

Real Estate Cadastre and Legal Registers as the Basic Sets of Information about Real Estates in Poland

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SUMMARY

In Poland two autonomous sets of real estate information exist: the real estate cadastre and legal registers.

The real estate cadastre is characterised by commonness of information about all real estates in Poland. However, the cadastre contains limited information concerning legal conditions of those real estates. Cadastral information files contains data concerning owners of real estates only, and in the case of lands, which belong to the State Treasury, to municipalities, powiats (districts) and voivodships (provinces), information concerning legal users, users and tenants are also stored. The cadastre is maintained by public administration bodies- the starosts (heads of powiats – districts).

Legal registers are not the common files of information, since they are created only after the application from the real estate owner. Due to this it is estimated that legal registers are settled for about 60% of real estates. Legal register contain much more information concerning legal conditions comparing to the real estate cadastre. The scope of legal conditions, included in legal registers, includes information on property rights, possession, land and personal servitude, tenure, administration, ways of use and mortgage burdens. Legal registers are maintained by courts.

The paper presents results of investigations of the conformity of records stored in the cadastre and in legal registers concerning location of real estates, marking of real estates, size of real estates, owners and shares in property rights or in rights to legal use.

The paper also presents proposals of correcting procedures aiming at elimination of discrepancies and at acquisition of coherent (compliant) data as well as at development of the forecast of the final combination of both data files and creation of the integrated real estate information system.

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1. INTRODUCTION

At present more than 2000 various registers and lists exist in Poland; 250 of them may be considered as public registers (Stawecki 2005). Some of those registers have a very long history, as, for example, legal registers originate at least in the 16th century, the real estate cadastre originates from the 19th century.

History of the public registers are characterised by limitations, as well as acceleration in the phase of creation. Such acceleration occurred, in particular, within the recent decades, which were rich of creation of new public registers. An example may be the national register of tax payers, the register of commenced and completed constructions etc.

Development of public registers is related to their specific features. Public registers are the source of information on individuals and legal entities, physical objects, legal objects etc.

In information societies, as in the case of Poland, information has become the goods of a specified value and it is the subject of the market operations.

Inputs to the public registers disclose legal and real conditions, and sometimes, they create or eliminate rights; sometimes they result in other legal effects.

The paper concerns two basic public registers concerning real estates, i.e. the real estate cadastre and legal registers.

2. REAL ESTATE CADASTRE

The real estate cadastre is the **basic state register of real estates**, which contains information on lands, buildings and premises (subjects of real estates), including information on owners and other entities, which possess those lands, buildings and premises (objects of real estates), as well as on relations between the subjects and the objects of real estates (rights and their scopes).

The cadastre is the **common register**, i.e. it covers all real estates located in Poland, independently on the will of their owners or possessors.

The cadastre of real estates contains limited information about the legal conditions of real estates, i.e. it registers owners of real estates only, and, with respect to lands of the State Treasury, voivodships, powiats (districts) and gminas (municipalities), it also registers legal users, permanent administrators, tenants etc. In the case when data on the owner are missing in the cadastre, data concerning autonomous possessors are also recorded, but this group of individuals and legal entities is constantly decreasing.

The real estate cadastre is the **official register**, which is maintained by local administration authorities, i.e. at the powiat level – by starosts, basing on the act of May 18, 1989 The Law of Geodesy and Cartography, but it is also maintained in gminas for the part of Poland.

The real estate contains **descriptive data** on cadastral subjects and objects and **geometric data**, allowing to locate cadastral subjects in the space, as well as to present them on digital maps, which cover 99% of Polish cities and 66% of rural areas.

The real estate cadastre is the **uniform register** for the entire country, which is **permanently updated** and which cover the **entire territory of Poland** with the exception of the territorial sea.

The real estate cadastre is the **public register**, what means that it is maintained for the „public weal”; information contained in that cadastre serve for the national economy, national defence, science, culture and for inhabitants’ needs.

Information contained in the real estate cadastre are **open to public**.

In the case of real estates, for which legal registers or documentation fiels have not been settled, the real estate cadastre is **the basic source of data concerning legal conditions** of those real estates.

The real estate cadastre is the **basis** for: economic planning, physical management, environmental protection, calculation of taxes and services, marking real estates in legal registers, public statistics, real estate management and inventory of farms and livestock.

The cadastre is also the **reference system** for other registers and records, as, for example, surveying records of utilities, legal registers, registers of prices and values of real estates, the state registers of borders and size of territorial division units etc.

3. LEGAL REGISTERS

Legal registers contain the **complete information concerning legal conditions of real estates** (all rights, claims, limitations, burdens etc.), but they contain **limited information on the subject of real estates**.

