

**2020**

 Republic of Serbia

GOVERNMENT OF THE REPUBLIC OF SERBIA

 ANTI-CORRUPTION COUNCIL

 72 No.: official

 Year of 2020

 B e l g r a d e

2020

 **Report on the Disposal of the Facilities of Special Hospitals for Rehabilitation owned by the Pension and Disability Insurance Fund of the Republic of Serbia and State or Public Property**

**Table of Contents**

[**1.** **INTRODUCTION** 2](#_Toc67394662)

[**2.** **HISTORICAL ASPECT AND LEGAL BASIS OF ACQUISITION OF RPDIF PROPERTY RIGHTS AT THE FACILITIES OF SPECIAL REHABILITATION HOSPITALS** 3](#_Toc67394663)

[**3.** **DISPOSAL OF FACILITIES OF SPECIAL HOSPITALS FOR REHABILITATION OWNED BY THE REPUBLIC FUND FOR PENSION AND DISABILITY INSURANCE AND STATE OR PUBLIC OWNERSHIP** 16](#_Toc67394664)

[**4.** **SALE OF THE SPA COMPLEX “ZUBOR” IN KURSUMLIJSKA BANJA** 24](#_Toc67394665)

[**5.** **SALE OF LAND (WITHOUT THE EXISTING FACILITY) OF VRANJSKA BANJA SPECIAL HOSPITAL** 35](#_Toc67394666)

[**6.** **SALE OF REAL ESTATE - COMPLEX OF FACILITIES AND LAND OF THE SPECIAL HOSPITAL FOR REHABILITATION VRANJSKA BANJA - STATE-OWNED HOSPITAL** 38](#_Toc67394667)

[**7.** **EXPERIENCES OF THE COUNCIL IN WORKING WITH THE REPUBLIC PENSION AND DISABILITY INSURANCE** **FUND** 41](#_Toc67394668)

[**8.** **CONCLUSION** 44](#_Toc67394669)

[**9.** **RECOMMENDATIONS** 52](#_Toc67394670)

# **INTRODUCTION**

Since 2009, the Anti-Corruption Council has been continuously monitoring the activities of the Republic Pension and Disability Insurance Fund (hereinafter: RPDIF) in terms of actions taken when it comes to the entire assets of the RPDIF, and especially when it comes to managing and disposing of special rehabilitation hospitals owned by the Pension and Disability Insurance fund of the Republic of Serbia.

 The Council was informed in a timely manner that the Republic Pension and Disability Insurance Fund initiated court proceedings to determine the ownership rights to the facilities of special hospitals for rehabilitation, which were built with the Fund’s funds, i.e. funds from the contributions of insured persons that the Fund disposed of in the 1970s after settling the obligations it had towards the pension beneficiaries.

At the same time, the Council was also informed about the RPDIF’s efforts that preceded court disputes to resolve property issues with the state peacefully with regard to ownership of special hospital facilities built with the Fund’s funds, and that the Privatization Agency of the Republic of Serbia initiated privatization of special hospitals for rehabilitation, after which the RPDIF initiated court proceedings to determine the ownership rights to facilities built with RPDIF funds.

The Council was submitted a Conclusion of the RPDIF Steering Committee dated June 6, 2006 on initiating an initiative to amend the Law on Pension and Disability Insurance relating to the status, activities and property of the RPDIF, as well as amendments to other laws relating to the Fund’s property, as well as information on the Fund’s property and activities undertaken to protect it[[1]](#footnote-2). The Council monitored the course of court proceedings as well as their outcome, and after the finality of judgments and established case law by the Supreme Court of Cassation, which established the Fund’s ownership of majority of special rehabilitation hospitals, continued to monitor the Fund’s activities, both regarding RPDIF Steering Committee’s implementation of decisions and regarding its business policy related to the management of the Fund’s assets, its putting into operation, its disposal, management bodies, as well as the acquisition of income from assets.

The Council further monitored the activities of the Fund regarding the use and disposal of facilities of special hospitals for rehabilitation on which the Fund acquired the right of ownership based on final court decisions, enactment and amendment of general acts on disposal of the Fund’s assets and final sale of special rehabilitation hospitals owned by the Pension and Disability Insurance Fund of the Republic of Serbia.

# **HISTORICAL ASPECT AND LEGAL BASIS OF ACQUISITION OF RPDIF PROPERTY RIGHTS AT THE FACILITIES OF SPECIAL REHABILITATION HOSPITALS**

In the second half of the twentieth century, great attention was paid to the prevention of disability and rehabilitation of workers in the Republic of Serbia, thus many activities by the state on the one hand, and by the Republic Pension and Disability Insurance Fund and the Republic Health Insurance Fund on the other were to create the best possible conditions in terms of reducing disability on the one hand and higher labor productivity on the other. To that end, measures and activities had been taken in terms of creating better material conditions so that disability prevention and rehabilitation would be more successful and give positive results.

In the periods when the economy was expanding and the employment of workers was increased, when the contributions for pension, disability and health insurance were duly paid, when the demographic picture of the Republic of Serbia was different than today, the legal predecessor of the Republic Pension and Disability Insurance Fund, after settling the obligations regarding the payment of pensions to pension beneficiaries, directed the remaining funds from the paid contributions, among other things, to the creation of a material basis for the prevention of disability and rehabilitation of workers.

Decisions of the governing bodies of the legal predecessors of the Republic Pension and Disability Insurance Fund adopted programs for the development and improvement of disability protection, prevention and rehabilitation, as well as programs for creating material bases for disability prevention and rehabilitation of workers, which had the character of five-year plans.

As stated above, the Fund, especially in the seventies of the last century, had surpluses, when the ratio of workers and retirees was on average 3-1, or in some periods 4-1, when the funds that remained, after settling the obligations provided by law, invested in the construction of various facilities, their adaptation and reconstruction, procurement of various equipment, medical and non-medical, as well as undertaking other activities in order to achieve disability protection, prevention and rehabilitation.

In addition to the fact that the Fund built or purchased real estate to meet its basic needs, such as office buildings, apartments to address the housing needs of retirees, etc., the surplus it had was purposely given to various users to achieve the goals set by the programs.

In addition to the fact that the legal predecessors of the Fund, social security institutes and communal institutes, invested significant funds in disability prevention and rehabilitation, creation of a greater material basis for this type of prevention, which included the development of a comprehensive plan and program, with using natural resources, came after the adoption of the Law on Pension and Disability Insurance and a more active role of the Fund in solving the problem of disability in the Republic of Serbia.

The legal basis for financing by the legal predecessor of the Republic Pension and Disability Insurance Fund, the material basis for the prevention of disability and rehabilitation, was the Law on Pension and Disability Insurance of 1972,[[2]](#footnote-3) which stipulates that community funds cover expenses for:[[3]](#footnote-4)

1. payment of pensions, monetary compensations for body impairement;
2. rehabilitation and employment of disabled workers and children with disabilities;
3. improvement of disability protection and prevention of disability in accordance with the achievements of modern science;
4. contributions for health care of pensioners and other contributions;
5. construction of apartments for pensioners;
6. assisting the recovery of pensioners;
7. scientific research work for the purpose of improving pension and disability insurance;
8. performing the activities of implementing pension and disability insurance;
9. other obligations of the Community.

The same law prescribed that insured persons provide funds for pension and disability insurance, manage these funds, as well as that these funds cover expenses, among other things, for the improvement of disability protection and prevention of disability in accordance with the achievements of modern science, on the basis of which the funds of the Fund for construction and equipping of rehabilitation institutes, i.e. special hospitals for rehabilitation were allocated.

 The focus of the policy of allocating funds from paid contributions for the implementation of the policy of disability prevention and rehabilitation in accordance with the achievements of modern science by the Fund was to create conditions for the development of full disability protection whose main purpose was successful reduction of the number of disabled workers and their return to the production process, whereby the disability pension was envisaged only as a last resort to protect disabled workers - when all medical rehabilitation measures were exhausted.

