

I ingensi avstriis wi naaRmdeg

Lingens v. Austria

(1986 wl is 8 ivnisi, seria A, #103 A,
amonakrebi)

saqmi s faqt obrivi mxare

8. b-ni I ingensi, dabadebul i 1931 wel s, mxovrebi q. venasi, Jurnal isti, Jurnal "profil is" redaktori.

I. gamcxadebl is statiebi da maTi winaistoria (Background)

9. 1975 wl is 9 oqtombers, avstriaSi sayovel Tao arCevnebis Catarebidan oTxi dRis Semdeg, satel evizio intervusi ebrael Ta sadokumentacio centris prezidentma, saimon viezental ma bral i dasdo avstriis liberaluri partiis Tavmj domares, frederik peters, imaSi, rom es ukanknel i meore msofl io omis dros SS-is pirvel saxmel eTo brigadaSi msaxurobda. cnobil ia ruseTis teritoriale germanel Ta sabrZol o xazis zurgSi am brigadis mier moqal aqeTa wamebis araerti faqt. bn peters ar uaruyvia aRniSnul i danayofis wevroba, Tumca aRniSna, rom is brigadis mier Cadenil sisastikeSi ar monawil eobda. bnmia viezental ma, amasTan dakavSirebiT, mogvianebeiT ganacxada, rom mas b-ni peterisaTvis bral i ar daudia amgvar moqmedebaSi.

10. momdevno dRes avstriis social isturi partiis Tavmj domares, yofil kanclers, bruno kreiskis, aRniSnul bral debasTan dakavSirebiT, komentaris gakeTeba sTxoves.

intervius damTavrebisTanave is federal ur kancel ariaSi Sexvda peters. es iyo erT-erTi Cveul ebrivi sakonsul tacio Sexvedra partiis liderebs Soris axal i mTavrobis formirebis mizniT; am Sexvedram sazogadoebis didi interesi gamoiwiwa, radgan kreiski-peteris koal iciuri mTavrobis Seqmnis Sesazi ebl oba jer kidev 5 oqtombris arCevnebamde ganixil eboda.

Tavis intervusi kreiskim uaryo aseTi koal iciis Seqmnis aucil ebl oba arCevnebSi misi partiis mier xmebis absol uturi umravl esobis miRebis gamo, Tumca energiul ad daicva peteri da viezental is organizacias - "politikuri mafia", xol o misi saqmianobis metodebs "mafiumetodebi" uwoda. aRniSnul i fraza gammeorda mis mier venis yovel dRiuri gazeTisadmi meore dRes micemul intervusi.

11. swored am dros daibewda venis Jurnal "profil Si" I ingensis ori statia.

12. pirvel i maTgani, romel ic gamoqveynda 1975 wl is 14 oqtombers saTauriT "peteris saqme", Seexeboda SS-s pirvel i saxmel eTo brigadis saqmianobas; statiaSi mkiTxvel is yuradReba gamaxvil ebul i iyo agreTve peteris rol ze gracSi am brigadis wevrTa winaaRmdeg aRZrul sisxl is samarTI is saqmeSi (romel ic Semdeg daixura). daskvnis saxiT naTqvami iyo, rom, miuxedavad udanaSaul obis prezumfciaze b-n peteris ufl ebisa, misi warsul i am pirovnebas avstriisaTvis miuRebel politikuri mosazrebebiT peterisa da SS-s sxva yofil i wevrebis dacva. rac Seexeba kreiskis kritikul gamoTqmehs viezental isadmi, Jurnal isti werda: "nebismieri piris mier gamoxatul i aseTi pozicia, al baT, "uRrmes oportunizmad Sefasdeboda", magram konkretul situaciaSi saqme gacil ebit ufro rTul ad dgas, radgan kreiski darwmunebul ia Tavisi naTqvamis simarTI eSio.

13. meore statia gamoqveynda 1975 wl is 21 oqtombers saTauriT "Serigeba nacistebTan, magram rogor?". is Sedgeboda ramdenime gverdisagan da, Sesaval i nawil is garda, dayofil i iyo eqvs seqciad: "aqamde" an "ukve", "Cven yvel ani udanaSaul oebi varT", "aucil ebel i iyo udanaSaul o msxverpl i?", "ratom aris es dRemde diskusiis sagani?", "hel baxi da peteri" da "pol itikurad primitiul i".

14. Sesaval Si b-nma I ingensma moixmo faqtebi da xazi gausva b-n kreiskis poziciis gavl enas sazogadoebrev azrze. man kreiski gaakritika ara mxol od peteris mxardalWeraisaTvis, aramed avstriis politikur cxovrebaSi mosul i yofil i nacistebis mimarT Semguebl uri damokidebul ebisaTvis.

15. "aqamde" an "ukve" saTauris mqone nawil Si ganmcxadebel i aRiarebda, rom aravis SeuZl ia SeewinaaRmdegos aseT damokidebul ebas "real uri pol itikis" safuzvel ze, radgan "gavida is dro, roca saarCevno miznebisaTvis vinmes angariSi unda gaezia ara mxol od nacistebis, aramed maTi msxverpl isaTvis. . . pirvel i meoreze sicocxl isunariani aRmoCnda . . ." avstriam, romel mac dabada hitl eri, eihmani da sxva samxedro dannaSaveebi, ver SeZl o warmatebul i SeTanxmeba daedo Tavis warsul Tan; man ubral od ignorireba gaukeTa mas. aseTi pol itika ki qveyanas momaval i faSisturi moZraobis xel ebSi gadasvl is safrTxes uqmida.

kanci erTan dakavSirebit, I ingensi werda: "marTal i rom vTqvaT, b-n kreiskis qceva kritikis obieqtad SeuZl eba iqces ara racional uri, aramed mxol od iracional uri Tval sazrisiT: is amoral uria da uRirsi". metic, aseTi qceva srul iad usargebl oa, radgan avstriel ebs yofil i nacistebis ketil ganwyobis Ziebis, sakoncentracio banakebis probl emis minimumande dayvanisa da viezental isadmi mtrul i damokidebul ebiT antisemitizmis gaRvivebis gareSec SeuZl iaT sakuTar warsul Tan Serigeba.

magram yvel aze saocari aris ara is, rom 30 wl is Semdeg viRac "kidev" saubrobs aRniSnul Temaze, aramed is, rom adamianebe "ukve" SeZl es gvamebis mTebis arsebobi daviwyebao.

dasasrul, I ingensi kreiskis bral s sdebda im adamianebeisadmi gamovl enil utaqtobaSi, roml ebic nacistebis sisastikes emsxverpl nen.

