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Presumptions and Legal Fictions in the General Administrative Procedure. Selected Issues

Domniemania i fikcje prawne w ogólnym postępowaniu administracyjnym. Wybrane zagadnienia

SUMMARY

The subject of the article was to discuss the institutions of presumptions and legal fictions applicable in the general administrative procedure. Due to the complexity of the problem, the author has attempted to only analyse selected issues relating to the subject matter hereof. The study identifies situations in which the discussed institutions are established, describes their substance, function and the objective for which they were introduced. The impact presumptions and legal fictions on the validity of objective truth in the course of administrative proceedings have been demonstrated and the values underlying their introduction to the Code of Administrative Procedure have been discussed.

Keywords: administrative procedure; presumptions; legal fictions

INTRODUCTION

In the course of the administrative procedure, the decision must be taken based on prior evidence findings. However, this does not mean that all the facts likely to have an impact on the decision must be confirmed by a specific piece of evidence. For example, the circumstances that need not to be proven include notorious facts, i.e.:

> […] circumstances and events, activities or states which should be known to any reasonable and experienced resident of the locality where the court (body) is located. Well known are, for example, historical events, natural disasters, events normally and simply occurring at some point and place[1].

[1] W. Siedlecki, *Postępowanie cywilne. Zarys wykładu*, Warszawa, 1977, p. 227.

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This is expressly indicated by Article 77 § 4 of the Code of Administrative Procedure[2]: "[…] notorious facts and facts that are known to the body *ex officio* need not to be proven". This applies also to facts known to the body *ex officio* (after their prior communication to the party) and the so-called facts acknowledged by the party – the so-called party's statement, under Article 75 § 2 CAP.

If the legal effects are to be linked to the circumstances set out in the law, those facts must be proved, which directly stems from the principle of objective truth expressed in Article 7 CAP: "[…] in the course of the proceedings, the public authorities […] shall take all steps necessary to clarify the facts thoroughly". However, there are exceptions to the rule set out in Article 7 CAP, which is supported by the existence of presumptions in the course of the administrative procedure. These presumptions may occur in two cases. First, where, due to the complexity of the factual state or the lack of evidence, the facts are difficult to establish, then any doubts are resolved through a statement of presumed fact. The factual presumption is the case where a fact that is relevant to the resolution of the case cannot be proved directly by means of evidence, or where it would be particularly difficult to take such evidence and in view of the entirety of circumstances of the case and on the basis of another fact established in the proceedings a logical conclusion may be derived as to the truthfulness of the fact, relevant for the decision-making[3]. The factual presumption is not evidence in the strict sense of the word, but a method of finding the facts relevant to the case on the basis of other established facts, taking into account the rules of life experience and the principles of logic. The application of the institution of factual presumption should, therefore, be preceded by the procedure of taking evidence carried out by a public administration body, aimed at the existence of a law-making fact directly relevant to the case on the basis of a specific piece of evidence. The second situation will take place when rather than due to difficulties in the evidential reasoning, but for the ideological and technical assumptions adopted, a statement of presumed fact is adopted, also modifying the distribution of the burden of proof to the particular parties (participants) to the procedure[4].

Therefore, the factual basis for the decision in the general administrative procedure is not always determined based on evidence. In certain situations, where it is impossible to specify evidence or where the legislature has directly provided for so, the body is forced to make use of legal and factual presumptions, and less frequently legal fictions. It should be noted that the provisions of the Code of

[2] Act of 14 June 1960 – Code of Administrative Procedure (consolidated text Journal of Laws 1960, No. 30, item 168), hereinafter: CAP.

[3] T. Misiuk-Jodłowska, *Postępowanie cywilne*, Warszawa 1996, p. 326.

[4] J. Wróblewski, *Domniemania w prawie – problematyka teoretyczna*, „Studia Prawno-Ekonomiczne" 1973, nr 10, p. 21.

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Administrative Procedure do not expressly allow for presumptions as a method of proof, but the analysis of individual provisions of the Code allows for pointing to their occurrence: the presumption of the existence of a power of attorney under Article 33 § 4 CAP; the presumption of service of a document – Article 43 CAP; the presumption that the document certifies truth – Article 76 § 1 CAP; the presumption of the correctness of an administrative decision – Article 16 CAP; the presumption of tacit settlement of an administrative case – Article 122g CAP[5].