The implementation of the policy of disability prevention and rehabilitation of workers and the creation of conditions for full disability protection meant, in the specified period, greater investment in capacity to prevent and delay the onset of disability, then equipping top health institutions that played a major role in rehabilitation and disability prevention and finally the construction and equipping of centers for prevention, treatment and rehabilitation.[[4]](#footnote-5) Such a policy of the legal predecessor of the Republic Pension and Disability Insurance Fund was an expression of the reorientation of the pension and disability insurance system, from only administrative affairs and resolving the issue of benefits and pensions to an active role in comprehensively resolving the problem of disability.

In addition, the Statute of the Republic Pension and Disability Insurance Fund[[5]](#footnote-6) stipulates that the Fund provides conditions for providing disability protection and preventing the onset of disability in accordance with the achievements of modern science, especially by financing the construction and equipping of specialized institutions for disability prevention and rehabilitation.

The subsequent Laws on Pension and Disability Insurance which followed, continued to provide conditions for the prevention of disability and the creation of a material basis for the prevention of disability and rehabilitation of workers, as was the case with the Law on Pension and Disability Insurance of 1983[[6]](#footnote-7), which in the same way as in the previous Law, established the obligation of the Fund to cover the expenses for the prevention of disability and rehabilitation from its own funds.[[7]](#footnote-8)

In addition, the 1992 Law on Pension and Disability Insurance [[8]](#footnote-9) provided that pension and disability insurance funds, in accordance with the Fund's Statute, could be used for the social standard of pension beneficiaries, measures and actions that directly contributed to preventing and reducing disability and for scientific research.[[9]](#footnote-10)

In accordance with the aforementioned Laws on Pension and Disability Insurance and the Statute of the Fund, the Fund’s management bodies adopted the Program for creating a material basis for prevention of disability of workers, based on which the funds were allocated for construction of rehabilitation centers and special hospitals for rehabilitation, which in the period from 1969 to 2000 are shown in the following table by years in old dinars, i.e. without valorization of invested funds by the Republic Pension Insurance Fund.

Valorization of the Fund’s invested funds in the construction of certain facilities of special hospitals for rehabilitation was performed during court proceedings on the basis of preserved relevant documentation, as well as on the basis of financial expertise, only for facilities that were the subject of court proceedings.



With the adoption of the Law on Assets Owned by the Republic of Serbia in 1995,[[10]](#footnote-11) social property was abolished as the dominant form of property in the previous period, and state property was constituted, whose titular was the Republic of Serbia. The mentioned law did not touch the property of the Fund, which was logical, because the funds of the Fund did not represent state property, but the funds that were allocated from the insured on the basis of contributions. Thus, the provision of the mentioned Law defined that the funds were owned by the Republic of Serbia, i.e. in state ownership:[[11]](#footnote-12)

1. natural resources (land, pumps, watercourses, mineral resources, etc.) and goods in general use (public roads, parks, squares, etc.), as well as goods of general interest which are determined by law to be in state ownership;
2. funds acquired in accordance with the law, i.e. which acquire:
* state bodies and organizations;
* bodies and organizations of territorial autonomy and local self-government;
* public services (public companies, institutions) and other organizations founded by the Republic, i.e. territorial units, **except for funds used by organizations of obligatory social insurance** and funds owned by another organization according to a special law;
1. things built, i.e. acquired with state-owned funds;
2. funds, i.e. revenues realized on the basis of state capital investments in companies and other organizations;
3. funds which, in accordance with the law, are determined to be without owners;
4. other funds that are in accordance with the law in state ownership.

Therefore, the aforementioned provision of the Law on Assets Owned by the Republic of Serbia does not include in the state ownership regime the funds of the Republic Pension and Disability Insurance Fund as a compulsory social insurance organization, bearing in mind the fact that these were funds that flowed into RPDIF, which were used for the payment of pensions, as well as for other purposes provided by the Law on Pension and Disability Insurance (including the financing of construction and equipment of facilities, for the prevention of disability and rehabilitation of workers).

However, despite the imperative provision of the mentioned Law, which clearly distinguishes the right of ownership of the Fund from state property, the adoption of a legal text was missed, on the basis of which the entire property of the Fund would be clearly defined, with its exhaustive enumeration, as well as its title, except when it came to the ownership transformation of capital, where all Laws on Privatization starting from 1990, i.e. the Law on Transformation of Social Ownership into Other Forms of Ownership, the Law on Ownership Transformation and finally the Law on Privatization, clearly and unambiguously demarcated state capital from pension and disability insurance, when the shares and stakes in the capital of the subjects of privatization are in question, on which the Fund has the title of ownership rights.

 On the other hand, when it comes to real estate, the Republic of Serbia automatically started to be registered as the owner of real estate and buildings that were not built with state funds, ignoring the fact that such real estate was built with contributions from the Fund, and that the registration of the Republic of Serbia on such real estate was illegal and contrary to the provisions of the Law on Assets Owned by the Republic of Serbia.

As the funds that the Fund had at its disposal in the previous period were not, nor could they be state-owned funds, considering that they were not provided from the budget, neither the special hospitals, i.e. their facilities, could be state-owned, since 2005, the RPDIF has launched an initiative to harmonize positive legal regulations with the factual situation in terms of recognizing property rights on real estate built with RPDIF funds, and co-ownership of real estate built with RPDIF funds and funds from the Republic Health Insurance Fund, Republic budget, respectively.

In addition to the Law on Assets Owned by the Republic of Serbia, the legal basis for such an RPDIF initiative was the provisions of the The Law on Foundations of Property Law Relations relating to the acquisition of property rights on real estate.

However, in practice, both for subjective reasons related to the state’s attempts to privatize Special Rehabilitation Hospitals, whose facilities were not built with state funds, but with the Fund’s funds, and objective ones resulting from decades of existence and understanding of social property, the state ignored the efforts for the Fund, as an organization of obligatory social insurance, to become the owner of the right of ownership on real estates built with funds from contributions, i.e. which were built purposefully and managed by the Fund in its own name and on behalf of the insured.

In the period from 2005 to 2007, the RPDIF Steering Committee made a series of decisions aimed at protecting the Fund’s property rights on real estate, starting with the proposed Law on the Fund’s Property, decisions on initiating court proceedings to determine RPDIF’s property rights to real estate, as well as decisions that determine the long-term business policy of the Fund when it comes to its assets, whose basic purpose was its preservation and putting into operation in order to generate income. Contrary to the efforts of the Republic Pension and Disability Insurance Fund to resolve the issue of property rights in Special Rehabilitation Hospitals in a peaceful manner, the Government of the Republic of Serbia issued a Conclusion in 2007[[12]](#footnote-13), on the basis of which it agreed to initiate privatization of certain special rehabilitation hospitals, that is, parts of special hospitals or the sale of certain real estate or parts of real estate whose capacities were not necessary for the health service of the Republic of Serbia, as follows:

* Special Hospital for Thyroid Diseases and Metabolic Diseases Zlatibor, Cajetina;
* Special Hospital for Rehabilitation “Zlatar”, Nova Varos;
* Special Hospital for Rehabilitation Vrdnik;
* Special Hospital for Rehabilitation “Zubor”, Kursumlijska banja;
* Part of the Institute for Rehabilitation Belgrade – “Vrmac”, Prcanj in the Republic of Montenegro;
* Special Hospital for Non-specific Lung Diseases Sokobanja;
* Special Hospital for Rehabilitation of Banja Koviljaca;
* Special Hospital for Rehabilitation Ribarska banja, Krusevac,
* Institute for Treatment and Rehabilitation Niska banja;
* Special Hospital for Rehabilitation “Gejzir”, Sijerinska banja, Medvedja;
* Special Rehabilitation Hospital Bujanovac;
* Special Rehabilitation Hospital Vranjska banja, Vranje.