16. meore nawil Si I ingensma komentari gaukeTa, zogadad, avstriis sazogadoebis damokidebul ebas nacisturi danaSaul ebisa da yofil i nacistebis mimarT. avtoris azriT, kol eqtiuri danaSaul is da kol eqtiuri udanaSaul obis fil osofiuri al ternativis win wamoweviT avstriel ebma miCqmal es real uri, cal saxa da Sefasebadi danaSaul i.

pasuxismgebl obis sxvadasxva formebis xangrZl ivi anal izis Semdeg I ingensma xazi gausva im droSi kargisa da cudis garCevis SesaZl ebl obas da moiyanra ramdenime pirovnebis magal iTi, romel Tac uari Tqves nacistebTan TanamSrroml obaze. meore nawil is dasasrul, igi aRniSnavda: "bruno kreiskis Tavisi piradi avtoriteti im gziT, rogorc man peteri daicva, sxva, ukeTesi avstriis aRmosaCenad rom gamoeyenebina, is qveyanas miscemda warsul Tan Serigebis SesaZl ebl obas, rac avstrias - 30 wl is Semdeg - yvel aze metad swirdeba da rac, TavisTavad, didi simamace iqneboda".

17. statiis mesame da meoTxe nawil ebi (rac mTI ianad statiis erT-mesameds Seadgens) aseve exeboda sazogadoebis cnobierebaSi kol eqtiuri danaSaul is momentis gadal axvas da real uri danaSaul is, rogorc aseTis, aRiarebas.

"aucil ebel i iyo udanaSaul o msxverpl i?" am saTauris mqone nawil Si I ingensma yuradReba miaqcia gansxvavebas mesame raixis special ur danayofeba da regul arul samxedro SenaerTebS Soris da aRniSna, rom special ur danayofebSi gawevrianeba xdeboda mxol od moxal iseobis da ara izul ebis safuZvel ze.

momdevno nawil Si I ingensma scada ganesxvavebin sisxl is samarTI is damnaSaveebi da is pirebi, roml ebic, moral uri Tval sazrisiT, ganixil eboden maT Tanamonawil eebad; is aRniSnavda, rom nacistebis mimart Tavisi poziciis ufro adre, swrafad da safuZvl ianad gamoxatvis SemTxvevaSi avstria SeZl ebda, kompl eqsebis gareSe, mSivid da meti TviTdaj erebiT Seexeda sakuTari warsul isaTvis. I ingensma daasaxel a mizezebi, ris gamoc es SeuZl ebel i gaxda da daivla b-n viezental i "mafiasadmi" kuTvnill ebis bral debisagan. dasasrul, man ganixil a Semwynarebl obis gamoCenis SesaZl ebl oba amdeni wl is Semdeg da daaskvna: "nebismieri sazogadoeba val debul ia gamoxatos kanonisadmi pativiscema da ar SeinarCunos araj ansaRi damokidebul eba mis mimart namdvil i mkvl el ebis gamarTI ebiT, Tval saCino danaSaul is dafarvita da uaryofiT".

18. mexuTe nawil Si I ingensma Seadara peteris saqme avstriis saxal xo partiis I ideris, hel baxis, saqmes da SeniSna kreiskis gansxvavebul i reaqcia, TiToeul maTganTan dakavSirebiT. avtori icavda azrs, rom pirvel i saqmis garemoebebi peters pol itikosobisaTvis, parl amentisa da mTavrobis wevrobisaTvis Seuferebel s xdida da askvnda, rom: "es aris pol itikuri eTikis minimal uri moTxovna". misi azriT, "simaxinj is" gamovl ineba iyo ara viezental is mier am saqmis wamoweva, aramed kreiskis model oba misi miCqmal visa.

19. statia mTavrdeboda yvel a im pol itikuri partiis kritikiT, romel Ta saTaveSic yofil i nacistebi aRmoCndnen. ganmcxadebel s miaCnda, rom peteri unda gadamdgariyo da amiT Tavisi danaSaul i ki ar eRiarebina, aramed daemtkicebina, rom gaaCnia b-n kreiskisaTvis ucxo Tviseba - taqt.

II - kreiskis saCivris safuZvel ze aRZrul i kerzo bral debis saqme

20. 1975 wl is 29 octombersa da 12 noembers maSindel ma kancl erma I ingensis winaaRmdeg ori kerzo bral debis saqme aRZra. kancl ers miaCnda, rom I ingensis statiebSi arsebul i gansazRvrul i gamonaTqvamebi, roml ebic zemoT iqna moyvanil i, defamaciur xasiaTs atarebda da arRvevda avstriis sisxl is samarTI is kodeqsis 111-e muxl s, roml is Tanaxmadac:

"1. nebismieri piri, romel ic mesame pirs bral s sdebs misi Tanamdebobrivi mdgomareobisaTvis Seuferebel i formiT an damokidebul ebiT, pativisa da Rirsebis sawinaaRmdegoo moqmedebiT an iseTi formiT, romel ic Seuracxyofs an amcirebs mas sazogadoebis winaSe, isj eba Tavisufl ebis aRkveTiT ara umetes eqysi Tvisa an jarimiT.

2. nebismieri piri, romel ic Caidens aseT qmedebas weril obiT dokumentis an masobrivi informaciis saSual ebibiT ise, rom defamaciuri informacia xel misawdomi gaxdes sazogadoebis farTo fenebisaTvis, isj eba Tavisufl ebis aRkveTiT ara umetes erTi wl isa an jarimiT.