ESSENCE OF LEGAL PRESUMPTIONS

Legal presumptions, unlike factual presumptions, are derived from the provisions of law and hence their name derives. Consideration on the very essence of presumptions can be started from the statement that the provisions of law associate legal effects with the circumstances defined by them, called legal facts. To explain the essence of this institution, it is proposed in the theory of law to use a certain formula of a legal norm. This formula takes the form C–B, where the variable "C" stands for conditions, the variable "B" for behaviour, while the symbol "–" determines the relationship of duty expressed by the norm[6]. The legal presumption is built according to the following formula: first of all, the condition of the presumption (the antecedent) defines the set of situations for which the presumption has been established. The condition of the provision which sets out the presumption outlines the scope of its application, therefore, whenever a situation as specified in the condition of the presumption occurs, the situation prescribed in a given norm in the part called the statement of presumed fact (the consequent) should be presumed. The fact that the situation indicated in the presumption has arisen at a given moment must be fully proven in accordance with the evidential rules provided for the procedure concerned. It can, therefore, be concluded that the feature that distinguishes presumption from other legal norms is that without any evidentiary procedure, and thus by virtue of the very legal provision establishing the presumption, an obligation arises to recognize the statement of presumed fact[7]. Therefore, the legal presumption replaces the requirement to prove the fact specified in the statement, i.e. if no presumption was established, then the facts specified in its application would have to be proven[8].

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[5] For more on the tacit settlement of an administrative case (settlement as a result of inactivity of the body), see B. Adamiak, *Domniemanie prawidłowości milczącego załatwienia sprawy*, „Acta Universitatis Wratislaviensis. Przegląd Prawa i Administracji" 2018, nr 114, p. 45 ff.

[6] J. Wróblewski, *op. cit.*, p. 11.

[7] J. Nowacki, *Studia z teorii prawa*, Kraków 2003, pp. 492–493.

[8] *Ibidem*, p. 493.

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It should be noted that, by the very operation of law, it is the facts constituting the statement of presumed fact, not the condition of the presumption, that are recognized. For example, if we accept, in accordance with Article 76 § 1 CAP that the content of a document drawn up by the competent body is true and accurate, then the proceedings aimed at analysing its content in terms of credibility are ruled out. Conducting such proceedings will only be possible if the circumstances contained in the statement of presumed fact raise doubts, e.g. a given document has been forged or tampered. If these doubts are confirmed, the content of the document itself does not matter, the presumption is then rebutted, and the content of the defective document cannot constitute a reliable piece of evidence. Therefore, rebuttal of a presumption consists of rebutting its statement if the legal entity is able to prove that the given situation was not as presumed. It should be assumed, after B. Adamiak, that an official instrument enjoys two types of presumptions (although in no case this presumption has been explicitly expressed). The first is the presumption of authenticity, i.e. the admission that the document originates from the authority that issued it. The second is the presumption of truthfulness of the content of the document, i.e. the statement contained in the document[9].

Presumption of the content of the document as stipulated by Article 76 § 3 CAP is an example of a rebuttable presumption because evidence can be taken against the content of the document. The linguistic interpretation of the provision in question raises doubts as to the admissibility of evidence to the contrary regarding the presumption of authenticity of the document. Basing only on linguistic interpretation would have to lead to the conclusion that the presumption in question is an example of an inconclusive presumption. Adopting such a concept seems difficult to accept, therefore B. Adamiak proposes, which should be fully agreed, to use in the discussed case a broad interpretation of the provision of Article 76 § 3 CAP, thus offering the possibility of using counter-evidence in the presumption of authenticity of the document[10].

Another issue that emerges in connection with the issue of the institution of legal presumptions of authenticity and content of documents is the issue of the possibility of challenging the findings made by the body in the form of an official document. In practice, it is a matter of deciding whether the body that will issue a decision and find it doubtful as to the correctness of a decision taken by another body (and which will be relevant to the decision to be made) has the opportunity to independently take evidence against its content and to issue a decision based on the findings made in the course of its own proceedings. As R. Suwaj rightly notes, the above action, despite the existence of definite benefits, would, however,

[9] B. Adamiak, [in:] B. Adamiak, J. Borkowski, *Kodeks postępowania administracyjnego. Komentarz*, Warszawa 2004, p. 384.

[10] *Ibidem*.

