

## Simplification of real-estate contracts with the Land Administration System: a case study of Poland

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**Abstract.** This article examines the practicalities of Notaries Public using the Land Administration System for e-service transfer of property ownership. Herein, we use the example of the Polish Integrated Real Estate Information System (IREIS) in the activities of a Notary Public. Good governance and its genesis and IREIS developmental stages are initially assessed with emphasis on the functionality of the system and integration of the databases containing the information needed to prepare for notarial duties. The most important legal provisions applied to the conducting of professional duties by notaries are then discussed. These notably include the provisions of Notary Law and the Civil Code. Notarial tasks were then examined with regard to the possibility and admissibility of using the IREIS to accelerate their activities, decrease delays in essential formalities and minimize associated costs. Conclusions are drawn, and these include the forecast of future innovative solutions by e-service communication.

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## 1. Introduction

Land Administration can be defined as: the process of determining, recording and disseminating information about ownership, value and use of land and its associated resources". These processes include the determination (sometimes called "adjudication"), surveying, describing and detailed documentation of land rights and other attributes, and the provision of relevant information for supporting land markets (UNECE, 1996). An appropriate Land Administration requires the creation of a tool that will allow real-estate administration activities to be performed. This tool is a Land Administration System (LAS), interpreted as:

*An infrastructure for implementation of land policies and land management strategies in support of sustainable development. The infrastructure includes institutional arrangements, a legal framework, processes, standards, land information, management and dissemination systems, and technologies required to support allocation, land markets, valuation, control of use, and development of interests in land. (Williamson et al. 2010)*

The Land Administration System (LAS) accurately manifests the principle of good governance. The good governance principle is defined as: "the process whereby public institutions conduct public affairs, manage public resources and guarantee the achievement of human rights in a manner essentially free of abuse and corruption, and with due regard for the rule of law" (OHCHR 2018). This is understood as a decision-making process and equates with those carried out by public administrations.

The principle of good governance is particularly applicable to the performance of public administration tasks. It is investigated herein whether this principle's implementation and compliance affects the activities of private individuals in real-estate transfer contracts, because many different situations can occur in real-estate transfers, including intra-personal legal transactions and those between people and public entities.

The Land Administration System administers land management, and it is implemented in different ways in diverse areas of different countries. The Integrated Real Estate Information System (IREIS) has been implemented in Poland since 2013. This system enables notaries to obtain the real-estate data needed to complete land ownership transactions. The recipients of this project may

be: public administration, tax administration, bailiffs, banks, The Agency for Restructuring and Modernisation of Agriculture, the Central Anti-Corruption Bureau, the Internal Security Agency, entrepreneurs, communes, Statistics Poland, the State Forests State Forest Holding, and the Minister of Treasury. IREIS implementation in Poland is divided into the following phases.

GUGiK Phase I: The Central Office of Surveyor General of Poland was obliged to implement IREIS to improve real-estate registration processes under the auspices of Polish public administration. This was initiated to ensure that entrepreneurs and citizens had equal rights and opportunities in accessing reliable information on the properties contained in public registers. Phase I aimed to enable direct online access for all parties to Real Estate Cadastral data for the following reasons: to save time and reduce costs in using cadastral data, to raise public awareness of the benefits of electronic data, and to further develop the electronically supplied public service sector and communication between public administration systems. This phase focused especially on the integration of land and building records contained in land registers (GUGiK phase I, 2015).

GUGiK Phase II introduced "pilot incorporation into IREIS of notaries who would transfer data in the form of standardized electronic documents to administrative bodies maintaining public registers on real estate, enabling automation of the processes of updating these registers" (GUGiK Phase II, 2019). The Phase II conclusions included "processes related to the transmission of copies of notarial acts to selected public administration bodies have been improved" (GUGiK Phase II, 2019). Since notaries can already upload data to IREIS, nothing prevents them from downloading information. The law must therefore be adapted so that their downloading requires authentication, but this has been delayed until such time as the system is fully operational. This enactment will then enable notaries to obtain reliable data, including the real-estate description and ownership data required by their duties. Notaries will then be able to rely on relevant IREIS documentation rather than searching documents issued by a variety of public administration bodies. This ability will significantly accelerate notarial duties and prove essential if discrepancies are found in administration documents.

