SeiZleba moxdes ramdenime formiT, Sercxvenisa da Seqebis CaTvliT. dausjeloba angariSvaldebulebis antonimia da miyenebuli zianisaTvis proporciuli sasjelis dadeba angariSvaldebulebis mniSvnelovani Semadgeneli nawils warmoadgens.

amgvarad, **demokratiuli angariSvaldebuleba** gulixmobs, rom adamianebi, romelTac aqvT politikuri Zalaufleba angariSvaldebulni arian TavianTi eleqtoratis mimarT – rogorc pirdapir, arCevnebis gziT, aseve arapirdapir, intitucionaluri kontrolis gziT.

atkati~ (igive procenti, wili da a.S.) – e.w. atkati aris qrTami, arasaTanado sargeblis an momsaxurebis dabruneba~, aralegaluri saidumlo fulis gadaxda miRebuli sargeblis safasurad. es sityva gamoiyeneba qrTamis aRsaniSnavad qrTamis mimRebis TvalsazrisiT. magaliTad, a aZlevs b-s garkveul sargebels, xolo b mas amis safasurad ubrunებს e.w. atkats, `patara raRacas.~ es termini gamoiyeneba imisaTvis, rom `uwyinari~ terminiT aRweril iqnas korufciuli an ukanono garigebis safasuri an is sargebeli, romelic miRebul iqna specialuri samsaxuris gawevis Sedegad.

auditi – gulixmobs dawesebulebis an organizaciis angariSebis oficialur Semowmebas, raTa dadgindes, rom fuli saTanadod iqna daxarjuli, anu wesebis, normatiuli aqtebisa da normebs Sesabamisad. auditis dawesebulebebs, rogorbic regionaluri generaluri auditori, auditis samsaxuri, saxelmwifo revizori, ombudsmeni, *Tribunals de Cuentas*, *Cours de Comptes* da a.S. mniSvnelovani wvlili SeaqVT kargi mmarTvelobis saqmeSi, aRmoaCenen ra susti menejmentisa da sajaro saxsrebis araswori gankargvis SemTxvevebs. auditis dawesebulebebi SeiZleba ganxilul iqnas, rogorc gadasaxadis gadamxdelis interesebis damcveli, damoukidebeli da profesionali zedamxdელი.

beqSiSi – beqSiSi arabuli terminia, romelic niSnavs maTxovrisaTvis micemul an gaweuli samsaxurisaTvis (magaliTad oficiantisaTvis) gadaxdil SedarebiT mcire gasamrjelos. rodesac beqSiSis odenoba sakmaod maRalia an misi moTxovna scildeba kanonieri moTxovnis sferos, beqSiSi gaxlavT qrTamisa da gasapoxi fulis sinonimi.

gavleniT vaWroba – gavleniT vaWrobaSi moiazreba sajaro moxelesa da moqalaqes Soris arasaTanado upiratesobebis urTierTgacvla. magaliTad, sajaro moxeles SeuZlia, pirs misces dapireba, rom igi gamoiyenebs Tavis realur an savaraudo Zalauflebas am piris sasargeblod fulisa an sxva sargeblis safasurad.

gamoZalva – gamoZalva gaxlavT qonebisa an fulis ukanono moTxovna an miReba Zalisa an muqaris gamoyenebiT. gamoZalvis klasikuri magaliTia rodesac SeiaraRebuli policieli an samxedro mosamsaxure iRebs Tanxas saguSagos gavlis msurvelebisagan. gamoZalvis sinonimi gaxlavT SantaJi.

gamWvirvaloba – gamWvirvaloba niSnavs, rom saqmianoba iyos sufTa, patiosani da gaxsnili. es principi gulixmobs, rom sajaro moxeleebi, menejerebi da is pirebi, romelTac mindobili aqvT garkveuli sajaro funqciebi,

⁵⁰ leqsikonis Sedgenisas gamoyenebul iqna U4 – s (utStainis anti-korufciuli resursebis centri) da evropis ekonomikuri TanamSromlobisa da ganviTarebis organizaciis (OECD) masalebi.

unda moqmedebdnen TvalsaCinod, gasagebad da ise, rom SesaZlebeli iyos maTi moqmedebebis prognozireba. sakmarisi informacia unda iyos xelmisawvdomi imisaTvis, raTa sxva dawesebulebebsa da sazogadoebas SeeZloT, gansazRvron dacul iqna Tu ara saTanado procedurebi mocemuli uflbamosilebis Sesabamisad. amgvarad, gamWvirvaloba ganixileba, rogorc saxelmwifo angariSvaldebulebis umniSvnelovanesi elementi, romelic xels uwyobs resursebis ukeT ganawilebas, aumjobesebs Sedegianobas da ukeTes garemos qmnis zogadad ekonomikuri zrdisaTvis.

