

ORIGINAL ARTICLE

The issue of parties' participation in technical activities related to the boundaries of parcels

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Abstract

Participation of the parties in works related to the boundaries affects the determination of boundaries according to the owners' consistent indications, or allows for an appropriate reaction when determining the boundary points of the previously fixed boundaries, i.e. referring the case to court in the event of a dispute regarding the location of boundary marks. It is important that the owners of neighboring parcels know their boundaries before any investment activities. The lack of this knowledge combined with the lack of legal security regarding boundaries in the event of conflicts between owners of neighboring parcels may result in, in addition to sending the case to court, serious consequences, e.g. demolition of a fence built in the wrong place, demolition of a house built too close to the boundary. The legal solutions discussed here concern the Polish cadastre, but the issue itself can be said to go beyond the local scale as it potentially concerns the problem of properly determining the scope of ownership rights (boundaries) to parcels in other countries. The article discusses and analyzes the documentation prepared by licensed surveyors in the context of the validity of applicable boundary procedures in Poland regarding the participation of the parties in these activities. Analyzes have proven that focusing these procedures on correctly notifying the parties about given boundary activities is not the right approach. Such solutions only bring results in terms of correctly notifying the parties about the activities and do not lead to their actual participation in them.

Key words: cadastre, boundaries, determination and delimitation of boundaries

1 Introduction

In Poland, the cadastre is maintained by heads of districts or presidents of cities with district rights. The cadastre is updated on the basis of, among others, surveying documentation. This documentation is prepared by private licensed surveyors. The correctness of a report prepared by a licensed surveyor is verified by the inspector at the district.

According to currently applicable legal provisions in Poland, there are several technical and legal procedures related to boundaries, both in terms of their designation and determination. The first group covers technical activities related to the designation of boundary points and boundaries, and these include: resumption of boundary marks and designation of

boundary points previously registered in the cadastre. Licensed surveyors perform them if there is technical documentation in the geodetic and cartographic resources (archive) that allows them to determine the location of a boundary point on the ground with the required accuracy, or if there were boundary marks on the ground before, but they have been destroyed or moved, and the documentation allows them to restore their original position.

The second group covers activities and procedures for determining boundaries, which licensed surveyors use when the boundaries' data contained in the technical documentation (archive) are not sufficient (as outdated, incomplete, or inaccurate) to carry out technical activities to determine boundary points on the ground with the required accuracy or if there is no

technical documentation defining the course of the boundaries, including the location of boundary points, or a boundary dispute has occurred. These are: determination of boundaries of cadastral parcels in accordance with the regulation on cadastre and demarcation of real estate property carried out in an administrative manner in accordance with the provisions of the Geodetic and Cartographic Law (Act, 1989).

The participation of the parties (owner of parcel and owners of neighboring parcels) in these works is important because it allows for the determination of the boundaries according to the parties' agreed indications, or allows for an appropriate reaction when setting the boundary points, i.e. referring the case to court in the event of a dispute regarding the location of the boundary marks (civil procedure not constituting the delimitation of real estate property).

The extensive monograph (Łuczyński, 2015) generally dealt with the procedure for setting boundaries and the accuracy of setting boundary points. In their study, Karabin and Karabin (2012) analyzed how surveyors carried out the activity of accepting property boundaries for parcel subdivision. Analyses carried out on selected objects have shown that the activities of adopting property boundaries for subdivision are carried out by surveyors in different ways, despite the same legal regulations in force.

There is no research in literature specifically focused on the issue of parties' participation in boundary determination procedures and the consequences associated with it. Therefore, the article undertakes an analysis related to the participation of the parties in various works related to boundaries. This analysis was carried out on the basis of over a hundred selected surveying works and related technical documentation accepted and joint into the state geodetic and cartographic resource; as part of these surveys parties were notified about the conducted boundary's procedures on the ground. Several selected cases are also discussed in detail, pointing out the specific consequences of the parties' failure to appear on the ground. An attempt was made to answer the question whether focusing these procedures on correctly notifying the parties about given activities is the right approach and thus achieving the right effect. The basis for proposing changes in the current procedures for notifying parties about boundary activities was the analysis of technical documentation, as well as an analysis of the solutions that operate in Austria when entering a parcel into the so-called Legal Boundary Cadaster.