The legal registers **are not the fully common set of information**, since they do not cover all real estates located in the country. It has been estimated that about 60% of real estates are confirmed by enrolments to legal registers.

The legal registers are **the official registers**, which operate basing on the act of July 6, 1982 on legal registers and mortgage; maintenance of legal registers falls in responsibility of judicial bodies, i.e. of regional courts.

Legal registers are **public registers**, what means that information contained in those registers are to serve to „public weal”, i.e. settlement of legal conditions of real estates.

This also means that records contained by legal registers refers to conditions resulting from specified documents only: from deed acts, administrative decisions, court sentences, official surveying documentation, including copies and drawings from the real estate cadastre, family status acts etc.

Enrolments in legal registers are **open to public**, one cannot plead ignorance of records included in legal registers.

Records in legal registers have the nature of **court** sentences and they are considered following the procedure of legal registers in closed sessions, what means that in the case of any changes introduced to the legal register the Party which is referred to by this change, should be notified. Deletion is also considered as the enrolment to the legal register.

Enrolments to legal registers **concerning legal conditions** are covered with the highest guaranty of reliability (**presumption of truth**) and responsibility (**warranty of the public faith**). This means that the warranty of the public faith of legal registers does not concern marking real estates in legal registers. (section I).

Enrolments to legal registers are made **only after submission of application** and within the scope of that application, unless legal regulations assume that official enrolments are made.

4. INTEGRATION OF REAL ESTATE CADASTRE AND LEGAL REGISTERS

The idea of integration of data concerns combination of separate public registers of real estates and creation of one database of the integrated information system. The preliminary condition is to record data of both registers on magnetic media.

The obligation to computerise public registers and to exchange information in electronic form with public entities, directly results from the act of February 17, 2005 on computerisation of operations performed by entities which implement public tasks. It also results from other legal regulations.

The real estate cadastre and legal registers are not fully computerised files.

The process of computerisation of cadastral data files was commenced in the nineties of the 20th century and it is being continued.

The descriptive part of the cadastre is fully computerised, however, the ways of maintaining of this part is highly diversified with respect to applied tools.

At present the digital cadastral map covers 99% of the area of cities and 66% of rural areas.

Following the assumptions of the legal act, the process of computerisation is to be completed by December 31, 2006.

In Poland legal registers are maintained in three ways:

- In an analog way, without any support of the computer system;
- In an analogue way, with computerised support. i.e. legal registers are maintained according to specified standards, using forms covering particular sections of a legal register, and the software tool is used as a tool for data input and editing;
- Electronically, i.e. in the IT structure; in such case the legal register is made of computer printouts containing information corresponding to particular sections and chapters: the electronic legal register has slightly different organisational structure than a “paper” legal register – four sections are divided into blank spaces and fields, which are further divided sub blank spaces and subfields.

Computerisation of legal registers, has been performed since 2004 basing on the legal act of February 14, 2003 on transfer of the content of legal registers to the structure of legal registers maintained in a computerised system and it is called migration of the content of

legal registers to the IT structure. The process of migration covers particular regional courts, which maintain legal registers.

At present, it is estimated that the progress of computerisation of legal registers has reached 39%. Legal registers are maintained in the electronic form by 121 out of 310 Departments of Legal Registers.

As the Ministry of Justice assumes, the optimum period of completion of the process of migration of legal registers onto magnetic media equals to 10 years (i.e. by the years 2012-2013).

At present, the Polish cadastre and legal registers are two independent sets of information, which partially contain the same data; they partially contain different data. The table below contains the list of such data with respect to the cadastre and legal registers, which are maintained in analogue and electronic ways.

Table 1. Comparison of information stored in the real estate cadastre and in legal registers

INFORMATION		REAL ESTATE CADASTRE	LEGAL REGISTERS - CREATED		
			analogue	Electronic	
REAL CONDITIONS	DATA ON THE SUBJECT OF REAL ESTATE	Location	+	+	+
		Borders	+	-	-
		Size	+	+	+
		Use type	+	+/-	+/-
		Cadastral value of real estates	+	-	-
		Address	+	+	+
		No. of registers of monuments		+	+
		Geometry (map)	+	+/-	+/-
		Useful functions of building	+	-	+
		General technical data of building	+	-	+/-
		Useful function of premises	+	-	+
		General technical data of premises	+	-	+/-
		Other data on real estates	+	-	-
		OWNERS	LEGAL OWNERS	Owners	
Legal owners	+			+	

		Other entities	Only in relation to lands of the State Treasury, provinces, districts and municipalities in the case when there are no data on owners	+
DATA ON RELATIONS		Legal ownership and possession	+	+
		Related rights	+	+
		Limited property rights and claims	-	+
		Warnings, limitations and liability rights	-	+

Considerable inconsistencies of data occur in two, independent sets of real estate information.