gasapoxi fuli – aris metaforuli Sedareba, romlis drosac qrTams iseTive roli akisria, rogoric zeTs, romelic isxmeba gadaWarbebuli biurokratiis meqanizmSi, raTa man iseV Tavisuflad ganagrZos funcqionireba.

grafti (qrTamis aReba) – rogorc zmna – romelic niSnavs fulis ukanonod miRebas Zalauflebis, gansakuTrebiT politikuri Zalauflebis gamoyenebis gziT. grafti ganixileba, rogorc politikuri korufciis erT-erTi saxeoba, romelsac axasiaTebis gansakuTrebuli sixarbe. grafti – arsebiTi saxeli – niSnavs korufciis nayofs: nadavlsa da sargebels.

dafarva - qonebis damalva an misi mudmivad SenarCuneba, Tu Sesabamisi pirisaTvis cnobilia, rom aseTi qoneba miRebulia danaSaulis Cadenis Sedegad.

dayadaReba - gayinva an dayadaReba niSnavs qonebis gadacemis, gasxvisebis, gankargvisa da moZraobis droebiT SezRudvas an qonebaze droebiT zedamxedvelobisa da kontrolis dawesebas sasamarTlos an sxva uflbamosili organos brZanebis safuZvelze.

daculi mxileba – daculi mxileba gaxlavT informaciis miwodeba seriozuli marTIsawinaaRmdego qmedebis Sesaxeb, rogoric korufcia, arasaTanado administrireba da sajaro resursebis mniSvnelovani gaflangva. aRiareba an gamoaSkaraveba – Tu igi akmayofilebs garkveul moTxovnebs – pirovnebas, romelmac moaxdina aRiareba an gamoaSkaraveba, uflebas aZlevs daculi iyos sapauxo zomebisa da sixlissamarTlebrivi devnisagan. dacul **mxilebas** adgili aqvs an TviTon dawesebulebis SigniT, an ombudsmenTan an im pirTan, visac aqvs imis uflbamosileba, rom SezRudos gamJRavnebis avtorisaTvis samagieros gadaxdis SemTxvevebi. gaecaniT aseve informatorTa dacvis meqanizmebs.

zaralis anazRaureba – unda uzrunvelyofdes, rom dawesebulebebsa da pirovnebebs, romelTac korufciuli aqtis Sedegad ganicades zarali, hqondeT ufleba sasamarTloSi aRZran saqme im pirebis winaaRmdag, vinc pasuxismgebelia miyenebuli zaralisaTvis, raTa am dazaralebulebma miiRon kompensacia.

TaRliToba – TaRliToba aris ekonomikuri danaSauli, romelic moicavs motyuebas, xrikebsa da yalb moTxovnebs, romelTa meSveobiTac pirovneba ukanonod mdidrdeba. faqtobrivi TaRliToba motivirebulia imiT, rom vinmes miadges ziani motyuebis gziT, xolo konstruqciuli TaRliToba gulixmobs Semosavlis miRebas ndobis gamoyenebis Sedegad.

informatorTa dacva – samarTaldamcavi organoebisa da antikorufciuli strategiis warmatebuli muSaoba mniSvnelovanwilad aris damokidebuli konkretuli moqalaqebis mzadyofnaze, rom maT samarTaldamcav organoebis miawodon informacia da/an miscen Cvenebebi. informatorebi arian is pirebi, romlebic sazogadoebas an xelisuflebas acnobeben im korufciuli aqtebis Sesaxeb, romlis mowmeebic gaxdnen an romlebic maT aRmoaCines. xSirad am pirebs sWirdebaT dacva imaTgan, visac amxelen. informatoris dacva gulixmobs im (administraciul an sakanonmdeblo) zomebs, romlebic tardeba imisaTvis, raTa informatori daculi iqnas fizikuri, socialuri da finansuri angariSsworebisagan.

informaciis xelmisawvdomoba – informaciis xelmisawvdomoba exeba dainteresebuli mxareebis (sazogadoebis, arasamTavrobo organizaciebis, mediis da a.S.) uflebas, rom maT miiRon informacia, romelic aqvs saxelmwifos. es ufleba, romelic daculia saerTaSoriso da adgilobrivi kanonebiT uzrunvelyofs, rom oficialuri dokumentebi iyos xelmisawvdomi da nebismieri SezRudvebi unda iyos limitirebuli da dakonkretebuli. informaciis xelmisawvdomoba zrdis saxelmwifos mier Tavisuflad moqalaqebis mimarT angariSvaldebulebas da amcirebs korufciis SesaZleblobebs.

interesebiT vaWroba – interesebiT vaWroba xdeba maSin, rodesac moxele iTxovs garkveul sargebels imis sanacvlod, rom igi Tavis gavlenas gamoiyenebs konkretuli pirisa Tu jgufis interesebis usamarTlod dacvisaTvis. interesebiT vaWrobas Seexeba gamWvirvalobisa da gamJRavnebis gaumjobesebisaken mimarTuli kanonmdebloba, romlis mizania saeWvo SeTanxmebebis gamoaSkaraveba.