IREIS merges the following fifteen databases: the Real Estate Cadastre, the Land and Mortgage Register, Tax Records, the National Register of Borders – PRG (*Państwowy Rejestr Granic*), the National Official Register of the Territorial Division

of the Country – TERYT (*Krajowy Rejestr Urzędowy Podziału Terytorialnego Kraju*), GEOPORTAL, the Population Register – PESEL (*Powszechny Elektroniczny System Ewidencji Ludności*), the National Official Business Register – REGON (*Krajowy Rejestr Urzędowy Podmiotów Gospodarki Narodowej*), the National Register of Agricultural Producers, Farms and Applications for Payment – KSEP (*Krajowy system ewidencji producentów*), Land Use Plans, the Notary System, the Central Register of Heritage Monuments – CBD o Z (*Centralna Baza Danych o Zabytkach*), the Central Register of Nature Conservation Sites – CRFOP (*Centralny Rejestr Form Ochrony Przyrody*), the Register of Places, Streets and Addresses – EMUiA (*Ewidencja Miejscowości, Ulic i Adresów*) and the Real Estate Price Register – RCN (*Rejestr Cen Nieruchomości*).

The IERIS legal service enables public administration to make rapid decisions and perform its tasks more efficiently. Earlier research has shown that IERIS applies good governance (Klimach et al., 2018). The procedures of good governance are most important because they involve not only the process of making and implementing decisions, but also the best possible way of issuing them, rather than placing emphasis on correctness. Therefore, it is the responsibility of public administrations to ensure that their data are current and reliable for the performance of their tasks. Their correctness is essential for all public administration duties and especially for the preparation of notarial acts. Previous solutions before the introduction of IREIS did fulfill the principles of good governance but not to the extent that they can fulfill them now. The most important thing is that, by connecting many registers, it is possible to get the data necessary to perform Land Administration activities more quickly. Data can be obtained by searching once for a single record instead of having to apply for it from many different sources run by different entities – a process that may be associated with additional costs. For example, if you only have Entity data, you can search for a person in the following registers: the Real Estate Cadastre, the Land and Mortgage Register, Tax Records, PESEL, REGON, KSEP and the Central Register of Heritage Monuments.

Computerization has enabled public administration to combine official registers and make them available to relevant recipients, including citizens. Some public administration tasks can also be performed by e-services (Lee-Geiller and Lee, 2019), and the IREIS already provides the following e-services:

- publication of information on average transaction prices,

- harmonization of public registers relevant to those used by the IREIS,
- assessment of the integrity and consistency of Real Estate Cadastral record data,
- processing spatial data from central dataset repositories for combination with data relevant to other public IREIS registers,
- transmission of selected information from notarial acts by standardized electronic documents to registers used in the IREIS (GUGiK Phase II, 2019).

These examples confirm that IREIS e-governance and its methodology can be expanded so that their e-services accelerate and improve decision-making on real-estate transactions.

The purpose of this article is to determine whether the use of the Land Administration System will simplify notaries' task of drawing up real-estate contracts. Simplifying the drafting of notarial deeds is very important for the parties to the contract. The article shows that a public system created and updated by state bodies of public administration can help in performing activities not only related to public administration. Such a system may be used by persons performing work related to the service of private entities performing public trust (e.g., apart from notaries, also attorneys-at-law) and in order for these entities to achieve their intended goals. The system, which was supposed to help with administrative activities, can be used as a source of data needed by notaries or attorneys.

## 2. Research materials and methods

This research examines the benefits Notaries Public can obtain by using the IREIS to improve the drafting of transfer of property rights agreements. The Polish Civil Code sets the legal standard of mandatory requirements for the form of property ownership transactions, and Article 158 legislates the obligation to transfer property rights by notarial deed. This provision has been imposed on the legislature in "nullity" so that its performance in any other manner lacks legality (Gniewek, 2017).

The most important definition is "pursuant to Article 1§1 in relation to Article 2 §3 of the Notary Law, a person exercising the profession of public trust draws up a notarial deed not only if provided for by specific legal norms, but also where the contractual parties want to have it in the form of a notarial deed". To conform with this requirement, we analyzed the various ways in which real-estate information can be obtained.

It follows from Notary Law Article 80 § 2 that a notary “is obliged to ensure that the rights and legitimate interests of the parties and other persons for whom this act may cause legal effects are properly secured”. Therefore, the notary must have the means for economy of access to all details required for legal real-estate contracts. The notary should also be able to efficiently disclose completed transactions in the land and mortgage registers.

The Public Notary is a person of public trust and cannot draw up notarial deeds in contravention of the law (III CZP 82/13). This construction of the Polish notary system means in practice that representatives of this profession are guarantors of legal real-estate trading. This position is reflected in the literature, where Strzelczyk, (2017) records that the role of notaries is to secure legal transactions. Notary duties are:

1. to provide notary deeds to the land and mortgage register courts;
2. to make entries in land and mortgage registers and other offices to disclose changes in property ownership and
3. to ensure security because notary duties affect legal real-estate transfer.