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constitute a breach of two fundamental principles of procedure, i.e. the rule of law and the principle of durability of the final administrative decision. According to the author, where any doubts of this kind arise, the body presiding over the proceedings should, under Article 97 § 4 CAP, issue a decision to suspend proceedings and wait for it to be resumed once the preliminary issue is resolved, which in the present case would mean a possible change or repeal of the decision in one of the extraordinary procedures[11].

Therefore, it may be assumed, following J. Nowacki, that:

> […] the legal presumption is that the provision of law (legal norm), when the situation defined in the so-called "condition of legal presumption" arises, requires by virtue of its provisions to recognize the facts specified in the statement of presumed fact without any evidentiary procedure, and that procedure would be necessary if the presumption in question had not been established. The legal presumption replaces the proof of the fact specified in the statement of presumed fact[12].

An analysis of the views of the science of law on the issue of legal presumptions leads to proposing the thesis about the existence of two schools: the so-called modern school[13] and the school of traditional legal presumptions[14].

The views of advocates of the traditional view are based on the finding that the legal presumption occurs when:

> […] the statute assumes that, if there is a certain fact or facts (the basis of presumption) then it must be assumed, whether in an absolute way – *praesumptio iuris et de iure* or in a relative way – *praesumptio iuris*, the occurrence of another law-making fact or the existence of a law or legal relationship[15].

The second element pointed to by proponents of the traditional approach to the issue of presumption is the division of presumptions into rebuttable presumptions – *praesumptio iuris tantum*, and conclusive presumptions – *praesumptio iuris ac de iure*. Rebuttable presumptions can be rebutted by means of counter-evidence, i.e. demonstrating that the conclusion drawn from the correct basis of presumption is not consistent with reality. In such a situation, the burden of the counter-evidence is borne by those who wish to rebut the presumption, so there is a situation of change in the burden of proof.

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[11] R. Suwaj, *Postępowanie dowodowe w świetle przepisów Kodeksu postępowania administracyjnego*, Ostrołęka 2005, p. 59.

[12] J. Nowacki, *op. cit.*, p. 494.

[13] The representatives of this school are, among others, E. Drapkin, J. Wróblewski, T. Gizbert-Studnicki.

[14] This thought is represented by, among others, J. Nowacki, A. Wolter, Z. Ziembiński.

[15] A. Kunicki, *Domniemania w prawie rzeczowym*, Warszawa 1969, p. 13.

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The above findings are confirmed in the study by S. Grzybowski, who argued:

> The legal presumption – *praesumptio iuris*, consists in that, by virtue of a specific statutory provision, the evidence of a certain fact is replaced by the evidence of the fact from which the person concerned derives legal effects, or directly the proof of the existence of a law or legal relationship. The legal presumption is, therefore, an exception to the principle of objective truth. Legal presumptions may be rebuttable presumptions (*praesumptio iuris tantum*) or irrebutable (conclusive) presumptions (*praesumptio iuris ac de iure*). Rebuttable presumptions may be made by proving that, despite demonstrating the evidence constituting the *thema probandi*, the legal effects differed from those stipulated in the provision establishing the presumption. On the other hand, conclusive presumptions cannot be rebutted by the counter-evidence. The law goes so far here that, in breach of the interests of the party against which the presumption is in place and contrary to the principle of objective truth, it does not allow it to be demonstrated that the actual state differs from that of the presumption[16].

Proponents of the so-called modern concept of presumptions present other views on the issue of legal presumptions. Compared to the views of supporters of the classical concept, they stress that we can only speak of legal presumptions when the legislature allows presenting the evidence to the contrary, which *ex definitione* excludes the so-called conclusive (non-rebuttable) presumptions from the scope of presumptions[17]. This view was further developed by T. Gizbert-Studnicki, who claimed:

> […] a defining feature of legal presumptions is that they may be rebutted, whereas the rebuttal of the presumption consists in proving that the fact specified in the statement did not happen, even though the fact specified in the condition did. Hence, any presumption includes the proviso that there is evidence to the contrary. Those norms, which are referred to as conclusive (irrebuttable) presumptions, do not differ from regular legal norms which define the legal effects of certain facts[18].

According to T. Gizbert-Studnicki, each legal presumption consists of a series of elements: if the condition of the presumption is proved and there is no evidence to the contrary, then the court (the body) is obliged to accept the statement of presumed fact. While fully endorsing the above position, it should be added that in the context of administrative proceedings we do not encounter presumptions the rebuttal of which would not be possible with the use of counter-evidence.

[16] S. Grzybowski, *Prawo cywilne. Zarys części ogólnej*, Warszawa 1974, pp. 278–279.