interesTa konflikti – interesTa konflikti warmoiSveba maSin, rodesac pirovneba, romelsac aqvs sajaro samsaxuri, monawileobs iseT saqmianobaSi, romelmac SeiZleba safiTxis qveS daayenos mis mier profesionaluri gadawyvetilebis miReba, misi obieqturoba da damoukidebloba. xSirad amgvare qmedeba

(rogoricaa, magaliTad, kerZo biznesi) upirveles yovlisa emsaxureba kerZo interesebs da potenciad SesaZloa zegavlana moaxdinos moxelis mier Tavisi oficialuri movaleobebis obieqturad ganxorcielebaze.

keTilsindisierebis paqti – keTilsindisierebis paqti aris SeTanxmeba, romelic gamiznulia sajaro kontraqtebis dros korufciis aRkveTisaken. erT-erTi mxare aris centraluri, adgilobrivi an municipaluri mTavroba, saxelmwifo organo an Tundac saxelmwifo sakuTrebaSi myofi sawarmo. meore mxare, ZiriTadad, aris kerZo sawarmo, romelic dainterebulia kontraqtis miRebaSi an romelic axorcielebs mas. am sajaro proeqteTan dakavSirebul procesSi, rogorbicaa tenderSi monawileoba, kontraqtis dadeba da ganxorcieleba, orive mxare – administracia da kerZo kompania – pirobas debs, rom ar moqrTamaven an ar aiReben qrTams da Tanaxma arian, daisajon im SemTxvevaSi, Tu isini am pirobas daarRveven.

keTilsindisierebis sistema – keTilsindisiereba niSnavs garkveuli moraluri da eTikuri normebs dacvas. keTilsindisierebis sistema, amgvarad, aris politikuri da administraciuli mowyoba, romelic xels uwyobs keTilsindisierebas. qveyenis keTilsindisierebis sistema (NIS) moicavs mTlianad xelisuflebas da arasamTavrobos seqtors, kanonebsa da praqtikas, romelTac saTanado muSaobis pirobebSi, SeuZliaT minimumamde daiyvanon korufciisa da araswori menejmentis done. NIS-is koncepcia SemuSavebul da gavrcelbul iqna organizacia `saerTaSoriso gamWvirvalobi~-s mier rogorc is CarCoebi, romlis meSveobiTac mocemul nacionalur konteqstSi unda gaanalizdes korufcia, aseve erovnuli antikorufciuli saqmianobis adekvaturoba da efeqturoba.

kleptokratia – (klepto – moparva, kratos - marTva: yaCaRebis mmarTveloba). kleptokratia politikuri mmarTvelobis sistema, romelSic batonoben isini, vinc iparaven saxelmwifosagan da romelTaTvisac gamoZalva cxovrebis devizia. yvelaze cnobil kleptokratTa Soris arian mama diuvalie (haiti), mobotu (zairi), bokasa (centraluri afrikis respublika) da suxarto (indonezia).

klientelizmi – klientelizmi aris sxvadasxva socialuri da ekonomikuri statusis mqone pirTa Soris araformaluri urTierToba: `patroni` (Sefi, didi kaci) da misi `klientebi` (damokidebulebi, mimdevrebi, proteJeebi). urTierToba gulixmobs ormxrivi, magram araTanabari samsaxuris gawevas, rac SeiZleba iyos korumpirebuli. patrimonialurma da klientelisturma saqmianobam SeiZleba institucionalurad daadginos hegemoniuri elitebi da politikuri korufcia, romelic xSirad saxelmwifo xelisuflebis umaRles eSelonebsac aRwevs.

korufcia – termini korufcia gamoiyeneba mravalferovani ukanono qmedebebis aRsaniSnavad da miuxedavad imisa, rom ar arsebobs sayovelTao da amomwiravi definicia imisa, Tu ra aris korumpirebuli saqcieli, yvelaze farTod gavrcelbul ganmartebebSi xazgasmulia **sazogadoebrivi Zalauflebis an mdgomareobis piradi upiratesobebisaTvis gamoyeneba**. definicia, romlis moSveliebac yvelaze ufro xSirad xdeba, gaxlavT is romelsac iyenebs organizacia `saerTaSoriso gamWvirvaloba~: `korufcia moicavs sajaro moxeleebis saqciels, iqneba es politikosi Tu sajaro mosamsaxure, romliTac isini arasaTanadod da ukanonod mdidrdebian an amdidreben Taviant axlobebs, Tavianti sajaro movaleobebis borotad gamoyenebis gziT~. samarTlebrivi gansazRvreba gansxvavdeba imisgan, romelsac iyeneben socialur mecnierebebSi, daxmarebis saagentobesa da saerTaSoriso organizaciebSi. amgvarad, **sixlissamarTlebrivi gansazRvreba** moiTxovs gansakuTrebul yuradRebas, raTa igi iyos naTlad da garkveviT Camoyalibebuli. qveynebis umravlesobam ar airCia korufciis zogadi fenomenis kriminalizaciis gza, aramed pasuxismgebloba daadgina specifitur moqmedebenze, rogorbicaa meqrTameoba, miTviseba, TaRliToba da gamoZalva.