3. ganmcxadebel i ar daisj eba, Tu damtkicdeba mis mier gavrcel ebul i informaciis WeSmari teba. pirvel i paragrafiT gansazRvrul i samarTal darRvevisas piri ar daisj eba, Tu Seqmnil i garemoebibi mas sakmaris safuZvel s aZI evda darwmunebul i yofil iyo aRniSnul i informaciis simarTI eSi".

112-e muxl is Tanaxmad, "mtkicebul eba WeSmari tebisa da keTil i nebis Sesaxeb ar miReba, sanam ganmcxadebel i piri sasamarTI os winaSe ar daamtkicebs Tavisi gancxadebis simarTI es da Tavis keTil nebas . . ."

A. sasamarTI o ganxil vaTa pirvel i wyeba

1. venis regional uri sasamarTI os gadawyvetil eba

21. 1979 wl is 26 marts venis regional urma sasamarTI om I ingensi damnaSaved cno avstriis sisxl is samarTI is kodeqsis 111-e muxl iT (me-2 paragrafi) – cil iswameba da Seuracxyofa, Semdegi gamonaTqvamebi saTvis: "uRrmesi oportunizmi", "amoral uri", "uRirsi". Tumca miCnia, rom ramdenime sxva fraza (kerZod, "pol itikuri eTikis minimal uri moTxovna", "simaxinj e"), konteqstidan gamodinare, aseT xasiaTs ar atarebda. sasamarTI om I ingensi daaj arima 20.000 SiI ingiT, miCnia ra Semamsubuqebel garemoebad is faqt, rom bral debul i miznad isaxavda gamoexata pol itikuri kriticizmi pol itikosis mimarT pol itikur sakiTxze, xol o pol itikoss marTebis defamaciis admi ufro meti Semwynarebl obis gamoCena. mxedvel obaSi miRo ra bral debul is keTil i neba, sasamarTI om mas kreiskisaTvis zianis anazRaureba ar daakisra. sasamarTI os gadawyvetil eba iTval iswinebda mxol od gasaCivrebul i statiebis konfiskaciasa da aRniSnul i gadawyvetil ebis gamoqveynebas.

22. gadawyvetil ebaSi, romel ic Seicavda mizezebis grZel CamonaTval s, regional urma sasamarTI om gaaanal iza TiToeul i gasaCivrebul i gamonaTqvamis xasiaTi da miCnia, rom gamonaTqvamebi "uRrmesi oportunizmi", "amoral uri" da "uRirsi" warmoadgenda defamacias da pirdapir Tu arapiirdapir mimarTul i iyo kreiskis pirovnebis winaaRmdeg, maSin, roca frazebi - "pol itikuri eTikis minimal uri moTxovna" da "simaxinj e", ar scil deboda pol itikuri kriticizmis misaReb sazRvrebs.

I ingensis azriT, pirvel i sami gamonaTqvami warmoadgenda Sefasebas da, rogorc aseTi, ar ewinaaRmdegeboda sisxl is samarTI is kodeqsis 111-e muxl s. Tumca regional urma sasamarTI om miCnia, rom maSindel i kancl eris qmedebasTan dakavSirebiT gakeTebul i Seuferebel i daskvnebi swored am muxl is debul ebebis moqmedebis sferoSi eqceoda. bral debul s aseve ar SeeZI o dayrdnoboda gamoxatvis Tavisufl ebas, radgan konstituciis Sesabamisi debul ebebisa da evropis konvenciis me-10 muxl is Tanaxmad, es ufl eba SezRudvas eqvemdebareboda, kerZod, sawiro iyo bal ansis dacva erTis mxriv, gamoxatvis Tavisufl ebara da, meores mxriv, adamianis ufl ebas Soris - patiis scemdnan da icavdnen mis pirad cxovrebasa da reputacias. mocemul SemTxvevaSi I ingensi gascda dasaSvebobis fargl ebs.

23. kreiskis mier kerzo bral debis saqmis aRZvrasTan dakavSirebiT, regional urma sasamarTI om aRniSna, rom, ramdenadac is gakritikebul i iyo ara rogorc federal uri kancl eri, aramed rogorc partiis I ideri da politikosi, amitom aRniSnul saqmeSi sisxl is samarTI is kodeqsis 117-e muxl is me-2 paragrafi ar iqna gamoyenebul i: es muxl i exeba Tanamdebobis piris mimarT defamacias, romel ic warmoadgens saj aro bral debis saqmes.

24. regional urma sasamarTI om Semdeg ganixil a WeSmaritebis mtkicebis sakiTxi (ix. \$20). man miicnia, rom, ramdenadac I ingensma ver warmoadgina frazis - "uRrmesi oportunizmi", gamamarTI ebel i mtkicebul eba, es sakmarisi iyo misi damnaSaved cnobisaTvis.

rac Seexeba si tyvebs - "amoral uri" da "uRirsi", bral debul ma isini gamoiyena kreiskis poziciasTan dakavSirebit, rac gamoixateboda nacistekis Tvis mcire mniSvnel obis miniWebiT, viezental is moRvawebis mafur saqmanobad Seracxit da gestaposTan mis TanamSroml obaze miniSnebit. am ukanknel sakiTxze regional urma sasamarTI om miiro I ingensis mier warmodgenil i mtkicebul eba sasamarTI o gadawyvetil ebis formiT, miicnia ra Jurnal isti damnaSaved defamaciis muxl iT msgavsi gancxadebis gakeTebisaTvis.

rac Seexeba gamonaTqvamebs - "mafuri metodebi" da "mafia", regional urma sasamarTI om aRniSna, rom es gamonaTqvamebi, Cveul ebri, gul isxmobs damnaSaveTa organizebul erTeul s, magram zogj er gamoiyeneba sxva mniSvnel obiTac. maSinac ki, Tu mxedvel obaSi ar iqneboda miRebul i kerzo bral mdebl is mier win wamoweul i argumenti, am si tyvis kreiskiseul i gageba SeiZI eba yofil iyo gansxvavebul i da im saxurebda gamokvl evas. sakuTari mosazrebis WeSmaritebis mtkiceba iyo ara prokuroris, aramed I ingensis moval eoba. viezental ma, Tavis mxriv, aRiara, rom Tavisi mraval ferovani miznebis miRwevisaTvis is eyrdnoboda mraval i ganStoebis mqone organizacias. metic, maSindel i kancl eris gancxadebebi (ix. \$10) unda ganiXil ebodes pol itikur oponentebs Soris pol itikuri brZol is konteqstSi, sadac TiToeul i iyenebs im iaraRs, romel ic mis gankargul ebaSia. am kuTxit Tu SevxedavT, es gancxadebebi ar gamoxatavda Rirsebisa da zneobis uqonl obas, aramed warmoadgenda dacvis erT-erT saSual ebas, romel ic srul iadac ar aris uCveul o pol itikis mkacr wesebSi.

