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# *The impact of national registers on the legal situation of citizens and other entities in a democratic state*

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## I. INTRODUCTION

### A. *Public registers*

Public registers are principal element of the state's information resources. Due to them, it is possible to conduct public tasks and ensure the efficient performance of tasks in public administration. Registers are intended to ensure security and certainty of legal transactions. At the same time, they guarantee freedom of social and economic activity of citizens and transparency of certain legal relations. Therefore, they play a key role in society. Their creation and management are an important legal issue as well as a technical and organizational problem<sup>1</sup>.

- <sup>2</sup> A public register<sup>2</sup> is a form of records used to perform public tasks, kept by a public body based on separate statutory provisions. Such definition is presented in article 3 point 5 of the a.c.a.p.t.<sup>3</sup>. This

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<sup>1</sup> A. GRYSZCZYŃSKA, *Rejestry publiczne. Jawność i interoperacyjność*, C.H. Beck, Warszawa, 2016, p. 3.

<sup>2</sup> For the purposes of this work, the concepts of public registers and national registers will be used interchangeably. The national registers - National Register of Debtors, National Criminal Register and National Court Register, described in this text are also public registers.

<sup>3</sup> Act of 17th February 2005 on computerization of the activities of entities performing public tasks (Journal of Laws of 2023 item 57 as later amended).

is the only legal definition specifying the features that a public register should have. Of course, it should be remembered that it was formulated for the purposes of this Act and cannot constitute a universal formula establishing the concept of a public register in general. However, not every register will be a public register. It is indicated that the public register should meet certain conditions<sup>4</sup>.

- 3 Firstly, public register must be created based on legal provisions, or the legal provisions at least provide for its creation. Specific regulations provide for its creation, competences, formal and legal rules of operation. The legality of the register is usually also the principle of officiality, which means that registers strictly define what documents are submitted to the register and what legal form they should have. Secondly, a public register is kept by a public registration body. It can be state authority or a local government body, established in accordance with the provisions of the constitution and other laws. Thirdly, acceptance, recording and disclosure of the information and data specified therein generally takes place by way of a decision. This decision relates to specific facts or persons disclosed in the register. Fourthly, maintaining and disclosing the data contained legal consequences, both for the person and the authority. Fifth, it is public. This means that the registration authority, at least the persons concerned by the register have access to it<sup>5</sup>.
- 4 If a register kept by a public body does not meet these conditions, it is not a public register. Moreover, a public body maintaining a public register is obliged to fulfil several obligations<sup>6</sup>.
- 5 Public registers therefore serve primarily to provide most reliable information. An entity with such knowledge can make the right decisions and assess the risk of concluding a specific contract, purchasing an item or a right<sup>7</sup>. The role of public registers in creating the state's information order is crucial. By operation of law, they have a guarantee of public faith. Thus, they constitute the information basis for decisions or taking economic, social and administrative actions<sup>8</sup>.
- 6 Public registers serve several essential functions. The first one is the recording function, which involves collecting and recording specific information. The primary purpose of a registry is to maintain a complete and reliably organized set of information of a specific type. The registration function also involves assigning identification numbers or symbols by the register. These are then used in other areas of life as well as records. This applies to ID numbers of persons, entrepreneurs or those assigned for tax purposes. Next is the information (disclosure) function. It consists in the fact that thanks to the information disclosed in the registers, it is possible to obtain information about persons, rights, things, and legal status. This function is a consequence of adopting the principle of transparency.

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<sup>4</sup> Is every register kept by the administration a public register? <https://www.gov.pl/web/popcwsparcie/czy-kazdy-rejestr-prowadzony-przez-administracje-jest-rejestrem-publicznym2> [access: 20.10.2023].

<sup>5</sup> T. STAWECKI, *Rejestry publiczne. Funkcje instytucji*, LexisNexis, Warszawa, 2005, p. 28.

<sup>6</sup> Article 14, point 1 of a.c.a.p.p.t.

<sup>7</sup> T. STAWECKI, *Rejestry publiczne. Funkcje instytucji*, op. cit., p. 248.

<sup>8</sup> J. OLEŃSKI, *Infrastruktura informacyjna państwa w globalnej gospodarce*, Faculty of Economics Sciences, University of Warsaw, Warszawa, 2006, p. 539.

Limiting this transparency, both legally and factually, will result in weakening the information function of the register. The warning function of the register is that the role of some registers is to warn third parties about the consequences of certain facts. In this sense, a warning serves to prevent certain actions with undesirable consequences. However, a warning only requires a short and earliest possible signal, not an extensive set of data<sup>9</sup>.

- 7 Public registers also serve a protective function. Data registered and publicly disclosed allow specific users to believe that when they refer to the information, they are referring to it as true or having legal effects. Registration and public disclosure of specific data allows for the conclusion that it took place after the registration authority conducted appropriate proceedings. In this way, values considered socially important and requiring state intervention are protected.
- 8 The control function allows the registration authority to check whether a given entity was established in accordance with the law and conducts its activities properly. The law-making function is extremely important in relation to this study. It consists in the fact that entering a certain entity or object in the register is a condition for the effectiveness of certain legal facts. Making an entry creates, for example, a legal entity<sup>10</sup>.
- 9 Records and registers are intended to harmonize with social pressure on the protection of citizens' freedom and the rule of law of administration activities. The public register allows for maintaining a balance between pluralism, transparency of social life, activity, freedom of citizens and legal protection of collective order, including economic transactions, legal certainty and security. Public registers express the idea of separation rather than subordination of law to politics. They are an expression of the idea of procedural justice and the principle of limiting the decision-making freedom of public authorities. Public registers are also intended to confirm the transparency of persons and entities with special rights or obligations. They also express the values of impartiality and public transparency of the criteria for granting such powers. Public registration is also intended to enable citizens to make a rational economic decision<sup>11</sup>.
- 10 This paper will discuss how digitization of public registers can influence on citizens' life and what benefits it brings to them. The critical issue is to discuss how it affects his position in the state, comparing it with the basic guarantees that a well-functioning state of law should provide. The considerations that will be included in the text will show the relationship and impact of registers on the quality and functioning of the state. On the other hand, especially on the rights and freedoms of citizens.

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<sup>9</sup> T. STAWECKI, *Rejestry publiczne. Funkcje instytucji*, op. cit., pp. 34-37.

<sup>10</sup> H. CIECHANOWSKI, "Obieg informacji pomiędzy rejestrami publicznymi na przykładzie rejestrów prowadzonych w Królestwie Prus", *Wschodni Rocznik Humanistyczny*, tome XIX, 2022, pp. 103-104.

<sup>11</sup> T. STAWECKI, *Rejestry publiczne. Funkcje instytucji*, op. cit., p. 392.