[17] J. Dąbrowa, *Znaczenie domniemań prawnych w polskim procesie cywilnym*, Warszawa–Wrocław 1962, p. 5.

[18] T. Gizbert-Studnicki, *Spór o domniemanie prawne*, „Państwo i Prawo" 1977, z. 11, p. 70.

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FUNCTIONS OF PRESUMPTIONS

The answer to the question about what functions a legal presumption fulfils is related to the question of the function of presumptions as a legal technique means. Briefly speaking, one can state that the purpose of legal presumptions is to facilitate the decision-making processes of a public administration body, using legal presumptions instead of taking of evidence, which in turn may be explained by the need to protect and implement the values assumed by the legislature. The cases in which it is necessary to use legal presumptions as a means of legal technique have been presented by J. Wróblewski and these are as follows: legal presumptions are to be applied when there is a need to issue a decision which requires evidentiary findings and where such findings are difficult to carry out for various reasons, or where a special distribution of the burden of proof is postulated due to the values assumed[19].

When determining the function and meaning of the term of presumption in administrative proceedings, it is impossible not to resort to the solutions contained in the Code of Civil Procedure[20]. The need for accessory use of the civil procedure arises not only from certain similarities connecting the procedures (especially from a number of institutions appearing in both types of proceeding), but also from the fact that the Code of Administrative Procedure lacks such regulation, unlike the Code of Civil Procedure. Here, for example, one may point to the provision of Article 243 CCP referring to the possibility of lending credence to certain circumstances, instead of proving them, or also Article 234 CCP we are interested in from the point of view of the issues discussed herein: "Presumptions established by law are binding on the court (legal presumptions); they may, however, be rebutted whenever the law does not prevent this". As a proposal for the law as it should stand (*de lege ferenda*), this provision could also be adopted by the Code of Administrative Procedure, because the legal presumption replaces the evidence of a fact that would have to be proved if the presumption were not established[21]. We meet this understanding of presumptions in several provisions contained in the Code of Administrative Procedure, e.g. regarding truthfulness of the content of an official document (Article 76 CAP). On these grounds, we can conclude that the legal presumption releases the entity from the obligation to determine a given fact, because this fact has already been recognized in the statement of presumed fact. Therefore, the question about the impact of legal presumptions on changing the burden of proof may be asked. If we take as canonical the "civil-law" concept

[19] J. Wróblewski, *op. cit.*, p. 20.

[20] Act of 17 November 1964 – Code of Civil Procedure (consolidated text Journal of Laws 1964, No. 43, item 296), hereinafter: CCP.

[21] J. Nowacki, *op. cit.*, pp. 44–45.

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of the burden of proof, in which the obligation to prove a specific fact lies with the entity which derives certain legal consequences from this fact, then we cannot speak of the impact of the presumption on the burden of proof, because the presumption replaces the need for a specific means of evidence, and does not change the obligation of taking it. We can conclude that a legal presumption works for the benefit of a person who, because of the presumption, is exempted from certain actions this person would have to take in a situation if there were no presumption. For example, in the presumption of the power of attorney, the attorney is exempted from the obligation to present the power of attorney if he or she meets the conditions under Article 33 § 4 CAP. However, for evidence from an official document, the situation is complex, because the content of the document may bring positive effects both for the authority conducting the proceedings and for the parties to the proceedings, or only for one of the parties to the proceedings.

In such a situation, the question arises: How the change in the burden of proof in administrative proceedings should be understood? To make the question easier, the following example can be given. In the original text of the Code of Administrative Procedure provided for the principle of equal force of means of evidence[22]. This meant a withdrawal from the division into "stronger" and "weaker" evidence, and consequently depriving official documents of larger evidential power. Let us now assume that, in the course of the proceedings, one of the parties wants to have certain legal effects derived from the content of an official document. This party will be obliged to demonstrate that the content of the document corresponds to reality and, if that party does not provide evidence to confirm its thesis, it will then release the other party from taking any action. Let's imagine the same situation now, but under the current rules, which attribute the feature of truthfulness to the content of official documents (the presumption of authenticity of official documents). In accordance with Article 76 § 1 CAP, official documents drawn up in the prescribed form by authorised state authorities within their scope of powers constitute evidence of what has been officially attested in them. Therefore, if a party attaches specific legal consequences with the content of a particular document, the party does not need to take any evidentiary action against that document. Certainly, however, if the other party does not agree with these findings, it may produce counter-evidence, e.g. that the document in question has been forged, tampered, or its content for other reasons is not consistent with reality. It seems that only in such a context we can talk about the impact of legal presumptions on the distribution of the burden of proof in administrative proceedings.