2. saapel acio saCvari venis saapel acio sasamarTI oSi

25. gamotanil i gadawyvetil ebis winaaRmdeg venis saapel acio sasamarTI oSi saapel acio saCvari Seitana rogorc kreiskim, ise I ingensma. 1979 wl is 30 noembers saapel acio sasamarTI om pirvel i instanciis sasamarTI os gadawyvetil eba gaaugma saqmis garemoebabis ganxil vis gareSe im safuzvl iT, rom sasamarTI os gadawyvetil eba imis Taobaze, hqonda Tu ara kancl ers kerzo bral debis saqmis aRZvris ufl eba sisxl is samarTI is kodeqsis 117-e muxl is debul ebebisagan gansxvavebiT, saTanadod ar iyo dasabuTebul i (ix. \$23)

B. sasamarTI o ganxil vaTa II wyeba

I. venis regional uri sasamarTI os gadawyvetil eba

26. venis regional urma sasamarTI om, romel sac saapel acio sasamarTI om saqme xel axal i ganxil visaTvis daubruna, 1981 wl is 1 april s gamoitana axal i gadawyvetil eba.

maSindel i kancl eris gancxadebebTan dakavSirebul i garemoebabis gamokvl evis Sedegad sasamarTI om daaskvna, rom igi gakritikebul i iyo ara rogorc Tanamdebobis piri, aramed rogorc partiis I ideri da kerzo pirovneba, romel mac Tavis Tavze aiRo mesame piris dacva. yovel ive zemoTqmul idan gamomdinare, mas hqonda kerzo bral debis saqmis aRZvris moTxovnis ufl eba.

rac Seexeba im moqmedebebis iuridiul kval ificirebas, roml ebic bral ad edeboda I ingenss, sasamarTI om daadastura Tavisi 1979 wl is 26 martis gadawyvetil ebiT.

gamamarTI ebel garemoebebTan dakavSirebiT sasamarTI om xel axl a aRniSna, rom bral debul s ar warmoudgenia raime mtkicebul eba, romel ic daadasturebda gamonaTqvamis - "uRrnesi oportunizmi", safužvi ianobas; xol o gamonaTqvamebi - "amoral uri" da "uRirsi", I ingensis mier warmodgenil i mtkicebul ebebidan gamodinare, ukavSiredeboda mxol od gancxadebas viezental is nacistebTan TanamSroml obis Sesaxeb, romel ic kreiskim gaakeTa mxol od I ingensis statiebis gamosvl is Semdeg.

ramdenadac aRniSnul i gamonaTqvamebi mimarTul i iyo kancl eris sxva moqmedebebisa da pozicii sadmi, regional urma sasamarTI om Tavisi pirvel i gadawyvetil eba ucvl el i datova. sasamarTI om miCnia, rom I ingensis kritika bevrad scil deboda im sakiTx, romel mac warmoSva dava kreiskisa da viezental s Soris. is faqt, rom kreiskis SesaZI ebl oba hqonda miemarTa sasamarTI osTvis kerzo bral debis sačivariT, magram TviTon ver gaxdeboda viezental is mxridan aseTi sačivris obieqti mis mimarT cil iswamebisaTvis, gamowveul i iyo saparl amento imunitetis Sesaxeb moqmedi kanonmdebl obiT. sakutari gancxadebebis WeSmaritebis mtkicebis moval eoba aseve kanonit iyo gaTval i swinebul i da am procesis gamartiveba ara sasamarTI os, aramed kanonmdebl is moval eobebSi Sedioda.

amitom sasamarTI om Tavisi axal i gadawyvetil ebiT pirvel ad dadgenil i sasj el is saxe ucvl el ad datova (ix. \$21).

II. saapel acio sačivari venis saapel acio sasamarTI oSi

27. orive mxarem sasamarTI os gadawyvetil eba xel axl a gaasačivra venis saapel acio sasamarTI oSi. sasamarTI om gadawyvetil eba gamoitana 1981 wl is 29 oqtombers. man Semcira jarimis odenoba 15.000 SiL ingamde, magram daadastura regional uri sasamarTI os gadawyvetil eba yvel a danarCen saki TxTan dakavSirebiT.

kreiski edaveboda piradi da pol itikuri cxovrebis mimarT sxvadasxva kriteriumebis gamoyenebis azrs. is acxadebda, rom pol itikosTa da kerzo pirta reputaciis dacva unda xdebodes Tanabrad.

amasTan dakavSirebiT, saapel acio sasamarTI om aRniSna, rom sisxl is samarTI is kodeqsis 111-e muxl i exeba pativiscemas, roml iTac sargebl obs adamiani mis social ur garemoSi. pol itikosTa SemTxvevaSi es aris sazogadoebri i azri, Tumca gamocdil ebam dagvanaxa, rom pol itikur diskusiebSi Seuracxmyofel i gamonaTqvamebis xSirma gamoyenebam (romel ic imal eba saparl amento imunitetis ukhan) kerzo da pol itikur cxovrebaSi aseTi gancxadebebis mimarT sxvadasxva kriteriumebiT midgomis STabeWdil eba Seqmna. amitom pol itikosebs moeTxovebaT ufro meti Semwynarebl obis gamoCena. rogorc wesi, pol itikuri davis dros gamoTqmul i kriticizmi zians ar ayenebs pirovnebis reputacias, sanam igi mis kerzo cxovrebas ar Seexeba. mocemul SemTxvevaSi, aseTad ar SeiZI eba miCneul i yofil iyo gamonaTqvamebi - "pol itikuri eTikis minimal uri moTxovna" da "simaxinje". amitom sasamarTI om ar daakmayofil a kreiskis sačivari.

