

OBLIGATION OF PROOF OF THE ADMINISTRATIVE BODY IN ADMINISTRATIVE PROCEEDINGS

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Received: 3 September 2025

Accepted: 31 January 2026

Abstract

The Law of the Republic of Azerbaijan “On Administrative Proceedings” is a general law regulating relations arising in connection with administrative proceedings. The adoption of this law played an important role in solving existing problems arising in this area and, by reflecting legal principles and main directions, ensured legal uniformity for all administrative bodies. The said law contains two main goals, which are the provision of human rights and freedoms, which are accepted as the main principle and beginning of law, and the rule of law. The fact that the relations between the administrative body and the citizen constitute general relations (relations of subordination) makes the provision of human rights and freedoms inevitable. This is due to the fact that the administrative body should not interfere with the rights and freedoms of citizens protected by law by abusing its duties and powers. The provision of human rights and freedoms has been accepted as the main principle of every legal state. As is known, administrative proceedings regulate the imperative relations between the administrative body and interested persons. These relations are regulated by the administrative procedural rules established by law. Administrative proceedings are carried out on the basis of certain stages. One of these stages is related to the investigation and determination of facts. The duty to investigate and prove those facts falls on the administrative body. The article reflects the means of proof, the obligation of the administrative body and the relations arising from this with the interested person.

Key words: administrative proceedings; proof; interested person, administrative act

Introduction

Administrative activity occupies a central position within the system of state functions, traditionally being distinguished from legislative and judicial powers. In a theoretical sense, it encompasses all forms of state action aimed at ensuring the continuous functioning of public administration and satisfying the ongoing needs of society (Åhman, 2020). Such activity includes the implementation of laws, the provision of public services, and the regulation of social relations through administrative acts. While classical doctrine often equates administrative activity with the functions of the executive branch, this identification requires clarification. Executive bodies may engage not only in administrative (managerial) functions but also in political decision-making, which falls outside the scope of administrative activity in its strict sense. Therefore, administrative activity should be understood as a functional category that excludes purely political actions and focuses on the practical realization of public tasks (Mehdiyev, 2010). At the same time, administrative

activity is not limited exclusively to executive authorities. From a material or functional perspective, legislative and judicial bodies may also perform administrative functions, particularly in relation to internal organizational matters, personnel management, or the provision of auxiliary services. This broader understanding highlights the complexity and universality of administrative functions within the state apparatus and underscores the necessity of establishing clear legal frameworks governing their exercise. As noted in administrative law doctrine, the extension of judicial review to both central and local government decision-making further confirms the relevance of administrative procedures across different branches of power (Leyland, 2016).

Within this institutional and functional context, administrative proceedings emerge as a key legal mechanism through which administrative bodies exercise their powers. According to the Law of the Republic of Azerbaijan "On Administrative Proceedings," administrative proceedings encompass the adoption, execution, amendment, or cancellation of administrative acts, as well as other procedural actions undertaken by administrative authorities in accordance with established legal rules. These proceedings may be initiated either upon the application of individuals or legal entities or on the initiative of administrative bodies themselves. Such dual grounds for initiation reflect the hybrid nature of administrative proceedings, combining elements of responsiveness to private interests with proactive governance in the public interest.

Administrative proceedings are structured as a последовательный (sequential) process consisting of several interconnected stages. These typically include the initiation of proceedings, the determination and investigation of factual circumstances, and the adoption of a final administrative act. Each of these stages serves a specific function and contributes to the overall objective of ensuring lawful, fair, and reasoned administrative decision-making (Boulanger-Bonnely and Otis, 2021). Among them, the stage of establishing factual circumstances occupies a particularly significant place, as it directly affects the legality and validity of the administrative act ultimately adopted.