Limitations to the research were imposed by the difficulty in determining the possible use of IREIS information in the drafting of contracts by notaries and their securing of real-estate transactions. In addition, the research was able to cover only property sale and donation contracts. Here, we are restricted to the transfer of residential property. Agricultural land could not be included because of the extensive regulations and exceptions in legal acts covering this type of real estate. In Poland, regulations have been introduced that require the seller of agricultural

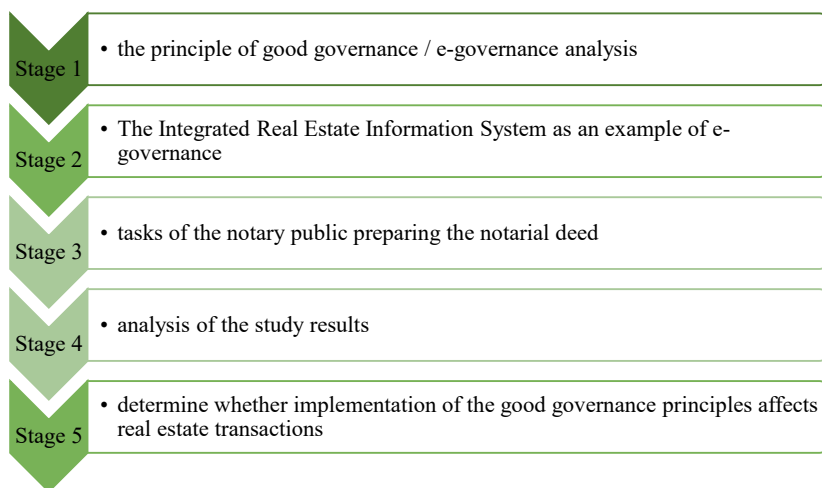
real estate to obtain the consent (in the form of an administrative decision) of the relevant authority (the National Support Centre for Agriculture). The procedure for trading in agricultural real estate also differs in the fact that it includes conditional agreements on the transfer of rights. The possibility of using the LAS for the purposes of agricultural real-estate trading in Poland has been described by Klimach et al. (2020). Moreover, a necessary review of literature was made. Regarding good governance, the authors took under consideration studies of Bell (2007), Devaney (2016) and Graham and Weiss (2000) while describing the concept of LAS, of the essence to the topicality of this research were authors such as Enemark (2004, 2009), Williamson (2010) and Zakout (2006). Finally, in describing Polish LAS and notarial duties, the authors based their work on an analysis of legal acts; nevertheless, due to the need for different rules for the interpretation of law, the authors relied on the literature of Bieranowski (2017), Oleszko (2015) and Osajda (2018).

The study was therefore based on detailed analysis of related literature and legislation, and it pursued the following questions:

1. What property data is needed to draw up a notarial deed for:
  - a. real-estate sales?
  - b. real-estate donations?
2. How does a notary collect property data?

Detailed diagnosis of real-estate data is essential for the preparation of notarial deeds, and our research revealed the many register and database sources that must be searched to obtain entire information on required properties.

The sequence of analyzed issues is presented in Figure 1.



**Fig. 1.** Research scheme  
Source: own elaboration

The initial presentation herein introduces the principle of good governance. Good governance enables system changes that facilitate the issuing of documentation and making of correct decisions. Examples of good governance in the IREIS are the registers that it harmonizes and its selection of registered data that require analysis. This presentation is followed by the assessment of Notary Public duties in preparing notary deeds for land plot sale and donation and determination of the required data and obtainment sources. The last stage of the study was conducted to demonstrate that the implementation of good governance could support the process of drawing up notarial deeds by enabling Notaries Public to transfer (download and upload) the relevant data and documents.

### 3. Research results

#### 3.1. Good Governance Principle

Good governance is the rule for making “good” decisions in the overwhelming majority of instances at national and other levels (Devaney, 2016), and it is a management method designed to improve performance (Armstrong et al., 2005; Graham et al., 2003). The implementation of the principle of good governance is important not only for the State but also for the common citizen, who is the final beneficiary of implemented solutions.

Identified principles of good governance that affect land administration include: efficiency; effectiveness; transparency, consistency and predictability; integrity and accountability; subsidiarity, autonomy and de-politicization; civic engagement and public participation; equity, fairness, impartiality, legal security and adherence to the rule of law (Zakout et al., 2006).

The efficiency principle is one of the most important affecting notaries and property transactions and observing this principle should result in transaction recording being “short and simple” (Bell, 2007). Therefore, a system that enables state authorities and notaries quickly and easily to conduct and register real-estate transactions must be implemented, and this should especially ensure the rapid downloading and management of complete, up-to-date and correct property data.