kontrolirebadi da arakontrolirebadi korufcia – zogierT qveyanaSi arsebobs centralizebuli, koordinirebuli da mowesrigebuli korufcia (kontrolirebadi korufcia), xolo sxva qveynebsi aris decentralizebuli, qaoturi da araregularuli korufcia (arakontrolirebadi korufcia). kontrolirebadi korufciis SemTxvevaSi mmarTvel elites korufciis processa da Semosavlebe SedarebiT mkacri kontroli aqvs dawesebuli.

msxvili korufcia – maRal eSelonebsi arsebul anu `msxvil~ korufcias adgili aqvs politikis formulirebis sferoSi. es exeba ara imdenad Tanxebis raodenobas, romelic CarTulia am procesSi, aramed imas, Tu ra doneze xdeba igi – iq sadac aman SesaZloa usamarTlo gavlena iqonios politikasa da wesebze. im garigebebis saxe, romlebic izidavs msxvil korufcias, rogorc wesi, ufro msxvilmasStabiania da Sedegad amisa moicavs ufro met fuls vidre biurokratiuli an `wvriImani~ korufcia. msxvili korufcia aris is termini, romelic gamoiyeneba politikuri korufciis sinonimad.

sporadiuli (erTjeradi) korufcia – sporadiuli korufcia sistemuri korufciis sawinaaRmdago movlenaa (ixileT qvemoT). sporadiul korufcias ar aqvs regularuli xasiaTi da amgvarad igi safrTxes ar uqmnis arc mmarTvelobis meqanizmebsa da arc Tavad ekonomikis. igi ar aris gamxrwneli, magram SesaZloa, moaxdinos demoralizacia da xeli SeuSalos resursebis ekonomias.

wvrilmani korufcia – wvrilmani korufcia (romelsac xSirad moixseneben rogorc administraciul an biurokratiul korufcias) gaxlavT yoveldRiuri korufcia, romelsac adgili aqvs iq, sadac biurokratas pirdapiri Sexeba aqvs sazogodoebasTan. wvrilmani korufcia aseve ganisazRvreba, rogorc `gadarCenis korufcia~ (saWiroebis korufcia). amgvvari korufciiT dakavebulni arian qveda da saSualo rgolis moxeleebi, romlebsac SesaZloa, Zalian dabali xelfasi hqondeT da damokidebulni iyvnen am SedarebiT mcire, magram aralegalur Semosavlebze, raTa Seinaxon TavianiT ojaxebe da gadaixadon TavianiT Svilebis swavlis safasuri. miuxedavad imisa, rom wvrilmani korufcia moicavs gacilebiT mcire Tanxebis, vidre msxvili an politikuri korufcia, es Tanxebi ar aris mcire im pirebisaTvis, romelzec am korufciulma movlenam iqonia gavlena. wvrilmani korufcia araproporciulad azaralebs sazogodoebis yvelaze gaWirvebul fenebs, romelTaganac SesaZloa regularulad iTxovdnen qrTamebs maSin, rodesac maT Sexeba aqvT iseT dawesebulebebTan, rogorbicaa saavadmyofoebi, skolebi, adgilobrivi licenziebis gancemi organoebi, policia, sagadasaxado samsaxuri da a.S.

politikuri korufcia – termini `politikuri korufcia~ uaxles literaturaSi sxvadasxvagvarad aris gagebuli. erT SemTxvevaSi es gaxlavT `msxvili~ anu maRali rangis korufciis sinonimi da moicavs politikuri liderebis mier maTTvis miniWebuli Zalauflebis borotad gamoyenebas. sxva SemTxvevebSi es exeba korufcias mxolod politikuri da saarCevno procesebis dros. orive SemTxvevaSi korufcia ara mxolod resursebis araswor ganawilebas axdens, aramed ryvnis gadawyvetilebaTa miRebis process.

sistemuri korufcia – SemTxveviTi SesaZleblobebis gamoyenebisagan gansxvavebiT sistemur korufcias adgili aqvs maSin, rodesac korufcia aris ekonomikuri, socialuri da politikuri sistemis erTiani da ganuyofeli nawili. sistemuri korufcia ar gaxlavT korumpirebulobis calkeuli kategoria, igi ufro metad asaxavs im situacias, rodesac saxelmwifos mTavari dawesebulebebi da procesebi imarTeba korumpirebuli pirebisa da jgufebis mier da romelSic sazogodoebis umetesobas alternativa ar gaaCnia korumpirebul moxeleebTan urTierTobis procesSi.

