

Public Registers in the Kingdom of Prussia at the Turn of the 19th and 20th Centuries in a Systemic Perspective

Hadrian Ciechanowski¹

Contact:

Address: Władysława Bojarskiego 1, PL 87-100 Toruń

Email: hc@umk.pl

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Abstract

The advancement of legal relations between citizens alone, as well as between citizens and the state, has forced the registration of specific facts. In the light of this, a variety of public registers have evolved. Although these registers often complemented one another and there was a flow of information between them, all in all, the literature does not recognize their systemic nature. A certain exception in this matter is solely represented by land registers and cadastre. That said, at present Poland is one good example that thanks to the use of data and computer technology there is an increasing integration of these formally dispersed registers. But it appears that even solutions from the nineteenth century can be seen and understood as a contemporary system. This claim shall be proven on the example of public registers kept in the territory of the Kingdom of Prussia from the second half of the 19th century.

The research presented in the article was based on the system analysis method. On the other hand, the study was conducted with use of legal acts, literature and archival materials collected in Polish and German archives.

Keywords: Public registers; Kingdom of Prussia; Administration; System; Information flow

One particular manifestation of actions of the state is to record the most important facts affecting the relations between citizens, as well as between the state and its inhabitants. Public registers, which are kept by courts and/or state administration bodies, are created to serve this purpose. Traditionally, these registers were maintained in a dispersed manner, i.e., a part of

¹ Hadrian Ciechanowski, Ph.D., assistant professor, Faculty of History, Nicolaus Copernicus University Toruń, Poland

them kept by a given authority constituted an independent portion of a larger whole. That said, the example of Poland shows that the development of computer technology and its more and more widespread use by the administration also affects how registers are kept. In fact, databases are making registers an increasingly integrated and coordinated system. It seems, however, that the system can also be seen in public registers that currently have only historical importance.

One of the most developed systems of public registers at the turn of the 19th and 20th centuries was actually in place in the Kingdom of Prussia and, more broadly, in the German Empire. In the wake of this fact, the article represents an attempt to perform a systemic analysis of the indicated registers. It is significant to have knowledge of such registers due to their importance as a model for legal solutions employed in a number of modern countries, as well as due to historical research, which must often draw from indirect or substitute sources. Nonetheless, such sources can be public registers.

1. The system

Because the purpose of this article is to shine light on Prussian public registers as a system, it is necessary to begin these considerations with the definition of what the system is. Information sciences define the system as follows: “System S is a given set of elements and their constant behavior and a set of linkages between elements, as well as between elements and the environment²” or “a set of component elements called objects, related to each other and performing particular functions in a certain way.”³ In the humanistic trend, a system can be defined as “any internally coordinated set of elements with a specific function and showing a specific structure⁴” or “a deliberately defined set of elements and a set of interconnections between them, which together define the properties of the whole⁵”.

The system can be distinguished by both individual elements thereof and relations that occur between them. Particular elements of the system of public registers in the kingdom of Prussia were, of course, individual registers. The linkages between them were realized mainly through the flow of information between individual registers.

2. Elements of the system

In seeking to present public registers in a systemic perspective, it is only appropriate to begin with characterizing a system’s individual elements. However, it would not be possible to

² ORCHARD, R.A., O pewnym ujęciu ogólnej teorii systemów. In: KLIR, G.J. (ed.), *Ogólna teoria systemów. Tendencje rozwojowe*. Warsaw, 1976, p. 217.

³ GAŁKOWSKI, K., Szlachcic, E., Podstawowe pojęcia i definicje teorii systemów. In: STANICKI, T. (ed.), *Teoria systemów*. Wrocław, 1975, p. 4.

⁴ POGORZELSKI, W., *Teoria systemów i metody optymalizacji*. Warsaw, 1996, p. 51.

⁵ RYSZEWSKI, B., *Problemy i metody badawcze archiwistyki*. Torun, 1985, p. 76.

indicate these elements without first defining the public register. For the purposes of these considerations, it has been assumed that the public register is such a set of information about persons, things or rights that meets the following conditions:

- a. it is formed in accordance with the provisions of applicable law,
- b. it is kept by a registry authority of a public nature,
- c. acceptance, recording and then disclosure of specific information takes place, as a rule, as a result of a decision made by the registration authority,
- d. keeping a register and the disclosure of certain information therein has legal consequences,
- e. it is public⁶.

While bearing in mind the adopted definition, basing on the analysis of archives as well as legal acts and literature, it was possible to identify a number of public registers in the Kingdom of Prussia, which can be divided into two main groups: court registers (kept by courts) and administrative registers (kept by public administration bodies).

The administrative registers kept in the Kingdom of Prussia concern: utility models, patents, trademarks (kept by the Patent Office in Berlin), marital status, i.e., births, marriages and deaths (kept by civil registry offices) and the land and building tax cadastre (run by cadastral offices).

