



# Ownership and Organizational Solutions for Spas and Preservation of Health Tourism

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**Abstract:** *This work aims to show the possibilities of organizing spas in the Republic of Serbia, bearing in mind the current privatization, the status and treatment of spas as goods of general interest and the importance of recognizing an adequate ownership solution in the future business of spas in Serbia. The authors consider world experiences, possible models of privatization and the impact on the function of spas, especially the extremely developed health segment - balneology, and of course, the preservation of natural healing resources, but also other possible contractual and ownership models of performing spa activities. In researching the period from 2012 to 2020, the authors found that privatization potentially improves the standards of spa infrastructure and increases the tourism potential of spas, but in some transition countries, the process has resulted in limiting the therapeutic potential of spas and reducing the state's ability to implement health policy. The authors recommend ensuring that spa activities are carried out by a safe shareholder, applying clear acceptance criteria, as well as to provide legal guarantees for access to spa services that are financed from public funds.*

## 1. INTRODUCTION

The spa is recognized and protected by law, as an expression of the natural and cultural heritage on which there are arranged and equipped conditions for the long-term use of one or more good natural healing factors for therapeutic purposes. Natural healing factors are good in general interest and made up of underground mineral, thermal, thermal mineral and radioactive waters, healing mud, healing sand, medicinal gases, climate, as well as other natural conditions of the environment whose medicinal properties are scientifically proven and suitable for use for therapeutic purposes ([Law on Spas of the Republic of Serbia, 1992](#)).

It is well known that Serbia lies on numerous lakes of quality thermal mineral waters. Over 500 mineral, thermal and thermal/mineral sources have been registered; 260 have been prepared for use and 40 spas have been established, with accommodation and medical services. Serbian spas are internationally known for their highly developed health segment (balneology) since many top experts and healthcare professionals are employed in the spas ([Stanković, 2009](#)). Balneology in Serbia has an almost two centuries-long tradition (about 180 years), which was taught by our doctors, from the most famous balneologists of Austria and Germany at that time. A complete commitment to the humane business of Serbian balneologists has influenced the slower development of supporting content (quality of accommodation facilities), which has been improving over the past 10 years, among other things, through the successful introduction of wellness programs [UBAS \(2020\)](#).

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The mineral water sources are not only numerous, but they are also diverse: some sources are rich in sulfur, others with sodium, calcium, carbonate and very sulfide elements, hot and cold water, and geysers. Serbian spas do not compete with each other due to the large number of medical indications that they successfully treat (Gavrilović, 2009).

Thanks to the mineral properties of these waters, in the opinion of the European Spa Association, compared to other countries in West Balkan, Serbia boasts that it has the most developed balneology, that is, a branch of medicine that deals with the beneficial effect of the natural healing factor on the human body (ESPA, 2020). These properties of water have been successfully applied in the prevention of various diseases as well as in rehabilitation. In addition to spas that are healing because of the thermal waters, there are air spas in Serbia. In addition to mineral waters, the Serbian spa is characterized by the preserved environment, natural food, and peace, which in combination with a large number of sunny days and temperate climate, positively affect both the psyche and the physical characteristics of people (Maćejka, 2003).

Only recently in the Serbian spas, the part of tourism related to the wellness segment is beginning to develop. Under the conditions they provide, many sports teams are often prepared in spas. The good conditions of the spa have been recognized by numerous athletes who come for the preparations, as most spas have sports fields, both indoors and outdoors.

Today, in addition to the offer in health tourism, spas are increasingly visited by tourists seeking wellness facilities, that is, a program of services that motivates a stay in the spa with the desire to achieve a harmonious state of mind and body, and which make individually defined procedures using a natural healing factor, physical activity, healthy eating, spiritual activities and relaxation, with medical supervision (Law on Spas of the Republic of Serbia, 1992) or visiting Serbia in search of beautiful nature, rural areas forests, meadows, orchards, monasteries and other numerous cultural and historical monuments. Spa wellness tourism is focused on the use of facilities such as saunas, swimming pools, massage, and cosmetic treatments. According to a broader division, it can be classified as health tourism. However, unlike classic spa health tourism, spa wellness tourism is used by those who have good health and want to maintain that health. Spa wellness tourism requires less investment and better income for the service provider.

The spa zones in Serbia are numerous:

1. Šumadijska - Selters, Bukovička Banja, Palanački kiseljak.
2. Zapadnomoravska - Vrnjačka, Mataruška, Ovčar Banja, Gornja Trepča, Bogutovačka Banja, Sirčanska Banja, Lopatnička Banja and Vitanovačka Banja.
3. Kopaoničko-jastrebačka - Jošanička, Lukovska, Ribarska, Prolom, Kuršumlijska Banja and Lopatnički kiseljak.
4. Novopazarsko-pribojska - Novopazarska, Pribojska and Visočka Banja.
5. Južnomoravska - Niška, Vranjska, Sijarinska, Tularska and Bujanovačka Banja.
6. Karpato-balkanska or istočnosrbijanska - Zvonačka, Jošanička, Sokobanja, Gamzigradska and Brestovačka Banja.
7. Kolubarsko-podrinjska or zapadnosrbijanska - Koviljača, Badanja, Radalj, Radovašnica and Obrenovačko kupatilo.
8. Vojvođanska - has three landscape units: Slankamen and Vrdnik (Srem), Junaković, Kanjiža, Prigrevica and Novosadsko jedno kupatilo (Bačka), and Rusanda and Torda (Banat).
9. Kosovsko-metohijska - Klokot, Pećka Banja.