biutokratiuli korufcia – biurokratiul, administraciul an `wvrilman~ korufcias adgili aqvs politikis ganxorcielebis qveda doneze, sadac sazogodoebas aqvs Sexeba sajaro moxeleebTan. biurokratiuli korufcia, Cveulebisamebr, gansxvavdeba `msxvili~ korufciisagan da politikuri korufciisagan (imdenad ramdenadac SesaZlebelia administraciis gamoyofa politikisagan).

kronizmi – kronizmi niSnavs megobrebisa da axlobelisadmi iseT mopyrobas, romelic maT upiratesobas aniWebs resursebisa da samsaxurebis ganawilebis procesSi, miuxedavad maTi obieqturi kvalifikaciisa.

marTlmsajulebisTvis ganxorcielebisaTvis xelis SeSla – a) fizikuri Zalisa da muqaris gamoyeneba, daSineba an marTlmsawinaaRmdego upiratesobis dapireba, SeTavazeba an gadacema cru Cvnebis misacemad an Cvnebis micemis an mtkicebulebebis wardgenis procesSi Casarevad. b) marTlmsajulebis sferos an samarTaldamcavi organos muSakis oficialuri movaleobebis ganxorcielebaSi Casarevad fizikuri Zalis, muqarisa da daSinebis gamoyeneba.

meqrTameoba – meqrTameoba niSnavs vinmesTvis fulis, samsaxuris an sxva faseulobis SeTavazebas imisaTvis, raTa am pirovnebam amis safasurad raimე gaakeTos. meqrTameoba korufciis formaa. meqrTameoba moicavs e.w `atkatebs~, beqSiSs, mfarvelobis Tanxas, damtkbobs, fexis qirasa da a.S. meqrTameoba farTod aris kriminalizirebuli saerTaSoriso da Sidasaxelmwifoebri kanonmdeblobiT, maT Soris ekonomikuri TanamSromlobisa da ganviTarebis organizaciis `saerTaSoriso biznes operaciebSi ucxo qveynis sajaro Tanamdebobis pirTa meqrTameobis winaaRmdeg~ konvenciiT.

aqtiuri da pasiuri meqrTameoba – aqtiuri meqrTameoba gulisxmobs danaSauls, romelsac Cadis pirovneba, romelic aZlevs qrTams an iZleva qrTamis micemis dapirebas. amis sawinaaRmdegod, pasiuri meqrTameoba aris aramarTlzmieri qmedeba, romelsac Cadis moxele, romelic iRebs qrTams. aqtiur meqrTameobas adgili aqvs miwodebis TvalsazrisiT, xolo pasiur meqrTameobas – moTxovnis TvalsazrisiT. evropis sabWos `sisxlis samarTlis konvencia korufciis winaaRmdeg~ moxeleTa aqtiur meqrTameobas gansazRvravs, rogorc `nebismieri piris mier, pirdapir an arapirdapir raimes dapireba, SeTavazeba an micema aramarTlzmieri upiratesobis misaRebad... TavisTvis an sxva piris sasargeblod, raTa pirovnebam imoqmedos an Tavi Seikavos moqmedebisagan Tavis funqciebis ganxorcielebis procesSi~. amis msgavsad, pasiuri meqrTameoba gansazRvrulia, rogorc `moTxovna an miReba ... pirdapir an arapirdapir, nebismieri aramarTlzmieri upiratesobisa TavisTvis an sxva pirisaTvis, an amgvvari upiratesobis miRebis Taobaze SemoTavazebis an dapirebis miReba, rom pirovnebam Seasrulos moqmedeba an Tavi Seikavos moqmedebisagan Tavis funqciebis ganxorcielebas~.

mniSvnelovania yuradReba gavamaxviloT im faqtze, rom aqtiuri meqrTameoba yovelTvis ar gulisxmobs qrTamis mimcemis mxridan iniciativis gamoiCinas. piriqiT, Zalian xSirad swored

sawinaaRmdego movlenasTan gvaqvs saqme. pirovneba, romelic iRebs qrTams, xSir SemTxvevaSi, TavadiTxovs mas. amgvarad, igi xdeba ufro `aqtiuri~ mxare aseTi garigebis procesSi.

miTviseba – miTviseba gaxlavT im qonebisa da Tanxebis miTviseba, romelic pirovnebas kanonierad hqonda mindobili Tavisi oficialuri Tanamdebobis mixedviT.