The determination of facts in administrative proceedings is closely linked to the concept of proof and the allocation of the burden of proof (Craig, 2021). Unlike adversarial judicial proceedings, where the parties bear the primary responsibility for presenting and proving their claims, administrative proceedings are characterized by the leading role of the administrative body. This reflects the principle of official investigation, according to which the administrative authority is obliged to independently examine the factual circumstances of the case in an objective and impartial manner. Consequently, the burden of proof in administrative proceedings largely rests with the administrative body, which must collect, verify, and evaluate the evidence necessary for making a lawful decision.

This allocation of the burden of proof is closely connected to fundamental principles of administrative law, particularly the protection of human rights and the rule of law. Administrative bodies operate within relationships of subordination vis-à-vis individuals and legal entities, which creates an inherent imbalance of power. In such circumstances, placing the primary responsibility for establishing the facts on the administrative authority serves as an important safeguard against arbitrariness and abuse of power. It ensures that individuals are not unduly burdened with proving circumstances that fall within the competence or resources of the state, thereby strengthening the protection of their rights and legitimate interests (Elliott and Thomas, 2020).

At the same time, the role of interested persons in administrative proceedings should not be underestimated. Although the administrative body bears the principal responsibility for investigating the facts, effective proceedings often require the active participation and cooperation of individuals and legal entities (Jurkeviča and Šmits, 2017). They may provide documents, explanations, or other forms of evidence necessary for clarifying the

circumstances of the case. In certain situations, the absence of such cooperation may hinder the administrative body's ability to establish the relevant facts, which, in turn, may affect the outcome of the proceedings. Therefore, the evidentiary process in administrative law should be understood as a dynamic interaction between the administrative authority and the interested persons, rather than a purely unilateral activity.

Another important feature of administrative proceedings is the relative flexibility of evidentiary rules. Unlike judicial processes, which are typically governed by strict procedural requirements regarding the admissibility and evaluation of evidence, administrative proceedings operate under the principle of informality (Frumarová, 2022). This allows administrative bodies to use a wide range of evidentiary means, including documents, witness statements, expert opinions, and information obtained from other authorities. At the same time, such flexibility must be balanced by the obligation to ensure objectivity, impartiality, and transparency in the assessment of evidence. The principle of free evaluation of evidence requires the administrative body to consider all relevant circumstances and to base its decision on an internal conviction formed through a comprehensive analysis of the available information (Khudair, 2025).

In light of the above, the obligation of proof of the administrative body represents a fundamental element of administrative proceedings, reflecting both their procedural specificity and their underlying normative values. The proper allocation and implementation of this obligation play a decisive role in ensuring the legality, fairness, and effectiveness of administrative decision-making.

This article aims to examine the legal nature, scope, and practical implications of the obligation of proof of administrative bodies in administrative proceedings. It analyzes the types and means of evidence, the principles governing their collection and evaluation, and the interaction between administrative authorities and interested persons within the evidentiary process. The study is structured into an introduction, two main sections, and a conclusion, each addressing key aspects of the burden of proof in administrative law and contributing to a deeper understanding of its role in modern administrative governance.

Materials and Methods

Article 28 of the Law of the Republic of Azerbaijan "On Administrative Proceedings" sets out the grounds for initiating administrative proceedings. Thus, according to that article, the grounds for initiating administrative proceedings are as follows:

- a) an application by an individual or legal entity;
- b) the initiative of an administrative body or, in cases provided for by law, the duty of an administrative body to adopt an administrative act;
- c) an administrative complaint in the event of a complaint against an administrative act.

In the event of an application by an individual or legal entity or a complaint against an administrative act, administrative proceedings shall commence from the moment of registration of the application or complaint, respectively. Initiation of administrative proceedings on the basis of an application by an interested person is also called "application proceedings". In this case, granting certain rights to an interested person or eliminating the obligations imposed on him shall be carried out only on the basis of his application. For example, issuing licenses. According to Article 29 of the same Law, unless otherwise provided for in the legislation of the Republic of Azerbaijan, the application shall be submitted by the interested person to the relevant administrative body authorized to adopt an administrative act on the issue raised in the application in person or sent by post or electronically. The

determination of the period and grounds for initiating administrative proceedings is related to the implementation of administrative proceedings within the period established by law and the provision of the opportunity to use legal remedies in a timely manner. If the interested person submits the application in person, the administrative proceedings shall be registered on the same day. When the application is sent by post or electronically, the registration of the interested person's application shall depend on the administrative body. Administrative proceedings shall be considered initiated from the time the interested person's application is registered.