29. saapel acio sasamarTI o Semdeg miubrunda I ingensis sačivris safužvi ebs da, upirvel es yovl isa, gamoikvl ia pirvel i instanciis sasamarTI oSi wardgenil i mtkicebul eba, raTa daedgina, Tu ra kuTxiT iyo gakritikebul i kreiski Jurnal istis mier. saapel acio sasamarTI om, pirvel i

instanciis sasamarTI os msgavsad, miicnia, rom I ingensis kritika mimarTul i iyo kreiskis, rogorc partiis I iderisa da kerzo piris, mimarT.

gamoTqma - "uRimesi oportunizmi", gul isxmobis, rom piri, romel sac es fraza exeba, moqmedebda specialuri miznita da moraluri principebis srul i ignorirebiT. aseTma Sefasebam, TavisTavad, kreiskis reputacias didi dartyma miayena. aRniSnul winadadebaSi fraza - "es rom vinme sxvas Caedina", ar cvl ida mis ZiriTad Sinaarss, xol o bral debul ma aseTi Sefasebis safuzvl i anoba ver daamtkica. amitom pirvel i instanciis sasamarTI os ufl eba hqonda igi damnaSaved ecno.

I ingensis Tanaxmad, gamonaTqvamebi' - "amoraluri" da "uRirsi", iyo kreiskis qcevis miseul i Sefaseba, romel ic ar yofil a sadavo, Sefaseba, romel ic gakeTda evropis konvenciis me-10 muxl iT aRiarebul i gamoxatvis Tavisufl ebis gamoyenебiT. saapel acio sasamarTI om ar gaiziara misi mosazreba; man aRniSna, rom avstriis samarTal i ar aniWebs pirovnebas sakutari Sefasebebis formul irebis ganusazRvrel ufl ebas da TviT konvenciis me-10 muxl iTac daSvebul ia am ufl ebis kanoniT gaTval i swinebul i SezRudvebi sxvaTa reputaciis dacvis interesebidan gamodinare. metic, presis amocanaa informaciis miwodeba, xol o misi interpretaciis (gaanal izebis) ufl eba rCebs mkiTxvel s. Tu Jurnal isti Tavis Sexedul ebas mainc gamoxataavs, es unda xdebodes sisxl is sasamarTI is kodeqsiT gaTval i swinebul sazRvrebSi, roml ebic dawesebul ia adamianebis reputaciis dasacavad. mocemul SemTxvevaSi amas adgil i ar hqonia. Tavisi gancxadebis WeSmari tebis mtkicebis tvirti daekisra I ingenss; mas ar SeeZl o ganecal kevebina Tavisi Sefaseba faqtebisagan, roml ebsac is efuZneboda. ramdenadac kreiski piradad darwmunebul i iyo, rom viezental i "mafiur meTodebs" iyeneboda, mas bral ad ver daedeboda amoraluri an uRirsi formiT moqmedeba.

30. saapel acio sasamarTI os gadawyvetil eba gamoqveynda "profil Si" 1982 wl is 22 Teberval s, I ingensisa da misi gamomceml is mimarT dawesebul i sasj el is Sesabamisad.

saqmis aRZvra komisiaSi

31. komisiisadmi mimarTul 1982 wl is 19 aprii is gancxadebaSi (# 9815/82) I ingensma gaasaCivra presis saSual ebiT defamaciisaTvis misi gasamarTI ebis faqt (avstriis sisxl is sasamarTI is kodeqsis 111-e muxl is me-2 paragrafi).

32. komisiiam 1983 wl is 5 oqtombers gamoitana gadawyvetil eba gancxadebis misaRebobis Sesaxeb. 1984 wl is 11 oqtombris angariSSI komisiam gamoxata erTsul ovani daskvna, rom adgil i hqonda konvenciis me-10 muxl is darRvevas. komisiis daskvnis srul i teqsti, danarTis saxiT, Tan axl avs winamdebare sasamarTI o gadawyvetil ebas.

saqmis sabol oo ganxil va sasamarTI oSi

33. 1985 wl is 25 noembers gamarTul mosmenaze mTavroba iTxovda sasamarTI osagan "mixedvel obaSi mieRo, rom mocemul saqmisi adgil i ar hqonia adamianis ufl ebaTa evropis konvenciis me-10 muxl is debul ebaTa darRvevas", xol o ganmxadebel i iTxovda saqmis gadawyetas mis sasargebi od.

sasamarTI ebrivi mxare

I. me-10 muxl is uxesi darRveva

34. konvenciis me-10 muxl is mixedviT,

"..."

Tavis sačivarSi I ingensi aRniSnava, rom gasačivrebul i sasamarTI o gadawyvetil ebebiT misi gamoxatvis Tavisufl eba demokratiul i sazogadoebis ZiriTadi principebisatvis Seusabamo doniT daiRva. anal ogiuri iyo komisiis daskvnac. Tumca mTavrobas, Tavis mxriv, miačnda, rom sadavo sasj el i aucil ebl obas warmoadgenda kreiskis reputaciis dasacavad.

35. sadavod ar qceul a is faqt, rom adgil i hqonda "saj aro xel isufl ebis Carevas" ganmcxadebl is gamoxatvis Tavisufl ebis ganxorciel ebis procesSi, rac dasrul da venis regional uri sasamarTI os mier 1981 wl is 1 april s defamaciisaTvis ganmcxadebl is gasamarTI ebiT, romel sac mxari dauwira venis saapel acio sasamarTI om 1981 wl is 29 octombris gadawyvetil ebiT (ix. \$26, 27).

aseTi Careva ewinaaRmdegeba konvencias, Tu is ar akmayofil ebs me-10 muxl is me-2 paragrafis moTxovnebs. amitom unda ganisazRvros, iyo Tu ara aseTi Careva "kanoniT gaTval i swinebul i", hqonda Tu ara konvenciis me-10 muxl is me-2 paragrafiT gansazRvrul i mizani an miznebi da iyo Tu ara "aucil ebel i demokratiul sazogadoebaSi" am miznis an miznebis ganxorciel ebisaTvis (rogorc uaxl esi precedenti ix. bartol dis saqme, 1985 wl is 25 marti, seria A, #90, gv. 21, \$43).