2 Rules for notifying parties about boundary determination procedures

The rules for inviting parties to take part in activities related to determining the location of boundary points and the course of real property boundaries are specified in Art. 39 of the Geodetic and Cartographic Law (Act, 1989). However, attention should be paid to certain differences in the names of notifications depending on the type of activity and the report prepared on the ground.

No later than 7 days before the scheduled date of the boundary hearing, which takes place as part of the delimitation of real estate property in accordance with the provisions of the Geodetic and Cartographic Law Act (Act, 1989) and the Regulation of the Ministers of Interior and Administration and Agriculture and Food of April 14, 1999 on the delimitation of real estate property (Regulation, 1999) – parties are served with summons, with return acknowledgment of receipt. The parties must be informed of the consequences of failure to appear. Unjustified failure to appear by the parties does not suspend the proceedings. In the event of a party's justified failure to appear, the surveyor suspends the activities until the obstacle

ceases or until a representative is appointed – no longer than for a period of one month (Article 32 of the Act 1989).

The same rules of delivery (Article 32, Act 1989) apply to the resumption of boundary marks/designation of boundary points, with one difference that the name of the letter/invitation sent is different – it is a notice, not a summons, as is the case with real estate property demarcation. However, it should be remembered that the activities of resuming boundary marks and designating boundary points do not take place under administrative proceedings, so there is no competent authority that could apply Art. 34 of the Act (1960) in the event when the address details of the persons concerned are missing.

Karabin-Zych (2015) points out that a problem arises when licensed surveyors are to notify a party who lives or is based abroad. Pursuant to the provisions of the Act of June 14, 1960, Code of Administrative Procedure (Act, 1960), such a party is obliged to appoint a representative in the country for service. If a representative for service is not appointed, letters intended for this party are left in the case files with the effect of delivery. The party should be informed about this upon first delivery. The party should also be informed about the possibility of submitting a response to the letter initiating the proceedings and explanations in writing, as well as who may be appointed as a representative.

According to Felcenloben (2013), in a situation where it is necessary to send a letter to a person with an unknown place of residence, for whom the court has not appointed a representative, the authority (mayor or president of the city – conducting real estate property demarcation proceedings) is obliged to send pleadings to the representative appointed under Art. 34 Act (1960). In such a case, the public administration body is obliged to submit a request to the court to appoint a representative for the party.

Notifications according to the principles set out in Art. 32 of the Act (1989) also apply in certain cases of adopting real estate property boundaries for subdivision procedure. Pursuant to paragraph 6 of the Regulation (2004), the adoption of the boundaries of a real estate property to subdivision takes place as a result of the examination of:

- 1) land register (previously land books) and other documents specifying the legal status of the real estate property,
- 2) data included in the real estate cadastre.

There is no obligation to set up a land register record for each real estate property.

In the absence of documents presented in point 1), the boundaries are adopted on the basis of the data shown in the real estate cadastre, and the provision additionally requires notification to the owners of the real estate property (subject of subdivision procedure) and the owners of the neighboring real estate properties.

As Durzyńska (2021) emphasizes, if boundaries for the subdivision of real estate property are adopted solely on the basis of cadastral data, the protocol should include a list of persons present on the ground during the activities and their signatures.

Special rules for subdivision of real estate property apply to cases specified in Art. 95 of the Act (1997), when a division of real estate property takes place regardless of the provisions of the local development plan. According to Gdesz and Trembecka (2011), in the case of allocating part of a real estate property covered by an official decision on determining the location of a public road, the Act (1997) does not apply when preparing a map of a real estate property subdivision, because in this case no official subdivision decision is issued (art. 92–100).