miRebuli materialuri sargeblis konfiskacia – danaSaulis materialuri xasiaTidan gamomdinare, amoReba da konfiskacia (ixileT qvemoT) aris korufciis winaaRmdeg brZolis ori ZiriTadi aspeqti. amgvarad, is zomebi, romlebic gulixmobs danaSaulis CadenasTan dakavSirebuli qonebis an danaSaulis Cadenis Sedegad miRebuli qonebis konfiskacias aucileblad unda iyos xelmisawvdomi. imisaTvis, rom konfiskacia iyos dasjis efeqturi saSualeba, misi gamoyeneba SesaZlebeli unda iyos fizikuri piris mimarT mis mier ucxo qveyanaSi Cadenili meqrTameobisaTvis, aseve mesame pirebis mimarT, maT Soris im iuridiuli piris mimarT, romelmac miiRo sargebeli. sxvagvarad damnaSave SeZlebs konfiskaciisagan Tavis aridebas iuridiuli pirebis gamoyenebiT.

nepotizmi – nepotizmi gamoiyeneba favoritizmis aRsaniSnavad, romelic moicavs ojaxur urTierTobebis. es gulixmobs iseT situaciebs, rodesac pirovneba iyenebs Tavis uflebamobilebsa da Zalauflebas naTesavebisaTvis samsaxurisa da sxva sargeblis uzrunvelsayofad. nepotizms SeiZleba adgili hqondes saxelmwifo aparatis nebismier doneze, qveda rgolis biurokratiuli dawesebulebebidan dawyebuli qveynis saministroebamde. bevri SeuzRudavi prezidenti ecada, sakuTari (arastabiluri) mdgomareoba gaemyarebina saxelmwifo aparatis wamyvan politikur, ekonomikur da samxedro/uSiSroebis Tanamdebobebze Tavisi ojaxis wevrebis daniSvniT.

ormxrivi samarTlebrivi daxmareba – ormxrivi samarTlebrivi daxmareba aris saerTaSoriso TanamSromlobis procesi, romlis meSveobiTac saxelmwifoebi eZeben da iReben daxmarebas sixlissamarTlebrivi saqmeebis gamoZiebisa da sixlissamarTlebrivi devnis ganxorcielebisaTvis mtkicebulebebis mopovebis procesSi da aseve danaSaulebrivi gziT mopovebuli qonebis moZiebis, gayinvis, amoRebisa da sablood konfiskaciis procesSi. es moicavs Cxrekasa da amoRebas, dokumentebis momzadebas, mowmeTa Cvnebebis miRebas video konferenciis meSveobiT da patimrobaSi myofi pirebisa da mowmeebis droebiT gadayvanas imisaTvis, rom maT miscen Cvnebebi. es gansxvavdeba samarTaldamcav organoebs Soris tradiciuli TanamSromlobisagan.

patronaJi – patronaJi gulixmobs patronis (mdidari an gavleniani) mxridan mxardaWerasa da sponsorobas. magaliTad, patronaJi gamoiyeneba saxelmwifo Tanamdebobebze daniSvnis procesSi, dawinaurebis dros, samuSaos Sesrulebis kontraqtebis miRebis procesSi da a.S. TumcaRa, ar arsebobs `ufaso sadilis~ cneba. patronebis umetesobisTvis motivacia gaxlavT is, rom maT miiRon meti Zalaufleba, simdidre da statusi TavianTi am qmedebis meSveobiT. patronaJi kveTs kanonieri politikuri gavlenis sazRvrebs da arRvevs SejibrebiTobisa da damsaxurebis mixedviT pirovnebis dawinaurebis principebs.

prebendebi – istoriul-religiur konteqstSi es niSnavs saeklesio kompleqsis Semosavlebs, romelsac eklesiis msaxurebi inawilebdnen. dResdReobiT es sityva aRniSnavs nebismier arasawarmoo Semosavals, magaliTad, qrTamis an sxva korufciuli danaSauli Sedegad miRebul Semosavlebs, romlebsac agroveben is sajaro moxeleebi, romelTac xeli miuwvdebaT saxelmwifo resursebze.

sabanko saidumloeba – es samarTlebrivi terminia, romelic bankebs aZlebs saSualebas, daicvan TavianTi momxmareblebis piradi informacia daSifruli sabanko angariSebisa da sxva meTodebis gamoyenebiT. sabanko saidumloebis princiipi efeqturad gamoiyeneba zogierT qveyanaSi, rogorebicaa magaliTad, Sveicaria an iseT sagadasaxado TavSesafrebSi sadac ofSoruli bankebi, nebayoflobiT Tu kanonmdeblobis Sesabamisad, mkacrad icaven saidumloebis princiips.

miuxedavad imisa, rom daSifruli sabanko angariSebi SesaZloa, uzrunvelyofdes garkveuli saxis anonimurobas, Sveicariis kanonmdebloba dResdReobiT moiTxovs, rom yvela bankma icodes Tavisi momxmareblebis vinaoba. TumcaRa, daSifruli angariSis SemTxvevaSi momxmareblis vinaoba cnobili iqneba bankis TanamSromelTa mxolod viwro wrisaTvis, `saWiroebis~ princiips safuZvelze. aseve, momxmareblis vinaoba ar gamoCndeba bankis kompiuterebSi, rac kompiuteruli danaSaulis SemTxvevaSi icavs konfidencialurobas. daSifruli angariSebi ar SeiZleba gamoyenebuli iqnas danaSaulis Sedegad miRebuli sargeblis damalvis mizniT.