The creation of a “good decision” should be based on both clear procedures and correct data. For example, a good decision in real estate entails an efficiently drawn up agreement for the

transfer of property ownership rights. Therefore, legal provisions determine the required content and procedures to be followed in preparation of notarial deeds, and Table 1 and 2 herein presents the amount of information the notary must possess to construct a valid contract in the required form. The crucial obstacle here is the current length of time it takes to obtain this real-estate information, and this adversely affects efficiency in drawing up the contract. Good governance is therefore essential to create a system whereby real-estate information is appropriately stored, easily accessible and quickly available by specific entities.

Good governance in the above situation demands good e-governance. E-governance in Poland initially concentrated on digitizing traditional government activities, reducing their costs and improving communication convenience for citizens. This escalated into digital information processing, government–citizen, intra-personal and business transactions and, finally, the widespread provision of e-services (Linders et al., 2018). This e-government initiative provided the required technology to place government in an external network with its citizens and other interested parties and to collaborate with them in developing policies and services.

This progress then required e-administration to integrate information technology and expedite government decision-making processes and exchange information between individual sections. This finally provided free information access to citizens and increased administration service efficiency for all parties (Sangki, 2018).

However, e-governance still encounters structural and cultural barriers (Meijer, 2015). The structural limitations include: legal restrictions; inadequate finance; insufficient available personnel skills; limited political and management support; limitations on technology and competent support; limited knowledge and competencies; and insufficient time, coordination and integration with everyday activities (Eynon & Margetts, 2007; Schwester, 2009).

The following cultural barriers then accumulated: changes in resilience; fear that the new technology would undermine government reliability; interference from a bureaucratic culture; low confidence in e-governance; lack of interest and appreciation of practical utility; and resistance to technological change (Selznick, 1957; Margetts & Dunleavy, 2002; Eynon & Margetts, 2007).

These barriers confront both the government and the entities using e-services. However, it is expected that all e-governance users should have the technical and legal opportunities to use this

service, and our study reveals that the initiation and launch of e-governance was not always synonymous with entities' opportunity and ability to use it. Moreover, the obligations of using the e-system should be specified, even after entry entitlement to it is established.

### 3.2. The Land Administration System

The concept of building and developing Land Administration Systems (LAS) was introduced by FIG (1995, 2014), Kaufmann and Steudler (1998), UNECE (1996, 2005a, 2005b) and Williamson et al. (2010). The modern LAS system facilitates integrated land management and supports property management (Enemark, 2009), and a competently established and implemented LAS should provide sustainable development of real-estate management (Weiss, 2000; Smith, 2007; Williamson et al., 2010).

The LAS real-estate information assembled herein applies to four sectors:

1. land tenure and the registration of land rights;
2. land values required for valuations and property taxation;
3. land use purposes and spatial planning and
4. land development and registered change in land use (Enemark, 2004).

The provision of current real-estate information enables correct operation of the system and consequent sustainable development. Therefore, this system should first combine technical and legal data organized from national to local levels and then supply the necessary information infrastructure for competent performance of all tasks related to land management. LAS is one of the most important manifestations of e-governance, and shared registers are available to all government and administrative entities and citizens.

### 3.3. Polish Land Administration System

The Real Estate Information System has been being introduced in Poland since January 17, 2013 by the *Regulation of Council of Ministers of 17<sup>th</sup> January 2013 on the Integrated Real Estate Information System*. The IREIS Registry performs a number of functions, including ensuring its accessibility to public administration and, to a lesser extent, to private entities.

Prior to the entry into force of this regulation, work was being carried out on digitizing individual databases, such as the Land and Mortgage Register.

This process began in 2003. Because databases have been digitized, it is easier to merge Land and Mortgage Register information with The Real Estate Cadastre. However, not all properties are listed on the Land and Mortgage Register, nor is it always the case that the information contained in the Land and Mortgage Register is consistent with The Real Estate Cadastre. Because individual databases have already been digitized, the Polish LAS may be fully functional earlier than planned. The IREIS merges the fifteen databases mentioned in the Introduction, which are run by different actors at national and local levels. In Poland there is a three-tier division of the country: provinces (of which there are 16), districts (380) and municipalities (2,477). Table 1 below shows the bodies responsible for maintaining and updating the databases.

These numerous registers were connected in stages, as described in the Introduction. The most important and at the same time the most difficult was to connect the Real Estate Cadastre (REC) and the Land and Mortgage Register. These are the registers in which all properties are revealed. (They should be because there are properties for which no land and mortgage registers are kept, so these registers function as historical records of sorts.) First, it was necessary to modernize the Real Estate Cadastre. Different poviats kept this register in different programs, and it was therefore not possible to merge them all into one Real Estate Cadastre. After the modernization, the REC was merged with the Land and Mortgage Register. At the time of data harmonization, in the REC these data were checked to eliminate possible errors. It is also important that some data in many registers are repeated, so when an error (typo) is detected in one datum, another datum can be used as a "connection" of registers. It is also worth mentioning the Land and Mortgage Register Act, which determines how to proceed in case of discrepancies between the legal status disclosed in the land and mortgage register and the actual legal status.