- 11 While examining the functions of registers in 2005, Tomasz Stawecki identified above 250 public registers that met the criteria of the definition<sup>12</sup>. However, the analysis will be based on the example of three national registers maintained in electronic form: the National Register of Debtors (NRD), the National Criminal Register (NCrR) and the National Court Register (NCR). These registers have been selected, because of their significant impact on citizens' lives. The paper will touch upon risks and benefits arising from digitization of these registers to finally answer the question if such digitization can in fact influence citizens' participation in public life.

### ***B. Digitalization of public administration***

- 12 In a democratic state under the rule of law, the principle of the legal subordination of the state to universally applicable law applies. Accordingly, the public administration bases its existence on universally applicable law<sup>13</sup>. In the rule of law administration is seen in the legal sense as “the practical and direct organization of tasks taking place on the basis of legal norms and producing legal effects”<sup>14</sup>, as well as being taken over by the state and carried out by its pendent organs, as well as by the organs of local self-government, to meet the collective and individual needs of citizens that arise from the coexistence of people in communities<sup>15</sup>. Thus, in a state governed by the rule of law, public administration is associated with the performance of public tasks, which are normalized in applicable laws, and exists to conduct public tasks, which are captured as its legal duties<sup>16</sup>. Public tasks are defined as services provided by public institutions that serve the public interest<sup>17</sup>.
- 13 Public tasks can be performed in traditional or online way. According to EU data, 50% of services related to life events can be completed entirely online (usually using online forms)<sup>18</sup>. This is therefore a very significant percentage, having a real impact on the lives and operations of citizens. In Poland digitization of public tasks started in the late 90s.

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<sup>12</sup> A. GRYSZCZYŃSKA, *Rejestry publiczne. Jawność i interoperacyjność*, op. cit., p. 4.

<sup>13</sup> A. BŁAŚ, “Dylematy administracji publicznej w państwie prawa”, in Z. NIEWIADOMSKI, Z. CIEŚLAK (eds.), *Prawo do dobrej administracji: materiały ze Zjazdu Katedr Prawa i Postępowania Administracyjnego*, Warszawa-Dębe, 2002, p. 45.

<sup>14</sup> J. BORKOWSKI, “Określenie administracji i prawa administracyjnego”, in J. STAROŚCIAK (ed.), *System prawa administracyjnego*, Zakład Narodowy im. Ossolińskich, Wrocław-Warszawa-Kraków-Gdańsk, 1977, p. 13.

<sup>15</sup> J. BOĆ, “Pojęcie administracji”, in J. BOĆ (ed.), *Prawo administracyjne*, Kolonia Limited, Wrocław, 2005, p. 16.

<sup>16</sup> D. CENDROWICZ, “Sytuacja prawna jednostki we współczesnym demokratycznym państwie prawa a proces prywatyzacji zadań publicznych”, *Acta Erasmiana VI*, 2014, p. 20.

<sup>17</sup> B. KOŻUCH, A. KOŻUCH, “Istota współczesnych usług publicznych”, in B. Kożuch, A. Kożuch (eds.), *Usługi publiczne. Organizacja i zarządzanie*, ISP UJ, Kraków, 2011, p. 41.

<sup>18</sup> First report on the State of the Digital Decade calls for the collective action to shape the digital transition, <http://ec.europa.eu/digital-agenda/en/news/eu-egovernment-report-2015shows-onlinepublic-services-europe-are-smart-could-be-smarter> [access: 25.04.2023].

- 14 Introduction of public e-services caused public administration to undergo a dynamic transformation, driven by pressure to continuously improve organizational efficiency. Citizens' requirements and expectations regarding access to modern public services are also growing. To respond effectively to these needs, it is necessary to build integrated services, the axis of which is the needs of customers - citizens and business. Digitization of public administration brings several benefits - from reducing costs and improving the quality of services through automation, through increasing access to public information to increasing the transparency of operations and the level of security. Digitization of public services is modernization of the state. A state that keeps up with technological developments and thus better responds to the needs of its citizens. Therefore, it allows citizens to participate in public life better.
- 15 Allowing the state to deal with official matters only in the traditional form, in which it is necessary to physically go to the office, fill in paper forms and print and attach the necessary attachments, may nowadays be considered incompatible with the rule of equality. According to Article 32 of the Polish Constitution, "All are equal before the law. Everyone has the right to equal treatment by public authorities. No one shall be discriminated against in political, social, or economic life for any reason"<sup>19</sup>. In a world where everything can be done online, maintaining such a necessity is limiting citizens' access to public services. Digitization of public services ensures equal access to services for everyone on equal terms, without hindrance to, for example, people with disabilities or those who do not speak Polish. A disabled person can deal with his own case from any place on equal terms with a fully able-bodied person. Digitization in this way also does not discriminate - there is no queue in which a person with a different skin colour or appearance will be pushed to the end of the queue.
- 16 From the administration's point of view, digitization of services also means lower costs and quicker handling of cases, as it eliminates the need for the citizen to be served at the proverbial counter, which is a time-consuming process, whereas this time could have been spent on managing the matter in question. Moreover, when dealing with an issue, an official can search for information electronically rather than in paper materials, the process will be much faster. If a citizen finds the information on the Internet, he or she will not write a letter on the matter, requiring a response to be drafted. Making a file available on the Internet also reduces the cost of distributing the file. It is no longer necessary to send the letter by post, it can be sent by e-mail or posted on a website. If digitization affects the courts, it may also improve the implementation of the constitutional right to a court<sup>20</sup>.
- 17 Digitization can also ensure citizens' access to public information (the principle contained in Article 61 of the Polish Constitution), which is currently very difficult to achieve. How difficult was once shown by the Panoptikon Foundation by creating a board game on access to public information. The first box was to submit a request for information. You had to go through 17 boxes to the finish line. This took 36 months. Along the way, there were delaying boxes - failure to take the complaint to court,

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<sup>19</sup> Article 32 of Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws of 1997 item 483).

<sup>20</sup> Article 45 of Polish Constitution.

changing reasons for withholding information, proliferating paperwork<sup>21</sup>. Digitization would solve this problem immediately.

- 18 Of course, digitalization at the same time makes the public sector face challenges in adapting laws and regulations to new digital operating models. It must ensure a balanced approach to the implementation of new solutions, ensure that staff and the public are ready to reduce digital exclusion and ensure access to public services for all sections of society. It is therefore not a process without risks or difficulties.