Thus, all formalism related to the administrative procedure, e.g. the lack of identification of the current owners of the property is eliminated, and does not prevent the preparation of a

map with a real estate property subdivision project attached to the application for an official decision on the permit for the implementation of a road investment, issued in accordance with the [Act \(2003\)](#).

It should be emphasized that not all subdivisions of real estate property take place within the so called "administrative proceedings". Pursuant to Art. 92 of the [Act \(1997\)](#), a subdivision of agricultural and forest real estate property, except for cases specified in Art. 93 of the [Act \(1997\)](#), take place without carrying out an administrative decision-making procedure ([Wolanin, 2016](#)). In this case, there is no legal basis for applying the procedure for adopting boundaries and notifying the parties about these activities, in accordance with the provisions of paragraph 6 of the [Regulation \(2004\)](#).

Special rules for notifying interested entities (parties) apply in the case of preparing a protocol determining the boundaries of cadastral parcel in accordance with the Regulation of the Minister of Development, Labor and Technology of July 27, 2021 on cadastre ([Regulation, 2021](#)). Exceptionally and exclusively in the case of determining the boundaries of cadastral parcels in accordance with the [Regulation \(2021\)](#), if the entities are not known or their permanent residence addresses or registered office addresses are not known, at the request of the contractor of surveying works, the head of a district publishes on the website of the "Information Bulletin" information on activities on the land for a period of at least 7 days, provided that the last day of this period should take place no later than 8 days before the scheduled date of commencement of activities undertaken to determine the boundaries of the parcel.

However, the legislator did not provide for a procedure enabling such information to be placed on the website of the "Information Bulletin" in the case of the previously discussed resumption of boundary marks or the designation of boundary points registered in the cadastre, which was pointed out by several authors (including Karabin, Hanus) in the Panel of Experts of Geodetic Review ([Pietrzak, 2023](#)).

When considering the issue of notifying the parties, it is impossible not to discuss the so-called time margin necessary to properly notify the parties. Thus, [Karabin-Zych \(2015\)](#) pointed out that in order to ensure that licensed surveyors effectively notify the party and, in extreme cases, meet the 7-day deadline required by the [Act \(1989\)](#), licensed surveyors should send a registered letter with return receipt requested at least 28 days before the scheduled meeting date.

This fact results from a possibility of receiving the notification by a party at different times and the possible need to notify the letter again or not to receive it at all, which is possible according to the [Act \(1960\)](#).

3 Types of "boundary lines" procedures and the role of the parties in these activities

In accordance with legal provisions in Poland, the following 8 different reports are prepared within surveying works, whose results constitute a source of information on the location of boundary points and the course of property boundaries:

- boundary protocol with a boundary sketch (prepared during the delimitation of real estate property – in accordance with the [Regulation \(1999\)](#)),
- boundary settlement with a boundary sketch (prepared in certain cases during the delimitation of real estate in accordance with the [Regulation \(1999\)](#)),
- protocol for determining the boundaries of cadastral parcels along with a boundary sketch (prepared when determining the boundaries of cadastral parcels in accordance with the [Regulation \(2021\)](#)),

- report on the acceptance of boundaries for the subdivision of real estate property along with a sketch of the boundaries (prepared when subdividing real estate property in accordance with the [Regulation \(2004\)](#)),
- report on the activities of marking new boundary points on the ground, resulting from the subdivision of real estate property – new boundaries (activities performed at the request of a party after the official decision approving the subdivision process becomes final, in accordance with [Regulation \(2004\)](#)),
- protocol of marking and indicating to the participants of merge and subdivision of real estate property (for non rural areas) – the boundaries of newly designated parcels, with a sketch of the boundaries (prepared in accordance with [Regulation \(2005\)](#)),
- protocol of marking and indicating to the participants of a land consolidation procedure (for rural areas) – the boundaries of newly designated parcels, with a sketch of the boundaries (prepared in accordance with the [Act \(1982\)](#)),
- protocol on the resumption of boundary marks/designation of boundary points (prepared in accordance with [Regulation \(2020\)](#)).