samsaxureobrivi uflebamobilebis an samsaxureobrivi mdgomareobis borotad gamoyeneba - anu kanonsawinaaRmdego moqmedeba an umoqmedeba sajaro Tanamdebobis piris mier Tavisi funqciebis Sesrulebisa im mizniT, rom mas mieRo raime aramarTlzomieri upiratesoba sakuTari TavisaTvis an sxva fizikuri an iuridiuli pirisaTvis.

saCuqris micema – saCuqris micema araerTi sazogadoebis kulturis nawilia, rodesac adamianebi erTmaneTs sTavazoben saCuqars an wyalobas sxvadasxva garemoebesSi, rac damokidebulia adgilobrivi adaT-wesebze. problema warmoiSveba maSin, rodesac sajaro moxelisadmi an mis mier saCuqris micema ewinaaRmdegeba

miukerZoeblolis, profesionalizmissa da damsaxurebis safuZvelze gadawyvetilebis miRebis principebs. saCuqris micemis sanacvlod moxelisagan moelian, rom man upiratesoba mianiWos saCuqris mimcems sxva pirebTan SedarebiT. am SemTxveebSi, saCuqris micema SeiZleba CaiTvalos meqrTameobad.

saxelmwifos mitaceba - es gaxlavT fenomeni, romelis drosac gareSe interesebs (xSirad kerZo seqtoris, mafiis da a.S) Seswevt unari Secvalon qveynis kanonmdebloba, politika da wesebi Taviant sasargeblad (umeteswilad finansuri sargeblis miRebis mizniT) sajaro moxeleebTan da politikosebTan korufciuli garigebebis meSveobiT. es gamomdinareobs korufciis tradiciuli koncepciidan, romlis drosac biourokratiuli manqana qrTamebs arTmevs umweo da gaWirvebul adamianebsa da kompaniebs an rodesac politikosebi Tavad iparaven saxelmwifo qonebas (ixileT kleptokratia). saxelmwifos mitaceba aRiarebulia rogorc yvelaze destruqciuli da Znelad mosaTvinierebeli korufciuli problema gardamavali ekonomikis mqone qveynebisaTvis, rodesac demokratiuli konsolidaciis procesi aris dausrulebeli da damaxinjebuli da kerZo sakuTrebis ufleba ar aris myarad uzrunvelyofili.

sajaro moxele – niSnavs nebismier pirs, romelsac aqvs sakanonmdeblo, aRmasrulebeli, administraciuli an sasamarTlo Tanamdeboba, miuxedavad imisa arCeulia igi Tu daniSnuli; nebismieri sxva piri, romelic asrulebs sajaro funqciebs an sazogadoebas uwevs sajaro momsaxurebas; nebismieri sxva piri, romelic gansazRvrulia, rogorc sajaro moxele qveynis Sida kanonmdeblolis mixedviT.

sajaro finansebis menejmenti – sajaro finansebis menejmenti Seexeba sabiujeto ciklis TiToeuli fazis sakanonmdeblo da organizaciul CarCoebs, romelic moicavs bujetis momzadebas, Sida kontrolsa da audits, Sesyidvebs, monitoringa da finansur angariSebs, aseve gare audits. sajaro finansebis menejmentis farTo miznebi gaxlavT erTiani fiskaluri disciplinis SemuSaveba, resursebis ganawileba prioritetuli mimarTulebebis mixedviT, sajaro samsaxurSi momsaxurebis efeqturi da Sedegiani miwodeba.

spoliacia – iuridiuli terminologiis TvalsazrisiT es termini aRniSnavs mtkicebulebisaTvis aucilebeli dokumentis ganzrax da mizanmimarTul gafuWebas an Secvlas; ufro farTo gagebiT am cnebaSi moazreba raime Rirebulis ganadgureba an dataceba. spoliacias adgili aqvs, rodesac maRali rangis Tanamdebobis pirebi Zarcvaven Tavianti qveynis qonebas (ixileT kleptokratia).

ukanono gamdidreba - sajaro Tanamdebobis piris aqtivebis mniSvnelovani zrda, rodesac igi imdenad aWarbebs mis kanonier Semosavals, rom mas ar SeuZlia es gonivrulad daasabuTos.

ufros-umcrosobis Teoria – sajaro da kerZo dawesebulebaTa umravlesoba ierarqiuli principi aris mowyobili. am ierarqiaSi mTavari urTierToba aris daqvemdebarebul muSaks (xelqveiTsa) da mis xelmZRvanel (zemdgoms) Soris. es Teoria xazs usvams gansxvavebuli miznebis, asimetriuli informaciis, waxalisebisa da jarimebis, samsaxurSi miRebisa da xelfasebis da a.S. mniSvnelobas. magaliTad, informaciis arqona xelmZRvanel muSaks xels uSlis xelqveiTis qmedebobis monitoringis ganxorcielebaSi da pasuxismgeblobas akisrebs xelqveiTis. es Teoria gamoyenebul iqna korufciisa da Sesabamisi instituciuri reformebis mikroekonomikuri axsnis SesamuSaveblad.