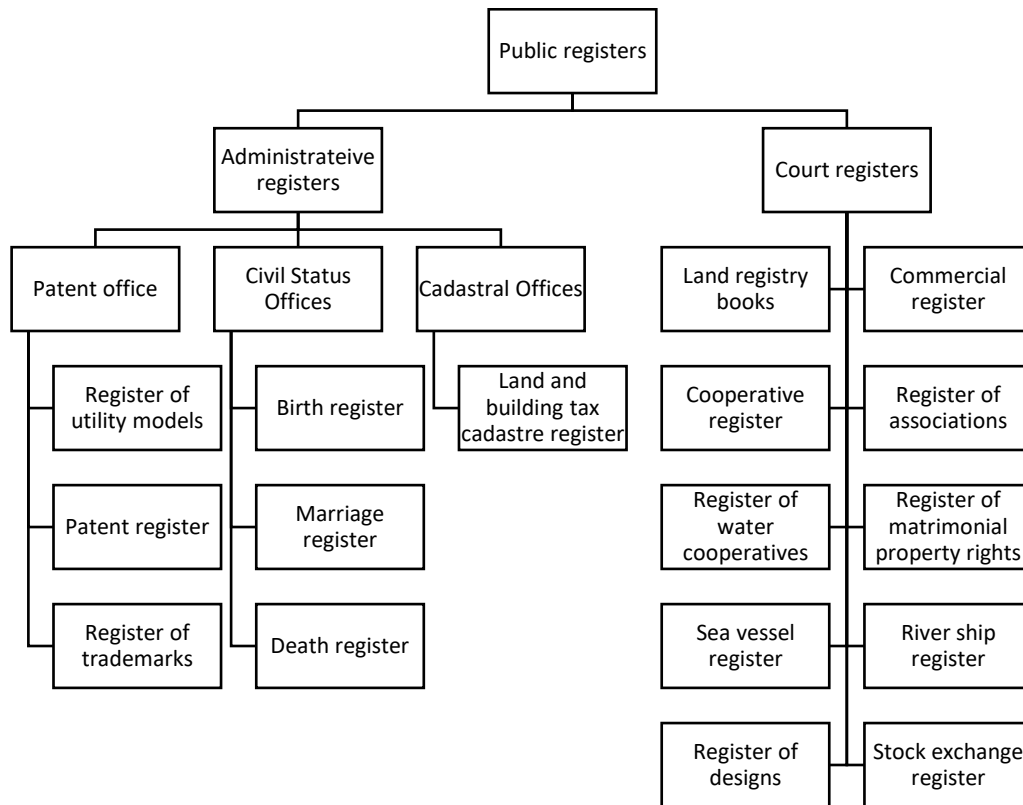
On the other hand, the courts kept registers of: trade, cooperatives, associations, water cooperatives, matrimonial property rights, sea ships, inland waterway ships, patterns and stock exchange. Seen from today's perspective, among these registers we also include land books. Interestingly, Prussian legislation treated land books as a separate category⁷.

The diagram below presents the division and list of public registers kept in the Kingdom of Prussia at the turn of the 19th and 20th centuries.

⁶ STAWECKI, T., *Rejestry publiczne. Funkcje instytucji*, Warsaw, 2005, p. 28-30.

⁷ The instructions for courts of first instance regarding the conduct of secretarial cases list land registers and public registers separately, see e.g., *Geschäftsordnung für die Gerichtsschreibereien der Amtsgerichte vom 26. November 1899*. In: *Justiz-Ministerial-Blatt für die Preußische Gesetzgebung und Rechtspflege*, year 1899, No. 45, p. 395-3471 and *Geschäftsordnung für die Gerichtsschreibereien der Amtsgerichte vom 11. Oktober 1906*. In: *Justiz-Ministerial-Blatt für die Preußische Gesetzgebung und Rechtspflege*, year 1906, No. 40, p. 305-385.

Diagram1. Public registers in the Kingdom of Prussia



Source: prepared by the authors

3.1 Types of linkage between registers

Prussian registers include several types of linkage, among which three basic types can be indicated:

1. Information flow between registers,
2. Mutual complementation of registers from the point of view of the goal they were to pursue,
3. A common legal basis determining the manner of their conduct.

The first type of linkage between registers was the flow of information between them. This cycle was usually carried out in two different ways. In the first variant, the person interested in submitting an entry in one register would provide a certificate issued by the court maintaining another register. In the other variant, it would lie with one court to keep both registers, i.e., the register in which the entry was made and the register from which certain information were obtained. In such a case, the court was merely obliged to read the entry made in the second register, but there was no need to provide extracts or other documents.

The second type of linkage was based on the assumption that the registers kept either by the same authority or by other institutions served a similar purpose. In the case of Prussian registers, this purpose consisted in the protection of property rights and of creditors' rights.

As for the third type of linkage, the provisions on keeping one of the registers served as a model and basis for registration activity also in the case of other registers. In such an event, an altered functioning of the "mother" register also entailed a shift in the derivative registers.

Examples illustrating individual types of linkage will be presented below.

3.2. Information flow between registers

The first type of linkage occurred on two planes. First comes the internal plane consisting in the flow of information between individual parts of the same register. Such linkage can be indicated, inter alia, in registers of marital status and land registers. In the case of the CSO, the flow of information was most intensified in the case of birth and marriage registers. The condition for contracting a marriage was the provision of relevant documents, which included announcement protocols and copies of birth certificates of future spouses. The most obvious expression is the preserved attachment files, which constituted collections of documents submitted to the registers as the basis for making entries in them.