Protocols documenting the location of boundary points and the course of property boundaries are prepared by licensed surveyors. However, depending on the type of surveying work and the type of report, the role of the parties differs.

Only in certain cases may parties have influence on the location of boundary points and the course of property boundaries. The key role is played by the existing evidence, and above all, documents confirming the legal status of the property and specifying the location of boundary points and the course of the property boundaries. The role of the parties in surveying activities related to determining the location of boundary points and the course of property boundaries is presented in Table 1.

Where there is documentation determining the original location of the established boundary points/marks, the parties cannot alter the existing evidence ([Act, 1989](#)). Only when the results of the analysis of the resource materials (archive) carried out by the licensed surveyor in terms of accuracy, timeliness and completeness, indicate the unsuitability of the source materials to achieve the purpose of the work ([Regulation, 2020](#)), are the parties able to make declarations regarding the course of the boundaries, but only provided that these statements are not inconsistent with existing evidence.

Moreover, it should be noted that despite the lack of direct impact on the course of the parcel boundaries in the technical procedures of resuming boundary marks, designating boundary points or accepting real property boundaries for real property subdivision procedure, the active participation of the parties in these activities makes it possible to become acquainted with the physical location of boundary marks on the ground and the course of the boundaries.

The parties, pursuant to the provisions of the [Act \(1989\)](#), may apply to the court to resolve the case. Lack of parties' reaction at this stage, and reaction at later stages, i.e. after the construction of permanent fences and the commencement of the investment process (construction of buildings), may have costly consequences.

4 Research on notifying parties about "boundary lines" procedures and identification of the most common mistakes

The research covered 105 technical reports. 50 technical reports were works in which the parties had to be informed about activities on the ground. 55 technical reports concerned the sub-

Table 1. The role of the parties in surveying activities related to determining the location of boundary points and the course of property boundaries (source: authors)

The Type of Survey Work	Name of protocol	Role of parties	Parties influence on course of property boundaries
Real Property Delimitation (Act, 1989; Regulation, 1999)	Boundary Protocol/Boundary Settlement	Declarations regarding the location of boundaries if the evidence is not sufficient	Yes, if the evidence is not sufficient
Resumption of boundary marks/designation of boundary points (Act, 1989; Regulation, 2020)	Protocol for the resumption of boundary marks/designation of boundary points	Signatures confirming participation in activities on the ground	No
Determining the boundaries of cadastral parcels (Regulation, 2021)	Protocol for determining the boundaries of parcels	Declarations regarding the location of boundaries, if there is no contradiction with the evidence	Yes, if there is no contradiction with the evidence
Real Property Subdivision Procedure (Regulation, 2004)	Protocol of acceptance of boundaries for subdivision of real property	Signatures confirming participation in activities on the ground	No
Real Property Subdivision Procedure (Regulation, 2004)	Protocol on the activities of marking and consolidating new boundary points on the ground with boundary marks	Signatures confirming participation in activities on the ground	No

division of real estate, for which it was not necessary to notify the parties about the activities of adopting boundaries in accordance with paragraph 6 of the Regulation (2004).

As a result of the examination of 105 surveying technical reports accepted into the State Geodetic and Cartographic Resource, the following deficiencies were found:

- failure to prepare any report or preparation of a different type of report during the subdivision of real estate than that required in the Regulation (2004) – protocol on the acceptance of boundaries for the subdivision of real estate – in 6 out of 105 cases, which is 6%;
- incorrect (inconsistent with paragraph 6 of the Regulation, 2004) justification for the lack of notifications about the activities of adopting boundaries for the subdivision of real estate property – in 7 out of 105 cases, which is 7%.