### *C. Citizens' access to public registers as a manifestation of a democratic state ruled of law*

- 19 One of the most important provisions of the Polish Constitution<sup>22</sup> states that the Republic of Poland is a democratic state ruled by law. The indicated constitutional norm should be adequately and universally understood and applied in a modern democratic state of law<sup>23</sup>.
- 20 The rule of law is based on fundamental principles and procedures that guarantee the freedom of every individual and enable participation in society. In a democratic state, all citizens are equal before the law. From this point of view, the rule of law is always based on respect for the law and the constitution<sup>24</sup>. Democratization occurs only in rare situations of social conditions, but it has a profound impact on the lives of citizens. However, democratization is constantly changing in scope and nature, considering people's experiences<sup>25</sup>.
- 21 Creating and maintaining public registers are closely related to the need to protect specific social interests. This requires efficiently functioning institutions. At the same time, it is necessary to assume that everyone is granted equal law in social, political, or economic discourse. Otherwise, such institutions should be treated as a manifestation of injustice or organically freedom by the state<sup>26</sup>.
- 22 This paper will analyse the issue of citizens' access to public registers as a manifestation of a democratic state of law. The analysis will show that the digitization of public registers has a significant impact on the quality of life of citizens. It provides better conditions for functioning in society and has a huge impact on private life. First, the digitization of registers aims to provide citizens with equal access to public services, information, and proceedings. A modern democratic state is also a state with efficient

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<sup>21</sup> K. BATKO-TOLEŪĆ, "Gra w informację publiczną. Jak podmioty utrudniają dostęp do niej", *Gazeta Prawna*, 3 August 2021.

<sup>22</sup> Article 2 of Polish Constitution.

<sup>23</sup> J. SOZAŃSKI, "Zasada demokratycznego państwa prawnego w polskiej praktyce prawnej", *Kwartalnik Naukowy Uczelni Vistula*, 2014, no 4 (42), p. 28.

<sup>24</sup> P. BECKER, J.A.A. RAVELSON, *What is democracy?* [https://library.fes.de/pdf-files/bueros/madagascar/05860 .pdf](https://library.fes.de/pdf-files/bueros/madagascar/05860.pdf) [access: 24.10.2023].

<sup>25</sup> C. TILLY, *Democracy*, Cambridge University Press, Cambridge, 2007, pp. 6-7.

<sup>26</sup> T. STAWECKI, *Rejestry publiczne. Funkcje instytucji, op. cit.*, p. 395.

public administration. However, you should be aware of the risks that may exist and violate certain rights. Such problems will be analysed in the context of citizens' constitutional rights.

## II. PUBLIC REGISTRIES IN POLAND

### *A. National Register of Debtors (NRD)*

- 23 Running a business in a market economy environment frequently involves financial problems that can result in the end of their existence in the market. We can speak of bankruptcy when an enterprise becomes insolvent, or its liabilities exceed the value of its assets<sup>27</sup>. Insolvency of the debtor is defined by the legislator as follows: "A debtor is insolvent if he has lost the ability to perform his due financial obligations"<sup>28</sup>. At the same time: "A debtor is presumed to be insolvent if he has lost the ability to fulfil his due financial obligations if the delay in the performance of his debt exceeds three months"<sup>29</sup>.
- 24 The main objective of the establishment of the NRD was to streamline restructuring and insolvency proceedings, facilitate access to information on ongoing proceedings, improve communication and reduce costs. The page was to fulfil the following functions: register, information, communication, and page of judgments. Moreover, it was to enable the filing of letters and documents and the making of service.
- 25 The NRD was introduced as a direct result of the regulations contained in Regulation (EU) No 2015/848 of the European Parliament and of the Council of 20th May 2015 on insolvency proceedings. The a.n.r.d.<sup>30</sup> implements the obligation to establish a bankruptcy register in accordance with article 24 of the regulation. The mandatory information that is made available to the public includes: the date on which the proceedings were opened, the court conducting the proceedings, the type of proceedings, the identification of the debtor and his details, the date on which the claim was filed and the date on which the main proceedings were terminated<sup>31</sup>.

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<sup>27</sup> A. KUCIŃSKI, "Niewypłacalność, upadłość przedsiębiorstw", in *Studia i Prace Wydziału Ekonomicznego, Państwowa Wyższa Szkoła Zawodowa im. Jakuba z Paradyża w Gorzowie Wielkopolskim*, 2013, no 5, pp. 103-104.

<sup>28</sup> Article 11, paragraph 11 of Act of 28th February 2003 on Bankruptcy Law (Journal of Laws of 2003 no 60 item 535).

<sup>29</sup> *Ibidem*.

<sup>30</sup> Act of 6th December 2018 on The National Register of Debtors (Journal of Laws 2019 item 55).

<sup>31</sup> Article 24, paragraph 2 of Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings.



- 26 The NRD is maintained by the Minister of Justice in a tele-informatics system<sup>32</sup>. In addition, access to this system is free of charge. The register is public, and everyone has the right to consult the data disclosed therein and the data covered by the notices via the Internet<sup>33</sup>.
- 27 The NRD includes information about natural persons, legal persons and organisational entities that are not legal persons, to which the law confers legal capacity. There are cases against them: restructuring proceedings, bankruptcy proceedings or secondary bankruptcy proceedings, proceedings ending with a final decision on a ban on conducting business activity and proceedings for recognition of a decision on the commencement of foreign bankruptcy proceedings. In addition to the above information, the NRD contains information on partners of commercial partnerships who are liable for the company's obligations without limitation with all their assets in a situation where the company has been declared bankrupt. It also involves secondary insolvency proceedings which have been initiated or dismissed bankruptcy petition. The NRD also includes information about persons and organisational units which are not legal persons, and which are granted legal capacity by the Act, against whom enforcement proceedings conducted by a court bailiff have been discontinued since no sum greater than the enforcement costs has been obtained from the given enforcement proceedings. Also, no sum greater than the enforcement costs has been obtained in the proceedings. Apart from the above, the NRD includes information about persons against whom enforcement of alimony benefits or enforcement of state budget receivables arising from benefits paid in the event of ineffective enforcement of alimony is pending, and who are in arrears with their payments for more than 3 months<sup>34</sup>.
- 28 Data which are included in the register cannot be deleted from it, unless otherwise provided by law. However, generally after a period of 10 years (or 3 years) the data shall automatically cease to be disclosed<sup>35</sup>.
- 29 The fixed period of retention of data in the register is dictated by the need to guarantee the security of trading while preserving the right to privacy and data protection of the persons and entities included in the register. The purpose of the announcements made in the register is not only to warn of an insolvent entity, but at the same time to guarantee legal certainty. At the same time, the deletion periods adopted in the act are linked to the limitation periods for claims in the Polish legal system<sup>36</sup>.

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<sup>32</sup> Article 1 of a.n.r.d.

<sup>33</sup> Article 4 of a.n.r.d.

<sup>34</sup> Article 2, paragraph 1 a.n.r.d.

<sup>35</sup> Article 11, paragraph 1 a.n.r.d.

<sup>36</sup> P. WOŁOWSKI, "Wpływ ustawy z dnia 6 grudnia 2018 roku o Krajowym Rejestrze Zadłużonych na jawność postępowania" upadłościowego", *Przegląd Prawa Egzekucyjnego*, 2020, no. 7, chapter 2.