[22] B. Adamiak, *op. cit.*, p. 382.

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ESSENCE OF LEGAL FICTIONS

In the literature on the subject, the notion of fiction, like the above-mentioned notion of presumptions, is not understood unequivocally. According to J. Dąbrowa, legal fiction can have two meanings. The first one assumes that the legislature knowingly accepts the obvious untruth for truth and accepts certain claims as true, whether or not they are consistent with reality. Therefore, it is not possible to use counter-evidence when legal fiction is established. In the second sense, according to the author, it can be assumed that legal fiction is a kind of conclusive (non-rebuttable) presumption, in which the descriptive part of the norm which introduces the fiction is not contrary to reality in an obvious and undoubted way[23].

J. Wróblewski looks at the issue of legal fiction from a completely different perspective. According to the author, the concept of legal fiction is closely linked to the concept of presumptions and only in such a relationship should it be the subject of research analysis. It is, therefore, necessary to try to answer the question whether, in the event of the use of a presumption, the court (the body) as a typical law-applying entity maintains the veracity of false claims and thus uses a kind of legal fiction in its judgements (decisions)?[24] It should be noted that both presumptions and legal fictions derived from them do not enjoy the imperative of truthfulness or falsehood, the consequence of which is the finding that certain norms are fictitious on the grounds of understanding fictitiousness as "untruthfulness"[25].

Therefore, we can assume that in some cases the authority conducting the proceedings is somehow "forced" to adopt fictional reasoning in its decisions. From a theoretical perspective, this can happen in three situations. First of all, when the principle of objective truth is limited by the provisions containing certain elements of the formal theory of evidence[26]. Secondly, when we are dealing with conclusive (unrebuttable) legal presumptions. In such a situation, the statement of presumed fact cannot be dismissed (the Code of Administrative Procedure contains no provisions of this type). Thirdly, when, in the course of proceedings, the hearing body is forced to apply a rebuttable legal presumption, but it is impossible to take evidence to the contrary, which may be caused e.g. by the fact that despite its objective existence it is not held by the body conducting the proceedings. The position presented above can be reduced to the statement that all circumstances (facts) which have not been proven by appropriate means of evidence should be referred to as legal fictions. Such an understanding of the meaning of legal fictions seems doubtful. In practice, when

[23] J. Dąbrowa, *op. cit.*, pp. 5–6.

[24] J. Wróblewski, *op. cit.*, p. 33.

[25] J. Nowacki, *op. cit.*, p. 82.

[26] The examples of such provisions in CAP include evidentiary prohibitions regarding the inadmissibility of providing testimony as a witness (Article 82 CAP).

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determining the meaning of legal fictions, it is not important to state whether, as a result of the actions of the body, the facts which the body will consider as established will not be consistent with reality (fictional facts), but to analyse those provisions in which the legislature (deliberately) assumes that certain false facts will be accepted as true. The legislature's motivation to take such actions is usually twofold. On the one hand, it aims to protect individual parties to the proceedings, and on the other hand, the legislature strives to protect the interests of the body conducting the proceedings, or more precisely to secure the objectives of the proceedings. In such an understanding, legal fiction is a statutory declaration taking the form of an absolute norm divergent from the shape of factual conditions, through the attachment to them of the same legal relationship, which in turn makes unacceptable the rebuttal of the legal fiction with counter-evidence[27]. In the administrative procedure, the solutions assuming the adoption of legal fiction apply to the following situations.

Certainly, an example of a provision aimed at strengthening the procedural position of a party by introducing legal fiction is the provision of Article 57 § 4 CAP, which stipulates that if the end of a time limit is on a public holiday or a Saturday, the next working day is deemed to be the last day of the time limit.

The second example of the application of legal fiction in the Code of Administrative Procedure is the provision of Article 65 § 2 CAP according to which the application lodged with the wrong body before the expiry of the prescribed time limit shall be deemed to have been brought in within the time limit. It is the responsibility of the incompetent body to forward the application to the competent one. As A. Wróbel rightly states, the incompetent body must forward such an application even where it is submitted after the expiry of the time limit, as the party must have the opportunity to submit a request for reinstatement of the time limit it failed to observe[28]. The legal fiction of that provision may be reduced to the assumption that the competent authority has timely received the document, which is in fact not the case.