Pursuant to paragraph 6 of the Regulation (2004), adoption of the boundaries of a real estate property to subdivision takes place as a result of the examination of:

- 1) land register (previously land books) and other documents specifying the legal status of the real estate property,
- 2) data included in the real estate cadastre.

In the absence of the documents presented in point 1), the boundaries are adopted on the basis of the data shown in the real estate cadastre, and the provision additionally requires notification to the owners of the real estate property (subject of subdivision procedure) and the owners of the neighboring real estate properties.

Examples of incorrect justifications for the lack of notifications about the activities of adopting boundaries for the subdivision of real estate property:

- "the neighbors were not notified due to the finding of boundary marks" – it should be emphasized that the rules for adopting boundaries according to the Regulation (2004) do not make the need to notify the parties dependent on "finding" boundary marks;
- "the boundaries were adopted in sections according to the legal status (...), in sections according to the cadastral records (...)"

Firstly, the statement "according to the legal status" is not consistent with the current version of the provisions of the Reg-

ulation (2004), and secondly, since the boundary was adopted "according to the cadastral records" – in accordance with the Regulation (2004), the parties should be notified about these activities.

Moreover, as a result of the analysis of 55 technical reports on the subdivision of real estate property, where it was not necessary to notify the parties about the activities of adopting boundaries in accordance with paragraph 6 of the Regulation (2004), it was found that in 13 out of 55 cases (24%) the principals were informally notified about the activities accepting boundaries for real estate property subdivision procedure. These people took part in activities on the land and signed boundary acceptance protocols contrary to the provisions of the Regulation (2004).

5 Statistical research on the participation of parties in selected "boundary lines" procedures

As part of the research work, the effectiveness of notifying the parties was also assessed in the context of their subsequent participation in activities carried out on the ground. Table 2 presents data on the number of persons notified and persons present during protocol activities on the ground when the delivery of notices was necessary. These were surveying works resulting in the performance of protocol activities on the ground in the presence of the parties, i.e. works related to the subdivision of real estate property, resuming boundary marks, marking boundary points and determining the boundaries of cadastral parcels (50 protocols in total).

Table 2 shows that:

- in 1 out of 50 cases (2%), all notified persons appeared on the ground,
- in 2 out of 50 cases (4%) no notified person appeared on the ground,
- in 14 out of 50 cases (28%), more than 50% of the notified people appeared on the ground,
- in 28 out of 50 cases (56%), no more than 33% of the notified persons appeared on the land,
- out of a total of 466 notifications, 158 people appeared on the ground, which is 34%.

Table 2. Parties notified about activities on the ground and their presence during protocol’s activities on the ground (source: authors)

Number of notified parties	Number of present parties	[%]
3	0	0%
10	0	0%
15	1	7%
10	1	10%
9	1	11%
24	3	13%
40	5	13%
15	2	13%
22	3	14%
13	2	15%
17	3	18%
5	1	20%
5	1	20%
5	1	20%
10	2	20%
22	5	23%
4	1	25%
15	4	27%
7	2	29%
10	3	30%
10	3	30%
16	5	31%
3	1	33%
3	1	33%
6	2	33%
9	3	33%
8	3	38%
5	2	40%
5	2	40%
10	4	40%
7	3	43%
7	3	43%
2	1	50%
2	1	50%
6	3	50%
8	4	50%
9	5	56%
7	4	57%
5	3	60%
5	3	60%
3	2	67%
3	2	67%
6	4	67%
4	3	75%
4	3	75%
8	6	75%
5	4	80%
11	10	91%
23	22	96%
5	5	100%
Total statistics		
466	158	34%