Otherwise, German spa culture is an accepted tradition that they have taken over from the Romans. During the Roman Empire, bathing was used by soldiers returning from battle as a form of hydrotherapy. The word "spa" itself is a Latin acronym meaning "health by water" or "sanus per aquam". Mineral springs were especially soothing medicine at the time. Today, Germany has one of the most comprehensive spa cultures in Europe, with reliable spa management, supported by the German federal health system. The German equivalent for a spa is a "healing bath" or Kurort which means "a place for healing" (Dodds & Butler, 2019). Any city in Germany may qualify and be given the prefix "Bad" (or bathing) on behalf of the city (e.g. Bad Soden). Eligible cities have met the most stringent air and water quality standards and have been able to put in place the necessary medical staff and infrastructure to satisfy customers (How to Germany, 2020).

## 2. METHODOLOGY AND DATA

A thorough literature review was performed, and two research questions are as follows:

- RQ 1:** Do all analyzed countries have a harmonized legal framework governing geographical indications of the conservation of natural resources and quality services of spas?
- RQ 2:** Do property solutions of spas give different results in given circumstances? When it comes to the ownership of spas in Serbia, the spa activity should be organized so that the spas have a secure shareholder (owner), regardless of whether it is the state or a conscientious private owner, and in addition to wellness tourism in the narrower sense, the very important spa tourism should be preserved.

## 3. RESEARCH RESULTS

### 3.1. Assessment of the Situation in Spas in Serbia and Identification of Problems

In terms of the number of occurrences of thermomineral waters and their diversity, Serbia is, in proportion to its surface, the richest in the Balkans and Europe, and probably in the world according to some analyses. That is why it is popularly called "spa land". Spa tourism in Serbia has a long and very rich tradition. In the territory of Serbia, traces of the oldest bathroom found in Vicka Banja (Toplički kiseljak) dating from the Neolithic period, which means that it is over 4000 years old.

Material traces of culture and well-known written sources speak of the Roman cult of healing waters. When they conquered the area of the Balkans, they learned about the remarkable healing properties of the area and, in addition to the springs, built villas, baths and associated facilities for treatment, rest and enjoyment. There are material traces from the Roman era in Nis, Vrnjacka, Gamzigrad, Josanicka, Sijarinska, Vranjska, Zvonačka, Sokobanja and others, and on some sources built the first Roman baths, spas, which are considered to be the forerunners of spas in this region.

The arrival of the Turks in the Balkans increased the use of the potential of medicinal springs while improving the infrastructure by constructing Turkish baths, the so-called hamams. Some Turkish baths have remained functional to this day, as is the case with the Amans in Brestovacka and Novopazarska Banja.

With the acquisition of independence of Serbia, spas occupy a significant place in health care, so many diseases are treated in spa centers. Guests from foreign countries, mostly from Austria

and Hungary, are beginning to visit Serbian spas. Healing and visiting the spas from independence until the end of World War II were a privilege of the wealthier social classes.

The interest of the ruling Karadjordjevic dynasty in spas further increased the influx of the then-elite into spa spas. Until the end of World War II, for the majority of the population of the then Kingdom of Yugoslavia, spas were elite and inaccessible places, while basic health care was at a very low level.

After the Second World War, there was an accelerated modernization of spas from PIO funds, with research and the opening of new spas and tourist complexes, spas becoming an important segment of the health system and rehabilitation services for an increasing number of patients were borne by the state.

At the beginning of the 90s of the 20th century, investments in spas declined, the number of visitors gradually decreased, and several spa resorts were closed, which, due to the decline in investments in healthcare, declined and slowly collapsed (Momčilović, 2019). Then the neoliberal ownership transformation of state and social capital accelerated, when the first serious advocates of the privatization of spas appeared, favoring privatization as the only possible solution for the recovery of failed Serbian spas, completely ignoring the health functions of spas, the tradition of spas. of spa tourism in Serbia and subordinating all logic of profit.

### **3.2. World Experiences: Possible Property and Organizational Solutions**

To determine the best solutions for performing the activities of spas, according to the solutions in the countries of the European Union, the research was conducted in the selected countries, described below in this paper. Considering the world experience in the conduct and privatization of spas enables us to reliably answer some questions, which are related to possible property and organizational solutions for spas in our country.

An analysis of world experience shows why certain property and organizational solutions function, where they function, or what preconditions need to be fulfilled for certain solutions to be acceptable. Therefore, the analysis of world experiences should not be a mere enumeration of where it exists but should answer the question of why something works or does not work somewhere. Based on this knowledge, a conclusion can be drawn about the applicability of a particular solution in our conditions.

Consideration of world experiences enables the application of certain world solutions in our country not only to be a mechanical mapping of those solutions but to be the application of certain knowledge that others have already acquired, applied and come to the expected good results.

Two basic elements should be taken into account when considering the international experience in the field of spa economy, i.e. applied property and organizational solutions. On the one hand, the specifics of spa services should be taken into account, and on the other hand, the choice of countries whose experiences in this area will be considered. Therefore, property and organizational solutions in these activities are inevitably specific

Consideration of general property and organizational solutions that are applied in the economy as a whole, or non-specific activities, can be misleading. Property and organizational solutions

applied in fully competitive industries, which have given good results in them, can lead to very poor results if applied in the spa industry. Therefore, the following analysis is entirely focused on the activity of spas and their specificities.