After that, the same Conclusion was submitted to the Ministry of Health, the Ministry of Economy and Regional Development, the Ministry of Finance and the Privatization Agency for the purpose of realization, i.e. determination of the privatization manager, determination of the market price and eventually for the sale.

By adopting the mentioned Conclusion of the Government of the Republic of Serbia, the Fund was forced to protect its property in accordance with the Decisions of the Steering Committee, and in that sense two types of activities were undertaken: parallel classification and systematization of data on the basis of the Program for creating a material basis for the prevention of disability and rehabilitation of workers (which was adopted by the governing body of the legal predecessor of the Fund, in the early 70s of the last century) financed exclusively by the then RPDIF, and on the other hand activities to create a legal basis for ownership of the Fund on real estate, such as the proposal for the adoption of the Law on RPDIF Property, i.e. the draft Law on Amendments to the Law on Pension and Disability Insurance with a special chapter - property of RPDIF, as well as initiating court proceedings to protect the Fund’s property in order to determine property rights on real estate that the Fund built with its own funds.

In parallel with the launched initiatives and decisions made, a Working Group of the Republic Pension and Disability Insurance Fund was formed, which, based on its own data and data received from special hospitals, made **“Analysis of the conditions and possibilities of work and development of residential treatment facilities and natural health resorts for prevention, treatment and rehabilitation”[[13]](#footnote-14)** with a short history of prevention, treatment and rehabilitation, material and financial operations of special hospitals, their accommodation, income, expenses, number of employees, unfinished facilities and facilities that are not in function, with proposals for possible solutions to the legal status of special hospitals and estimated market real estate values ​​of special hospitals.

In addition to the proposed RPDIF Property Law and the Law on Amendments to the Law on Pension and Disability Insurance, the RPDIF Steering Commettee passed a Decision amending the RPDIF Statute [[14]](#footnote-15), which was supplemented by a provision on organizing medical rehabilitation of pension beneficiaries by RPDIF, which, however, did not receive approval by the Government of the Republic of Serbia.

In addition to the fact that the Conclusion of the Government of the Republic of Serbia started the privatization of special rehabilitation hospitals, which were built with the Fund’s funds, the reasons that forced the Fund to initiate litigations are in the fact that all the above funds, which were spent on the construction of the mentioned real estate, were strictly earmarked funds, and that the goal that the Fund wanted to achieve with their construction was the prevention of disability and rehabilitation of workers, which was lost or disappeared through privatization.

When making the decision to initiate court proceedings by the RPDIF Steering Committee, the following facts were taken into account in particular:

* that the Law on Assets Owned by the Republic of Serbia, which was passed in 1995 and by which *de facto* social property was transferred to state ownership, i.e. which constituted state ownership in favor of the Republic of Serbia, as the holder of that right, therefore, the Fund’s assets are excluded from the state ownership regime, which in fact means that they are not owned by the Republic of Serbia;
* that the funds used to build the facilities of special hospitals for rehabilitation were not provided from the budget of the Republic of Serbia, but the funds allocated from the contributions for the construction of rehabilitation centers, based on the Law on Pension and Disability Insurance, Statute of the Republic Pension and Disability Insurance Fund and the Program on creating a material basis for the prevention of disability and rehabilitation of workers, adopted by the Assembly of the legal predecessor of the Fund;
* that the Republic of Serbia automatically, on the basis of the mentioned Law on Assets Owned by the RS, entered its right in the public books, without taking into account the sources of funds used to build the above facilities;
* that according to the provisions of the Law on Foundations of Property Law Relations, the right of ownership is acquired, among other things, on the basis of the construction of a new thing, and belongs to the one who built a new thing with their material and work;
* that the legal predecessor of the Republic Pension and Disability Insurance Fund, by building the facilities of special hospitals, i.e. by investing in their construction, disposed of contributions as funds of the insured in its own name, and for the account of the insured;
* that the funds for the construction of special hospitals for rehabilitation were strictly earmarked, whose goal was the prevention of disability and rehabilitation, and thus, while such a function and purpose of such funds was realized, the Fund had no reason to initiate proceedings to preserve and protect its property;
* that by the privatization, i.e. by selling the aforementioned real estate to third parties the goal and purpose that managed the Fund to build the facilities in question were lost, and consequently the Fund was forced to initiate the aforementioned proceedings in order to protect them;
* that the funds from the contributions used for the construction of special hospitals for rehabilitation were not funds donated to the state by the Fund, nor were the funds on which the Fund waived property rights, but were funds that served exclusively the purpose of disability prevention and rehabilitation , and that the purpose of such funds could not be changed, which would be done by privatization, i.e. sale of real estate that was purposely built;
* that the Republic of Serbia automatically, on the basis of the mentioned Law on Assets owned by the RS, entered its right in the public books, without taking into account the sources of funds used to build the above facilities;
* that the Republic Pension and Disability Insurance Fund not only has built the disputed real estate of special hospitals but in the previous period paid in a certain percentage the costs for their current and investment maintenance, which *de facto* means that all these years it has had adequate property relationship, given that the payment of current and investment maintenance belongs to the so-called property-related powers.

Having in mind all the above reasons, and in particular the fact that these were earmarked funds of the Fund that were used for the construction of special rehabilitation hospitals whose purpose and purpose of investment were lost by their privatization, as well as the fact that by the allocated funds of the legal predecessor of the Fund new things, i.e. facilities were built, which in accordance with the provisions of the Law on Foundations of Property Law Relations was the legal basis for acquiring property rights in court, the Steering Committee of the Republic Fund for Pension and Disability Insurance has decided to initiate court disputes before the courts of general jurisdiction property rights of the Fund on real estate of Special Rehabilitation Hospitals that are fully or partially built with contribution funds for the purpose of disability prevention and rehabilitation in accordance with the Law on Pension and Disability Insurance, RPDIF Statute and the Program for Creating a Material Basis for Prevention and Rehabilitation, which was adopted by the Assembly of the Legal Predecessor of the Republic Pension and Disability Insurance Fund.

In accordance with the above-mentioned decision of the Steering Committee, RPDIF initiated 27 court proceedings against the Republic of Serbia to determine the right of ownership or co-ownership of the facilities of special hospitals for rehabilitation. Disputes were initiated for the facilities of special hospitals for which the Fund had indisputable evidence of investments in their construction, i.e. evidence that referred to the decisions of the Fund’s management bodies on the allocation of funds for construction, payments, financial expertise and the like. The lawsuits did not cover all special hospitals, as some lacked evidence relevant to the court and some proceedings were not initiated due to the refusal to issue a power of attorney by the RPDIF management, after the evidence was obtained (Risan Special Hospital) .

Following the initiation of court proceedings to determine the ownership rights to the facilities of special hospitals, the Government of the Republic of Serbia, in 2008, made a Conclusion [[15]](#footnote-16) that gave the right to the Fund's efforts to determine the ownership rights to real estate built with its funds, given that the Government Conclusion recommended The Ministry of Economy and Regional Development, as well as the Privatization Agency of the Republic of Serbia, to settle the issue of property rights on real estate built with the Republic Pension and Disability Insurance Fund’s funds before initiating the privatization procedure of rehabilitation institutes, i.e. special hospitals for rehabilitation in spas.

However, as the above-mentioned Conclusion of the Government of the Republic of Serbia had not been implemented, given that the Privatization Agency continued with the privatization of special hospitals, the Fund continued with court proceedings and in the following period it managed to protect its property on the basis of final temporary measures adopted by the acting courts, which prohibited the Republic of Serbia and the Privatization Agency from selling and disposing of special hospitals for rehabilitation until the final conclusion of court proceedings to determine the ownership rights of the RPDIF.