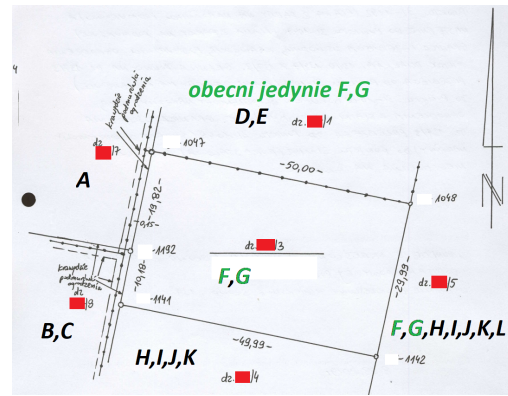


Figure 1. Research object no. 1 – present only F,G (source: authors)

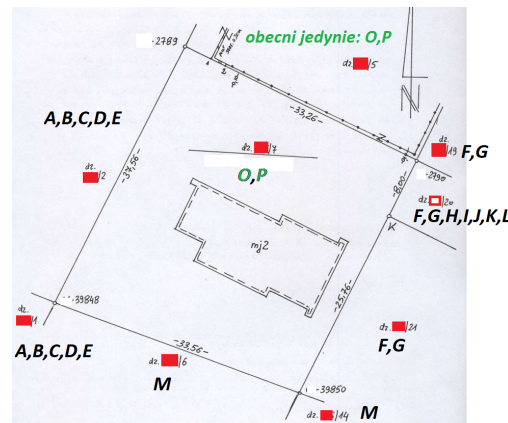


Figure 2. Research object no. 2 – present only O,P (source: authors)

6 Participation of parties in "boundary lines" procedures – case studies

Research object no. 1 (Figure 1) concerned activities related to the designation of boundary points previously registered in the cadastre. In the examined case, only the directly interested owners of the parcel which the work concerned showed up to participate in the activities performed on the ground (marked as F and G in the drawing). It is surprising that the owners of the unfenced parcels (marked as H, I, J, K) did not show up. Potentially, they may raise reservations regarding the location of the fence built after these activities.

Research object no. 2 (Figure 2) concerned the same type of activities, i.e. those related to the determination of boundary points previously registered in the cadastre. In the examined case, only the directly interested owners of the parcel which the work concerned showed up to participate in the activities performed on the ground (marked as O and P in the drawing). In this case, none of the owners of the neighboring parcels, which are unfenced, showed up on the site. Also in this case, these owners may potentially raise objections as to the location of the fence built after these activities.

Research object no. 3 (Figure 3) concerned the activities of determining the course of boundaries in accordance with the provisions of the regulation on the cadastre. In the examined case, the co-owners of two parcels (marked as B and D in the drawing) were present on the ground. The other co-owner of the parcel concerned did not show up to participate in the activities performed on the ground, so the contractor himself deprived the licensed surveyor of the opportunity to determine the boundaries based upon the agreed indications by the parties. Such behaviour was incomprehensible due the

and if there is an agreement, it is documented in a protocol which is signed by all parties.

The surveyor forwards all documentation to the local cadastral office, and the parcel entered into the Legal Boundary Cadaster.

If (s)he does not obtain the neighbors' consent to the boundary course, the licensed surveyor forwards all documentation to the local cadastral office. The local cadastral office sends a registered letter (summons) to the interested party (the neighbor who did not sign the protocol), asking him to appear at the office and read the documentation prepared by the surveyor. The interested party has the opportunity to sign this protocol at the local cadastral office, but if they show up at the office and do not do so (sign the protocol), the parcel is simply not entered in the cadastre of boundaries. However, if the interested party does not receive the summons from the post office or does not collect it and appear at the office to submit an objection (4 weeks to submit an objection), the parcel is entered in the boundary cadastre (see Karabin, 2005).