In the case of land books, in accordance with the applicable regulations, when the keeping of land books for a particular property was transferred to another court, the land book files for the transferred property were obligatorily sent to that court⁸. Such a situation could take place, for example, if there was a change in district boundaries or a possible merger of real estate belonging to one person in a single land register.

Similarly, when the port or place of registration was transferred outside the registry district, the ship registry files were sent to the court in whose district the ship was to be re-registered. The only exceptions were the ship certificate or letter and certified copies of the register contents, which were not sent between the courts. Importantly, if the transfer was related to a change of the ship owner, before sending the files, the previous court would still be obliged to register these facts⁹.

Information was to be sent also in the case of the commercial register. It was necessary to register an established branch of a given enterprise in the commercial register competent for the place of founding. This registration had to be independent of that of the main company.

⁸ Allgemeine Verfügung vom 20. November 1899 zur Ausführung der Grundbuchordnung. In: *Justiz-Ministerial-Blatt für die Preußische Gesetzgebung und Rechtspflege*, year 1899, No. 43, par. 18.

⁹ Allgemeine Verfügung (des Justizministers) vom 11. Dezember 1899 über die Führung des Schiffsregisters. In: *Justiz-Ministerial-Blatt für die Preußische Gesetzgebung und Rechtspflege*, year 1899, No. 46, par. 11.

However, when the entry concerning the company's headquarters was changed, it was also necessary to record this fact in the register for the branch. An important practice in this regard was that entry in the register storing information about the branch could only take place after registration with the court competent for the main enterprise. The necessary condition was to provide proof that the registration had actually taken place. It was therefore necessary to transfer information between the commercial registers kept by individual courts¹⁰.

Circulation of information between individual branches of a given register was necessary for the proper and reliable keeping of individual registers. Without sending information between branches of a given register kept by different courts or offices, it would not be possible to achieve the goals set for them, at the same time it would lead to information chaos and bring forward a major field for abuse, e.g., by allowing marriage in several Registry Offices through falsifying information about one's origin. This problem was actually noticed by the German authorities, for example in the case of the commercial register, where it was necessary to provide proof of registration in the register of the main enterprise prior to entry in the register of the branch.

The second type of information flow occurred between individual registers in this case treated as a whole. With such an approach, we can distinguish a series of linkages between registers. However, these linkages cannot be demonstrated for all identified registers.

In the case of marital status registers, communication occurred mainly with the register of marital property rights and land registers. In the case of the former, entry was possible only after marriage. This resulted in the necessity to provide the official with a proof of marriage¹¹.

On the other hand, in the case of land registers, there are multiple extracts from the registers of marital status that could be found in land files. These documents were placed in the register most often in connection with inheritance proceedings. They constituted evidence of inheritance of property by individuals and were often attached to court files sent in connection with decisions made during hearings.

Land registers were also connected with the registers of marital property rights, the commercial register and the register of cooperatives. In the case of the former, communication took place when the spouses wanted to include information on the separation of property in the land register, because in such case it was necessary to provide a certificate of entry of this right

¹⁰ Handelsgesetzbuch vom 10. Mai 1897. Erstes Buch. Handelsstand. In: *Deutsches Reichsgesetzblatt*, year 1897, No. 23, par. 13.

¹¹ SIMÉON, P., *Handbuch zur Einführung in das Bürgerliche Gesetzbuch und seine Nebengesetze. Zweiter Band.* Berlin, 1904, p. 215.

in the register of property rights, which comprised excluded evidence for the land register office. This was the case with adding new rights and removing them from the register¹².

In the case of the commercial register and the register of cooperatives, it was necessary to provide the relevant information when registering property. Under German law, legal persons could also own real estate. In the case of these entities, the company name and seat constituted were recorded in the land books. The existence of the company and its seat were confirmed by the aforementioned registers and the extracts and certificates issued from them¹³. Submission of an appropriate certificate issued by the court was necessary to make the entry¹⁴. At the same time, in the case of companies, it was necessary to provide a court certificate confirming who could represent the company¹⁵.

Concurrently, communication progressed in the opposite direction. Pursuant to the provisions in force in Germany, a company was established by way of an agreement between the shareholders, which could be of an oral nature. Written form, i.e., a court or notary agreement, was required only in the case of transferring land real estate belonging to one of the partners. Writing down such a contract could, however, be replaced by an entry in the land book¹⁶. Thanks to this, it was also possible to register information on the capital in the form of land owned by a given company in the commercial register.

However, it is necessary to emphasize that not all of these documents were attached to the land register files. The German law allowed the possibility of withdrawing from their collection if the Land Registry Office was at the same time the court responsible for keeping the commercial register (and thus also other registers). In such a situation, it was sufficient to refer to the register itself instead of referring to the collected documents¹⁷.

However, among all Prussian registers, the deepest connection was visible between the land registers and the cadastre. First of all, changes to the ownership data in the land books always required an update in the cadastre. Similarly, change of real estate data in the cadastre required an update of land registers. In the case of a change of ownership, it even depended on

¹² PAUWELS, V., *Grundbuchordnung für das Deutsche Reich vom 24. März 1897 erläutert durch die Rechtsprechung*. Leipzig, 1907, p. 54-55.