### ***B. National Criminal Register (NCrR)***

- 30 At a time when society is fully computerised and the Internet is the primary source of knowledge on any subject, there are many threats but also opportunities to obtain information, including on persons with criminal records. This has a great impact on increasing the security of society. The NCrR provides just such information. This register is an institution that maintains and continuously updates the number of convicted persons and collective entities. It was established based on a.n.c.r.<sup>37</sup> and replaced the previously operating Central Register of Sentenced Offenders (CRS).
- 31 The practice of the CRS has confirmed the validity of keeping similar registers. During proceedings against various persons liable under the Criminal Code<sup>38</sup>, as well as juveniles, it is necessary to establish whether the offender has committed an offence for the first time or has already had dealings with the justice system. This is also very important for the courts - previous convictions are treated as an aggravating circumstance and are relevant for the enforcement of sentences in criminal proceedings.
- 32 The NCrR collects data on persons who have been validly convicted of offences or fiscal offences. In NCrR we can find information about persons against whom criminal proceedings for offences or fiscal offences have been validly discontinued on a conditional basis or against whom criminal proceedings in cases of offences or fiscal offences were validly discontinued based on amnesty. There is also information about Polish citizens validly sentenced by courts of foreign countries. NCrR collects information about: persons who have been validly adjudicated secure measures in cases of offences or fiscal offences; minors who have been validly sentenced to educational measures, a therapeutic measure or a correctional measure under the Act of 9th June 2022 on the Support and Rehabilitation of Minors<sup>39</sup>; validly sentenced for misdemeanours to a custodial sentence; those wanted by a letter of appointment; those in pre-trial detention and minors placed in shelters for minors<sup>40</sup>. Persons convicted of a misdemeanour with a fine, restriction of liberty or who have received a reprimand do not appear in the NCR. In addition, there is information about collective entities against which a fine, forfeiture, prohibition or making a judgment public has been validly imposed<sup>41</sup>.
- 33 Thanks to the data contained in the NCrR, the proper administration of justice is possible. The information is provided by the Information Office. For example, it makes possible if crime committed under the conditions of recidivism, which is justified by a higher penalty on conviction for committing a subsequent, similar, and intentional offence. The NCrR not only supports the activities of the authorities that conduct criminal proceedings, but also has a major impact on the security of business

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<sup>37</sup> Act of 24th May 2000 on The National Criminal Register (Journal of Laws of 2000 no 50 item 580).

<sup>38</sup> Act of 6th June 1997 - Criminal Code (Journal of Laws of 1997 no 88 item 553).

<sup>39</sup> Act of 9th June 2022 on the Support and Rehabilitation of Minors (Journal of Laws of 2022 item 1700).

<sup>40</sup> Article 1, paragraph 1 a.n.c.r.

<sup>41</sup> Article 1 paragraph 3 a.n.c.r.

transactions, human resources management. In addition, the data contained therein is used for statistical and research purposes<sup>42</sup>.

- <sup>34</sup> The register is public but has limited access, which means that not everyone has access to the information contained in it. The contents of the records are made available to the person to whom the records relate, which means that everyone has the right to inspect the information about yourself. Other persons entitled to inspect the register are defined state authorities<sup>43</sup>. It is also worth referring at this point to the fact that the openness of the NCrR is limited, which also results directly from the Polish Constitution<sup>44</sup>. These are regulations which directly indicate that everyone has the right to protection of private life, as well as protection of personal data. However, most significantly, reference should be made to Article 30 of Polish Constitution, which contains regulations on human dignity. It is the basis of human freedoms and rights.
- <sup>35</sup> Data from the NCrR are deleted in a strictly defined manner. Data shall be deleted for example if the conviction has been erased by operation of law or in the event of a pardon or based on an amnesty.

### *C. National Court Register (NCR)*

- <sup>36</sup> One of the basic political principles of the Republic of Poland is the principle of social market economy. According to Article 20 of the Polish Constitution: "A social market economy based on freedom of economic activity, private property and solidarity, dialogue and cooperation between social partners constitutes the basis of the economic system of the Republic of Poland"<sup>45</sup>.
- <sup>37</sup> Freedom of economic activity is a public right and thus defines the relationship between persons and public authority. The content of the freedom of economic activity primarily boils down to the possibility of engaging in economic activity such as profit-oriented activity, choosing the legal and organisational forms of such activity, taking economic decisions freely and terminating the activity. Corresponding to these rights are the obligations of the state to create legal institutions to guarantee their exercise<sup>46</sup>.
- <sup>38</sup> The possibility of doing business is therefore a constitutionally guaranteed right in Poland. To be able to start a business in Poland, it is necessary to obtain an entry in the register of entrepreneurs. Depending on the legal form chosen, there may be an entry in the Central Register and Information on Business Activity (CEIDG), keeping records of natural persons who are entrepreneurs within the

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<sup>42</sup> J. WOJCIECH-WÓJCIK, *Przeciwdziałanie przestępczości zorganizowanej: Zagadnienia prawne, kryminologiczne i kryminalistyczne*, Wydawnictwo Wolters Kluwer Polska, Warszawa, 2011.

<sup>43</sup> Article 6, paragraph 1 a.n.c.r.

<sup>44</sup> Article 47 and 51 of Polish Constitution.

<sup>45</sup> Article 20 of Polish Constitution.

<sup>46</sup> P. TULEJA [in:] P. CZARNY, M. FLORCZAK-WĄTOR, B. NALEZIŃSKI, P. RADZIEWICZ, P. TULEJA, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Wolters Kluwer Polska, wyd. II, LEX/el. 2021, article 20.

meaning of the Entrepreneurs' Law<sup>47</sup> or an entry in the NCR for other entities<sup>48</sup>. It is not possible to start a business without the required entry.

- 39 The NCR is currently centralised IT database consisting of three separate registers: a register of entrepreneurs, a register of associations, other social and professional organisations, foundations and independent public health care establishments and a register of insolvent debtors<sup>49</sup>.
- 40 The NCR is maintained by the court, in a computerised system, which is nationwide, public, and open. It consists of the set of data designated by law, up-to-date, complete and recognised as true, identifying entities entered in it<sup>50</sup>. This obligation applies to a very broad catalogue of entities - all forms of business activity that are not individual entrepreneurs - so for example: commercial law companies, cooperatives, foundations, associations, trade unions, employers' associations, etc.<sup>51</sup>.
- 41 The information recorded in the NCR includes: the date of registration, which makes it possible to find out how long a given entity is existing; the designation of its legal form, which makes it possible to understand the principles of potential liability for the liabilities of a given entity or the manner of its operation; the entity's ID numbers, which are necessary in Poland for financial settlements; the name of the entity, its seat and address; as well as its website address and e-mail address, which are useful in the context of delivery or determining the court's jurisdiction in the event of a dispute.
- 42 In NCR it is also possible to find data on the entity's supervisory body, its proxies and the subject of the entity's activity. NCR also allows to find out about the entity's financial condition by providing information on financial statements, arrears and debts. It is also possible to ascertain whether an entity is or has been subject to bankruptcy proceedings, enforcement proceedings, the appointment of a curator, the commencement of liquidation, dissolution, merger, division or transformation of an entity, as well as composition, restructuring and reorganisation proceedings. From the point of view of business security, all this is extremely important information, without which conducting business activity would be burdened with much greater risk.
- 43 The NCR thus fulfils two basic functions: informative, as it makes the data in the register available and legalistic, as the entry is the basis for undertaking business activity<sup>52</sup>. NCR is based on several basic principles: transparency of the register, transparency of registration documents and good faith of the entry. NCR is public, which means that everyone has the right to access the data contained therein, everyone has the right to obtain (also electronically) copies, extracts, certificates and

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<sup>47</sup> Article 17 of Act of 6th March 2018 - Entrepreneurs' Law (Journal of Laws of 2018 item 646).