In any case, the administrative body cannot refuse to accept the application received by it. The period of administrative proceedings begins from the moment of accepting the application of the interested person. Failure to register the application of the interested person is considered a violation of the law, and the remedies for the interested person are determined by law. Thus, in cases where, according to Article 39.1 of the Code of Administrative Procedure, a decision is not made by the relevant administrative body within the period established by law and without sufficient grounds on an application for the adoption of an administrative act or a complaint filed with the appeal instance, a claim is not allowed to be filed in court until 35 days have passed from the date of filing the application or the complaint (except for cases where a shorter or longer period is established by law). In the event that the application of the interested person is canceled or withdrawn, the initiation or continuation of administrative proceedings will be considered an illegal act or action of the administrative body.

Using this framework, I first analyze the choice of administrative bodies between adopting a rule and making a decision. Since each firm knows its own circumstances, the policy-making decision tool can predict how the administrative body will use this information in a future decision, taking this prediction into account in its current course of action. Thus, judgment is a way for agencies to use the information they currently lack but do have to tailor policy narrowly to each firm's circumstances and to influence the current actions of firms (Givati, 2014).

At the stage of the actual administrative decision-making, it is now almost universally accepted that the affected party or parties must be given notice. Therefore, the formal decision-making procedure has almost always adopted the judicial principle of fair notice to the parties (Mukharji, 2020).

As long as the law establishes the filing of an application as a prerequisite for the initiation of proceedings, the interested party has the right to request the administrative authority not to initiate proceedings until he so requests, or rather, until he has filed an application. The interested party may also defend this request in court. If any proceedings have been initiated and it subsequently becomes clear that filing an application is necessary for the continuation of the proceedings, and the interested party does not file or refuses to file such an application, then the proceedings must be suspended (Karimov, 2006).

An interested person shall submit a written application to an administrative body upon application. The form and content of the application shall be regulated by the Law "On Administrative Proceedings". Submission of the application in written form shall be considered one of its mandatory requirements. The application shall also be submitted in electronic form. Preparation of the application in accordance with the requisites established by the legislation shall determine the minimum requirements for the application submitted by the interested person to the administrative body upon application. According to Article 30.4 of the Law of the Republic of Azerbaijan "On Administrative Proceedings", if the application does not meet the requirements stipulated in this Article, the administrative body shall set a short period for making amendments to the application in accordance with those requirements and shall explain to the applicant the legal consequences of failure to

applications, complaints or petitions submitted by persons participating in administrative proceedings and whose consideration falls within its jurisdiction due to their irrelevance or groundlessness, or request from the interested person any other information in addition to that provided for by the legislation;

e) request from the applicant by the administrative body to obtain documents or information necessary for administrative proceedings and at the disposal of another administrative body;

f) failure of the administrative body to provide information to interested persons or their representatives on the adoption of an administrative act, amendments to an administrative act, revocation, cancellation, modification or invalidation of an administrative act in accordance with the procedure provided for by law;

g) failure of the administrative body to notify persons participating in administrative proceedings about the time and place of the meeting on administrative proceedings;

h) failure of the administrative body to adopt a decision on the adoption or refusal to adopt an administrative act within the period established by law or failure to send an administrative complaint and materials related to the proceedings to the appeal instance within 3 days shall entail a fine of three hundred and fifty to six hundred manats.