The choice of countries when considering experiences is inevitably a matter of an arbitrary decision of the researcher. We are determined to consider, first of all, the experiences of OECD countries, the experiences of individual developing countries, as well as individual countries in transition. Experiences of OECD countries, i.e. developed countries are relevant to us because in those countries we find the most advanced property-organizational solutions, the most developed technical systems, as well as the most efficient performance of spas. Therefore, we should look at the solutions that exist in those countries.

Unlike the current level of development of our economy, as well as the existing institutional framework, that is, the business environment in our country, it has a lot in common with certain developing countries, which makes their experience relevant to us. Of course, not as a goal we should strive for, but as an opportunity to find acceptable interim solutions. Finally, the relevance of the experiences of countries in transition does not need much explanation. These countries shared a similar institutional (economic-systemic) framework with us, regardless of our favorite highlighted significant differences, and the transition to a market economy, regardless of the specifics of each country, inevitably has common characteristics and problems (Rajnović et al., 2020).

Research has been conducted on this topic in the countries mentioned in the text. In Poland and some other Eastern European countries, the process of privatization of spas has been identified as somewhat chaotic and inconsistent with legal provisions. It has been observed that in its applied form, the process has resulted in limiting the therapeutic potential of spas and reducing the state's ability to implement health policies in a legally prescribed form (Szromek et al., 2016). Also, it is undeniable that privatization potentially improved the standards of the spa infrastructure and increased the tourist potential of the spa. The authors believe that investments in the privatization process should be under acceptable conditions, as well as legal guarantees for access to spa services from public funds. Such guarantees should be in the competence of the creators of the privatization policy, to ensure the availability of services to the insured while prescribing the obligation to maintain a certain part of the potential of the institution for the needs of patients financed by the state health fund.

Considering the experiences of selected countries, it covers a key segment of the spa activity: alternative property solutions over fixed assets and the operator.

### 3.3. Basic Property Solutions

According to the observed ownership status of spas and the organization of activities, several characteristic property-organizational solutions and their variants can be distinguished. In doing so, it is necessary to specifically observe, that is, to consider the ownership of the basic assets (which these authors refer to goods of general interest), which are used by the business entity in the provision of spa services, on the one hand, and the ownership status of the operator (ownership of its capital). on the other hand. The ownership status of the operator means the status of the subject (legal entity) that, using the above-mentioned basic assets, is engaged in providing the activity in question (Fontanari & Kern, 2003). Based on these criteria, three basic solutions can be identified:

1. public ownership (over fixed assets) and publicly owned operator business;
2. public ownership (over fixed assets) and private-owned operator;
3. private property (over fixed assets) and a business of a private operator.

### **3.3.1. Public Property and Public Operator**

The specifics of spa services, above all, natural monopoly, public good and external effects, can lead to the risk of adverse economic effects (loss of well-being) if the provision of spa services is freely left to the private sector. The aforementioned danger of decreasing well-being has, in many countries, led to the establishment of exclusively public property in spa activities. This means that in addition to the public ownership of fixed assets, the public property of the operator, that is, the entity (legal entity) providing the spa services, is being established. There are several variants of this solution, depending on the character of the operator:

- State Administration,
- State-owned – company,
- Mixed enterprises,
- Results agreement,
- Management contract.

**State Administration:** The direct public (state) ownership of fixed assets and the operator providing spa services is the simplest solution of its kind. This means that the state, through its executive authorities, directly manages the provision of spa services, that is, carries out the activity itself. In this case, usually, local authorities form a special department of state (local) administration, which has all the powers to perform a given activity, usually with an administrative monopoly, ie. the exclusive right to perform a given activity. This kind of ownership or organizational solution is very often applied in Germany as well as in the Scandinavian countries. The basic good side of such a solution is undeniable efficiency in preventing the monopoly behavior of the operator. Namely, the state (or local community) is not, at least in principle, not interested in profit, that is, maximizing it. The disinterest of the owners of the natural monopoly, i. operator, for profit, is a pretty safe dam to monopoly behavior. Since profit maximization is not the primary motive of business, in this way, in principle, problems related to the existence (provision) of a public good, or the emergence of external effects, in particular, the problems of preventing negative external effects (Dodds & Butler, 2019) can be solved.

Furthermore, the convenience of such a solution is the fact that state or local authorities can effectively manage the development of spa activities in a particular area, which allows them to effectively implement different development policies - urban development policy, for example, or environmental policy, that is, the natural environment. Such a solution, at least in principle, provides a relatively high level of regularity in the supply of spa services, although increasingly frequent strikes by civil servants in EU countries do not support this view (OECD, 2014). However, certainly, the state cannot go bankrupt, so there is no danger of supply disruption due to the financial difficulties of the operators (Bukvić & Rajnović 2020).

The specific status of the operator (not the company, but the state administration), brings benefits in the field of taxation (does not pay certain types of taxes paid by all enterprises), as well as benefits in obtaining capital to finance development. On the one hand, this capital can be obtained from the state or local budget, so it is free of charge, or through the issuance of state or city bonds, which represent the securities with the lowest investment risk, so the interest rate paid by the beneficiary

is far lower than market interest rates for commercial loans. Given the lower cost of acquiring capital, the cost of spa services (at the same quality) in this property-organizational solution may be lower than the prices in alternative solutions. When considering this argument, it should be taken into account that such a property solution, in principle, increases the tax burden on citizens (spa users), so that it does not have a positive effect on their disposable income.