<sup>48</sup> Article 17, paragraph 2 of Entrepreneurs' Law.

<sup>49</sup> *Ibidem*.

<sup>50</sup> Ł. ZAMOJSKI, *Rejestracja spółek. Zagadnienia materialne i procesowe*, Warszawa, 2008, p. 21.

<sup>51</sup> Article 3 of Entrepreneurs' Law.

<sup>52</sup> Ł. ZAMOJSKI [in:], Ł. ZAMOJSKI, *Krajowy Rejestr Sądowy. Komentarz*, LexisNexis, Warszawa, 2022, Article 1.

information from this register<sup>53</sup>. This is achieved by making NCR available on a web portal to which everyone has access. Moreover, everyone has the right to inspect the registration files of entities entered into the register and the collection of documents. The principle of good faith stipulates that an entity obliged to apply for entry in NCR may not invoke against third parties acting in good faith data that have not been entered in the NCR or have been deleted from it<sup>54</sup>, and from the date of publication in the Official Gazette, no one may plead ignorance of the published entries<sup>55</sup>.

- 44 Prior to 1st July 2021, proceedings were conducted in writing. Documents constituting the basis for the entry were submitted on paper, the application itself completed and signed by hand, and then the set of documents was delivered to the court keeping the register for the entity. Information on possible deficiencies or the issuance of a decision was communicated by letter correspondence. Full digitisation of proceedings before NCR means the introduction of an obligation to perform all actions before the NCR in electronic form. Currently, an application is filled out via a website, signed with an electronic signature and accompanied by the number of the notarial deed or a scan of the documents constituting the basis for entry. Payment of applications is also currently only done electronically. All correspondence between the applicant and the NCR takes place exclusively by the electronic system.

### III. BENEFITS ASSOCIATED WITH THE DIGITALISATION OF PUBLIC REGISTERS

- 45 Digitalisation of public register undoubtedly contains many positive aspects. Begin with the NCrR, its advantages include, in particular: improved institutional capacity and efficiency of public administration and improved public service delivery; improving the efficiency of spending on operation and maintenance of registries by optimizing/automating business processes; design and develop a new information system to support processes and consolidate existing applications; simplify access to information and reducing the waiting time for information from NCrR.<sup>56</sup>
- 46 Another register is NCR. It is indisputable that the introduction of the NCR has had a positive impact on the development of modern democracy and has been an important step towards developing citizens' access to participation in public life. The main principle that the NCR implements is the principle of openness, which is anchored in the act on organisation of common courts<sup>57</sup>. It aims to

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<sup>53</sup> Article 8, paragraph 1-3 of Entrepreneurs' Law.

<sup>54</sup> Article 14 of Entrepreneurs' Law.

<sup>55</sup> Article 15, paragraph 1 of Entrepreneurs' Law.

<sup>56</sup> Project: Construction of an IT system for the National Criminal Register along with organizational and legislative changes (KRK 2.0), <https://www.gov.pl/web/sprawiedliwosc/projekt-budowa-systemu-informatycznego-krajowego-rejestru-karnego-wraz-ze-zmianami-organizacyjnymi-i-legislacyjnymi-krk-20> [access: 24.10.2023].

<sup>57</sup> Act of 27th July 2001 on organisation of common courts (Journal of Laws of 2001 no 98 item 1070).

ensure the impartiality of the authorities, the regularity of the proceedings and to mobilise them to greater diligence<sup>58</sup>.

- 47 Over the many years that the NCR has been operating, it has become an important source of information about entities, enhancing the certainty and security of business transactions. A system in which everyone first verifies the NCR before entering a contract with a counterparty. Digitisation of the NCR makes it possible to realise the principle of certainty of economic turnover and legal certainty, thanks to the protection of the party entering cooperation with a given entity, the protection of creditors and the protection of shareholders.
- 48 Universal and free access to the commercial register is the foundation of the security and certainty of economic turnover. Verification of the data contained in the registers is the basic and at the same time the easiest way to check a business partner. An efficient register, in which changes are made without delay. In real time, eliminates the risk of fraud and extortion, which may arise from the performance of legal and actual acts by persons who are in fact not authorised to do so. Moreover, the Polish NCR also has one huge advantage - electronic statements are free of charge. This is not so obvious, because in Germany or in the Netherlands obtaining an extract from the commercial register is subject to a fee each time. The fact that the information is free of charge makes it possible to apply the principles discussed above to an even wider group of citizens. NCR facilitates citizens' access to justice and will ensure certainty and security of business transactions for economic operators.
- 49 The principle of openness in a democratic state has two aspects: internal and external. From an internal perspective, it concerns openness to the participants in the proceedings in question. In the external perspective, on the other hand, it means openness to persons who are strangers to the proceedings in question. The principle of external openness is of particular importance regarding insolvency proceedings, since if a third party is not able to become acquainted with a procedural decision, it could undermine the security of economic transactions<sup>59</sup>. The principle of disclosure is directly linked to the citizen's right to information. Knowledge of the solvency of legal actors is certainly extremely important news for citizens. Indeed, persons conducting business have the right to seek information about potential counterparties. Register is intended to be an important source of information about entities not paying their obligations. A third party has the right to know whether an entity with which it wants to establish a business relationship has a problem with settling its obligations or not<sup>60</sup>. Moreover, for this reason, the mere fact that he has filed a bankruptcy or

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<sup>58</sup> P. Wołowski, "Wpływ ustawy z dnia 6 grudnia 2018 roku o Krajowym Rejestrze Zadłużonych na jawność postępowania" upadłościowego", *cit.*, chapter 4.

<sup>59</sup> *Ibidem*, chapter 2.

<sup>60</sup> Government bill on the National Register of Debtors, argumentation, pp. 27-28, <https://www.sejm.gov.pl/sejm8.nsf/druk.xsp?nr=2637> [access: 25.10.2023].

restructuring petition may be significant to him. However, for the safety of trading, a court decision is required to be entered in the register after the application has been heard<sup>61</sup>.