Table 2 presents selected information combined from the real-estate deeds and entities available in at least three registers. The table does not include the Notary System because that system does not store any information, and it is used only for notaries to send data from notary deeds to other registers.

It is clear that some data, including entity and personal identification, are repeated in Table 2. This is then duplicated in different registers and is highly beneficial because data in all registers can be connected. Moreover, the time involved in searching registers with one variable is vastly reduced because the searched-for item with the required information

**Table 1.** Authority responsible for managing registers

Register	Responsible authority
Real Estate Cadastre	Starost (county level)
Land and Mortgage Register	Land and Mortgage Register Court
Tax Records	National Tax Administration
National Register of Borders	Surveyor General of Poland
TERYT	National Official Business Register
GEOPORTAL	Surveyor General of Poland
PESEL	Mayor (city level)
REGON	National Official Business Register
KSEP	National Register of Agricultural Producers, Farms and Applications for Payment
Land Use Plans	Mayor (city level)
Central Register of Heritage Monuments	Voivode / General Conservator of Monuments
Central Register of Nature Conservation Sites	Director of the national park, voivodeship council, commune council, Regional Director of Environmental Protection, General Director of Environmental Protection
Register of Places, Streets and Addresses	Mayor (city level)
Real Estate Price Register	Starost (county level)

Source: Own elaboration

appears in several databases. The harmonization and integration of public registers has made it possible to transmit data between these registers, but in order to achieve this objective it was necessary to harmonize the way in which data are stored and shared. Moreover, changing variables in one register and then adding the changes to other registers is time-consuming and can cause errors.

These registers are also kept for different purposes by different entities, so creating the IREIS required that the different systems be adapted and that possibilities for communication between them be created. Some registers such as GEOPORTAL, Land Use Plans and the National Register of Borders are free to use. Relevant entries in the Real Estate Cadastre and the Land and Mortgage Register can be searched if you have legal permission and sufficient land plot information such as title deed or number.

There are then registers such as PESEL and the Real Estate Price Register, which are “pay-to-use”, where an entity demonstrating a legal interest or simply paying for the data (depending on the register) may obtain sufficient information. In addition, notaries with access to the IREIS can use personal identification numbers to obtain a register entry. This specialized IREIS e-service was

established to ensure the direct transfer of notarial deed information to other registers, including registers kept by the Starost’s Office of the Poviats and taxation offices. Registration as a Notary Public provides legal permission to search these registers for real-estate information and preparation of notarial deeds.

### 3.4. Notarial duties

The notary is appointed to carry out the activities that the parties are obliged to or wish to give a notarial form, and the notarial activities carried out by the notary in accordance with the law have the character of an official document. In Poland, a notary is appointed by the Minister of Justice. In the course of performing the activities, the notary uses the Notary Register, which contains:

1. the User Register which includes, among others, statutory lists of notaries and deputy notaries,
2. the Register of Inheritance containing information about registered notarial deeds of succession certification and court statements of inheritance acquisition and European certificates of inheritance,
3. the Notary Register of Wills,

Table 2. The most relevant information contained in the fifteen registers

Information Registers	Entity data (Note 1)	Personal ID (Note 2)	TAX ID	REGON ID	Address	Identifiers of registration plots	Area	Land and Mortgage Register number	Rules for the protection and land development	Determination of country division units
Real Estate Cadastre	✓	✓	-	-	✓	✓	✓	✓	✓	-
Land and Mortgage Register	✓	✓	-	-	✓	✓	✓	✓	-	-
Tax Records	✓	✓	✓	✓	✓	✓	✓	✓	-	-
National Register of Borders	-	-	-	-	-	-	-	-	-	✓
TERYT	-	-	-	-	-	-	-	-	-	✓
GEOPORTAL	-	-	-	-	✓	✓	✓	✓	✓	✓
PESEL	✓	✓	-	-	-	-	-	-	-	-
REGON	✓	✓	✓	✓	-	-	✓	-	-	-
KSEP	✓	✓	✓	✓	✓	✓	✓	✓	-	-
Land Use Plans	-	-	-	-	-	-	-	-	✓	✓
Central Register of Heritage Monuments	✓	✓	-	-	✓	-	-	✓	✓	-
Central Register of Nature Conservation Sites	-	-	-	-	✓	-	-	-	✓	-
Register of Places, Streets and Addresses	-	-	-	-	-	-	✓	-	-	✓
Real Estate Price Register	-	-	-	-	✓	✓	✓	-	-	-

Source: Personal study of the legal acts and registers

4. the Central Repository of Electronic Excerpts of Notarial Deeds,
5. the Register of Succession Managers of Natural Persons' Enterprises,
6. Notary Statistical Registers.