¹³ Allgemeine Verfügung vom 20. November 1899 zur Ausführung der Grundbuchordnung, In: *Justiz-Ministerial-Blatt für die Preußische Gesetzgebung und Rechtspflege*, year 1899, No. 43, par. 4.2.

¹⁴ TURNAU, W., FÖRSTER, R., *Das Liegenschaftsrecht nach den Deutsche Reichsgesetzen und den Preußischen Ausführungsbestimmungen*. Padeborn, 1903, p. 218-219.

¹⁵ Grundbuchordnung vom 24. März 1897, In: *Deutsches Reichsgesetzblatt*, year 1897, No. 15, par. 33.

¹⁶ KORN, A., *Das Neue Handelsgesetzbuch für das Deutsche Reich im Originaltext mit den preisgekrönten gemeinverständlichen Erläuterungen*. Berlin and Leipzig, 1901, p. 66.

¹⁷ Bekanntmachung vom 20. Mai 1898 des Textes der Grundbuchordnung in der vom 1. Januar 1900 an geltenden Fassung, In: *Deutsches Reichsgesetzblatt*, year 1898, No. 25, par. 35.

an earlier change in the land register¹⁸. Therefore, the law required full compliance of the information contained in both registers and the possibly immediate transmission of information between the offices keeping the registers¹⁹.

This was associated with a number of consequences. For example, in connection with the requirement for land books to comply with the land tax books, it was ordered in 1870 that the area measures included in the land tax books were to be transferred to a metric measure, in accordance with the provisions on measures and weights for the North German Union. Therefore, an update of land books was required as well. For this purpose, the courts received copies of the new land tax cadastral registers converted into metric measures. Interestingly, prior to the full adoption of metric measures in land books, old and new measures would be used in cadastral extracts intended for courts²⁰.

Moreover, with each new regulation of the land register, the owner was obliged to indicate the real estate subject to entry according to the cadastral designation and to submit an excerpt from the land tax, including all real estates and indicating the border neighbor. In case of doubts as to the exact property border, in addition to local witnesses or local authorities, it was possible to refer to cadastral maps²¹.

On the other hand, the land register office was obliged to immediately notify the competent cadastral inspectors of changes in ownership registered in the land register. Cadastral controllers would introduce changes to the update protocols (Fortschreibung Protokolle). If, however, the article number of the land or building tax was changed, the land registry office found out about it from the cadastral office and corrected entries in the land book. The list on the basis of which this administrative act was made was then stored in the updating files (Fortschreibungsunterlagen) of the cadastral office²².

Similar procedures were carried out when reconciling land and tax records for buildings. The lists of the tax on buildings, revised after the amount of that tax was redetermined, was sent in the form of a copy to the district court. Likewise, the courts were to be informed about updated land registry maps and measurement records²³.

¹⁸ HENNING, H., *Kataster und Grundbuch*. Berlin, 1961, p. 90.

¹⁹ RICHTER, D.H., *Das materielle und formelle Deutsche Grundbuchrecht in seiner Beziehung zum Liegenschaftskatasterdienst mit besonderer Berücksichtigung der bayerischen und rheinpfälzischen Verhältnisse*. Berlin-München, 1950, p. 10-11.

²⁰ AUSCHRAT, P., *Probleme der Archivierung von Katasterunterlagen in Brandenburg*. Potsdam, 1997, p. 22.

²¹ AUSCHRAT, P., *Probleme der Archivierung von Katasterunterlagen in Brandenburg*. Potsdam, 1997, p. 21-22.

²² AUSCHRAT, P., *Probleme der Archivierung von Katasterunterlagen in Brandenburg*. Potsdam, 1997, p. 23.

²³ AUSCHRAT, P., *Probleme der Archivierung von Katasterunterlagen in Brandenburg*. Potsdam, 1997, p. 23.

Procedurally, the cadastral office had to take into account information which it received from the court without undue delay in order to obtain the possibly necessary information from the court and provide it with all the updates. If the cadastral office has been notified by the court that properties previously entered in the land register on different sheets have been combined on one sheet, it should, if these properties were also shown on different articles of the matrix, combine them on one article²⁴.

Since the ruling of the Reichs Court in 1910, the land cadastre formed a formal and material community with the land register. By referring to the real estate cadastre as a geometric and legal reference system, the civil law on land registers and the public law geodesic and cadastral law were related with one another. Inventory data and owners' data were subject to double registration in the real estate cadastre and the land book. For reasons of clarity and legal certainty, it was necessary to ensure that the redundant data was consistent. Their compliance comprised a relationship between the original cadastral and the original land and mortgage accounting duties and competences²⁵.

In order to minimize the administrative burden and costs, the cadastre and land registers were to be kept in a thorough manner. Possible errors could result from the fact that the cadastre was defective or that the reconciliation of the land register with the cadastre was incorrect. Both the cadastral office and the land registry were obliged, upon detecting such an error, to take the necessary actions *ex officio* to amend it²⁶.