We can also talk about a kind of legal fiction in the process of the service of documents. When analysing the provisions on service of documents in terms of application of presumptions and legal fictions, we may point to examples of the application of legal fiction in the provisions of the CAP: Article 41 § 2 CAP, i.e. the granting legal effectiveness to a document sent to the previous address in the event of a change in that address and failure to notify the body carrying out the legal procedure; Article 44 CAP – the so-called subsidiary service; Article 47 § 2 CAP – the so-called conclusive service; Article 49 CAP – the service of a document in the form of a public notice.

[27] M. Cieślak, *Zagadnienia dowodowe w procesie karnym*, t. 1, Warszawa 1955, p. 124.

[28] A. Wróbel, [in:] M. Jaśkowska, A. Wróbel, *Kodeks postępowania administracyjnego. Komentarz*, Warszawa 2009, p. 409.

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VALUES LIMITING THE PRINCIPLE OF OBJECTIVE TRUTH WHEN USING PRESUMPTION AND LEGAL FICTION IN GENERAL ADMINISTRATIVE PROCEDURE

As regards values affecting the application of legal presumptions, two groups of such values may be pointed out: ideological values and technical values. Quoting J. Wróblewski, it can be assumed that ideological values are:

> […] interests protected by the presumption norm, assuming that it is easier not to carry out the presumption properly than to rebut it. And since, in the absence of evidence to the contrary, the court accepts the statement of presumed fact, the content of this statement must be regarded as an expression of the protection of certain interests[29].

Such values include, for example, the principle of protecting the interests of the accused in the criminal trial by applying the principle of the presumption of innocence, or the welfare of the child, in restrictions on attempts to rebut the presumption of paternity.

On the other hand, technical values are values aimed at improving the operation of the court or the body, related to their decision-making process. These values may include various improvements in the procedure to facilitate case resolution, e.g. presumption of service of documents or the presumption of authenticity of official documents. As for the relationship between the value of such a decision taken as a result of the application of a particular presumption and the principle of objective truth, certainly, the above-described presumptions based on technical values restrict that principle, but only until the moment when the counter-evidence to the presumption will be produced. *De facto* we can conclude, although with some reservation, that the conflict between the principle of material truth and presumptions does not occur. This is so since if the legislature adopts a certain state on the basis of a statement of presumed fact, that state will be recognized until the counter-evidence will be produced. If the counter-evidence does not exist, it must be assumed that the statement of presumed fact contains the correct findings. However, if the counter-evidence exists but is not produced by an authorised entity, then there is a clear divergence between the principle of objective truth and legal presumptions, which would confirm the thesis that the principle of objective truth in the administrative procedure is not absolute and is subject to restrictions in certain situations.

The analysis of the provisions of the Code of Administrative Procedure leads to the adoption of the thesis that the only values affecting the application of presumptions and legal fictions in the general administrative procedure are technical values. For the service of documents or the presumption of authenticity of official documents, we may

[29] J. Wróblewski, *op. cit.*, p. 21.

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point to the promptness and simplicity of the proceedings and its economies, while, with the presumption of power of attorney, in addition to those values, the application of the presumption creates higher confidence of citizens in state authorities. If, in an obvious case, where the scope of the power of attorney does not raise doubts and a member of the immediate family of the party acts as the attorney, for the body it is sufficient that the person concerned makes a statement that he or she holds the power of attorney and the body accepts that statement, it will certainly increase confidence in such a body and thus the objective of presumption will be met.

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STRESZCZENIE

Przedmiotem artykułu było omówienie instytucji domniemań oraz fikcji prawnych występujących w ogólnym postępowaniu administracyjnym. Z uwagi na złożoność problemu autor podjął próbę analizy tylko wybranych zagadnień odnoszących się do tematu opracowania. Wskazano sytuacje, w jakich ustanawiane są omawiane instytucje, opisano ich istotę, funkcję, a także cel, dla którego zostały wprowadzone. Wykazano, jaki wpływ na obowiązywanie prawdy obiektywnej w toku postępowania administracyjnego mają domniemania oraz fikcje prawne. Ponadto omówiono wartości leżące u podstaw ich wprowadzenia do Kodeksu postępowania administracyjnego.

Słowa kluczowe: postępowanie administracyjne; domniemania; fikcje prawne