In addition to the defendant Republic of Serbia, part of the lawsuits included the Republic Health Insurance Fund as the second defendant, which also participated in the construction of certain special hospitals as an organization of compulsory social insurance, whose funds for the construction of special hospitals were not provided in the budget, but from health insurance contributions.

Extending lawsuits in some cases to the Republic Health Insurance Fund, mainly in the case of special hospitals in the Autonomous Province of Vojvodina, was a necessary step given the fact that although the property of the Republic Health Insurance Fund, according to the Law on Funds Owned by the Republic Serbia and later the Law on Public Property, was also exempted from the regime of state or public property, the political decision of the RHIF management was not to seek determination of its ownership right to facilities built with funds from the Republic Health Insurance Fund.

Extending the lawsuits, in addition to the Republic of Serbia, to the Republic Health Insurance Fund as a second defendant, the Republic Pension and Disability Insurance Fund requested the issuance of judgments determining the right of co-ownership of special hospital facilities in appropriate shares in the ownership of special hospital facilities, in proportion to the invested funds, which resulted in the adoption of such final judgments after the end of most court disputes.

In the following period until 2010, the Fund resolved in its first instance in its favor six procedures in which the right of ownership was determined, namely on the facilities: 1) Special Hospital “Zubor”, Kursumlijska banja, 2) Special Hospital Novi Pazar, 3) Special Hospital Ivanjica, 4) Special Hospital Banja Koviljaca, and 5) Special Hospital Jošanička Banja.

In addition to the above six first judgments, which established the right of ownership of the Fund, the judgment of the Municipal Court in Raska, which determined the ownership of RPDIF on the facilities of the Special Hospital Josanicka Banja, was confirmed by the second instance court, the then District Court in Kraljevo, which also established a new case law, which confirmed the merits of the RPDIF lawsuits.

However, in 2011, some courts, deciding on appeals of the Republic of Serbia filed against judgments recognizing the Fund’s right to property, under pressure from the executive power, reversed all first-instance judgments in favor of the Fund. The Ministry of Justice of the Republic of Serbia was informed about the observed abuses and irregularities of the courts, which were not guided by law with their modifying judgments to the detriment of the Fund, but by a cliché imposed outside the court, which aimed to thwart the Fund's lawsuits, and against all the above-mentioned judgments of the Courts of Appeal, which were modified to the detriment of the Fund, the first instance verdict were declared by the Fund audits to the Supreme Court of Cassation.[[16]](#footnote-17)

Based on the stated audits by the RPDIF, the Supreme Court of Cassation issued decisions [[17]](#footnote-18) revoking, that is amending the disputed judgments of the Courts of Appeal, while at the same time making a binding legal position that the Republic Pension and Disability Insurance Fund had the ownership right to immovables of Special hospitals bearing in mind, among other things, the fact that the Fund built such facilities with its own funds, as well as that they were strictly earmarked funds, determined by the Fund for the construction of special hospitals in order to implement disability prevention and rehabilitation programs. After the completion of the evidentiary proceedings, the courts before which the court proceedings were conducted, in most cases resolved the disputes in favor of the Fund as a prosecutor, as follows:

1. Basic Court in Uzice, court unit Cajetina, P. no. 802/10 proceedings for determining the property rights on the real estate of the Special Hospital **“Cigota”**, Zlatibor, investment of the Fund in the construction of **EUR** **31,008,983**, proceedings legally concluded in favor of the prosecutor RPDIF;
2. Basic Court in Novi Pazar, P. no. 2728/11 proceedings for determining the property rights on the real estate of the Special Hospital **“Novopazarska banja”**, Novi Pazar, investment of the Fund in the construction of **EUR 19,269,063**, proceedings legally concluded in favor of RPDIF;
3. Basic Court in Pozega, Judicial Unit Ivanjica, P. no. 2959/10 proceedings for determining the property rights on the real estate of the Special Hospital **“Ivanjica”** in Ivanjica, investment of the Fund in the construction of **EUR 25,484,246**, proceedings legally concluded in favor of RPDIF;
4. Basic Court in Prijepolje, Court Unit Nova Varos, P. no. 1419/11 proceedings for determining the property rights on the real estate of the Special Hospital **“Zlatar”** Nova Varos, investment of the Fund in the construction of **EUR 38,394,052**, proceedings legally concluded in favor of RPDIF;
5. Basic Court in Kraljevo Judicial Unit Vrnjačka Banja, P. no. 3011/10 proceedings for determining the property rights on real estate of the Special Hospital **“Merkur”**, Vrnjacka banja, investment of the Fund in the construction of **EUR 17,309,422**, proceedings legally concluded in favor of RPDIF;
6. Municipal Court in Kursumlija, P. no. 183/08, proceedings for determining the property rights on the real estate of the Special Hospital **“Zubor”**, Kursumlijska Banja, investment of the Fund in the construction of **EUR 18,078,146**, proceedings legally concluded in favor of RPDIF;
7. Basic Court in Zajecar, Sokobanja Court Unit, P. no. 9316/10 procedure for determining the property rights on the real estate of the Special Hospital **“Sokobanja”**, Sokobanja, investment of the Fund in the construction of **EUR 25,376,327**, proceedings legally concluded in favor of RPDIF;
8. Basic Court in Zajecar, Sokobanja Court Unit, P. no. 241/10 procedure for determining the ownership rights on the real estate of the Special Hospital **“Ozren”**, Sokobanja, investment of the Fund in the construction of **EUR 1,352,656**, proceedings legally concluded in favor of RPDIF;
9. Higher Court in Zrenjanin, P. no. 17/12 procedure for determining the property rights on the real estate of the Special Hospital **“Rusanda”**, Melenci, investment of the Fund in the construction of **EUR 11,347,356**, the proceedings legally concludedin favor of RPDIF;
10. Basic Court in Loznica, P. No. 1576/11 procedure for determining the property rights on the real estate of the Special Hospital **“Banja Koviljaca”** from Banja Koviljaca, investment of the Fund in the construction of **EUR 10,717,700**, proceedings legally concluded in favor of RPDIF;
11. Basic Court in Zajecar P. no. 1618/12 procedure for determining property rights on the real estate of the Special Hospital **“Gamzigradska Banja”**, Zajecar, investment of the Fund in the construction of **EUR 22,111,100**, proceedings legally concluded in favor of RPDIF;
12. Basic Court in Kraljevo, Judicial Unit Raska, P. no. 794/12 procedure for determining the property rights on the real estate of the Special Hospital **“Josanicka Banja”**, Raska, investment of the Fund in the construction of **EUR 8,081,889**, proceedings legally concluded in favor of RPDIF;
13. Basic Court in Kraljevo, P. no. 1183/10 procedure for determining property rights on the real estate of the Special Hospital **“Agens”**, Mataruska banja, investment of the Fund in the construction of **EUR 7,843,374.24**, proceedings legally concluded in favor of RPDIF;
14. Higher Court in Leskovac, P. no. 355/15 for determining the property rights on the real estate of the Special Hospital **“Gejzer”**, Sijerinska banja, investment of the Fund in the construction of **EUR 1,502,896**, the proceedings legally concluded in favor of RPDIF;
15. Basic Court in Mladenovac, P.br.4776 / 10 procedure for determining property rights on real estate of the Special Hospital **“Selters”**, Mladenovac, the value of the dispute is **EUR 6,134,786**, proceedings legally concluded in favor of the RPDIF;
16. Higher Court in Subotica, P. no. 8/13 for determining the property rights on the real estate of the Special Hospital **“Banja Kanjiza”**, Kanjiza, the Fund’s investment in the construction of **EUR 4,155,232**, proceedings legally concluded in favor of the RPDIF;
17. Basic Court in Arandjelovac, P. no. 6706/10 procedure for determining property rights on the real estate of the Special Hospital **“Bukovicka Banja”** Arandjelovac, investment of the Fund in the construction of **EUR 6,095,074**, proceedings legally concluded in favor of RPDIF;
18. Higher Court in Sremska Mitrovica, P. no. 10/13 procedure for determining the property rights on the real estate of the Special Hospital **“Dr Borivoje Gnjatic”**, Stari Slankamen, investment of the Fund in the construction of **EUR 4,756,281**, proceedings legally concluded in favor of RPDIF.