The rectification procedure was also undertaken if the cadastral office sent the court a copy of the notification of the change of ownership entered in the tax books. The excerpt itself was placed in the land register files for information purposes. On the other hand, the judge examined whether the notification from the cadastral office provided grounds for pursuing actions aimed at correcting the land register by entering a new owner. If, on the other hand, the cadastral office sent a copy of the amendment notice to the district court to merge several parent parcels from one and the same owner into one item or to split one item into several items, the land register entry number had to be revised accordingly²⁷.

²⁴ SCHÜTTE, H., *Kataster und Grundbuch in Preußen, ihre Verbindung und gegenseitige Berichtigung*. Ziegenhain, 1936, p. 31-32.

²⁵ KREMER, H., Die Verzahnung von Liegenschaftskataster, Vermögenszuordnung und Grundbuch. In: *Vermesung Brandenburg*, No. 1, 1999, p. 22.

²⁶ AUSCHRAT, P., *Probleme der Archivierung von Katasterunterlagen in Brandenburg*. Potsdam, 1997, p. 24.

²⁷ SCHÜTTE, H., *Kataster und Grundbuch in Preußen, ihre Verbindung und gegenseitige Berichtigung*. Ziegenhain, 1936, p. 34.

If, as a result of an error regarding the ownership right, someone was entered in the tax books and, accordingly, in the land book as the owner of the entire cadastral plot, who did not in fact hold the ownership title, it was not possible to correct the tax books without revising the land book. The registration judge, having learned about the error, was obliged to act for its removal, taking into account the impact on public faith and the correctness of the land book. The land register office was informed about the corrections made in the land register by means of lists of ownership changes²⁸.

In case of doubts as to the correctness of the plot boundary, e.g., when the plots or their parts were changed by verbal agreements without their rewriting by the court or notary public, then entry of the border change to the cadastre had to be made on the basis of an entry of the change of ownership in the land register. As changes in the ownership law always involve the transfer of ownership and entry in the land register, it could be assumed that the information contained therein was correct²⁹.

The update also concerned land books and the so-called "Wertkataster". Valuation sheets were prepared for each plot of land that constituted an economic unit. In order to keep the valuation forms up-to-date, they were updated following the updating of the cadastral registers. After submitting to the cadastral office, the lists of ownership changes provided by the land register office, it was checked whether the purchase prices contained in the lists were up-to-date. The entry of purchase prices in the original lists could only take place after the lists of ownership changes were updated³⁰.

The connection between the land registers and the cadastre was therefore very profound, as both registers complemented one another to form a land and building register, which would give the maximum guarantee of credibility.

There were also numerous flows of information between the commercial and cooperative registers and other court registers and registers kept by the Patent Office. This communication consisted primarily in the provision of information on whether a given legal person could acquire specific rights resulting from an entry in a specific register. Companies

²⁸ AUSCHRAT, P., *Probleme der Archivierung von Katasterunterlagen in Brandenburg*. Potsdam, 1997, p. 25.

²⁹ AUSCHRAT, P., *Probleme der Archivierung von Katasterunterlagen in Brandenburg*. Potsdam, 1997, p. 25-26.

³⁰ AUSCHRAT, P., *Probleme der Archivierung von Katasterunterlagen in Brandenburg*. Potsdam, 1997, p. 50.

could own ships³¹ as well as designs and patents³². In particular, the implementing rules indicated that any changes concerning a person or a representative entered in the register of utility models or a patent had to be reported in a form that could prove this fact, and therefore primarily in the form of an extract from the relevant register³³. On the other hand, the provisions on the court register of designs specified that the application was filed with the court competent for the principal place of business or the authority competent for the place of residence³⁴.

The provisions on the trademark register of 1894 required that the applicant for the entry attach the name of the company in which the mark was to be used to the application. It was therefore necessary to register the activity in advance³⁵. It was even more explicitly expressed in the Act of 1874, which specified that only an entrepreneur whose company was entered in the commercial register could apply to the competent court to enter in the commercial register of its headquarters signs which were to be affixed to their goods or packaging³⁶.

A similar situation occurred in the case of the stock exchange register, in which companies could also be entered³⁷. However, these provisions contained one more rule, which resulted in the flow of information from the commercial register. The admission to trading of shares of a company transformed into a joint-stock company or a limited partnership with shares could not take place earlier than one year after it had been entered in the commercial register³⁸. It was therefore necessary to provide relevant information confirming this fact.

The circulation of information between the Prussian and, more broadly, German registers was based mainly on the need to provide information confirming the fact of acquiring certain rights resulting from entry in another register. The central place here was played by

³¹ Bekanntmachung des Textes des Gesetzes, betreffend die privatrechtlichen Verhältnisse der Binnenschifffahrt, in der vom 1. Januar 1900 an geltende Fassung, vom 20. Mai 1898. In: *Deutsches Reichsgesetzblatt*, year 1898, No. 25, par. 123 and Gesetz vom 22. Juni 1899 betreffend das Flaggenrecht der Kauffahrteischiffe. In: *Deutsches Reichsgesetzblatt*, year 1899, No. 24, par. 2.