36. pirvel or sakiTxTan dakavSirebiT, sasamarTI o daeTanjma komisiasi da mTavrobas, rom sasamarTI o ganxil va efuzneboda avstriis sisxl is samarTI is kodeqsis 111-e muxl s (ix. \$21); metic, misi mizani iyo "sxvaTa ufl ebebisa da reputaciis dacva" da ar arsebobs mizezi vifigroT, rom mas raime sxva daniSnul eba hqonda (ix. konvenciis me-18 muxl i). sasamarTI o ganxil va iyo "kanoniT gaTval i swinebul i" da konvenciis me-10 muxl is me-2 paragrafis Sesabamisad, hqonda legitimuri mizani.

37. komisiis, mTavrobisa da ganmcxadebl is argumentebi koncentrirebui i iyo sakiTxze, iyo Tu ara Careva "aucil ebel i demokratiul sazogadoebaSi" zemoaRniSnul i miznis misaRwevad.

ganmcxadebel ma xazi gausva pl ural istur sazogadoebaSi misi, rogorc politikuri Jurnal istis, rol s; man, rogorc aseTma, Tavis moval eobad CaTval a gamoETqa Sexedul eba viezental isadmi mimarTul kreiskiseul SefasebebTan dakavSirebiT (ix. \$ 10). man aseve miCnia - da es azri komisiamac gai ziara, - rom politikosi, romel sac, Tavis mxriv, Cvevad aqvs oponentebze Tavdasxm, ufro daundobel kriticizms unda moel odes, vidre nebismieri sxva adamiani.

mTavrobis azriT, gamoxatvis Tavisufl ebas xel i ar unda SeeSal a erovnul i sasamarTI oebisaTvis gamoeyenebinaT TavianTi damouki debi oba da mieRoT gadawyvetil ebebi, romel Ta miRebac aucil ebel ia imis uzrunvel sayofad, rom politikuri debatebi pirad SeuracxyofaSi ar gadazardos. am Tval sazrisiT, I ingensis zogierTi gamonaTqvami (ix. \$\$ 12, 15) dasaSvebobis zRvars gadascda. metic, gammcxadebl is azrebi sazogadoebamde mividia yovel gvari winaswari cenzuris gareSe; yovel i ve aqedan gamomdinare, sasj el i Seesabameboda miznis legitimurobas.

metic, mTavroba amtkicebda, rom mocemul SemTxvevaSi adgil i hqonda konvenciit dacul i ufl ebebis, kerZod, gamoxatvis Tavisufl ebisa (muxl i 10) da piradi cxovreibis pativiscemis

ufl ebis (muxl i 8) konfl iqts. komisiis mier pirvel i ufl ebis farTo interpretaciisas, rogorc mTavroba axadebda, meore ufl ebis dacvis aucil ebl oba mxedvel obaSi ar yofil a miRebul i.

38. am ukanknel sakiTxTan dakavSirebiT, sasamarTI om aRniSna, rom I ingensis gasaCivrebul i gamonaTqvamebi ukavSirdeboda gansazRvrul saj aro bral debas, romel ic kreiskim viezental s wauyena (ix. \$10), da yofil i kancl eris, rogorc pol itikosis, damokidebul ebias nacional uri social izmisa da nacistebis mimarT (ix. \$14). amitom mocemul SemTxvevaSi ar arsebobs me-8 muxl is WriL Si me-10 muxl isadmi mimarTvis aucil ebl oba.

39. me-10 muxl is me-2 paragrafis konteqstSi zedsarTavi saxel i - "aucil ebel i", gul isxmobs "gadaudebel sazogadoebrev saWiroebas". xel Sekrul ebis monawil e saxel mwifoeb aseTi saWiroebs arsebabis Sefasebis garkveul i standarti aqvT, Tumca es mwidrod aris dakavSirebul i saerTo-evropul zedamxedvel obasTan, romel ic moicavs rogorc kanonmdebl obas, ise gadawyvetil ebebs, maT Soris damoukidebel i sasamarTI os gadawyvetil ebebsac (ix. "sandi Taimsis" saqme, 1979 wl is 26 april i, seria A, #30, gv. 36, \$59). aqedan gamodinare, sasamarTI o ufl ebamosil ia miiRos sabol oo gadawyvetil eba, Seesabameba Tu ara "SezRudva" an "sasj el i" me-10 muxl iT dacul gamoxatvis Tavisufl ebias.

40. sazedamxedvel o iurisdiqiis ganxorciel ebias, evropis sasamarTI o ver SemoisazRvreba sadavo sasamarTI o gadawyvetil ebebis izol irebul ad ganxil viT; man unda ganxil os isini saqmis mTI ian konteqstSi, ganmcxadebl is winaaRmddeg gamoyenebul i statiebisa da im garemoebabis gaTval iswinebiT, romel Ta gavl eniTac isini daiwera (ix. mutatis mutandis, hendsaidis saqme 1976 wl is 7 dekemberi, seria A, #24, gv. 23, \$50). sasamarTI om unda gansazRvros, mocemul SemTxvevaSi iyo Tu ara Careva "dasaxul i Legitimuri miznis tol fasi", xol o avstriis sasamarTI oebis mier aseTi Carevis gasamarTI ebl ad moyvanil i mizezebi - "Sesabamisi da damakmayofil ebel i" (ix. zemoxsenebul i bartol dis saqme, seria A, #90, gv. 25, \$55).