Finally, this proprietary solution opens the possibility for a very flexible pricing policy, especially in the area of their depreciation. Although this flexibility carries great dangers, it is sometimes evaluated as an advantage of the above property solution.

Public ownership of goods of general interest and the operator, that is, a property solution based on a very active role of the state, has many negative consequences. The most significant weakness of this property solution is the low economic efficiency of the spa activity, which results from the character of public property. Namely, in the conditions of owners' lack of interest in profit maximization, which is a basic feature of this form of property, no effective incentives for economic efficiency are generated, so the available resources are inefficiently used. In addition, the owner is not vitally interested in preserving the value of the fixed assets, which leads to inadequate maintenance of the assets.

The insufficient, low flexibility provided by this proprietary solution represents its next downside. This is reflected in the slow adaptation to changes in the volume and structure of demand for spa services. Part of that inflexibility is inherent in public ownership - nothing can change it. However, a significant part of this phenomenon is because, in such a property arrangement, the entity engaged in the provision of spa services has the status of a civil service. Civil service rules are precise and rigid, further reducing flexibility. From a financial point of view, such an arrangement means that all of the entity's revenues and expenditures have the status of budget revenues and expenditures. Approving any significant expenditure, even for supplies, requires a complex and time-consuming procedure. Changing revenues and expenditures compared to the projected ones requires a complex political procedure (rebalancing of the budget), which is by no means favorable in terms of flexibility. In addition, employees have the status of civil servants with rigid rules of engagement and behavior, which further diminishes the flexibility of the offer, i.e. the ability to adjust to changes. Finally, the status of civil servants usually makes it difficult to dismiss them, so as there is no such threat, the flexibility and efficiency of hiring labor are further diminished.

The great flexibility in conducting the pricing policy of spa services, which appears as a possibility in this type of property and organizational solution, poses considerable dangers. These dangers are related to the policy of depressing the price of services and the need to subsidize them. Specifically, the real costs incurred in providing the service must be covered. If this is not possible from the (depressed) price of the service, then public finances and/or budgetary funds are used for that. This puts additional burdens on central and local budgets, either leading to a budget imbalance or to an increase in the tax burden on business entities, which cannot be considered favorable. In addition, on the demand side, depressed spa prices unnecessarily increase their consumption, leading to economic inefficiencies in the consumption of those services (Cater, 2014).

Finally, regardless of the good and bad sides of this property solution, some institutional prerequisites for its implementation need to be pointed out. Namely, the implementation of this proprietary solution requires an extremely precise definition of all operational procedures, especially decision-making procedures, which, in a formal sense, entails a very large number of legal acts defining all the details. This requires the existence of a democratic, efficient, impartial and publicly

controlled state government at the local level, that is, a very long tradition of such state administration. And such a state administration cannot be created in a short time. In countries where these prerequisites are not met, the implementation of this solution will diminish its good and magnify its disadvantages, and the potential for abuse will be very high. Therefore, the possibility of applying this property-organizational solution in such conditions is also limited.

***State-owned – company:*** Recently, in cases of retention of state ownership, organizational solutions have been applied based on the establishment of legal entities, public companies or institutions, limited liability companies, and sometimes joint stock companies that are 100% state-owned. Thus, the company becomes the owner of fixed assets.

Such an enterprise, by its economic or legal status, is practically equalized with all other enterprises: it has its company account, it is managed by independent management, it has its legal acts, etc. Accounting is kept to the standards that apply to all other businesses, and there are no tax policy benefits. The management of a public company is, for its independent conduct of business policy, responsible to the owner who sets it: the state, or the local community. Employees of such companies do not have the status of civil servants but are equal in rights and obligations to employees of all other companies.

Consideration of the extent of this property solution shows that France has the longest and richest experience with this property solution in the field of spa activities. However, this solution has spread to all continents, is being implemented in many developing countries (especially in the former French colonies), and has even begun to be implemented in the United States, a country where private ownership unrestricted is believed, and public property is most commonly understood by the public administration as the titular (Osterwalder & Pigneur, 2010). A partial exception to this tendency is Germany, where it is still the belief dominates that in the case of spa activities, the state (local) administration is a more favorable property and organizational solution than the state-owned enterprise.

The main reason for the fairly widespread of these property solutions should be sought in the fact that the formation of enterprises instead of entities with the status of state administration brings significant advantages, especially in the field of a significant increase in business flexibility. Although some improvements have been noted in terms of performance efficiency (as a result of increased flexibility), the underlying problem related to the lack of effective incentives for economic efficiency has still not been addressed. Namely, in principle, the owner of such an enterprise is not interested in profit maximization. The same reason leads to the situation that service prices are formed so that it (wholly or largely) covers its operating costs but does not capture profits. Therefore, development costs (and sometimes partly operating costs) need to be covered externally, most often by subsidies from central or local budgets, which, as in the previous case, leads to increased budgetary burdens, resulting in either a budget deficit or increased tax which burden taxpayers. Therefore, a state-owned company cannot solve the problem of low economic efficiency in performing the activity, nor the problem of obtaining fresh capital to finance investments in this activity.