The RPDIF Steering Committee, which continued to make decisions regarding the protection and preservation of the Fund’s assets, in 2011 decided to establish a Working Group for the Restructuring of the RPDIF Steering Commitee, whose task was to take measures and activities regarding the protection of all assets of the Fund and propose to the Steering Commitee to make decisions regarding the control and putting into operation of assets in order to gain profit and income.

The RPDIF Steering Commitee Working Group for Restructuring, which in addition to experts from the ranks of employees, consisted of representatives of all associations that managed RPDIF, i.e. insured persons, beneficiaries and employers, i.e. representatives of the Federation of Independent Trade Unions of Serbia, The Trade Union of the Association of Pensioners of Serbia “Nezavisnost” and the Union of Employers of Serbia, submitted a proposal of the Baseline for the restructuring of RPDIF, which was adopted by the RPDIF Steering Commitee at its session in May 2012.[[18]](#footnote-19)

The starting points for the restructuring of the Republic Pension and Disability Insurance Fund included:

1. Measures to improve the financing structure of pension and disability insurance and
2. Analysis and proposals of short-term measures, which lead to direct reduction of the current deficit of the Republic Pension and Disability Insurance Fund, with special reference to previous investments of the Fund, potential assets of the Fund with legal solutions of such measures.

 The adoption of the Baseline for Restructuring clearly expressed the will of the RPDIF Steering Commitee and the insured, beneficiaries and employers, respectively, who jointly managed the Fund, to change the existing financial status of the Fund, and through its restructuring, by applying short-term and long-term measures, the Fund would start generating its revenues, which would at the same time relieve the budget of the Republic of Serbia.

By making such a decision by the RPDIF Steering Commitee, the long-term business policy of the RPDIF has been established when it comes to all assets of the Fund, with special reference to special hospitals for rehabilitation, with the main goal to prevent their sale, to continue court proceedings until their final completion, and that after the completion of court proceedings, the Fund, as the owner of special hospitals, put their facilities into operation in order to generate income.

At the same time, the adopted Baseline for the Restructuring of RPDIF proposed an amendment to the Law on Pension and Disability Insurance, which would be supplemented by a special chapter defining the entire assets of the Fund and asset management bodies, establishment of a legal entity whose founder would be RPDIF, which would perform all activities in the name and on behalf of the Fund in terms of management and disposal of the Fund’s assets.

Also, it is planned that for the facilities of special hospitals, which require larger financial investments, enter into a partnership with strategic partners by taking measures to finance the construction, extension, adaptation, reconstruction and refurbishment of existing rehabilitation hospitals and spas, in a way that the Fund would retain its ownership of existing facilities and land that would represent a non-monetary share of the Fund’s capital while the strategic partner would provide cash capital, which would ensure joint management of special hospitals with a strategic partner on the one hand, and the acquisition of RPDIF income in proportion to the invested share in the capital on the other hand.

At the same time, with the Baseline for Restructuring, the Steering Commitee adopted not only measures related to the Fund’s assets and disposal, but also measures related to comprehensive relief of the Fund’s liabilities regarding its solvency, i.e. measures leading to improved financing of pension and disability insurance and its relief, such as:

* transfer of obligations for financing the health care of pensioners to the budget of the Republic of Serbia;
* transfer of the obligation to cash compensation for assistance and care of other person, body impairement and compensation from disability insurance to the social protection system;
* non-inclusion of state obligations in financing pensions under special regulations and the difference to the lowest pension in the transfer of the Republic;
* exclusion from grants (transfers of the Ministry of Finance) of missing funds for financing the payment of the rights of insured farmers and military insured persons and express them as a transfer of the relevant Ministry (Ministry of Labor and Social Policy).

The adopted Baseline for Restructuring stipulates that when the RPDIF obligations listed above are returned to the jurisdiction of the country to which they originally belong, grants to the Fund would be halved, i.e. the share of transfers from the Republic budget in financing the Fund’s expenditures, and the Fund’s revenues of assets, with the amendment of the Law on Budget System, the relief of the Fund would be even greater and more comprehensive.

In addition, the activity of the Fund was especially pronounced during the adoption of the Law on Public Property[[19]](#footnote-20), considering that the proposer, i.e. the Government of the Republic of Serbia, with the proposal of the cited law, unjustifiably foresaw that RPDIF assets and things are state-owned, trying to support them, contrary to the then valid Law on Assets Owned by the Republic of Serbia and final judgments, i.e. established case law and the binding position of the Supreme Court of Cassation of the Republic of Serbia, according to which the Republic Pension and Disability Insurance Fund had the ownership right over real estate built with its own funds, i.e. from the contributions of the insured persons.

Reacting to the proposed attempt to nationalize the assets of the Republic Pension and Disability Insurance Fund, the Fund’s Steering Committee Working Group proposed to the Fund’s Steering Committee a reasoned opinion with a proposed amendment according to which the state cannot own the Fund’s real estate, and the Fund’s assests must be excluded frm the state ownership. The RPDIF Steering Committee accepted the proposal of the Working Group for Restructuring and sent a reasoned amendment to the Draft Law on Public Property to the National Assembly of the Republic of Serbia, which was adopted, and the text of the Law was amended by a provision stipulating that **assets of compulsory social insurance organizations are not considered to be the subject of public property**.[[20]](#footnote-21)

With the entry into force of the Law on Public Property, all doubts regarding the ownership of assets owned by the Fund, as well as other organizations of obligatory social insurance, were formally removed, and the Fund acquired a legal basis to record all its real estate in public books as private property.

# **DISPOSAL OF FACILITIES OF SPECIAL HOSPITALS FOR REHABILITATION OWNED BY THE REPUBLIC FUND FOR PENSION AND DISABILITY INSURANCE AND STATE OR PUBLIC OWNERSHIP**

The Rulebook on Real Estate Disposal of the Republic Pension and Disability Insurance Fund adopted by the RPDIF Steering Committee in 2014[[21]](#footnote-22) stipulates that this Rulebook determines the types of real estate of the Republic Pension and Disability Insurance Fund, as well as the conditions, manner and procedure of real estate disposal in order to preserve and increase their value, as well as to acquire and increase the income of the Fund.

The Rulebook stipulates that the Fund’s real estate may be alienated in the procedure of public bidding or collection of written bids, and exceptionally by direct agreement, as well as that the initial selling price of the alienated real estate is determined on the basis of an act of the tax or other competent authority in the amount of the market value expressed in euros, while the payment will be made in dinars at the middle exchange rate of the National Bank of Serbia on the day of payment.

In the meantime, regardless of the fact that RPDIF is based on established case law and final court decisions, which determine the right of ownership of the Fund on the facilities of most special hospitals for rehabilitation, as well as positive legal regulations according to which RPDIF assets are excluded from the regime of public ownership, i.e. state ownership, and that consequently the state cannot sell and privatize non-state property, the Privatization Agency, in order to continue the preparations for the privatization process in September 2013, addressed special hospitals for rehabilitation with a request to submit data on the basis of which to make property ID cards of each hospital.

Also, special hospitals were specifically required to conduct a complete inventory of assets, as well as to assess the value of all assets according to the fair method, in accordance with IAS and the International Standard on Financial Reporting.