- 50 NCR and NRD plays a particularly important informative role for debtors and creditors about pending proceedings. The principle of openness regarding insolvency claims and the liabilities of the insolvency estate is particularly important for increasing the transparency and thus the efficiency of the proceedings. A case file is created in the NCR and NRD, to which only the participants in the proceedings or those to whom it will be made available have access. Thus, access to the file is limited. This solution seems appropriate, as there is no need to disclose creditors' personal data to the public. Information contained in the case file, such as data on the current debt and the bankruptcy trustee's unsatisfied liabilities of the bankruptcy estate, allows to control the course of the proceedings<sup>62</sup>. Creditors as well as debtors are therefore able to check the status of their receivables or debts in real time. This is particularly helpful for citizens, as they can access the most important information at any time. On the other hand, entrepreneurs facing temporary financial problems may find it difficult to gain customers and deal with counterparties, as such information can be a deterrent to business relations.
- 51 The supreme principle of civil law, which is the basis of a democratic system, is the principle of citizens' trust in public authorities. The rule of law is based on providing its citizens with security in the broadest sense. A state under the rule of law should strive to create laws that make it possible to realise the ideal of the rule of law in political terms - as democratic institutions - and in legal terms - the regulation of the citizen's situation in the state<sup>63</sup>. Moreover, according to the case-law, the essence of the principle of trust refers to the injunction to legislate and apply the law appropriately, so that the citizen can act in confidence that he will not expose himself to legal consequences that he could not foresee<sup>64</sup>. The implementation of the above will realise certainty and stability in the situation of the citizen and, consequently, his security. The smooth and correct functioning of the law and its systems builds trust in the authorities. If citizens see that a system functions correctly, it builds their trust in the authorities.
- 52 The introduction of the NRD has also had a positive impact on improving the functioning of the judiciary in restructuring and bankruptcy cases. The register has further improved communication between authorities and participants in the proceedings. Citizens benefit from an online system, which is much faster and more efficient than personal contact with an authority to obtain information about proceedings. In addition, the introduction of the NRD has contributed to a reduction in the costs of proceedings relating to the obligation to make notifications and announcements in the NRD. Thus,

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<sup>61</sup> *Ibidem*, p. 39.

<sup>62</sup> *Ibidem*, chapter 5.

<sup>63</sup> J. WĘGLIŃSKA, "Zasada ochrony zaufania obywateli do państwa i do stanowionego przez nie prawa jako dyrektywa poprawnej legislacji", *Prawo w działaniu, sprawy cywilne*, 2020, no 42, p. 175.

<sup>64</sup> Judgment of the Constitutional Tribunal of 7th February 2006 (SK 45/04).

the improvement of contact between citizens and the authorities and the reduction of the costs of proceedings should clearly be regarded as a positive change and a solution ensuring the development of a democratic state<sup>65</sup>.

- 53 Analyzing the methods that can ensure the efficiency of the registration procedure, we can point to the solution used in other European countries. Simplified registration obligations can be applied to selected entities, which, however, results in their differential treatment. For example, in Austria, it is only sufficient to specify the identity of the partners for the company register<sup>66</sup>.
- 54 As indicated earlier, registers have undergone a huge transformation, which resulted partly from the need to improve the organisational efficiency of this register and partly from a response to citizens' requirements and expectations regarding access to modern public services. This has brought a range of benefits - from reducing costs and improving the quality of services through automation, to increasing access to public information and enhancing transparency of operations and the level of security.
- 55 As noted at the beginning of this thesis, the digitisation of public services is the modernisation of the state. Such modernisation also entails filling the traditional constitutional principles guiding the state with new content. In this context, it is reasonable to conclude that while the traditional implementation of public tasks is the implementation of a democratic state under the rule of law, the transfer of this implementation to a new environment is the implementation of the postulate of a modern democratic state under the rule of law. A state that keeps up with technological developments and better responds to the needs of its citizens. The purpose of a public service administration is to provide citizens with certain services. Services without which it is often impossible for them to function - from providing water to issuing an ID card. As times change, so do the needs of citizens and, consequently, the range of services provided by the administration. What is more, the way in which these services are provided must also correspond to the current needs of citizens and not to their needs of several decades ago. In a state governed by the rule of law, a citizen who is a direct or indirect addressee of public tasks has a claim on a public administration body to perform such a public task<sup>67</sup>, and the proper execution of public tasks is part of the principle of a democratic state under the rule of law.
- 56 Given the current development and technological possibilities, as well as the ease of access for everyone, it must be concluded that allowing the state to deal with an official matter only in a traditional form, in which it is necessary to physically go to an office, may, in the current world, be considered incompatible with the principle of equality expressed in the Constitution. Indeed, in a

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<sup>65</sup> Polityka Nowej Szansy, *Raport z monitorowania działań podjętych w 2020 roku*, Warszawa, 2021, p. 43.

<sup>66</sup> A. DORRESTEIJN, I. KUIPER, G. MORSE, *European corporate law*, Springer, Denver-Boston, 1995, p. 18.

<sup>67</sup> M. TABERNACKA, *Zakres wykonywania zadań publicznych przez organy samorządów zawodowych*, Kolonia Limited, Wrocław, 2007, p. 80.



world where everything can be done online, maintaining the need to physically appear at a certain place is limiting citizens' access to public services.

- 57 It is important to remember that some of registers are records maintained by a court. The digitisation of the procedure before the court is also an expression of a better realisation of the constitutional right to court<sup>68</sup>. The right to a court consists of the right of access to a court. It includes: the right to initiate a procedure before a court, the right to an adequate judicial procedure in accordance with the requirements of fairness and publicity, the right to a court decision i.e., the right to obtain a binding settlement of one's case<sup>69</sup>.
- 58 The Constitution only mentions certain procedural elements necessary for the proper realisation of the right to court, such as an open hearing and a hearing without undue delay. Of course, the previous form of proceedings before digitalisation of registers also fulfilled these prerequisites, but the transfer of the proceedings to the digital reality allows the decision to be issued even faster and guarantees its greater transparency and openness.
- 59 Digitisation of registers also ensures citizens' access to public information, which fulfils the principle contained in Article 61 of Polish Constitution. The right to public information is a political right, which consists of the principle of transparency of authorities' actions. This means that every citizen has a right to know, what his or her authorities do. Access to public information is fulfilled by making available by registers both the registration data of the registered entities as well as the documents constituting the basis for the entries made<sup>70</sup>. Those requesting access to information can obtain such information from the register at any time.
- 60 The right to information held by public authorities is a fundamental human right. Access to information is extremely important for citizens. It means protecting other rights, democracy and sustainable development of the state<sup>71</sup>.

#### IV. RISKS ASSOCIATED WITH THE DIGITALIZATION OF NATIONAL REGISTERS

- 61 On the other hand, digitalization causes the public sector to face challenges related to adapting law and regulations to new digital operating models. It must ensure a balanced approach to the

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<sup>68</sup> Article 45 of Polish Constitution.

<sup>69</sup> P. TULEJA [in:] P. CZARNY, M. FLORCZAK-WĄTOR, B. NALEZIŃSKI, P. RADZIEWICZ, P. TULEJA, *Konstytucja Rzeczypospolitej Polskiej. Komentarz, op. cit.*, article 45.