The literature most often does not highlight another problem that exists in the case of this proprietary or organizational solution, which is very significant for our conditions. It is about the fact that the state can manipulate the companies themselves as well as the users of their services through public companies, which happens when the conditions of business of public companies are not strictly defined, and when there is no clear economic calculation by which they operate. And such



situations, for their part, provide very convenient opportunities for irregularities in the operations of the public companies themselves (manipulation of prices, tariffs, billing, etc.), for which responsibility by the nature of things is borne (or should be borne by) the management of these companies. It is clear, therefore, that this proprietary and organizational solution, to be successful, requires a clear definition and segregation of the rights and obligations of the state, as the owner of the operator, and the enterprise itself, as an entity providing services, and which through the provision of those services, and later, upon payment, it appears in direct relation with the spa customers.

From the point of view of institutional prerequisites for implementation, the company is a far more convenient property or organizational solution than the state administration. Namely, the undisturbed implementation of this solution does not require a democratic, developed, perfectly impartial, and very efficient government with a long tradition. Therefore, this solution is suitable for application in countries that do not have such a long tradition of government.

The public company as a separate organizational form no longer exists in the law of the European Union (EU) for performing activities of public interest. These activities are carried out by equity companies, which have the same treatment as private companies. Developed EU countries are affected by the process of demonopolization, deregulation and regulation of certain commercial public services, which are increasingly performed by private companies. In the countries of Eastern and Central Europe, there is an ongoing process of redefining the place and role of the state, as the former main creator of economic activities, based on the functioning of market principles, to stimulate competition in the public sector of the economy. Along with this process, a new legal regulation is created that creates a legal framework for the inclusion of private capital in the public sector of the economy, through privately owned legal entities constituted in the form of capital companies.

By creating such legal assumptions, in countries in transition, the form of state regulation in the matter of performing the public sector of the economy is abandoned and competition is introduced, that is, the state withdraws from economic life by reducing state ownership, controlling the state in the economy and reducing the obligations of economic entities towards the state. In the Serbian economy, so far, the activities of spas have been performed by state-owned capital companies, and the good of the general interest used by the spa is also state-owned.

It is a common belief that the inclusion of "private" companies in the public sector of the economy, and even spa activity, in order to perform activities of general interest, raises the level of legal organization and management, and increases the economy and efficiency of business and profits. Along with such deregulation, the process of "privatization" of "state" enterprises performing activities of general interest should also take place in the public sector.

**Mixed enterprises:** The problems identified with the lack of fresh capital, ie the increased budgetary burden to which the previous ownership and organizational solution leads, can, to a certain extent, be solved by the partial introduction of private capital into state-owned enterprises. This is done by forming a mixed-ownership enterprise, whereby the state, or the local community, retains the controlling share capital of that enterprise. The formation of a mixed-ownership enterprise is usually done through recapitalization, which is related to the investment of private capital in this activity. Since private equity has a minority stake in the capital of an enterprise, and therefore in management, private investors face the risk of outvoting, which reduces the likelihood of its investment. Therefore, it is necessary to define precisely the incentives for private entrepreneurs to invest in such conditions, to enter into these mixed-ownership

companies. This is usually done by conferring special rights in the management of a joint venture which is above proportionate to their shareholding in that undertaking. Since private entrepreneurs expect profits from their investment, the state, or the local community, must abandon the policy of depressed prices for spa services, ie establish the full price of these services. This inevitably loses flexibility in pricing services.

Such a solution has been shown to lead to a reduction of the budgetary burden, especially for large urban reconstruction projects, that is, the reconstruction and expansion of spas systems. However, the dominance of public property in the ownership, that is, the capital of an enterprise, still creates problems associated with the formulation of effective incentives for the economic efficiency of such enterprises.

The necessary condition for the implementation of this solution is the credibility of the state or local authorities. Namely, such a solution is a kind of partnership, and it is successful only if there is mutual trust. If there is no credibility of the state or local authorities, the risk of investing in private equity is so high that reliable private investors will not invest, which means that this arrangement will not be feasible.

**Results agreement:** Taking into account all the observed problems of the functioning of state-owned enterprises, various mechanisms are being applied in the world to try to increase the efficiency of these enterprises. One such mechanism is the agreement on results. Namely, the state (local community), as the owner of the company, on the one hand, and its managers, or employees, on the other, conclude an agreement that defines precisely the expected results of the enterprise's operations, as well as the potential reward for meeting those results, or a penalty for default (**Law on Obligations of the SFRY, 1978**). In this way, all funds remain publicly owned, and all decisions are made in the public sector - only the responsibility of managers and employees of the company is precisely defined, which should be an incentive to increase economic efficiency. This establishes a substitute for private property in the incentive domain. Instead of maximizing profits as a basic incentive for economic efficiency, this is, to some extent, achieved through an agreement on results. This implicitly acknowledges the inherent inefficiencies of public property. This type of ownership and organization arrangement originated in France, a country with a long tradition in the operation of public utility companies, but has expanded into many developing countries, so it is elaborated and significantly refined in the Republic of (South) Korea.