The Conclusion of the Government of the Republic of Serbia from March 2014[[22]](#footnote-23) suspended the privatization procedure of special hospitals initiated by the Privatization Agency, with the conclusion that the Conclusion of the Government of the Republic of Serbia from November 1, 2013 did not apply to all health care institutions, as well as to the institutions on the occasion of which the Republic Pension and Disability Insurance Fund initiated court proceedings to determine the ownership rights to the facilities used by these special hospitals. By the same Conclusion, the Working Group was formed to agree and propose a model of possible privatization of special hospitals (recapitalization, strategic partnership, partial sale, sale, etc.), with the task of the Working Group, among other things, referring to special hospital facilities owned or in the process of determining property rights in favor of the Republic Pension and Disability Insurance Fund, which included two representatives of the Ministry of Health, the Ministry of Labor, Employment and Social Policy, the Ministry of Finance, the Ministry of Economy, the Republic Pension and Disability Insurance Fund and the Republic Health Insurance Fund and three representatives of the Association of Specialized Rehabilitation Hospitals.

At the same time, the National Assembly of the Republic of Serbia adopted the Law amending the Law on Pension and Disability Insurance[[23]](#footnote-24), according to which the management of the Republic Pension and Disability Insurance Fund was taken over by the state by completely changing its management structure, changing the composition of the Steering Committee in which the majority began to be made up of representatives elected by the state.

Thus, from the tripartite management of the Republic Pension and Disability Insurance Fund by insured persons, beneficiaries and employers, the management of the Fund has been reduced to a total of 7 members of the Steering Committee, four of whom are elected on the proposal of the Minister in charge of pension and disability insurance and the Minister in charge of finance, while the organizations and associations that have managed the Fund for decades and from whose funds the Fund was financed, i.e. the representatives of beneficiaries, insured persons and employers, have been reduced to one member each.[[24]](#footnote-25)

By enacting the aforementioned law, the management and decision-making on the Fund’s privately owned property rights, interests and all assets was entrusted to the state, which, through its representatives on the Steering Committee, had a majority in managing the Fund and mades decisions that were in direct conflict with its established long-term business policy, which was outlined by a series of earlier decisions of the Steering Committee and efforts to prevent the privatization and sale of special rehabilitation hospitals.

At the same time, the mentioned Law on Amendments to the Law on Pension and Disability Insurance abolished the Supervisory Board of the Republic Pension and Disability Insurance Fund, which supervised the work of the Steering Committee of the Republic Pension and Disability Insurance Fund.

After the adoption of the aforementioned Law on Amendments to the Law on Pension and Disability Insurance, the Privatization Agency continued its activities regarding the privatization of special hospitals for rehabilitation, so on November 10, 2015, the Agency sent a new letter to the Ministry of Health, warning that there were difficulties in carrying out the project task by special hospitals, which related to the preparation and implementation of the privatization procedure of 10 health care institutions - special hospitals.

 At the meeting of the Working Group that followed on November 27, 2015, the representative of the Ministry of Health pointed out that the Ministry would take action to enable the collection of requested data, and that special hospitals would be sent a letter stating that their obligation was to act in accordance with the request of the Privatization Agency. By that time, most of the litigation to determine the property rights of the special hospital facilities had already been finalized in favor of the RPDIF, and the special rehabilitation hospitals, in terms of obtaining the data for the preparation of privatization requested by the Privatization Agency, found themselves in a dilemma to whom to submit the data, given that the RPDIF, and not the state, had already become the owner of the facilities of special hospitals, and that the Fund had already started registering its right to private property in the Real Estate Cadastre.

After collecting data, the Report on special hospitals for rehabilitation, institutes for treatment and rehabilitation and natural spas and resorts in the portfolio of the Ministry of Economy was submitted to the Government of RS, which in 2016 passed a Conclusion[[25]](#footnote-26) accepting the Report of the Ministry of Economy and instructed the State Attorney’s Office to take the necessary actions, in cooperation with the Republic Pension and Disability Insurance Fund, the Republic Health Insurance Fund and the competent authorities of the privatization entities - special hospitals for rehabilitation, within 60 days in order to complete the remaining ongoing court proceedings, i.e. which were not completed. The court proceedings initiated by RPDIF to determine the ownership rights to the facilities of special hospitals for rehabilitation, which **had not yet been finalized** until the submission of data and preparation of the Report of the Ministry of Economy, were:

1. Procedure for determining the ownership rights of RPDIF on the real estate of the Special Hospital **“Radon”**, Niska Banja, Fund’s investment in the construction in the amount of **30,384,844** truction;
2. Procedure for determining the ownership rights of RPDIF on the real estate of the Special Hospital **“Ribarska Banja”**, Krusevac, Fund’s investment in the construction in the amount of **18,394,458**;
3. Procedure for determining the ownership rights of RPDIF on the real estate of the Special Hospital **“Vranjska Banja”**, Vranje, Fund’s investment in the construction in the amount of **5,125,343**;
4. Procedure for determining the ownership rights of RPDIF on the real estate of the Special Hospital **“Bujanovacka Banja”**, Bujanovac, Fund’s investment in the construction in the amount of **1,796,029**;
5. Procedure for determining the ownership rights of RPDIF on the real estate of the Special Hospital **“Dr Miroslav Zotovic”**, Belgrade, Fund’s investment in the construction in the amount of **13,310,741** ction;
6. Procedure for determining the ownership rights of RPDIF on the real estate of the Special Hospital **“Banja Junakovic”**, Apatin, Fund’s investment in the construction in the amount of **EUR 5,520,341**;
7. Procedure for determining the ownership rights of RPDIF on the real estate of the Special Hospital **“Termal”** Vrdnik, Fund’s investment in the construction in the amount of **EUR 3,492,152**;
8. Procedure for determining the ownership rights on the remaining real estate of the Special Hospital **“Banja Koviljaca”**, after the finality of the partial judgment which determined the ownership rights of the Fund on the facilities 1, 2, 3 of the Special Hospital.

 In accordance with the aforementioned Conclusion of the Government of the Republic of Serbia, several meetings were held, and finally on December 26, 2016, there was a meeting held in the Palace of Serbia in which representatives of the State Attorney’s Office, the Ministry of Health, the Ministry of Economy, the Republic Fund for Pension and Disability Insurance, the Republic Health Insurance Fund, and special hospitals for rehabilitation were present.

The Republic Pension and Disability Insurance Fund was represented by Director Dragana Kalinovic with a part of the administrative and professional service, however, as at the previous ones, no one from the administrative and professional service of the Fund who dealt with spa resorts was present at this meeting, nor any of the attorneys representing the Fund in court proceedings, as well as persons who, as members of the Working Group of the Restructuring Fund, proposed the Baseline for Restructuring the RPDIF, adopted by the RPDIF Steering Committee in 2012, according to which the Fund’s administrative and professional service was instructed to continue with all court proceedings for determining the right of ownership in special hospitals for rehabilitation until the final conclusion of court proceedings, as well as the long-term business policy of the Fund when it comes to its assets, its consolidation and putting into function to generate income, and not sale or any kind of privatization.

Contrary to the decisions of the RPDIF Steering Committee, during the consideration of certain court proceedings that were still ongoing, at the mentioned meeting of the Working Group, the director of RPDIF, Dragana Kalinović, did not represent the interests of the Fund she represented but the interests of the Privatization Agency with the aim of concluding the court proceedings as soon as possible, by settling or withdrawing lawsuits by the Fund as a prosecutor with the aim of privatizing special hospitals as soon as possible.