It is the duty of a notary to send excerpts to all the mentioned registers except the Notary Register of Wills. Wills prepared by a notary are placed in the Notary Register of Wills with the consent of the party to the notarial action and require a fee. Before proceeding, the notary must check the Register of Inheritance in order to verify whether the inheritance proceedings have already been carried out by the testator, and thus whether the inheritance he or she is bequeathing has already been acquired or not. The notary must place the deed (similarly to the protocol), or in principle an electronic excerpt of it, in the Central Repository of

Electronic Excerpts of Notarial Deeds, in which the data contained are the basis for entry in the Register of Entrepreneurs of the National Court Register or are subject to submission to the registration files of the entity which is already entered in the National Court Register. Notarial deeds contained in the repository are then available to authorized bodies and, above all, to registry courts. The notary does not collect any data from these registers (Notary Law Article 92a).

Notary Public qualifications entitle the notary to submit legal documentation on a variety of matters (I Aca 615/17). This submission provides reliable and lasting evidence of the content of a specific declaration of will. Article 244 §1 of the Code of Civil Procedure then stipulates the type of documents to be submitted and the civil proceedings associated with them.



Notarial preparation and submission of legal information guarantees that all parties can obtain professional assistance in formulating the content of the declaration of will that is contained in the contract, and it also provides the parties with knowledge of associated legalities and consequences (Osajda, 2018). In addition, available literature confirms that the form of the notarial deed has presumption of a declaration of will, because it contains only what the parties have declared, and those statements are entire and undistorted (Gwiazdomorski, 1967; Drozd, 2008).

The Supreme Court observed on its 9th of May 1995 ruling that notaries must ensure that their clients' rights are legally protected (III CZP 53/95). In their further ruling of the 7th of November 1997, the Supreme Court stipulated that if the notarial act proposed by a party is unlawful, the notary is obliged not only to inform the applicant of this but also to refuse to draw it up, even if the preparation is insisted upon (II CKN 420/97). Notaries are therefore not subordinate to the will of the applicants (Szereda, 2018).

Notary Law Article 79 compiles a compendium of notarial duties. These include: the preparation of notarial deeds in accordance with European certificates of legal succession; notarial duties in succession management of an enterprise; drawing up certificates; serving declarations; writing protocols; drawing up protests of bill of exchange and checks; the storage of money, securities, documents and data on information technology; drawing up entries and copies and extracts of documents; drawing up draft acts, declarations and other documents on applicant request; submission of applications for entry in the land register in the accepted form; and drawing up all documentation to comply with the provisions of notarial duty.

This Article emphasizes the obligation of Notaries Public to prepare the deeds legislated by Article 80 § 2 of *Notary Law*. Notarial compliance with this Article will then ensure full protection of the rights and legitimate interests of the parties and other persons for whom the notarial duty could have legal consequences. In addition, notarial deeds have relevance not only to the validity of the contract and protection of private interests, but also to the protection of third-party and public interest (Bieranowski, 2017). Notarial deeds are therefore drawn up by a qualified notary who exercises professional diligence in analyzing the actual and legal status of real estate. This is legislated in I ACa 241/14, and it provides the interested parties with adequate instructions and

ensures, to the extent possible, the protection of their interests.

A most important element in the drafting of a notarial deed is its reading in front of the parties. Adoption and signature of the notarial deed constitute the final notary duty unless submission to the relevant authority and registers is required, but confirmation of its reading to the parties is essential. The omission of this reading invalidates the deed, and the deed is therefore not drawn up (Oleszko, 2015). A final proviso is that the notary must be convinced that the contracted parties precisely understand the content and meaning of the transaction and that the notary has acted in conformity with their will. This will then ensure the protection of both the deed and the parties to this notarial duty (Oleszko, 2015).

This Article previously stressed that the notary must obtain all necessary information on the subject of the transaction. However, only the selected land plot transfer and real-estate donation contracts were analyzed because of the wide variety of existing real-estate contracts.

The information necessary to prepare a notarial deed may come from various sources. Some of the information is checked by the notaries themselves before the notarial deed is drawn up, i.e. the content of the land and mortgage register. Currently, the seller or donor collects the documents themselves from various offices, e.g. from the Tax Office or Municipal/City Office and delivers them to the notary, who, after verifying them, places them in the notarial deed as necessary to draw up an activity covered by the notarial deed or legal regulations (e.g. Article 19[6] of the Inheritance and Donation Tax Act). Among this information there are also information that is exclusively dependent on the parties to the contract, e.g., price or date of release of the real estate.

Table 3 lists the information required to prepare a notarial deed of sale or donation of real estate. It also contains the source and provider of this information.