³² Patentgesetz vom 25. Mai 1877. In: *Deutsches Reichsgesetzblatt*, year 1877, No. 23, par. 19; Patentgesetz vom 7. April 1891. In: *Deutsches Reichsgesetzblatt*, year 1891, No. 12, par. 19; Gesetz vom 1. Juni 1891 betreffend den Schutz von Gebrauchsmustern. In: *Deutsches Reichsgesetzblatt*, year 1891, No. 18, par. 3; Verordnung vom 11. Juli 1891 zur Ausführung des Patentgesetzes vom 7. April 1891 und des Gesetzes, betreffend den Schutz von Gebrauchsmustern, vom 1. Juni 1891. In: *Deutsches Reichsgesetzblatt*, year 1891, No. 23, par. 12 and 22.

³³ Verordnung vom 11. Juli 1891 zur Ausführung des Patentgesetzes vom 7. April 1891 und des Gesetzes, betreffend den Schutz von Gebrauchsmustern, vom 1. Juni 1891. In: *Deutsches Reichsgesetzblatt*, year 1891, No. 23, par. 22.

³⁴ Gesetz vom 11. Januar 1876, betreffend das Urheberrecht an Muster und Modellen. In: *Deutsches Reichsgesetzblatt*, year 1876, No. 2, par. 9.

³⁵ Gesetz zum Schutz der Waarenbezeichnungen vom 12. Mai 1894. In: *Deutsches Reichsgesetzblatt*, year 1894, No. 22, par. 2.

³⁶ Gesetz über Markenschutz vom 30. November 1874. In: *Deutsches Reichsgesetzblatt*, year 1874, No. 28, par. 1.

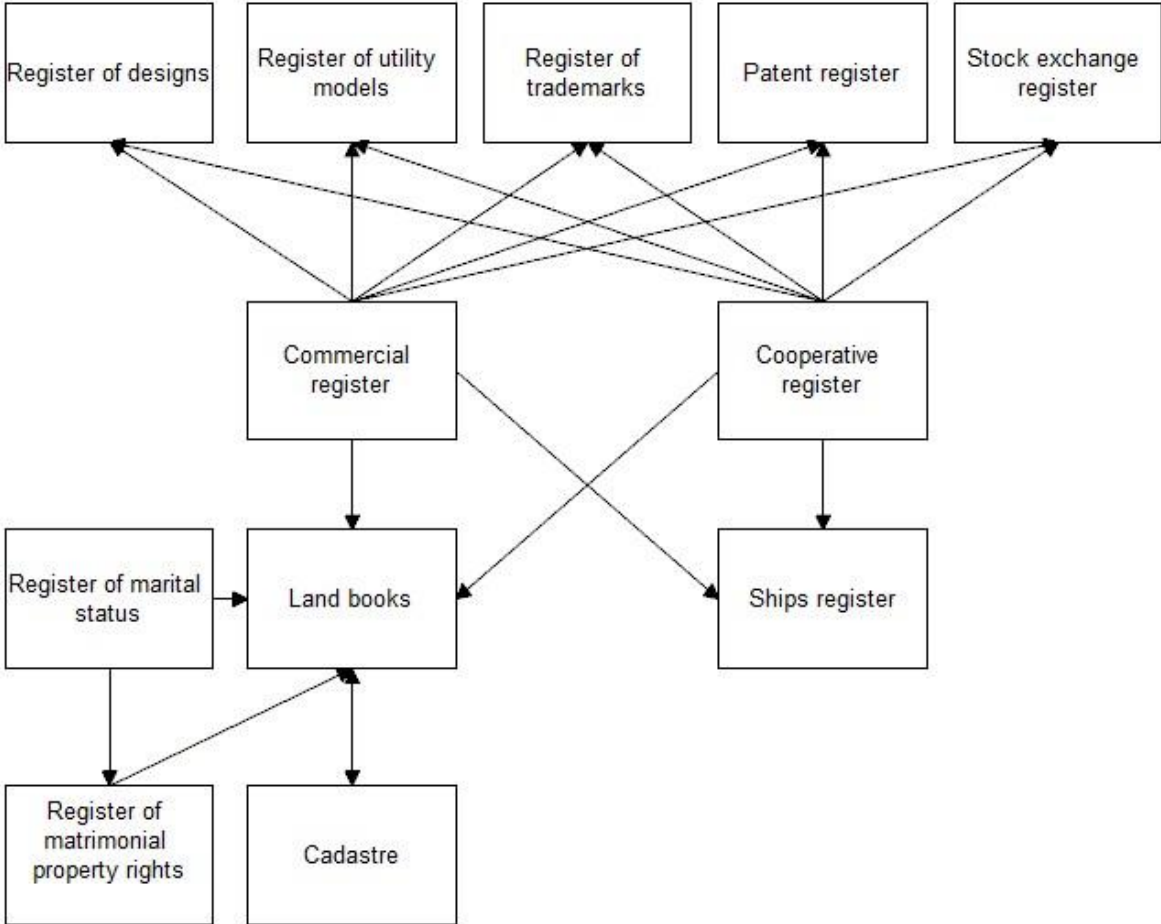
³⁷ Börsengesetz vom 22. Juni 1896. In: *Deutsches Reichsgesetzblatt*, year 1896, No. 15, par. 55.