Assuming the reasons of such inconsistencies as a criterion, they may be divided into:

1. formal inconsistencies – which consist of incorrect or different marking of features, which describe a real estate, due to utilisation of abbreviations, small or block letters, various sequence of attributes, various symbolisation of attributes which describe the same features etc.,
2. technical inconsistencies – which consist of all technical operations, which result in inconsistent data (mistakes in spelling, missing data, unreadable data etc.),
3. legal inconsistencies – which consist of creation of such legal notation which did not or do not ensure the full consistency of data (incorrect legal notation, missing legal notations etc.).

5. TESTING THE COMPLIANCE OF RECORDS IN REAL ESTATE CADASTRE AND IN LEGAL REGISTERS

Analysis of data included in legal registers with data included in the real estate cadastre were performed within the frames of investigations. The subject of investigations was a set of legal registers stored at the Regional Court in Pabianice. Computer software “KW EG” (made by GEOBID), which allows to correlate and compare data, was used for the needs of discussed analysis.

Investigations covered 1700 legal registers and the scope of investigations covered:

1. location of real estates (understood as: the street name, the order number of a real estate, the name and number of the district, the municipality name – the number and content of attributes varied for particular real estates),
2. the parcel registration number,

3. the parcel size,
4. the owner (first name, second name, family name, parents' names, address),
5. information on legal conditions of the real estate.

It has been stated as a result of analysis, that: 15% legal registers contain data which are fully consistent with cadastral data, 83% are legal registers, which contain inconsistent data and 2% are legal registers, which physical conditions (the level of devastation) did not allow to make any read-outs of data.

The performed analysis proved that 159 inconsistencies occur for 100 each examined legal registers, as an average. Those inconsistencies concern:

- location – 13 cases,
- parcel number – 51 cases,
- size – 68 cases,
- owners – 25 cases,
- shares – 2 case.

This means that 32% ($=159 \cdot 100\% / 500$) of common data of the cadastre and legal registers are inconsistent.

6. PROCEDURES OF INTEGRATION OF DATA STORED IN REAL ESTATE CADASTRE AND LEGAL REGISTERS

The essence of integration of data included in the real estate cadastre and in legal registers is acquisition of integrated data. Integrated data are understood as uniform (or unified) and aggregated data. Uniformity means that consistency of data is achieved by means of eliminating any data inconsistencies.

The process of aggregation of data consists of three stages:

- I. RECONNAISSANCE – data are recognised in particular public registers (the cadastre and legal registers)
- II. PROJECTION – recognised data are grouped according to a specified order
- III. PRZENIESIENIE – projected data are transferred as integrated data to a specified publication module.

Combination of the real estate cadastre and legal registers will become the core of the future Integrated Real Estate Information System. The database of the Integrated Real Estate Information System will be populated with integrated data, which will combine information from the real estate cadastre and legal registers. Discriminants of integrated data are:

- Data quality – reliable, consistent (with any inconsistencies – explicit); it would be recommended that the reliability of the data base of the system would be officially guaranteed by the state,
- Volume of data - aggregated (information packages), containing complex information,
- Accessibility – speed of flow, modern technologies (digital resources, IT infrastructure, on-line services, e-office etc.).

7. SUMMARY AND CONCLUSIONS

In Poland the real estate cadastre and legal registers are the basic sets of information on real estates.

The basic disadvantage is their high mutual diversification although they concern the same real estates.

This diversification refers to:

1. the scope of information sets: the real estate cadastre is the common set – it covers all real estates in Poland, while the legal registers cover only selected real estates – about 60% of the total number of real estates in Poland.
2. the way of creation – the real estate cadastre is officially created and the costs of creation are covered by the State; the legal registers are created after submission of application by the Party and paid by that Party. In Poland, legal regulations which specify the obligation to create the legal register, do not exist. The exception is made for premises and for real estates which are burdened by the property rights, if the obligation to create legal registers for those real estates exists in the Polish law.

At present, the most important elements of the programme of improving the public registers concerning real estates, namely the cadastre and legal registers, are:

1. achievement of elimination of inconsistencies in real estate data existing in both information sets. It is a long-term programme, the implementation of which is assumed for the year 2020.
2. for the longer perspective, achievement of widening of those information sets and creation of a set of information, which would contain information of legal conditions, as well as on physical conditions of a real estate.

Experiences gained in Norway (Onsrud H.) may be used as pattern solutions for implementation of this stage of operations. Implementation of those intentions would lead to elimination of redundancy of real estate data, included in those sets of information and considerably reduce costs of their maintenance.

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