<sup>70</sup> Judgment of the Provincial Administrative Court in Wrocław of 10th December 2019 (IV SAB/Wr 163/19), LEX no. 2755737.

<sup>71</sup> The Right to Information in Times of Crisis: Access to Information – Saving Lives, Building Trust Bringing Hope! Issue brief in the UNESCO series: World Trends in Freedom of Expression and Media Development, [https://en.unesco.org/sites/default/files/unesco\\_ati\\_iduai2020\\_english\\_sep\\_24.pdf](https://en.unesco.org/sites/default/files/unesco_ati_iduai2020_english_sep_24.pdf) [access: 26.10.2023].

implementation of new solutions, ensure the readiness of staff and society to reduce digital exclusion and ensure access to public services for all social groups. Therefore, it is not a process without threats or difficulties.

- 62 First, there is a certain violation of the right to a privacy by disclosing certain data in the register. Pursuant to article 47 of the Constitution of the Republic of Poland, everyone has the right to legal protection of private life. Additionally, article 51 of Polish Constitution establishes the right to the protection of personal data, which is one of the manifestations of the right to privacy protection<sup>72</sup>. This provision regulates the autonomy of information. Especially freedom to share information and the interference of public authorities in right to privacy. The concept of personal data does not appear in the Polish Constitution. Article 51 uses the term “information regarding his person”. Then it is an information that allows us to determine the identity of a person. In this sense it states information about him<sup>73</sup>.
- 63 Therefore, some information can be identified as a certain risk of the National Court Register. An example is the Personal ID Number of a management board member or private address in the files. Undoubtedly, the disclosure of personal data such as Personal ID Number or residential address may expose citizens to unauthorized persons and using it for their own purposes. Of course, the disclosure of data in the NCR is justified by their economic and professional life. This data fills their own function, but the widespread availability raises some concern.
- 64 As indicated in the previous chapter, in the NRD, creditors and debtors can check the status of their receivables or debts on an ongoing basis. This is especially helpful for citizens because they have access to the most important information at any time. On the other hand, entrepreneurs struggling with temporary financial problems may have difficulties in obtaining customers and in contacts with contractors, because such information may discourage business relations.
- 65 It is also important to show what threats the NCrR entails, such a stigmatization of convicted persons. This refers directly to the previously mentioned article 30 of the Polish Constitution, which indicates dignity as a freedom of man and citizen. The violation of this rule must be considered as insult and infringement of fundamental human rights. Citizen who falls foul of the law or has been in prison has to be treat like a person with dignity, who has made a mistake, but can also change his life for the better. It requires moving away from stereotypical thinking. Isolation and rejection are inconsistent with the subjectivity and dignity of the human person. Importantly, not only with the person marked by the stigma, but also the person who uses this stigma. Rejecting another person deprives them of the society. It cannot expose them to accept them by making it impossible to look at them, their lives, and see them as a person who needs help. The work of restoring people who have left prison to society is very difficult. The current awareness and development of society is at a very high level. However,

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<sup>72</sup> Judgment of the Constitutional Tribunal of 19th May 1998 (U 5/97, OTK 1998).

<sup>73</sup> Judgment of the Constitutional Tribunal of 12th November 2002 (SK 40/01, OTK-A 2002).

the view that a criminal is most often a victim of unfavourable social factors that led him to social and criminal derailment, and not a person corrupted of his own free will, is still very difficult to convince public awareness. Citizens treat this people as villain against whom there is nothing left to do but to launch an adequate, satisfying system of punishments. Unfortunately, this view, due to its universality, affects the entire system of social assistance and adaptation to society<sup>74</sup>.

- 66 The important issue is the fact that the NRD discloses information about persons against whom continue alimony or enforcement of state budget executive proceedings and who are in arrears longer than 3 months<sup>75</sup>. However, there are some problems that arise from this. Disclosing data on maintenance debts may be stigmatizing in society, especially since they concern funds owed to children. The above has a negative impact on the creditworthiness, instalment purchases and financial credibility of the debtor.
- 67 Additionally, disclosing information about debtors in the NRD may have an additional negative impact on the lives of citizens. Information about a person who is in financial difficulty situation may cause a problem with finding a job. Also, entrepreneurs can have difficulties in finding new customers and relationships with contractors. Such information affects creditworthiness, the ability to take out loans and the ability to pay receivables in instalments. However, such information also affects citizens' personal lives, their family relationships and functioning in society. However, having debts is perceived negatively.
- 68 It should also be noticed that the registers are kept only in polish language. Therefore, only people who speak this language can intentionally use them. Of course, foreigners can also search for information, but websites do not have automatic translation. It is necessary to translate on your own, but it is risky. The situation is similar when it comes to issuing official certificates, documents and copies. The presented registers do not offer the possibility of issuing documents in a language other than polish. For example, obtaining a certificate of no criminal record from the NCR is issued only in Polish language<sup>76</sup>. Therefore, it is a significant difficulty for people who do not speak this language. In this aspect, access to registers is not equal for all citizens.
- 69 When considering the digitization of registers, the topic should be analysed in the context of citizens' access to the Internet. The literature points to the issue of digital exclusion. It is referred to as a multidimensional phenomenon. This concerns mental barriers and reluctance to new technologies,

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<sup>74</sup> W. AMBROZIK, "Readaptacja społeczna i reorganizacja środowisk lokalnych jako warunek skuteczności oddziaływań resocjalizacyjnych", in B. URBANA, J.M. STANIK (eds.), *Resocjalizacja*, t. II, PWN, Warszawa, 2008, p. 194.

<sup>75</sup> Article 2, paragraph 1, point 4 of a.n.r.d.

<sup>76</sup> National Criminal Register – questions and answers, <https://www.gov.pl/web/krajowy-rejestr-karny/pytania-i-odpowiedzi> [access: 04.10.2023].

lack of funds needed to purchase appropriate devices and access to the Internet, as well as the ability to use appropriate tools.<sup>77</sup>

- 70 The Ombudsman has often pointed this problem out. People who are digitally excluded for various reasons are particularly vulnerable to social marginalization. People who are digitally excluded or do not have the opportunity to use the Internet regularly. Or the skills to do it efficiently. These are most often: seniors, people from lower income groups, unemployed people, people with disabilities, people living in rural areas and people in a homelessness crisis. Therefore, when expanding their activities on the Internet, state institutions cannot forget about citizens for whom the traditional form of communication with the office is the only known and available means of action.<sup>78</sup>
- 71 People affected by digital exclusion are not able to use the registers, submit applications or search for information through them. The system is currently fully computerized. Therefore, excluded people do not have equal access and can have negative consequences because of this. However, the legislator recognized the above problem to some extent. Thus, a specific category of creditors may submit pleadings and documents by passing the IT system supporting court proceedings. This applies to creditors who are entitled to receivables arising from an employment relationship, alimony receivables and pensions in respect of compensation for causing illness, incapacity for work, disability or death<sup>79</sup>.
- 72 Another issue that should also be paid attention to is the security of data about citizens contained in the registers. Nowadays, there is a wide variety of online threats. Public-private cooperation is necessary to prevent such risks. However, it raises difficult and unresolved issues related to supervision and accountability. It must be considered with fundamental rights such as the rights to privacy and to expression and association. As indicated above, the online security challenge parallels the tension (seen in many other security areas) between state security and human security. The lack of transparency exacerbates a lot of difficulties faced by the relevant supervisory authorities, if any at all<sup>80</sup>.