³⁸ Börsengesetz vom 22. Juni 1896. In: *Deutsches Reichsgesetzblatt*, year 1896, No. 15, par. 39.

commercial and cooperative registers, the entry of which allowed the enterprise to acquire a company and legal personality. However, it was impossible to provide information about the company without its prior establishment. That said, the peculiarity of the German registers lies in the fact that, in many cases, the evidence provided was not attached to the registration files. This is due to two facts. First of all, German law allowed for an oral application to be entered in the protocol. Secondly, if the same authority was responsible for keeping individual registers, it was not obliged to collect documents, which could be replaced by a reference to a specific register. In such a situation, the flow of information took place by reading the appropriate entry.

The flow of information between public registers is presented in the following diagram:

Diagram 2. Information flow between public registers



Source: prepared by the authors

3.3 Complementary from the perspective of the objective

The second type of communication between registers was based on the fact that they served similar purposes and thus complemented one another. Although there was no circulation of information in this instance or no common legal basis was present, they constituted a system allowing for the acquisition and protection of relevant rights.

This is particularly true for the register of designs, the register of utility models and the register of patents. The purpose of these registers was to guarantee the owner of submitted images or models protection of his rights to use the reported goods and to derive certain benefits from them. Both design registries complemented one another in that the courts registered designs of an artistic nature, while the patent office registered designs of a technical nature³⁹. The utility model register, on the other hand, supplemented the patent register in such a way that it allowed for obtaining similar rights, as it also related to utility items, but without the need to apply a relatively complicated procedure for obtaining a patent. At the same time, the protection resulting from the registration of a patent, and not a design, lasted much longer, i.e., 15⁴⁰ and 3⁴¹ years, accordingly. It should be emphasized that a slightly different purpose was pursued by the trademark register, which was to guarantee the protection of only the signs used by a given buyer or producer⁴², and not the technology used by him. Thus, from the point of view of the objective, it served a models' similar purpose, but differed in terms of the subject of registration.

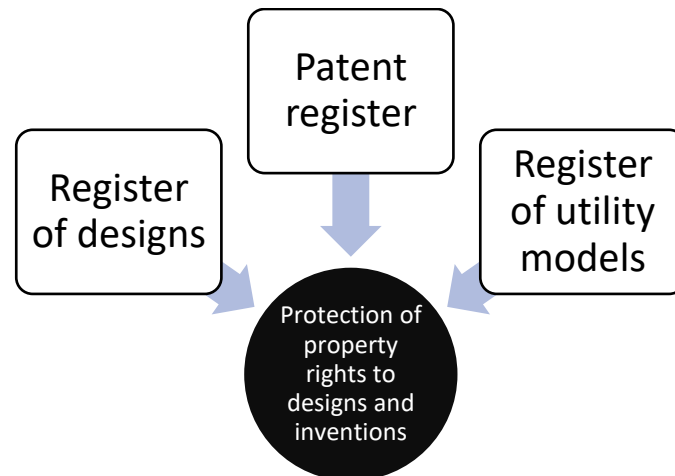
³⁹ SIMÉON, P., *Handbuch zur Einführung in das Bürgerliche Gesetzbuch und seine Nebengesetze. Zweiter Band*. Berlin, 1904, p. 212-213.

⁴⁰ Patentgesetz vom 7. April 1891. In: *Deutsches Reichsgesetzblatt*, year 1891, No. 12, par. 7.

⁴¹ Gesetz vom 1. Juni 1891 betreffend den Schutz von Gebrauchsmustern. In: *Deutsches Reichsgesetzblatt*, year 1891, No. 18, par. 8.

⁴² Gesetz zum Schutz der Waarenbezeichnungen vom 12. Mai 1894. In: *Deutsches Reichsgesetzblatt*, year 1894, No. 22, p. 441-448.

Diagram 3. Public registers for the purpose of protecting property



Source: prepared by the authors

Land books and ship registers also served a partially common purpose. Both, apart from disclosing information about the ownership of a given item, also served to disclose and secure the rights of creditors by entering a mortgage on real estate or a ship, treated in this case on an equal footing with land or building⁴³. Importantly, some of the same provisions were applied to these registers. In particular, these rules concerned applications and calls relating to registry of a lien⁴⁴. It is also connected with the third means of communication between the elements of the system of public registers in Prussia.

3.4 Common legal basis

The third type of linkage between registers was based on common legal norms. This applied in particular to the commercial register and other registers kept by courts. These registers, especially when it comes to how they are kept, the duties of the registration authority and the proceedings by the registration authority, were based on the provisions on the commercial register. Hence, this community concerned cooperative registers⁴⁵, ship registers⁴⁶,

⁴³ STAWECKI, T., *Rejestry publiczne. Funkcje instytucji*. Warsaw, 2005, p. 195.