The administrative body may not request any other documents or information from the applicant than those provided for in the legislation of the Republic of Azerbaijan. Unless otherwise provided by law, the period set by the administrative body for the submission of additional documents or information shall not exceed 15 days. Unless otherwise provided by law, if additional documents or information are not submitted to the administrative body within the period provided for in Article 32.4 of this Law, the period for consideration of the application shall be suspended. The period shall be resumed from the moment additional documents or information are submitted to the administrative body.

Results and Discussion

From the moment of adoption of the decision on initiation of administrative proceedings by the administrative body or the performance of relevant procedural actions, it takes appropriate measures in connection with the conduct of administrative proceedings. Before the adoption of an administrative act, the administrative body may invite an interested person to participate in the case, an examination may be carried out at its own expense or at the expense of the interested person, witnesses may be summoned, etc.

Unlike procedural legislation, the Law on Administrative Proceedings regulates the rules on legal succession in general terms. This applies to both universal legal succession (inheritance, transfer of property, etc.) and syndical legal succession (with the transfer of a right on the basis of any contract). Therefore, issues of legal succession in administrative proceedings are resolved under the dictates of the rules of the relevant substantive law. That is, the principle of accessoryity is in force in an administrative act: if substantive law allows for succession, then legal succession is allowed in administrative proceedings (Karimov, 2006).

During the conduct of administrative proceedings, the administrative body must ensure the participation of persons determined by law. This is considered the duty of the administrative body. According to Article 36.1 of the Law of the Republic of Azerbaijan "On Administrative Proceedings", the following persons are considered participants in administrative proceedings:

- the administrative body conducting the administrative proceedings and having the authority to adopt the relevant administrative act;

- individuals or legal entities in respect of whom an administrative act is intended to be adopted or who have applied for the adoption of an administrative act;
- individuals or legal entities involved in the proceedings as participants by the administrative body.

Only persons who have reached the age of majority and have full legal capacity have the right to apply for an application and perform other procedural actions in administrative proceedings. In cases where it is assumed that the administrative act to be adopted will directly affect the rights and legally protected interests of other individuals or legal entities, the administrative body is obliged to ensure the participation of these persons in the proceedings as third (interested) persons. If the administrative act to be adopted affects the legally protected interests of third parties, the administrative body may involve them in the proceedings as participants on its own initiative or at the request of those persons. Third parties involved in the proceedings as participants have all the rights and obligations of the participants in the proceedings. If a third party whose participation is mandatory is involved in the proceedings, the administrative act adopted at the end of the proceedings becomes valid in relation to him and creates rights and obligations for him. The provisions of substantive law on legal succession shall apply in administrative proceedings. The transfer of rights directly related to the personality of a participant by legal succession shall not be allowed.

Participation in administrative proceedings is divided into 3 parts: a) mandatory participation and b) ordinary involvement. When we say mandatory participation, it is considered directly the duty of the administrative body to involve those participants in the administrative proceedings. The essence of mandatory participation is that the conduct of administrative proceedings is related to the “direct impact on interests protected by law”. Here, the obligation to ensure the participation of persons in administrative proceedings as a prerequisite is also understood as a limitation of the discretionary powers of the administrative body. Here, at the same time, the direct impact of the administrative act on the person is accepted as a prerequisite for the mandatory participation of a person, that is, the creation of rights related to him, change or cancellation of his rights. The law provides for the participation of interested persons as a mandatory condition. However, in practice, taking into account the specifics of the activities of the administrative body, it is not possible to ensure the participation of interested persons in administrative proceedings. For example, the State Social Protection Fund, a public legal entity, assigns labor pensions or social benefits to citizens as an administrative body. However, their participation is not ensured when assigning social payments to citizens. Because for factual reasons it is impossible to ensure the participation of all citizens in the determination of social payments. In special cases, the participation of interested persons is ensured when restricting or canceling the rights of citizens. One of the main procedural principles of administrative proceedings is the provision of participation of interested persons in administrative proceedings. According to Article 21 of the Law of the Republic of Azerbaijan “On Administrative Proceedings”, unless otherwise provided by the Law, the administrative body must inform the interested person or his representative about the administrative proceedings and ensure his participation in the case. Unless otherwise provided by the Law, before adopting an administrative act, the administrative body is obliged to inform the interested persons or their representatives about its content, in particular the established factual circumstances of the case and the measures envisaged in connection with that case, and to hear their opinions on this. The administrative body may refuse to hear the interested persons or their representatives in the following cases:

- when it is intended to adopt an administrative act that fully satisfies the requirements of interested persons;
- when it is necessary to immediately adopt an administrative act in connection

with the prevention or elimination of a threat that may harm public or state interests;

- when holding a hearing may lead to the postponement of the period for the adoption of an administrative act;
- when it is intended to adopt a general order or a large number of administrative acts with identical content or administrative acts through automatic devices;
- when it is intended to adopt an interim administrative act that cannot be independently appealed against;
- when it is intended to apply measures related to the mandatory execution of administrative acts.

Ordinary involvement means that the participation of persons in administrative proceedings is carried out on the initiative of the administrative body or on the basis of the petition of other persons. In this case, participation in administrative proceedings is carried out on the basis of the discretionary powers of the administrative body.

According to Article 37 of the Law of the Republic of Azerbaijan “On Administrative Proceedings”, an individual or legal entity (interested person) may participate in administrative proceedings in person or be represented by a representative. The personal participation of an individual in administrative proceedings does not deprive him of the right to be represented by a representative in that case. The powers of the representative are confirmed by a power of attorney formalized in accordance with the legislation of the Republic of Azerbaijan. The representative has the right to perform all procedural actions related to the proceedings on behalf of the person he represents. Individuals who are considered incapacitated or have limited capacity to act are represented in administrative proceedings by their legal representatives. Legal representatives must submit a document confirming their powers to the administrative body. Legal representatives may assign another person they choose to participate in the proceedings as a representative. The representative is obliged to conscientiously defend the interests of the person he represents. The administrative body is represented in administrative proceedings by the head of that body, his deputy, or another official appointed by the head of that body. Unless otherwise provided by law, the administrative body shall address a representative on all issues related to administrative proceedings.

According to Article 38 of the same Law, an interested person has the right to be represented by a lawyer in administrative proceedings and to use the assistance of a lawyer. Lawyers acting in accordance with the procedure established by the legislation of the Republic of Azerbaijan may participate in administrative proceedings as lawyers.

During the conduct of administrative proceedings, an administrative body may, on its own initiative or at the request of interested persons, provide for the conduct of an expert examination or the participation of a specialist in order to investigate the factual circumstances of the case. According to Article 63.1 of the Code of Civil Procedure, a person who has special knowledge, is deemed necessary to give an opinion in the cases provided for by this Code, is appointed by the court or has concluded an agreement with persons participating in the case on conducting an expert examination may act in court as an expert. According to Article 64.1 of the same Code, a person who has the necessary technical, other knowledge and understanding to assist the court in the consideration of the case may act in court as an expert.

Experts and specialists are persons who have special knowledge and assist the administrative body in the investigation of a specific case by applying that special knowledge and giving an opinion in making a decision. In administrative proceedings, unlike criminal proceedings, the distinction between an expert and a specialist in terms of the traditional functions of “assistance” and “giving an opinion” is not a rule for administrative proceedings (Karimov, 2006).

As discussed, witnesses in court are generally only allowed to state their observations; they are not allowed to express their opinions except on matters within their knowledge. This is because if the witness does not have the special knowledge or experience to interpret the facts or observations, the judge is in as good a position as the witness to form an opinion as to the meaning or significance of the evidence, and therefore the witness's opinion is of no importance to the court. Opinion evidence is often harmless in a trial, because an experienced judge will appreciate its limitations and exclude the evidence from the final decision. However, as a precaution, if an ordinary witness is allowed to give his opinion, the opposing party's representative will likely object. Under the rules of evidence, opinions given by experts may be excluded. An expert witness is a person who, by virtue of his training or experience in any field, has an understanding of the subject matter on which he is testifying that is beyond the general public's understanding. Whether the person's knowledge and understanding are sufficient to justify the admission of the opinion depends on the circumstances of each case. Therefore, courts usually hold a hearing before deciding whether to allow an expert to give an opinion. Although they are not required to do so, many tribunals also use hearings when deciding whether to listen to expert opinions (5).