As can be concluded from the stenographic notes[[26]](#footnote-27) made at the meeting of the Working Group formed by the Government of the Republic of Serbia, which was held in the Palace of the Federation on December 26, 2016, the director of the Fund represented positions contrary to the interests of the Fund and the business policy adopted by the Fund’s Steering Committee when it comes to real estate of RPDIF and its assets, as well as protection of property rights of the Republic Pension and Disability Insurance Fund, as follows:

* that the Fund does not insist on ownership when it comes to special hospitals for rehabilitation (p.4);
* that in the case of a claim for determination of ownership rights to the remaining facilities of Banja Koviljaca the claim be withdrawn by the Fund as a plaintiff, as well as that it be presented as an adaptation, provided that it must be closed on paper (p. 6-7);
* that in the case of Vranjska Banja the Fund will agree to ownership with the state 50% -50%, although the present jurist of the Fund, Nebojsa Vulic, pointed out that there was no legal basis for such an attitude, given that based on written evidence it was indisputable that the Fund had invested 100% of the funds in the construction of Vranjska Banja, about which there was indisputable evidence, as well as the finding and opinion of a court financial expert;
* arbitrary and legally unfounded proposal for co-ownership of the Fund with the state in Vranjska Banja in the proportion of 50% -50%, and not 100% in favor of the Fund accepted by Dragana Kalinovic, was proposed by Meho Mahmutovic, State Secretary of the Ministry of Health, who, as the President of the RPDIF Steering Committee, at the time of initiating and conducting court proceedings by the Fund, was fully aware of the fact that the Fund invested all funds in the construction of Vranjska Banja, i.e. funds in the amount of 100%;
* that in the case of Bujanovacka Banja, Dragana Kalinović accepted Meho Mahmutović’s proposal from the Ministry of Health that the state become the owner of 100% of the Bujanovacka Banja Special Hospital (p. 24), regardless of the fact and written evidence that RPDIF financed its construction;
* that in the case of Ribarska Banja, an agreement will be reached regarding the settlement, during which the director of the Fund, Dragana Kaliović, clearly stated that although the Fund owned most special hospitals, it had no intention to receive income from them, and that by none of its act had the Fund undertaken activities that would include charging for the lease of special hospitals owned by the Fund, or acquiring other revenues of the Fund, and that in relation to previous final judgments only sought a way for the Fund’s assets to be transferred to the management of the state because only the state can manage the Fund’s assets and Fund did not have the capacity to manage the property as an owner (p. 27-28).

The RPDIF Steering Committee (in a changed composition since 2014, with a majority of state representatives) was informed about the activities of the RPDIF directors undertaken following the Government’s conclusion and meetings held, as well as subsequent activities to implement the Serbian Government’s Conclusion with the opinion that the proposed way to end court proceedings was legally valid, sufficiently argued and explained, and in this way the ultimate goal of the Conclusion would be achieved, which was the transfer of ownership of non-subject facilities of special hospitals from RPDIF to the Republic of Serbia, so that in the next steps this property could be disposed of undisturbedly.

The Steering Committee accepted the proposed information, contrary to its previous decisions and long-term activities to put the Fund’s assets into operation and generate income, i.e. at the moment when the court disputes by which the Fund acquired the right of ownership over most special hospital facilities had already become final. In addition, contrary to business interests and established business policy, the management of RPDIF, by its conscious inaction, did not take any action in order to obtain income from real estate acquired into ownership by the Fund, as well as any action or activity to reduce expenses that the Fund had in terms of acquired assets.

Thus, for special hospitals for rehabilitation, whose facilities are owned or co-owned by RPDIF, such as “Banja Koviljaca”, “Vrnjacka Banja”, “Sijerinska Banja”, “Sokobanja”, “Gamzigradska Banja”, “Ivanjica”, “Mataruska Banja”, “Cigota-Zlatibor”, “Banja Kanjiza”, “Selters-Mladenovac”, “Stari Slankamen”, ”Rusanda”, “Melenci” the Fund duly paid from 2014 for the services of referring pension beneficiaries to free recovery with funds for the social standard of pensioners, and that as the owner of those real estates it did not charge the rent of its facilities from those same special hospitals nor did it realize any other income from the real estates owned by the Fund.

Thus, for 2019, the Fund provided **464 million dinars** for the social standard of pensioners, for 2018 it provided **418 million dinars**, for 2017 it provided **399 million dinars**, for 2016 it provided **369 million dinars**, with 98% of this amount being the funds for sending pension beneficiaries to special hospitals that were mostly owned by the Fund. When this is added to the fact that this has been done since 2014, when the Fund became the holder of property or co-ownership rights in the facilities of these special hospital, the amount paid by the Fund to the Special Hospitals owned by it exceeds the amount of **over 2 billion dinars**, while on the other hand there has been no income from the Fund as the owner of the real estate to where the pensioners were referred.

When, in addition to the fact that the Fund does not charge rent and does not generate other income from facilities that are in its ownership, but on the contrary pays for services to special hospitals in the amount of over 2 billion dinars, the fact is added that the Fund for all special hospitals in its property has paid tax on the transfer of absolute rights to its property, as well as it has paid pay property tax constantly since 2014, it is not possible to talk about the good business practices of the Fund in the previous period, but about the deliberate inaction of the Fund’s management which knowingly caused damage to the Republic Pension Disability Insurance Fund.

Thus, the Republic Fund for Pension and Disability Insurance, in the period from 2014 to 2018, had the following expenses when it comes to taxes, tax on the transfer of absolute rights to which the Fund is obliged by the decisions of the Tax Administration:

* Special Hospital “Novi Pazar” RSD 8,755,034.18 (2014)
* Special Hospital “Cigota” RSD 56,482,254.55 (2015)
* Special Hospital “Zlatar” RSD 13,407,712.20 (2015)
* Special Hospital “Ivanjica” RSD 19,213,779.18 (2015)
* Special Hospital “Kursumlijska Banja” RSD 6,199,951.44 (2017)
* Special Hospital “Sokobanja” RSD 42,827,646.17 (2017)

 **A total of RSD 146,886,377.72**

In the case of the payment of the tax on the transfer of absolute rights, to which RPDIF was illegally obliged in the previous period by the Tax Administrations, it should be noted that since 2014, as the business policy of RPDIF in relation to the privatization of special hospitals has changed, the Fund’s attitude towards its assets, i.e. its property has also changed, and the Fund’s management knowingly began to fail to apply appropriate legal remedies against illegal decisions of the tax authorities, thus causing multimillion material damage to the Fund.

Thus, the decision of the Tax Administration of Novi Pazar from 2014 unfoundedly determined the tax on the transfer of absolute rights to the taxpayer RPDIF in the amount of 8,755,054.18 dinars, with the explanation that the Fund became the owner of “Novopazarska Banja” by a derivative legal transaction, i.e. that the Fund’s investment in “Novopazarska Banja” had the character of a contract on joint investment and construction, which was taxed according to tax regulations.

The Fund filed an appeal against the said decision of the Tax Administration with the explanation that the Fund, among other things, acquired the right of ownership on the basis of a final court declaratory judgment, building in accordance with the provisions of the The Law on Foundations of Property Law Relations, i.e. that the manner of acquiring property rights was original according to the law itself, on the basis of a declaratory court judgment, and not as misinterpreted by the Tax Authority on the basis of a derivative legal transaction, stating other reasons that made the first instance decision absolutely illegal, which appeal was rejected by the Ministry of Finance of the Republic of Serbia by a decision from 2014.[[27]](#footnote-28)

However, although the decision of the Ministry of Finance rejecting the Fund’s appeal was also completely illegal, the administrative and professional service of the Fund was prevented against the same decision by the Fund’s management from initiating an Administrative Dispute, in which the Administrative Court could render a judgment and annul illegal decision of the Ministry of Finance, on the basis of which the Fund could refund funds in the amount of 8,755,054.18. dinars. On the above-mentioned deliberate omission, which occurred after the entry into force of the provisions of the Law on Amendments to the Law on Pension and Disability Insurance relating to the composition of the Fund’s Steering Committee, part of the administrative and professional service addressed an expert opinion in 2015[[28]](#footnote-29) to the Representation Department of RPDIF Directorate office, pointing out the observed irregularities and the possible damage suffered by the Fund by not using the legal remedy, i.e. initiating an administrative dispute against the illegal Decision of the Tax Administration. Property tax determined by the Tax Administration, which assessed the market value of special hospital facilities owned by the Republic Pension and Disability Insurance Fund, which was paid by the Fund for special hospital rehabilitation facilities, i.e. on which the Republic Pension and Disability Insurance Fund acquired the right of ownership in the period from 2014 to 2018, has had the right of ownership, as of 2017:

• Special Hospital “Kursumlijska Banja” RSD 15,164,001.