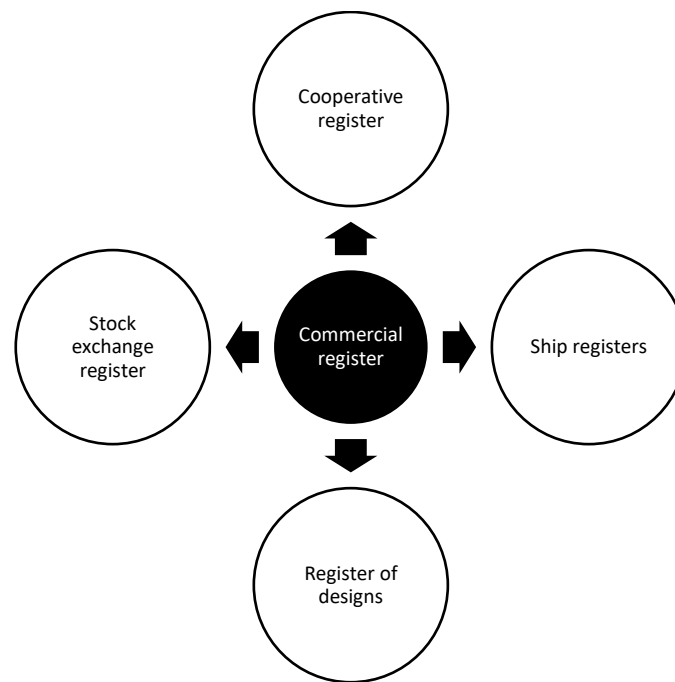
⁴⁴ *Instrukcje dla sekretariatów sądów powiatowych, okręgowych i apelacyjnych*. ZAJĄCZKOWSKI, T. (ed.), Poznań, 1921, p. 10.

⁴⁵ Bekanntmachung vom 11. Juli 1889, betreffend die Führung des Genossenschaftsregisters und die Anmeldungen zu demselben. In: *Reichsgesetzblatt*, year 1889, No. 15, par. 3, 5, 10; Gesetz vom 1. April 1879 betreffend die Bildung von Wassergenossenschaften. In: *Gesetz-Sammlung für die Preussischen Staaten*, year 1879, No. 19, par. 13.

⁴⁶ Allgemeine Verfügung (des Justizministers) vom 11. Dezember 1899 über die Führung des Schiffsregisters. In: *Justiz-Ministerial-Blatt für die Preussische Gesetzgebung und Rechtspflege*, year 1899, No. 46, par. 3.

stock exchange registers⁴⁷ and the register of designs⁴⁸. This community was generally emphasized in the literature and included in the relevant legal provisions⁴⁹. However, this is not the right place for opening a detailed debate on the registration procedure, which was an expression of common law. Importantly, the registers connected by means of a legal basis were also compulsorily maintained by the courts responsible for keeping the commercial register.

Diagram 4. Public registers based on a commercial register



Source: prepared by the authors

4. Summary

To conclude the considerations raised in this article, it must be stressed that there is a certain systemic approach to Prussian/German public registers. That said, it remains a rather primitive system based mainly on the transfer of information between registers by persons interested in the entry. Nonetheless, one cannot easily hide the fact that it exhibited the nature

⁴⁷ Bekanntmachung des Reichskanzlers vom 9. Oktober 1896 und Allgemeine Verfügung des Justizministers vom 17. Oktober 1896 betreffend die Führung der Börsenregister und die Aufstellung der Gesammtliche. In: *Justiz-Ministerial-Blatt für die Preußische Gesetzgebung und Rechtspflege*, year 1896, No. 40, par. 2.

⁴⁸ Bestimmungen vom 29. Februar 1876 über die Führung des Musterregister. In: *Justiz-Ministerial-Blatt für die Preußische Gesetzgebung und Rechtspflege*, year 1876, No. 36, par. 1.

⁴⁹ NUßBAUM, A., *Die freiwillige Gerichtsbarkeit im Reiche und in Preußen*. Berlin, 1900, p. 160-161; Börsengesetz vom 22. Juni 1896. In: *Deutsches Reichsgesetzblatt*, year 1896, No. 15, pp. 157-176, par. 56 and 62; SIMÉON, P., *Handbuch zur Einführung in das Bürgerliche Gesetzbuch und seine Nebengesetze. Zweiter Band*. Berlin, 1904, p. 216; WRZOŁEK-ROMAŃCZUK, M., *Rejestr spółdzielni. Zagadnienia materialnoprawne i procesowe*. Warsaw, 1986, p. 13.

of a modern system of public registers, as obtaining rights resulting from entry in one register required the acquisition of rights resulting from entry in another register. At the same time, it ensured a much greater credibility of the data collected in the registers, as the information entered was subject to multiple verification.

The mere fact of the circulation of information between registers, which is a condition for obtaining certain rights, is enough to prove the thesis put forward at the beginning of this article. Still, it must be stressed that lower-level systems must also be indicated as part of the system of public registers in Prussia. These subsystems were established as a result of interactions resulting from the implementation of a similar goal and being based on common legal provisions. These two types of interactions, occurring only between part of the registers constituting systemic elements, allow to indicate two areas with independent properties, but ones which also interfered with the other registers. The presence of subsystems is therefore another argument supporting the thesis which constitutes the core idea behind the article.

It should also be stressed that the “heart” of the system was the commercial register, which, by registering facts about the company, granted it the rights of a legal entity and allowed it to acquire rights resulting from other registers. At the same time, this register, and in fact the regulations concerning it, constituted the grounds for proceedings in registration cases also as regards other registers. Therefore, it was, to the greatest extent, the axis of linkage between the elements of the researched system.