The real-estate data are obtained from the parties to the contract who bring the documents required by law. These are divided into documents for land and mortgage register entry and sent to the land and mortgage register court and those that are kept with the original notarial deed in the notary's office. While most notary information comes from the property owner, who has access to limited data, some information applicable to notarial real-estate duties may also be obtained from IREIS records. The information necessary to draw up a notarial deed can be divided into those

**Table 3.** Information required for the preparation of a notarial deed for real estate

Type of property	Type of property information	Property information	Information source	Cost of obtaining information (Note 3)	Sale (Note 4)	Donation (Note 4)	Ability to download information from IREIS	
Built-up/ undeveloped land	Legal	basis of acquisition (notarial deed, final court order to determine the acquisition of the succession or the act of the certificate of succession)	Notary Office, court	ca. 4 euro	+	+	✓	
		certificate from the Tax Office on the regulation of inheritance tax and donations (Note 5)	Tax Office	ca. 4 euro	+	+		
	Technical	land register number	Land registry court			+	+	✓
		certificate of destination in the general zoning plan of the municipality	Municipal/City Office	ca. 4 euro	+	+		
		certificate of revitalization	Municipal/City Office	ca. 4 euro	+			
		certificate of simplified forest equipment plan	Starost's Office of the Poviast / Mayor of the City / Board of Roads of Greenery and Transport	ca. 4 euro	+	+		
		map with draft division and final decision approving the division of immovable property (in the case of division)				+	+	
		extract from the land register with or without description and map	Starost's Office of the Poviast / Mayor of the City	ca. 35 euro	+	+		
		building permit, final decision of the District Inspector of Building Supervision	Starost's Office of the Poviast / Mayor of the City / The Poviast Construction Supervision Inspector			+	+	
		extract from the building file (in the case of built-up plot)	Starost's Office of the Poviast / Mayor of the City	ca. 3.5 – 4.6 euros	+	+		
Other	selling price				+			
	market value of the property					+		
	date of issue of the property				+	+		
	terms and conditions and method of payment				+			
	pre-sale agreement				+			
	credit agreement				+			
	degree of kinship					+		
	personal data of the parties					+	+	✓
Sum				ca. 59 euro				

Source: personal compilation from relevant legal acts

that could be obtained from IREIS and those that are not in IREIS and therefore cannot be obtained from this system. Figure 2 divides the availability of necessary information into IREIS and other sources.

Figure 2 highlights that notaries can obtain most technical and legal information from the IREIS, and this is available without cost or party participation.

#### 4. Discussion and conclusions

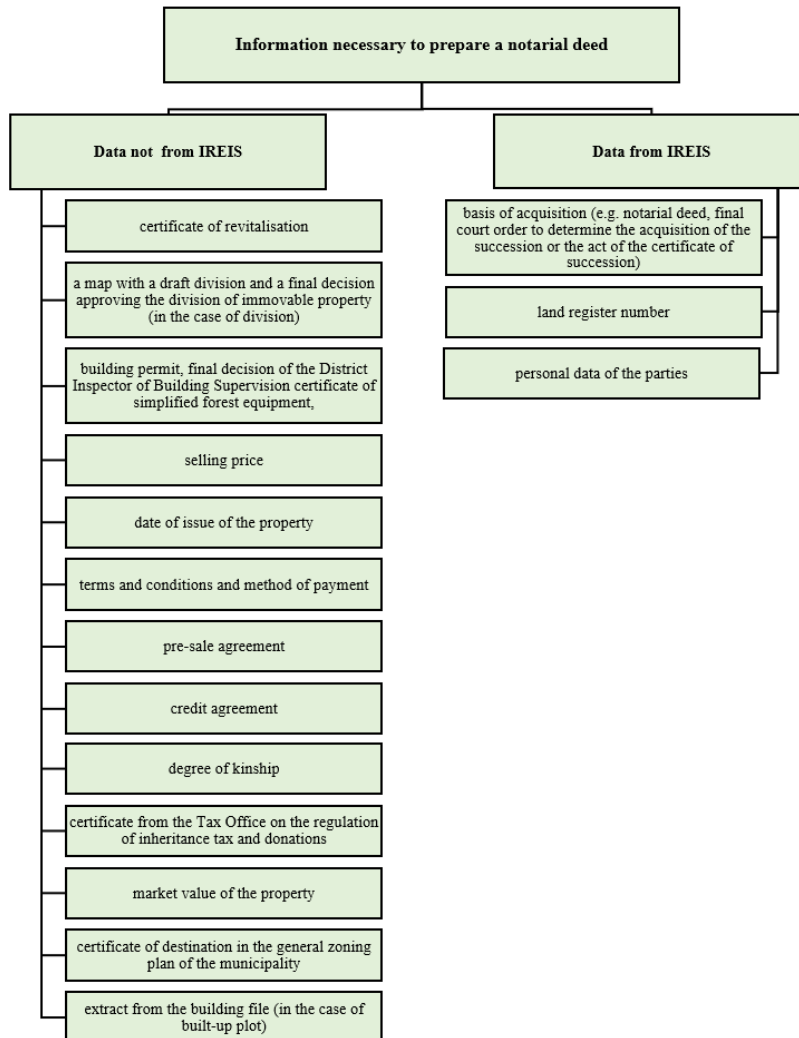
The Polish Integrated Real Estate Information System (IREIS) is the most satisfactory and complex source available for notaries that can be used to prepare their duties in land ownership transactions, if legal provisions will allow them to do so in the future. These contracts must be concluded in the form of a notarial deed and the notary must verify its correctness from the contract parties and the documentation and information in