Karabin-Zych (2015) emphasizes that the surveyor sends a notice of the boundary hearing by registered mail to the interested parties (the owner of the property subject to division and the owners of neighboring properties whose parcels are not entered in the "Legal Boundary Cadaster"), and the notice takes the form of an invitation (in German *Einladung*), which, though non-binding, contains information about the activities carried out, the date and place where they take place. The licensed surveyor should deliver the invitation to the interested party no later than two weeks before the date of the boundary hearing. However, this deadline is not regulated by law, but was established and imposed by the Chamber of Architects and Consulting Engineers. Karabin-Zych (2015) also indicates that there is no need to document the compliance with the deadline for notifying the party, and the address to which the notice is sent is obtained by the surveyor from the land register, without the need to determine the current living address.

Currently, a slightly modified procedure for entering a parcel into the Legal Boundary Cadaster is in force. The surveyor may invite the party to participate in the boundary hearing by letter, e-mail, telephone or orally. Therefore, it is not essential to obtain confirmation of receipt of the notification. The two-week notice period recommended by the Chamber of Architects and Consulting Engineers still applies. As for the procedure, it is similar: if the parties accept the boundary course (signatures of all parties), surveyor forwards all the documentation to the local cadastral office, and the parcel is entered in the Legal Boundary Cadaster. If one of the parties fails to appear on the ground, the BEV invites him or her again (to the office), and thus attempts to complete the signatures in the documentation. If the party fails to respond, the owner of the parcel that is the subject of the boundary hearing may decide not to enter the parcel in the Legal Boundary Cadaster or order a second boundary hearing to be conducted, but one prepared by the cadastral office. Lack of a reaction by a party (activity before the decision on the second hearing or during the second hearing) may result in the cadastral office's decision to enter the parcel into the cadastre of boundaries. It is possible to complain to the Administrative Court (based on materials from Marcin Karabin's internship at Zivilgeometer Dipl. Ing. Jerzy Szmidt Ingenieurkonsulent für Vermessungswesen, Perchtoldsdorf, Austria, 09/2019).

Finally, the Cadastral Office sends the decision on the transfer of the parcel into the Legal Boundary Cadastre to all affected property owners. The owner and the neighbors of the parcel have a possibility to appeal within a period of two weeks (see Ernst et al., 2019).

To sum up, the signature of the parties on the boundary protocol results in the permanent determination of the bound-

aries of the parcel and its boundaries covered by a warranty. The procedure for notifying parties about boundary activities, unlike in Poland – in practice produces the desired effects in Austria (participation of the party), and does not consist only in fulfilling statutory regimes, in particular related to the form and date of sending/receiving the notification (possibility of notification in various ways). The land owners in Austria are the persons defining the boundary – it simply cannot be done without them.

An additional requirement in addition to signatures is that the parcel has to be surveyed and mapped with all the boundary points referring to the Austrian Reference System and by the GNSS-based reference stations (APOS – Austrian Positioning Service). The accuracy requirements are defined in the Surveying By-law (German: *Vermessungsverordnung*) and have to be observed (Ernst et al., 2019).

Ernst et al. (2019) indicates possible procedures under which a plot may be transferred to the boundary cadastre. Currently, it is most often done using the occasional resurvey of parcels, called TNA-process (orig. 'Teilweises Neuanslegungsverfahren'). As stated by Ernst et al. (2019), the following two procedures are possible within these activities:

- Application for transferring parcels into the Legal Boundary Cadastre without any changes of the property formation (currently about 2600 cases/year).
- Application for subdivision of parcels resulting in a changed property formation with highest quality level of the Legal Boundary Cadastre (about 27,000 cases/year).

8 Authors' Proposal for changes in "boundary lines and points" procedures in Poland

Some proposals regarding the procedures for determining the boundaries of the property subject to subdivision were presented by Karabin-Zych (2015) and concerned the introduction of the need for the district office or city president with district rights to notify the parties who did not appear on the ground when determining the boundaries of the property subject to subdivision. The same requirement was proposed for parties who did not signed a protocol determining the course of the boundaries of the property subject to subdivision. They proposed the possibility of getting acquainted with the documentation on the determination of the boundaries of the property subject to division at the district head office and the possibility of signing a report on these activities or submitting an objection in writing.