41. amasTan dakavSirebiT, sasamarTI o moval ea Seaxsenos, rom gamoxatvis Tavisufl eba, me-10 muxl is pirvel i paragrafis mixedviT, Seadgens demokratiul i sazogadoebis erT-erT fundamentur safuzvel s da misi ganvitarebisa da pirovnebis TviTreal izebis mTavar pirobas. me-10 muxl is me-2 paragrafis Sesabamisad, is gamoiyeneba ara mxol od iseTi "informaciisa" da "ideebis" mimarT, roml ebic ketil ganwyobil ad miReba an ganxil eba rogorc uvnebel i an rogorc indiferentizmis sagani, aramed iseTebis mimarTac, roml ebic, Tavisi arsiT, Seuracxmyofel ia, aRSfoTebas iwevs da adamianebris simSvides arRvevs. es aris pl ural izmis, Semwynarebl obisa da saRi azrovnebis arsebiTi niSani, roml is gareSec ar arsebobs "demokratiul i sazogadoeba" (ix. zemoxsenebul i hendsaidis saqme, seria A, #24, gv. 23, \$49).

es principebi ganskutrebiT mniSven ovania presasTan dakavSirebiT. marTal ia, presam ar unda gadaabij os im zRvars, rasac "sxvaTa reputaciis dacva" hqvia, magram mas mainc eval eba informaciisa da ideebis gavrcel eba pol itikur iseve, rogorc sazogadoebis interesebis sferosi Semaval sxva sakiTxebze. aseTi informaciisa da ideebis gavrcel eba mxol od presis amocana araa: sazogadoebasac aqvs ufl eba maTi miRebisa (ix. mutatis mitandis, zemoxsenebul i "sandi Taimsis" saqme, seria A, #30, gv. 40, \$65). aqedan gamodinare, sasamarTI o ver daeTanxmeba venis saapel acio sasamarTI os gadawyvetil ebaSi gamoTqmull azrs, rom presis amocanaa mxol od informaciis miwodeba, xol o misi gaanal izebis ufl eba rCeba mkiTxvel s (ix. \$29).

42. metic, presis Tavisufl eba sazogadoebas aZI evs saukeTeso saSual ebas Seiqmnas, Camoayal ibos da gamoxatos sakuTari azri politikuri I iderebis ideeba da poziciasTan dakavSirebit. zogadad rom vTqvaT, politikuri debatebis Tavisufl eba im koncefciis birTvia, romel ic adamianis ufl ebaTa evropis konvenciis mTavar arss warmoadgens da romel sac demokratiul i sazogadoebis koncefcia ewodeba.

misaRebi kriticizmis sazRvrebi ufro farToa, rodesac saqme exeba politikoss da ara kerzo pirovnebas. ukansknel isagan gansxvavebiT, politikosi sazogadoebis yuradRebis centrSi Tavs Segnebul ad ayenebs, misi sityva da saqme gardauvl ad xdeba rogorc Jurnal istebis, ise mTI ianad, sazogadoebis daJinebul i, gamomcdel i metval yureobis obieqt, amitom politikoss Semwynarebl obis udidesi unaris gamocena marTeb. udavaoa, rom adamianis ufl ebaTa evropis konvenciis me-10 muxl i (me-2 paragrafi) icavs TiToeul i pirovnebis reputacias da es vrcel deba politikosebzec, maSinac ki, roca isini ar moqmedeben rogorc kerzo pirebi, magram am SemTxvevaSi aseTi dacvis kriteriumebi unda Sefasdes politikur sakiTxebze Ria diskusiis interessebTan kavSirSi.

43. gamcxadebel i gaasamarTI es venis Jurnal "profil Si" 1975 wl is 14 da 21 oqtombers gamoqveynebul statiebSi maSindel i federal uri kancl eris, b-n kreiskis, misamarTiT gansazRvrul i gamonaTqvamebisatvis ("uRrmesi oportunizmi", "amoral uri", "uRirsi", ix. \$\$12-19). statiebi exeboda avstriis sazogadoebis yuradRebis centrSi moqceul politikur sakiTxs, romel mac nacional uri social izmisa da qveynis marTvaSi yofil i nacistebis monawil eobis mimarT, zogadad, avstriel Ta da kerZod kancl eris damokidebul ebis garSemo gacxovel ebul i diskusia gamoiwvia. mTI ianobaSi statiebis Sinaarsi da toni sakmaod gawonasworebul i iyo, Tumca zemoxsenebul i gamonaTqvamebis gamoyenebam kreiskis reputaciisadmi zianis miyenebis STabeWdil eba Seqmna.

magram, ramdenadac saqme exeba kreiskis, rogorc politikoss, gasatval iswinebel ia aRniSnul i statiebis daweris safuzvel i. isini 1975 wl is oqtombris sayovel Tao arCevnebidan mokl e xanSi gamoqveynda. mraval i avstriel i figrobda, rom kreiskis partia dakargavda absolutur umravl esobas am arCevnebSi da saxel mwifos marTvis unaris SesanarCunebl ad izul ebul i gaxdeboda peteris partiasTan koal icia Seeqmn. rodesac arCevnebis Semdeg viezental ma gamoqveyna cnobebi peteris nacisturi warsul is Sesaxeb, kancl erma daicva peteri da viezentul is moqmedebas "mafuri metodebi" uwoda, rasac Sedegad mohya l ingensis mwave reaqcia (ix. \$\$9,10).

aqedan gamodinare, SeiZI eba iTqvas, rom gasaCivrebul i gamonaTqvamebi mimarTul i iyo arCevnebis Semdgomi politikuri dapirispirebis safuzvl isadmi, romel sac fesvebi warsul Si hqonda. rogorc venis regional urma sasamarTI om 1979 wl is 26 martis gadawyvetil ebaSi aRniSna (ix. \$24), am brZol aSi yvel am Tavis gankargul ebaSi arsebul i iaraRi gamoiyena, rac srul iadac ar aris mZime politikuri batal iebisaTvis ucveul o movl ena.

konvenciis gadasaxedidan Sefasebis ar SeiZI eba mxedvel obidan iqnes gamorCenil i is sasj el i, romel ic gamcxadebel s daekisra, da Sidaxel mwifoebri sasamarTI oebis mier aseTi gadawyvetil ebis gamotanis mizezebi.