official registers. While notaries can obtain data from IREIS and submit real-estate information to it, land transfer transactions would be concluded more rapidly if relevant documentation contained the same information. This includes copies of ownership deeds or mortgage conditions, surveyor land-plot sketches, land title registry searches and recent land-valuation and taxation documentation. This will drastically reduce notarial applications for essential information.

The IREIS system is indispensable for notaries because the entire system has inter-related structures, including the Land and Mortgage Register and the Real Estate Cadastre. Most documentation essential for notarial land transfer transactions is officially stamped and also often annotated so that its form is legally acceptable for entry in the Land and Mortgage Register.

In conclusion, although IREIS allows data downloading, this does not solve the important problems outlined herein. The mere possibility of obtaining valuable information on real estate will not simplify the collection of documents necessary to prepare a notarial deed. Therefore, the interests of good governance would be better served if the work of persons practicing professions of public trust were made quicker and more efficient by enabling them to use and download information from IREIS that has identical content to that issued in classic paper form.

The use of various types of e-services such as the submission of applications to relevant offices is becoming increasingly widespread. Currently, notaries have to file an application through the information and communication system supporting court proceedings for entry in the land and mortgage



**Fig. 2.** IREIS utility notarial deeds  
Source: own elaboration

register. This also applies to the act of succession certification, which must also be entered in the Register of Inheritance. Notaries send to the Central Repository of Electronic Excerpts of Notarial Deeds extracts that contain data constituting the basis for entry in the Register of Entrepreneurs of the National Court Register or subject to submission to the registration files of an entity entered in the Register of Entrepreneurs of the National Court Register. Currently, legal regulations do not oblige notaries to collect information to draw up notarial deeds from the IREIS. When preparing notarial deeds, they base their work on documents provided by the parties.

As indicated, the IREIS contains information useful for drawing up a notarial deed of sale, donation of property. It should be noted that, even if the IREIS provides access to information about real estate, it is currently not used as much as it could be used. Fuller use of the system requires changes in legal regulations. First, it is necessary to ensure the possibility of obtaining documents that have the “power of official documents”. When the obtained data will have the power of documents obtained from the appropriate office, the notary will be able to use them in drawing up the notarial deed.

Finally, the appropriate *de lege ferenda* conclusion to the problems presented in this paper which hinder Notaries Public in the performance of their duty is that there should be statutory obligation for notaries to use the IREIS. This would then facilitate their efficiency and ensure that all data downloaded from the system are treated as official. The obligation to use the IREIS should be introduced gradually and combined with the imposition and enforcement of the obligation to update data in the IREIS by the authorities maintaining the individual registers. The use of e-services could be easily used for drawing up notarial deeds. However, appropriate legal standards and tools for their application should be provided. As the situation caused by the state of the COVID-19 pandemic shows, some of the activities were transferred to the Internet and carried out by means of e-services. The changes in the regulations allowed the shareholders' meetings of commercial companies to be held using electronic means of communication. However, it was not allowed to draw up a notarial deed using electronic means of communication. The changes should allow, apart from the possibility to use IREIS, also the possibility to draw up notarial deeds online.

## 5. Notes

1. Both natural persons and legal persons are treated as Entities, the example Entity data are: name, surname, name of manufacturer.
2. Personal ID in Poland is the PESEL – the Universal Electronic System of Population Register.
3. Fees were set for March 2020.
4. “+” means that the information in question is a necessary element in a notarial deed concerning the sale or donation of developed land or not.
5. This document is not mandatorily required for any type of notarial activity contained therein, but only if the disposition of Article 10(1) is fulfilled. Whereas Article 19 (1) of Regulation (EEC) No 2 Article 6 of the Act of 28th of July 1983 (OJ 2018, item 644 as amended) provides for the disposal of the rights to succession or the disposal or burden of property or the property rights obtained by way of donation in the Republic of Poland.

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