favoritizmi – favoritizmi gulisxmobis Cveulebriv adamianur movlenas, rodesac adamiani ucxo pirovnebasTan SedarebiT upiratesobas aniWebs nacnobebis, megobrebsa da ojaxis wevrebis. es yovelTvis ar gaxlavT korufcia. TumcaRa, rodesac sajaro moxeleebi (an keZo seqtoris moxeleebi) amJRavneben favoritizms poziciebisa da resursebis usamarTlo ganawilebis gziT, isini Cadian kronizms an nepotizms, imis mixedviT, Tu ra urTierToba aqvT maT im pirTan, romelic iRebs sargebels.

fiduciaruli riski – korufcia aris erT-erTi tipis fiduciaruli riski, romelic saerTaSoriso daxmarebis konteqstSi niSnavs imas, rom daxmarebis saxsrebi ar gamoiyeneba miznobrivad, ver aRwevs im xarisxis Sedegs, ra raodenobis saxsrebi iqna daxarjuli da/an ar xorcieldeba Sesabamisi buRaltruli aRricxva. fiduciaruli riskis sakiTxi gansakuTrebiT mwvaved dgas maSin, rodesac donorebi iZlevian pirdapir sabiujeto daxmarebas, radganac xSirad partniori mTavrobis sajaro finansebis menejmentis sistema SedarebiT sustia.

finansuri monitoringis samsaxuri – kompetenturi organo, romelic pasuxisgebelia saeWvo finansuri garigebebis mopovebaze, maT analizsa da Sesabamisi organoebisaTvis gadacemaze.

fulis gaTeTreba – fulis gaTeTreba aris procesi, romlis drosac TaRliTuri da/an ukanono gzebiT miRebuli fuli ise iniRbeba, rom gamoCndes, TiTqos igi momdinareobs kanonieri wyarosagan. fulis gaTeTreba xSirad gamoiyeneba korufciis Semosavlis SesaniRbad da mas farTod iyeneben narkotikebiT movaWreebi, adamianebiT movaWreebi, kleptokratebi, damnaSave biznesmenebi da ofisis muSakebi. sabanko saidumloeba da sagadasaxado TavSesafrebi gansakuTrebiT arTulebs gaTeTrebuli fulis moZiebas.

Semowmeba da gawonasworeba – Semowmeba da gawonasworeba umeteswilad gulisxmobs Zalauflebis borotad gamoyenebis prevenciis institucionalur meqanizmebs. xSirad, es gaxlavT konstituciuri kontrolis meqanizmebi, romlis mixedviTac xelisuflebis sam Stos (aRmasrulebels, sakanonmdeblosa da sasamarTlos) da sxva saxelmwifo dawesebulebebs erTmaneTis mimarT aqvT garkveuli Zalaufleba ise, rom arcerT calkeul Stos ar SeeZlos dominireba.

SejibrobiTi tenderi – SejibrobiTi tenderi SerCevis iseTi procesia, romelic efuzneba sagnebis an momsaxureobis Sesaxeb informaciis Riad da gamWvirvaled gamoqveynebas, romelic uzrunvelyofs saukeTeso momwodeblis gamarjvebas misi kvalifikaciis, samuSaosa Tu momsaxurebis Rirebulebisa da sxva obieqturi kriteriumebis safuZvelze (da ara ojaxuri an megobruli urTierTobebis, meqrTameobis an muqaris safuZvelze). SejibrebiT tenders xSirad moiTxovs kanoni im sajaro kontraqtebisa da sajaro SeZenisaTvis, romlis Rirebulebac aRemateba garkveul Tanxas.

waxaliseba – waxaliseba aris stimuli, romelic pirovnebas waaxalisebs raimes gasakeTeblad. waxalisebis Teoria gvawvdis sajaro dawesebulebebis Sedegianobis gaumjobesebisaTvis samsaxurSi miRebisa da dawinaurebis meqanizmebis, gamoaSkaravebisa da jarimis, sxvadasxva saxelfaso sistemebis rolisa da potencialis analizis konceptualur CarCoebis. magaliTad, igi eWvqveS ayenebs martiv midgomas, romelic ambobs, rom xelfasis gazrda yovelTvis Seamcirebs TaRliTobas sajaro samsaxurSi. waxaliseba SeiZleba gamoixatos qrTamis formiTac, vinaidan qrTamis mimcemi cdilobs, sajaro moxele daarwmunos misTvis arasaTanado sikeTis micemaSi.