As can be seen, the administrative body does not have special knowledge and it is necessary to invite an expert who needs special knowledge to investigate the relevant case. The participation of experts and specialists is carried out on the initiative of the administrative body or on the basis of a petition from an interested person. In this case, the administrative body makes a decision to conduct an examination or to involve an expert in administrative proceedings. When inviting an expert or specialist, the administrative body itself determines the range of questions to be presented to them. Of course, in this case, the interested person may propose to ask the expert or specialist questions that he considers necessary to clarify. The costs of conducting an examination, as well as the payment of the expert or specialist's fee, are paid by the administrative body.

One of the procedural principles of administrative proceedings is the principle of objective investigation of the circumstances of the case. In accordance with the essence of this principle, it is the duty of the administrative body to obtain evidence in administrative proceedings for the purpose of an objective and impartial investigation of the factual circumstances of the case.

Evidence is a means used to confirm any assumption or alleged opinion. The role of evidence in administrative proceedings is different from that in administrative proceedings. If in administrative proceedings the parties bring evidence to create confidence in the judge, in administrative proceedings the administrative body uses it to create confidence in itself, or rather to be confident in the objective investigation of the circumstances of the case. True, the interested person also tries to convince the administrative body (similar to the attitude towards the judge in court) with the evidence he brings. But this should not be considered more as auxiliary actions. The collection of evidence and ensuring its reliability should be the result of the actions taken by the administrative body itself (Karimov, 2006).

Physical evidence includes test results, documents, photographs, video recordings, films and other objects. The key to establishing the reliability of physical evidence is to demonstrate that the object in question is genuine and has not been altered. The most effective way to do this is to ask the person who collected or created the object to participate as a witness and verify that the object has not been altered from the time it was collected or created until the time it was presented to the court. Alternatively, a witness who is familiar with the object and can prove that it has not been altered after the events in question can be called (Nastasi et al., 2020)

Although the legislation does not provide for an unambiguous definition of documents, a document is understood to mean an object in written or electronic form submitted by state authorities or other institutions. Statements of the parties and third

parties involved in the case may be considered as a means of proof by the administrative authority. However, it should be noted that administrative legislation does not provide for liability for making false statements in the relevant statements. For this reason, the assessment of the above explanations as a means of proof may prevent an objective and impartial examination of the case. Witness statements, on the other hand, express information about any circumstances or facts of persons not participating in the case. The main nuance here is that these statements must be given by persons not participating in the case. In order to ensure the objectivity and impartiality of the case, persons participating in the case cannot be questioned as witnesses. The conduct of examinations and their assessment as evidence is carried out on the basis of mutual consent of the parties. Expert opinions are considered evidence in administrative proceedings as well as in procedural legislation. Expert opinions are considered opinions adopted by persons with special knowledge by applying their special knowledge. References submitted by other administrative bodies in the form of legal assistance are considered as a type of evidence in administrative proceedings. References submitted in the form of mutual assistance between administrative bodies are considered.