44. saqmis saapel acio wesiT ganxil visas venis saapel acio sasamarTI om l ingenss jarima daakisra; man aseve miRo gadawyvetil eba profil is Sesabamisi gamocemebis konfiskaciisa da sasamarTI os aRniSnul i gadawyvetil ebis gamoqveynebis Sesaxeb (ix. \$\$ 21, 26, 27, 30).

rogorc mTavroba aRniSnavda, gasaCivrebul i statiebi im droisaTvis ukve farTod iyo gavrcel ebul i, ase rom, Tumca dawesebul ma sasj el ma avtors xel i, faqtobrivid, ver SeuSal a sakuTari azris gamoxatvaSi, is mainc uTanabrdoba erTgvar cenzuras, romel ic avtors momaval Si msgavsi kriticizmis gamoxatvis survil s ukargavs. komisiis warmoadgenel ma marTebul ad SeniSna es. politikuri debatebis konteqstSi aseTi sasj el i Jurnal ists sazogadoebrivi cxovrebis mniSvnel ovan sakiTxebze saj aro diskusiaSi monawil eobaze uars aTqmivebs. imave niSniT, aseTi sanqcia xel s uSI is presas Tavisi, rogorc sazogadoebis mommaragebl isa da guSagis, funqciebis Sesrul ebaSi (ix. mutatis mutandis, zemoxsenebul i bartol dis saqme, seria A, # 90, gv. 26, \$58).

45. avstriis sasamarTI oebi, pirvel rigSi, Seudgnen imis garkvevas, iyo Tu ara I ingensis gasaCivrebul i gamonaTqvamebi namdvil ad defamaciuri; maT daadgines, rom zogierTi gamonaTqvami, kerZod "uRrmesi oportunizmi", "amoral uri" da "uRirsi", marTI ac atarebda aseT xasiats (ix. \$21).

ganmcxadebel ma aRniSna, rom sadavo gamonaTqvamebi warmoadgenda mis mier gamoxatvis Tavisufl ebis ganxorciel ebiT gakeTebul Sefasebebs (ix. \$\$22, 29). evropis sasamarTI om, komisiis msgavsd, gai ziara misi azri. I ingensis kriticizmi, faqtobrivid, mimarTul i iyo kreiskis, rogorc federal uri kancl eris, poziciisadmi. sadavo iyo ara misi ufl eba - gaevrcel ebina informacia, aramed misi azris Tavisufl eba da ideebis gavrcel ebis ufl eba; me-10 muxl is me-2 paragrafiT gaTval i swinebul i SezRudvebi mainc gamoyenebadi darCa.

46. sasamarTI oebi Semdeg Seudgnen imis garkvevas, SeeZI o Tu ara mopusuxes Tavisi gancxadebebis simarTI is damtkiceba; es Seesabameboda avstriis sisxl is samarTI is kodeqsis 111-e muxl is me-3 paragrafs (ix. \$20). maT arsebitad gaacnobieres, rom arsebobda kreiskis qcevis Sefasebis gansxvavebul i gzebi da SeuZI ebel i iyo I ogikurad erTi interpretaciis WeSmaritebis damtkiceba sxvebTan mimarTebaSi. Sedegad maT mopusuxis qmedeba defamaciad daakval ificires (ix. \$\$ 24, 26, 29).

evropis sasamarTI os azriT, aucil ebel ia erTmanetisagan didi sifrtxil iT gaimij nos faqtebi da Sefasebebi. faqtebis arseboba SeiZI eba demonstrirebul iqnes maSin, roca Sefaseba ar eqvemdebareba damtkicebas. amasTan dakavSirebiT, sasamarTI o aRniSnav, rom im faqtebis arseboba, rom ebze dayrdnobiTac I ingensma gaakeTa Sefaseba, udavo iyo. es exeba aseve mis mier ketil i nebis gamovl enas (ix. \$21).

avstriis sisxl is samarTI is kodeqsis 111-e muxl is me-3 paragrafis Sesabamisad, Tu mas ganvixil avT me-2 paragraftan kavSirSi, Jurnal isti ver gaeqceva pasuxismgebl obas, Tu amave muxl is pirvel i paragrafiT gaTval i swinebul i garemoebabis arsebobisas ver daamtkicebs sakuTari gancxadebis simarTI es (ix. \$20).

rac Seexeba Sefasebas, aRniSnul i motxovnis Sesrul eba SeuZI ebel ia da, amave dros, ewinaaRmdegeba sakuTriv azris Tavisufl ebis princips, romel ic konvenciis me-10 muxl iT dacul i ufl ebis ZiriTad arss warmoadgens.

venis regional uri sasamarTI o Tavis gadawyvetil ebaSi miutiTebda, rom mtkicebis saval debul oba momdinareobda kanonidan da misi gamartiveba Tu Semsubugeba ara sasamarTI os, aramed kanonmdebl is saqme iyo (1981 wl is 1 april is gadawyvetil eba. ix. \$26). amasTan dakavSirebiT, evropis sasamarTI om aRniSna, rom mis val debul ebias ar warmoadgens imis gansazRvra, xel isufl ebis

romel Stos miuzRvis bral i konvenciis darRvevaSi; aRniSnul SemTxvevaSi saqme gvaqvs saxel mwifos saerTaSoriso pasuxismgebl obasTan (ix., iter alia, zlmermanisa da steineris saqme, 1983 wl is 13 ivl isi, seria A, #66, gv. 13, \$32).

47. yovel ive zemoaRniSnul idan gamomdinareobs, rom I ingensis mier gamoxatvis Tavisufl ebaSi Careva ar iyo "aucil ebel i demokratiul sazogadoebaSi . . . sxvaTa reputaciis dasacavad", ar Seesabameboda dasaxul I egitimir mizans da warmoadgenda konvenciis me-10 muxl is darRvevas.

aqedan gamomdinare, sasamarTI om erTxmad daadgina, rom

1. adgil i hqonda konvenciis me-10 muxl is darRvevas;
2. avstriis respubl ika moval e iyo ganmcxadebl isaTvis gadaexada 284,538.60 Sil ingi, rogorc "samarTI iani dakmayofil eba".