## V. SUMMARY

- 73 Continuous upgrading, computerization and creation of new regulations is an important objective of the changes taking place in the legal system. Main reason of this variations is a making of solutions facilitating the functioning of citizens in a democratic society and responding to their needs of economic turnover. The beginning of electronic court, debt and criminal records represented the

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<sup>77</sup> W. TOMCZYŃSKA, "Digital exclusion: definitions, causes, countermeasures", *Adeptus*, 2017, no 10, article no. 1503, p. 3-4.

<sup>78</sup> The Internet is supposed to support, not exclude, <https://bip.brpo.gov.pl/pl/content/rpo-nagranie-internet-ma-wspierac-nie-wykluczac> [access: 04.10.2023].

<sup>79</sup> Article 216, paragraph 1 of Bankruptcy Law.

<sup>80</sup> B. BUCKLAND, F. SCHREIER, T. WINKLER, *Democratic governance challenges of cyber security*, DCAF Horizon 2015 working paper no. 1, p. 29.

fulfilment of the needs of a dynamically developing market. The need to organize and concentrate systems has been repeatedly pointed out<sup>81</sup>.

- 74 The development of ICT systems was also undoubtedly influenced by the need to adapt legal regulations to EU legislation. It has also become necessary to introduce appropriate instruments that would allow their computerization<sup>82</sup>. The solutions described in this paper have changed over the years. However, despite many amendments to legal regulations and new solutions, they need to be fixed in many aspects.
- 75 In the light of the above considerations, there is no doubt that citizens' access to ICT national registers is of particular importance for the development of civil democracy. The analysis made in this paper shows how important the role is in the life of every citizen. The analysis was extended to include a discussion on the example of individual registers.
- 76 Firstly, registers fulfil an information function. They enable citizens specific information which is important to them for their business, professional or personal life. Due to technological developments, the use of e-registers is possible through of the Internet. Thanks to the information obtained in the register, citizens are warned or protected against, for example, a dishonest contractor<sup>83</sup>. This is very important information for entrepreneurs.
- 77 Access to national registers is extremely important for the development of citizens' legal awareness. Certainly, there are also some negative aspects along with the operation of the registers. An example is the stigmatization of debtors or the disclosure of information affecting the personal lives of those with criminal records. However, overall, the positive impact on citizens' lives is higher.
- 78 According to many studies, the level of e-government implementation depends on the general state of a country's economy<sup>84</sup>. An important factor here is the level of trust in institutions, authority, software and the method of authorization. The risk of sharing personal data and the use of electronic communication channels may also be important. However, in other cases, there is the low use of e-government services. The reason is resistance to novelty, attachment to traditional procedures and insufficient knowledge of how to use electronic media to communicate with authorities<sup>85</sup>. The solution is to promote new forms of delivery of official services more widely already at school and university level. It should be added that fundamental changes in public awareness of e-services took

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<sup>81</sup> J. MASIOTA, "Uwagi na temat wybranych aspektów funkcjonowania Krajowego Rejestru Sądowego", *Palestra*, 2003, no 48/5-6 (545-546), p. 55.

<sup>82</sup> J. MATUSIAK, A. WOJCIESZAK, "Informatyzacja rejestrów przedsiębiorców", *Opolskie studia administracyjno – prawne*, Opole 2018, no XVI/2, p. 171.

<sup>83</sup> K. OSAJDA, *Ustawa o Krajowym Rejestrze Sądowym. Komentarz*, Legalis, Warszawa, 2023, introduction, general thoughts.

<sup>84</sup> E.G. United Nations E-Government Survey 2014, 25 June 2014, New York 2014.

<sup>85</sup> J. PAPIŃSKA-KACPEREK, A. WASSILEW, *Usługi e-government dla obywateli w wybranych krajach UE*, Collegium of Economic Analysis Annals, edition 40, p. 217-228.

place during the Covid-19 pandemic. It was necessary to adjust not only material means, but also mental attitudes towards the use of electronic sources.

- 79 The paper attempts to show how much impact the digitization of popular national registers has on the lives and functioning of citizens in society. Citizens' access to information is a particular value of a modern democratic state of law. Additionally, the examples discussed in detail showed specific perspectives for the implementation of the guiding principles that the rule of law should implement. The article shows in detail how modern technologies and implemented solutions in the field of public administration affect the broadly understood definition of the phenomenon of democracy. It analysed both in the perspective of the functioning of state institutions and civil rights and freedoms. This study focuses on the participation of citizens in a democratic state of law from the perspective of participation in the functioning of public administration and state institutions.
- 80 Civic participation in a democratic state of law also involves citizens' participation in the functioning of public administration. In turn, the implementation of public tasks constitutes the implementation of a democratic state of law. Due to the development of new technologies, countries are implementing new systems that increasingly respond to the needs of citizens. As shown in this paper, the digitization of public services fulfils many principles of a democratic state of law.

**RESUME :**

Les registres publics constituent l'un des éléments essentiels d'un État démocratique efficace et fonctionnel. Ils permettent l'accomplissement de tâches publiques ainsi que la participation des citoyens à la vie publique et privée. Il apparaît crucial de les créer et de les gérer correctement, ce qui ne manque pas de poser des problèmes techniques et organisationnels. L'article vise à souligner l'accès des citoyens aux registres publics comme une manifestation d'un État de droit démocratique. Pour illustrer pleinement cette question, le texte examine trois registres polonais : le Registre National des Tribunaux, le Registre National de la Criminalité, le Registre National des Endettés. Chaque chapitre aborde les registres indiqués relativement à leur fonctionnement, à leurs avantages, à leurs inconvénients et à l'impact de leur numérisation sur la vie publique des citoyens. La conclusion de l'article est telle que l'accès des citoyens à l'information est une valeur particulière d'un État de droit démocratique.

**SUMMARY:**

In recent years, the Polish system has been striving to fully digitize public administration and e-services. A manifestation of the above is the digitization of public registers. Some of the most popular public registers are the National Register of Debtors, the National Criminal Register and the National Court Register. It should be noted that selected registers have the greatest impact on the lives of citizens. The role that registers play in the lives of citizens is very large. Public registers are institutions that make possible to build harmony in society between civil liberties, the transparency of social life and the protection of the collective interests of citizens and legal certainty. The new technologies and systems being implemented increasingly meet the needs of citizens. Access to information, citizens' legal awareness and legal certainty are particularly important values. There are certainly some negative aspects to how registries work as well. However, in general, the positive aspects of the existence of registers in the lives of citizens are incomparably greater.