It should be emphasized that there are inconsistencies in the legal provisions regarding the notification of parties pursuant to Art. 32 of the Act (1989) and according to the Regulation (2021). It is incomprehensible why, only in the case of determining the boundaries of cadastral parcels under the Regulation (2021), when the entities are not known or their permanent residence addresses or registered office addresses are not known, at the request of the contractor of surveying works, the head of a district publishes information about activities on the ground on the website on the Internet of the Public Information Bulletin and on the notice board of the district office for a period of at least 7 days. It is strange that such a possibility is not available when performing other boundary activities, when a report is prepared documenting the location of boundary points and marks and the course of property boundaries.

The authors of this article, however, propose changes regarding the notification of parties about boundary activities, consisting in departing from the rules arising from the Code of Administrative Procedure (Act, 1960) and directing them to the actual achievement of the effect, i.e. the parties real participa-

tion in the activities. According to the authors, the deadline for sending a notification in the form of a registered letter should actually be specified, but it should be shorter and, following the example of Austria, other methods of notification should be allowed – e-mail, telephone or in person in the form of oral information to the party. Such an oral form of notification would have to be made with the simultaneous identification of the party (showing to the surveyor an ID card or another document confirming his/her identity). Confirmation of a party's identity would also be required for a telephone notification (e.g. by the party providing selected digits of his/her Personal Identification Number).

In the last two cases, we can immediately obtain information regarding the party's ability to participate in these activities on the proposed date and possibly set an additional date for the party if they are unable to participate.

The authors support the solutions proposed by Karabin-Zych (2015), which in a sense also consist in adapting Austrian solutions, i.e. inviting the party to the head of district office to enable them to read the documentation and sign the protocol at the office.

By introducing such a two-stage procedure (licensed surveyor – protocol on the ground, office – signing a protocol in the office), the authors propose to resign from the need to document the fact of notifying the party in the surveying technical report (return receipt certificates, receipts). The surveyor could only store it in his/her own archive.

When introducing new procedures regarding boundary operations in Poland, the authors propose to rely on the original rules in force in Austria, which, as mentioned above, are quite restrictive for the owners of neighboring parcels and even force them to actively participate, because the lack of an appropriate reaction results in certain consequences, on the basis of the so-called "tacit consent".

9 Summary and final conclusions

The analysis of currently applicable legal regulations and practice cases related to activities involving the participation of parties in boundary lines and points procedures on the ground revealed several significant problems.

In Poland, the structure of the provisions on notifying parties is aimed at fulfilling specific notification procedures. This is confirmed by the results of the conducted research, which prove that fulfilling the obligation to properly notify the party does not result in the parties' real participation on the ground. Overall, a low share of notified parties of approximately 34% and a negligible number of cases in which all notified parties were present on the ground – 1 in 50 cases examined was observed. The analysis of specific cases (case studies) revealed that the lack of active participation of one of the parties on the ground in the case of boundary setting activities automatically prevents the application of the most important and most desirable criterion, i.e. setting the boundary according to the unanimous declaration of the parties. The lack of any other, further activities that would be provided for in Polish legal regulations makes these activities defective – they do not lead to the determination of boundaries by the interested parties, and the determination itself is made in the absence of documentation, its incompleteness or unreliability. According to the authors, it is necessary to establish rules that would lead to the real setting of boundaries, i.e. aimed at achieving the effect of active participation of the parties in these activities (following the example of Austria). Active participation of the parties in procedures, other than establishing boundaries, would eliminate the occurrence of conflicts at the stage of highly advanced investment processes, moving the moment of a potential con-

flict (dispute regarding the location of boundary marks) to the initial stage, i.e. the determination of boundary points. So, economic aspects also come into play here.

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