Typically, in the case of spa activities, a specific physical indicator is formulated as the required (target) result, but a specific financial indicator of the business (profit rate or target average cost) can also be used. The remuneration usually consists of increased salaries of managers and employees: in the Republic of Korea, for example, this increase goes up to 35% of the basic salary. As a sanction for failure to meet the agreed result, the dismissal of managers or employees is often foreseen. The said solution is widespread in the Republic of Korea, India and Mexico (**International Spa Association, n.d.**), where it has led to some improvement in the efficiency of such enterprises. However, in African countries this solution has not proven to be good, ie. its implementation did not create adequate incentives for managers and employees of enterprises, as inadequate rewarding of employees (too little increase in basic salary in case of success) is the main reason for the failure of implementation of this arrangement.

The implementation of this solution does not require a developed institutional framework, that is, a long tradition of local state administration. However, the authorities must have some

credibility to be confident that they will pay the agreed reward, but also to enforce the penalty for not meeting the agreed results.

**Management contract:** Increasing the efficiency of performing a given activity can also be achieved by leaving the management of state-owned enterprises to private (natural or legal) persons. This practically introduces the private sector into a state-owned enterprise, though only in the management segment. The state-owned enterprise management agreement commits the new, private administration to achieving certain targeted, well-defined business results. In addition, the same contract obliges the state or local community, as the owner of the company, to provide the private administration with the freedom to act, and defines how the local authorities will reward the administration for fulfilling the contractual (target) results. It is common for contracts of this kind to be concluded for a period of three to five years ([Law on Obligations of the SFRY, 1978](#)). The basic idea behind the implementation of this property-organizational solution is to create incentives, in this case in the domain of management, for economic efficiency in conditions where there is no private ownership of the company performing the spa business.

This method of improving the efficiency of these companies also originated in France, where it is still particularly popular in some sectors of general interest today. In France, it is common for the expected results from private administration to be defined in physical indicators. These indicators, that is, their interpretation, are far less disputable than financial indicators, so this seems to be the reason for their implementation because it is much easier to monitor the implementation of the contract.

This method of improving the economic efficiency of spa companies is quite effective in developing countries. Such a solution, for example, was implemented in Botswana, where it produced very good results. At the beginning of the private administration of these companies, the managers were foreign persons, and today they are local citizens.

The success of this arrangement in developing countries can, in addition to creating incentives for economic efficiency, be interpreted by another factor - the transfer of know-how. Namely, in developing countries, there is a clear lack of knowledge in the field of spa management. Therefore, experienced professional managers from developed countries inevitably transfer this knowledge, which increases the economic efficiency of doing business in developing countries ([Ciurea & Filip, 2015](#)).

Successful implementation of this arrangement does not require a specially developed institutional framework or a developed local government. However, strong guarantees are needed regarding the implementation of the management contract. This presupposes the independence of the judicial authorities in the country, that is, the rule of law ("rule of law"). Failure to fulfill this condition, or an insufficiently strong guarantee in this regard, can be partially overcome by concluding an international agreement, the implementation of which would be monitored (supervised) by the judicial authorities of countries that do not have problems with the aforementioned type, or by relevant international bodies ([Rajnović, 2021](#)).

However, this type of solution cannot satisfactorily solve two fundamental problems: the economic inefficiency inherent in public ownership and the acquisition of fresh (private) capital needed to finance new investments in this area. As a result, different property-organizational solutions are increasingly being implemented, ie. those solutions based on the survival of public ownership of the technical facilities and the introduction of a private operator (enterprise) operating on those facilities.

### 3.3.2. *Public Property and Private Operator*

As noted, the considered methods of increasing the efficiency of state-owned companies have rather limited effects. This is why property and organizational arrangements that allow private legal entities to operate on fixed assets that remain state-owned are often accessed. The introduction of private companies in the spa activity creates conditions for increasing the economic efficiency of those activities and, possibly, for the inflow of fresh, private capital to finance investments. There are two basic solutions to this:

- assignment and
- concession.

**Assignment:** The first arrangement involves the leasing of goods of general interest to a private company for exploitation. This means that fixed assets remain publicly owned but are contracted to a private company for a fixed period, usually for a period of five to ten years, although the transfer may take longer.

It is common for such a solution to be established by competing with several private companies to obtain the right to use a given good, which also gives them the right to perform a given activity in a particular area. The contract of concession, based on the results of the competition, regulates the fee that a private company pays for the right to use fixed assets in public ownership and for the right (as a rule, exclusively) to provide spa services, and very often the prices that company can charge to users of the service.

Fee for the use of spa fixed assets is a very important category of this arrangement. It must be greater than or equal to the depreciation of the facilities, since only in this way can the substance be maintained, that is, to ensure the preservation of the facilities in the condition in which it is put to use. In other words, an assignment fee less than the depreciation amount is in no case economically justified. However, even in cases where this compensation is higher than depreciation, many problems can cause the substance to be reduced, that is, lead to the physical degradation of fixed assets. First, a private company has no incentive to maintain fixed assets effectively, since it is not the owner, so actual depreciation may be higher than nominal. Secondly, the concession fee represents the public revenue of the local authorities and flows into the budget, so that it is very possible, according to the principle of budgetary unity, to be used for public consumption and not for financing investments in the restoration of fixed assets that have been transferred to a private enterprise. Finally, irrespective of the amount of remuneration or depreciation, a private company has no opportunity, nor an incentive, to invest in the development of the facilities it uses, thus losing the convenience of bringing fresh, private capital to spa activities.

A property-organizational solution based on the assignment of basic assets has been reported in European countries. In France and Spain, for example, such arrangements have been in use for decades. This property arrangement in spa activity is often applied in developing countries.

