

Administrative Law

Basic Principles of Administration

The Principle of Maximum (Art. 9)

- 1. Administrative bodies do not have the right to compel persons to carry out actions that these persons have already carried out in other contexts or whose substance has been included or could be included in those other contexts.
- 2. If the documents already submitted by a person contain the necessary information (data) required in other documents then administrative bodies shall not require persons to submit additional documents or documents with the same information in a different form.
- 3. If the permits issued to persons by administrative bodies in substance include other permits, then such other permits shall also be deemed to have been issued.
- *A majore ad minus* – major includes minor

Examples

- A reference letter on the registration of both children
 - AB requires that the parent submits two separate references for each
- AB grants construction permission to individual
 - Individual starts construction after destroying the old building
 - AB fines the individual reasoning it did not grant permit to destroy

- Law on Urban Development
- Article 24
- 1. Demolition permit is a document which certifies the right of the owner to carry out the demolition of buildings.
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- 2. If the construction of a new building is not possible without the demolition of the building on the same place, the construction permit, granted in accordance with the prescribed procedure, with relevant indication, is considered as a demolition permit as well.
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- Which basic principle of administration is reflected in this regulation?


Presumption of trustworthiness (credibility)

- 1. The **data** or **information** pertaining to factual circumstances that persons have presented to administrative bodies for consideration shall be deemed **reliable in all cases**, unless administrative body proves otherwise.
- Persons shall not be required to submit documents or additional information proving the trustworthiness of the data or information they have submitted, except as prescribed by law. If an administrative body has a **reasonable doubt** regarding the trustworthiness of the data or information submitted by persons, then administrative body **on its own** and at **its own expenses** shall take measures to ascertain the trustworthiness of the data or information.
- 2. Persons shall be liable for submitting fraudulent data or information to administrative bodies.

Examples

- A person graduated from a university with diploma
- He applies to a Ministry for a job
- The law requires higher education diploma for this post
- The person presents the diploma to the management
- It appears that the seal is in red color, whereas usually it's blue
- The Ministry is suspicious that the diploma has been forged
- Application is denied

- Another person lost his passport and orally asserts he is citizen

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- According to Article 15 of RA Law on Taxes, the taxpayer shall have the responsibility to submit documents verifying his right to enjoy tax privileges.
 - Does this provision violate the presumption of trustworthiness?

Prohibition of Abuse of Formal Requirements (Art. 5)

- If the obligations of persons are fulfilled in substance, then administrative bodies shall be prohibited from burdening persons with obligations or refusing to honor the person's rights on purely formal grounds.
- AB's management has approved forms for applications
- An individual prepared & submitted documents to the administrative body for a permit
- Does this principle bar the AB to refuse admitting the documents prepared without using the forms?