Administrative proceedings benefit from the presumption of certainty and fairness, but this does not mean that such reports shift the burden of proof to the citizens. According to the Supreme Court, such a presumption is limited to undisputed objective facts directly stated by the officials. It will never benefit from simple global considerations, assessments or legal regulations. (STS of 1996). Article 137.3 of the LRJPAC expressly states the presumption of innocence when it comes to disciplinary procedures. Consequently, the facts reported by the officials conducting the investigation will be accepted as evidence, despite any evidence to the contrary by the citizens. Thus, the former are not more valuable than the latter. Both must be assessed equally by the acting authority. In short, what we have here is only a rebuttable presumption, an accusation or incriminating evidence that can be perfectly undermined by other evidence (*pruebas de descargo*) presented by the defense. Decisions that reject evidence presented by citizens or even refuse to open the evidentiary phase may lead to the annulment of the definitive declaration. To have such effect, either the resulting decision must create a lack of defense or it may be stated that the decision will be different. According to LRJPAC 80.2, the evidentiary period will last between 10 and 30 days. The taking of evidence (*práctica de la prueba*) must be carried out in accordance with civil law (CC and LEC). It is clear that each piece of evidence must be discussed by the parties, since administrative proceedings are adversarial (Giménez, 2013).

The most relevant evidence in the Spanish legal system is:

- Public or private documents.
- Confession.
- Personal examination.
- Experts/expert witness (*prueba pericial*).
- Witness evidence.
- Rebuttable-irrebuttable presumptions (*prueba por presunciones*).
- Circumstantial evidence (*prueba por indicios*)

The burden of proof or the duty of proof is the obligation to provide sufficient evidence to prove the disputed point. The standard of proof refers to the amount and type of evidence that will be considered sufficient to prove an idea. During administrative proceedings conducted on the basis of an application by an interested person, the burden of proof falls on the parties.

The interested person aims to achieve the adoption of an administrative act by the administrative body regarding the interested person by submitting the necessary documents and other evidence. At the same time, the participation and assistance of the

parties in the case is needed in order to investigate and prove the factual circumstances. For example, a medical examination of a person with a disability at the Medical-Social Expertise and Rehabilitation Agency. If the interested person does not undergo the appropriate examination, it will not be possible for the administrative body to determine his disability. At the same time, it should be taken into account that if the interested person cannot obtain the evidence he needs, he applies to the administrative body with a petition (Milkov and Radošević, 2024). In this case, the main duty of the administrative body is to consider and satisfy that petition. The administrative body cannot refuse to consider that petition without any reason. The duty to prove the authenticity of the documents submitted by the interested party cannot be imposed on him. The mentioned provision has found its place in administrative legislation. The administrative body is obliged to investigate and prove the authenticity of the document submitted to it. This, of course, reflects the essence of the presumption of reliability in the conduct of administrative proceedings.

According to Article 47 of the Law of the Republic of Azerbaijan “On Administrative Proceedings”, the administrative body evaluates the evidence in accordance with all factual and legal circumstances that are important for the case. At the request of the interested parties, the administrative body is obliged to provide them with an explanation or comment on all facts, evidence or proofs that it intends to justify the administrative act it will adopt, as well as on the legal basis it proposes for the adoption of the administrative act.

Unlike the administrative process, the principle of informality of the evidence process is valid for administrative proceedings. The administrative body determines the question of which circumstances of the case are important for the proceedings based on its discretion. That is, unlike the administrative process, the administrative body, not the parties, takes on the leading role in determining the circumstances of the case (Karimov, 2006).

The principle of free assessment of evidence is not dependent on the rules of evidence when the administrative body independently examines the factual circumstances of the case, as well as evaluates and compares the evidence. The administrative body must examine all the arguments to be taken into account with internal certainty and evaluate the means of proof on the basis of general principles.

4. Conclusions

Considering that the administrative body has a leading role in determining the factual circumstances of the case in administrative proceedings, the burden of examining and evaluating the evidence in the case falls on the administrative body. In practice, in order for the administrative body to consider the rights of the interested person more promptly and in a timely manner during the investigation of the case, there are cases where the administrative body does not obtain evidence from the interested person.

In terms of the presumption of authenticity, the authenticity of the documents submitted by the interested person must be proven by the administrative body. However, it should be taken into account that the administrative body conducting an investigation in relation to thousands of interested persons may lead to an extension of this period.

From this point of view, a regulation should be established for the independent conduct of administrative proceedings without granting the administrative body superior rights in the relations arising between the administrative body and the interested person.

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