This solution does not offer great benefits in cases where significant investments in the technical system are required to meet the overall (increased) demand for services. Simply, this arrangement does not solve the problem of obtaining fresh, private capital to invest in this business.

As for the institutional prerequisites for implementing this solution, they are quite demanding. First, an efficient and impartial (local) state administration is needed, which will organize

and conduct a competition for the assignment of the spa. The whole process should be transparent to gain credibility. Second, the assignment agreement is a very complex document, which should regulate a large number of details regarding the rights and obligations of a private company. From the point of view of executing contracts of this type, a private good guarantee is desirable.

**Concession:** Another arrangement that allows private sector entry into the area of spa activities is a concession. Concession implies a true relationship between the state (grantor) and the legal or natural person (concessionaire) in which the state grants to a legal or natural person the right to use natural resources or goods in general use, or to perform public service for the exercise of public interests for a specified fee ([Law on Public-Private Partnerships and Concessions of the Republic of Serbia, 2011](#)).

The concessionaire's obligations to the state are to invest additional capital and improve fixed assets, which, upon the expiry of the concession contract, are returned to the state, as well as to pay the concession fee to the state. For the duration of the concession, the concessionaire, ie. a private company, operates and appropriates profits, paying off the made investment. Therefore, the main difference from the previous arrangement is the obligation of the concessionaire to invest in fixed assets (plants). In addition, it is common for the duration of the concession agreement to be longer than the assignment agreement, so the term on which concessions are granted often goes from 30 years to 50 years.

Concession arrangements can significantly improve the economic efficiency of performing spa activities and provide an influx of fresh capital to finance investments. However, there may be some rather significant problems with their implementation. Since, after the expiry of the arrangement, fixed assets do not remain in the ownership of private legal entities, but are transferred to public ownership, private legal entities do not have the incentive to maintain them well, that is, they do not have the incentive to invest in fixed assets to the right extent. For this reason, the physical degradation of fixed assets that remain in the public domain often results. Although the contract can provide mechanisms to counteract this tendency (conditionality of the contract extension by the physical condition of the property), the application of this contract due to asymmetric information (a private company is better aware of the state of the plant than the state or local authorities) is quite difficult, which represents the most significant weakness of the concession arrangements.

The institutional prerequisites for applying for the concession are similar to those necessary for the assignment.

### **3.3.3. Private property and private operator**

The perceived problem of inadequate maintenance of goods of general interest is most effectively addressed by the introduction of private property over fixed assets. This means that a private enterprise is the owner of all goods of general interest. This ownership arrangement comes in several basic forms:

- private monopoly,
- franchising,
- contracting of work,
- competition from private companies.

**Private monopoly:** Today, in economic theory and the practical implementation of economic policy, it is almost uniquely assumed that it has been empirically proven that private property leads to the creation of very effective incentives for economic efficiency - private enterprises are considered to be inherently more efficient than public ones in any industry. It is the private owner's interest to maximize profits, which, at a given price and quality of spa services, can only be achieved by minimizing costs. This, in turn, enables the cost-effective operation of private companies. In addition, the private owner is keenly interested in preserving the value of his business assets, to continue to be able to (maximize) profits in the future. Finally, it is the private owner's interest to invest capital in further development of the business, to maximize its profit, which also solves the problem of attracting fresh capital to finance the development of spa activities (Rajnović et al., 2020).

In the area of the spa business, private monopoly is very common in the US, then in the UK, as well as in other Anglo-Saxon countries, Japan, and countries on the American continent.

The existence of a private monopoly, however, opens the room for monopoly behavior, with all its negative consequences. Therefore, there is a need for strict economic regulation of private natural monopoly in spa activities.

From an institutional point of view, private monopoly is a rather demanding solution. It is necessary to establish effective economic regulation of spa activities, which means the establishment of specific regulatory institutions, and this requires a rather long period. In the short term, the lack of appropriate regulatory institutions can be addressed by establishing a so-called contractual regulation, though it is merely a transitional solution to the establishment of genuine, institutional regulation of private monopolies.

**Franchise:** The introduction of a franchise is one very specific way of preventing the monopoly behavior of a private monopolist, that is, avoiding the negative consequences of such behavior. This solution is based on the franchise assignment, ie. the exclusive right (monopoly) of performing activities in a particular area, which is accompanied by the right to charge the service from final users. The competition of many interested private companies to obtain a franchise and the obligation to pay a franchise fee, leads, under certain conditions, to the elimination of monopoly behavior. In this case, the duration of the franchise is limited in time, and the mutual rights and obligations of the franchisor and the state that gives the franchise are defined by contract, based on the results of the competition.

The institutional conditions for applying for a franchise are similar to those required for the application of an assignment or concession, although they are not as strict as there is no separation of ownership (fixed assets and operators). However, franchise agreements can be very complex, since it is necessary to set out in detail and accurately the obligations of the private company (franchisor) and to prevent ways of avoiding those obligations on its part.

**Contracting of work:** In the case of contracting of work, a private company generates its revenue based on remittances from local authorities with which it has concluded an activity contract, which is different from the franchise.

In all cases of engaging private companies, there is a problem that arises and the possibility of bankruptcy. In this case, the problem of performing a given activity opens. This problem could

be solved by the acquisition of fixed assets by the state, so that local authorities can, at least to some extent, provide the service provided until a permanent solution is found.

The institutional prerequisites for implementing this solution are similar to those of the franchise.

**Private enterprise competition:** Finally, free competition from private companies can be established. Effective competition from private companies in these activities enables efficient allocation of resources, ie achieving economic efficiency.

### 3.4. Privatization of Spas in Serbia, Opportunities and Expectations

Spa management policy has indeed led to many spas in Serbia being neglected today, lacking adequate infrastructure, facilities, or interest in using the services of such spas. In many spas, the state has invested heavily in renovations so that the service in these spas is at a very decent level, and sometimes even excellent. There are more and more spas in Serbia, which increasingly include wellness and spa programs. Vrnjacka Banja and Sokobanja, which are the most visited spas in Serbia for years, are in step with the European spas.

The privately owned spas in Hungary and Slovenia are more focused on wellness and spa facilities than health resorts.

But, in addition to the constant public perception that spas are declining, in the last five years spa tourism has been growing year by year.

Thus, compared to 2014, in 2018, there were 690,355 overnight stays. Many spas that operated with losses until a few years ago are now operating positively, partly thanks to the state incentive in the form of vouchers for domestic tourism, but also to the data showing the growth of tourism in Serbia (Momčilović, 2019). When calculated in proportion to the total number of tourists on spa tourism, it comes to 17.5% and this number has been stable for the past five years, while the number of nights exceeds 27% of the total number of nights spent in 2018 (Momčilović, 2019). Therefore, despite the lack of investment, spa tourism does not develop more slowly than tourism in Serbia but even grows faster in some years.

**Table 1.** Comparative overview of the number of visitors and number of overnight stays in all spa resorts

Year	2014	2015	2016	2017	2018
Total number of visitors	386.345	427.456	477.102	519.151	596.884
Total number of overnight	1.852.036	1.854.582	2.085.044	2.227.945	2.542.391

Source: Momčilović, 2019

Although there is an increase in visitor numbers and overnight stays, it cannot be said that the spas are currently in good condition. Spas, especially smaller spas, have been investing in improving tourism and health services for many years. However, the solution is not privatization and public-private partnerships, which use public resources to enrich individuals by converting spas solely and exclusively to elite spas.

In our public, it is often pointed out that spas are loss-makers and that only under private control and management can they profitably operate. The health aspect of the spa is hardly mentioned

anywhere, and it is sometimes mentioned by the way that the future owner should still preserve this function. The privatization of the spa would significantly reduce the number of patients who could afford treatment at the spa while sending patients at state cost to the spa would pour money from already impoverished public health into the pockets of private spa owners. It also raises the question of what will happen to the sources themselves, which cannot be privatized by law, but through privatization, but by privatization the buyer will acquire the right to use and manage the good of general interest, and in particular, what about the sources located in the hotel or private land, when considering the intentions of decision makers and investors, whose goal is to transform spas into modern spa centers, following the example of other countries, primarily Slovenia and Hungary. It would indeed be good to restore the spa's pre-war "splendor" and the elite character they had, which was later disrupted as they became available to everyone.

The specificities of spa activities are conditioned by specific organizational solutions when involving private capital in the performance of these activities. For this reason, solutions that are completely foreign to competing economic activities that are freely performed on the market, are applied.

Privatization of the spa is indeed expected to increase investments in more modern tourist equipment, reconstruction of facilities and environment, purchase of state-of-the-art medical and other equipment, investment in tourist facilities of the spa, and thus the purchase of labor and services from other economic entities, which could contribute to the economic development of the spa environment.

With such a state of affairs, and considering possible solutions, the question arises as to which property and organizational solution for the privatization of the spa is most favorable for Serbia? Goods of general interest should certainly not be privately owned.

The privatization process of spas could be driven by models such as public-private partnerships, classic sales, greenfield investments, concessions with adequate state control, and a system for protecting the natural and cultural heritage of the spa.

#### **4. CONCLUSION**

Consideration of the ownership status and organization of companies operating in the spa in the world has shown that there are many different property and organizational solutions. Publicly owned proprietary solutions imply lower efficiency of communal services activities, low opportunities for financing investments in the development of these activities, higher budget burden, and also provide opportunities for the emergence of some more adverse side effects. Therefore, more and more private property is being introduced in these activities, leading to the emergence of different combinations of the two forms of ownership, combining the good sides of both ownership solutions, and seeking to eliminate their perceived weaknesses. In some countries, the government has retained a significant share of ownership in key enterprises, directly or indirectly, and acts as a stable shareholder. Some countries allow different voting rights for different classes of shares, and in some countries, there is formal employee representation (say, union representatives on supervisory boards in Germany).

For the last few decades, for these reasons, there has been a significant increase in the participation of private ownership in the performing activities of spas in the world, or in the increase in



the importance of private capital in that activity. This process is universal so that beside developed countries, it has also affected developing countries and countries in transition.

Since there are also significant differences in the economic nature of the various property forms, it is not possible to define a universally optimal proprietary and organizational solution. The evaluation of the given solutions based on the introduction of private property, ie private capital in spas, in Serbia, must be done at the level of individual regions and individual spas, but in any case organize spas so that they have a safe shareholder (owner), regardless of whether it is the state or a conscientious private owner.

When defining the optimal solutions for each spa in Serbia, or area, it is necessary to take into account some other factors, such as the size of the spa, the specifics of the services it provides for users, then the size and characteristics of the demand for spa services, the need for new investments, etc.

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