* Special Hospital “Zlatar”, Nova Varos RSD 11,041,747
* Special Hospital “Novi Pazar” RSD 2,827,417
* Special Hospital “Cigota”, Cajetina RSD 33,924,282
* Special Hospital “Ivanjica” RSD 3,094,217
* Special Hospital “Sokobanja” RSD 6,958,734
* Special Hospital “Merkur”, Vrnjacka Banja RSD 3,332,303
* Special Hospital “Ozren”, Sokobanja RSD 446,981
* Special Hospital “Banja Koviljaca” RSD 1,935,245
* Special Hospital “Gamzigradska Banja” RSD 4,073,906
* Special Hospital “Rusanda”, Melenci RSD 1,771,862
* Special Hospital “Agens”, Mataruska Banja RSD 697,678

 **A total of RSD 85,268,370**

In the further process of privatization of special hospitals for rehabilitation, the Government of the Republic of Serbia, by the Decision[[29]](#footnote-30) from 2017, formed a Working Group for strategic resolution of open issues related to spas and spa resorts, in which they were appointed: for the President, Rasim Ljajic, Deputy Prime Minister and Minister of Trade, tourism and telecommunications, for members:

* Zoran Djordjevic, Ministry of Labour, Employment, Veteran and Social Policy;
* Zlatibor Loncar, Minister of Health;
* Goran Knezevic, Minister of Economy;
* Jovan Krivokapic, Director of the Republic Property Directorate of the Republic of Serbia;
* Olivera Stamatovic, State Attorney;
* Mirjana Cojbasic, State Secretary at the Ministry of Finance;
* Dragana Kalinovic, Director of the Republic Fund for Pension and Disability Insurance;
* Assistant Professor dr Sanja Radojevic Skodric, acting director of the Republic Health Insurance Fund.

The task of the Working Group was to consider all open issues related to the sale and further functioning of spas and health resorts and to propose strategic measures and ways to address the functioning of spas and health resorts.

By the conclusion of the Government of the Republic of Serbia in 2018[[30]](#footnote-31), it was recommended to the Republic Pension and Disability Insurance Fund to make a decision authorizing the Republic Property Directorate of the Republic of Serbia to assess, in the name and on behalf of the Republic Pension and Disability Insurance Fund, the real estate of the spa complex “Zubor” in Kursumlija and the real estate of “Zlatar”, Nova Varos, which are owned by the Republic Fund for Pension and Disability Insurance.

By Paragraph 2 of the Conclusion, the Government agreed that the Republic Property Directorate may, in the name and on behalf of the Republic Pension and Disability Insurance Fund, assess the spa complex “Zubor” and “Zlatar”, Nova Varos, as well as parts of the spa complex owned by the Republic of Serbia, Special Hospital “Zubor”, Kursumlijska Banja and Special Hospital “Zlatar”, Nova Varos.

By Paragraph 3 of the Conclusion, the State Attorney’s Office was instructed, in cooperation with the Republic Pension and Disability Insurance Fund, to prepare settlement texts for the real estate of the following spas: “Niska Banja”, “Ribarska Banja”, “Vranjska Banja”, “Selters”, Mladenovac, “Dr Borivoje Gnjatic”, Stari Slankamen.

Paragraph 5 of the Conclusion recommended that the Republic Pension and Disability Insurance Fund decide to withdraw lawsuits and appeals in court proceedings regarding the ownership of real estate of special hospitals that have not been finalized and withdraw extraordinary legal remedies in court proceedings that have been finalized (procedure for determining the right of ownership on the facilities of the Special Hospital “Banja Junakovic”, Apatin).

Paragraph 6 of the Conclusion obliges the Republic Property Directorate of the Republic of Serbia to initiate the procedure of determining the value of real estate in all spas owned by the Republic Pension and Disability Insurance Fund, the Republic Health Insurance Fund and the Republic of Serbia, according to the dynamics of the Working Group with the priority for the following spas:

* Special Hospital for Rehabilitation “Banja Kanjiza”
* Special Hospital for Rehabilitation “Ozren” Sokobanja
* Special Hospital for Rehabilitation “Merkur”, Vrnjacka Banja
* Special Hospital “Zubor”, Kursumlijska Banja
* Special Hospital “Zlatar”, Nova Varos
* Special Hospital “Novi Pazar”
* Special Hospital “Ivanjica”
* Special Hospital “Rusanda”, Melenci
* Special Hospital for Rehabilitation “Gamzigradska Banja”
* Special Hospital for Rehabilitation “Agens”, Mataruska Banja
* Special Hospital “Gejzer”, Sijerinska Banja

If the Ministry of Finance - Tax Administration was not able to perform the assessment, the assessment of real estate would be performed by the City Bureau of Expertise from Belgrade.

After that, the Steering Committee of the Republic Pension and Disability Insurance Fund, at the session held in 2018,,[[31]](#footnote-32) године доноси две Одлуке: made two Decisions:

1. Decision on accepting the Recommendation of the Government of the Republic of Serbia [[32]](#footnote-33) authorizing the Republic Property Directorate of the Republic of Serbia to assess the value of real estate in the name and on behalf of the Fund in all spas owned by the Fund, as follows:

* Special Hospital “Zlatar”, Nova Varos
* Special Hospital “Banja Kanjiza”
* Special Hospital “Zlatibor”, (Cigota), Cajetina
* Special Hospital “Sokobanja”
* Special Hospital “Ozren”, Sokobanja
* Special Hospital “Merkur”, Vrnjacka Banja
* Special Hospital “Novi Pazar”
* Special Hospital “Ivanjica”
* Special Hospital “Rusanda”, Melenci,
* Special Hospital “Gamzigradska Banja”, Zajecar
* Special Hospital “Agens”, Mataruska Banja
* Special Hospital “Gejzer”, Sijerinska Banja
* Special Hospital “Banja Koviljaca”
* Special Hospital “Josanička Banja”
1. Decision on accepting the recommendation of the Working Group for Strategic Resolution of Open Issues Related to Spas and Spa Resorts[[33]](#footnote-34), formed by the Decision of the Government of the Republic of Serbia and the Recommendation of the Ministry of Labor, Employment, Veteran and Social Policy, initiating the resolution of the Zubor spa complex, Kursumlijska Banja, stating that joint sale with the Republic of Serbia is the most optimal and fastest way to sell the real estate in question, and to give consent to conduct the procedure of selling real estate in Kursumlijska Banja, by collecting written offers through public advertising.

Based on the aforementioned decisions of the Steering Committee of the Republic Pension and Disability Insurance Fund, it was possible to assess the market value of real estate owned by RPDIF spa complex “Zubor” by the Republic Property Directorate of the Republic of Serbia, which would perform this assessment on behalf of the Fund, as well as to start the sale of the spa complex “Zubor” in Kursumlijska Banja, whose real estate with capital facilities was in a disproportionately large part owned by the Republic Pension and Disability Insurance Fund (although the market value had already been determined by the decision of the Tax Administration of Kurlsumlija Branch, on the basis of which the Fund paid property taxes).

# **SALE OF THE SPA COMPLEX “ZUBOR” IN KURSUMLIJSKA BANJA**

By the conclusion of the Government of the Republic of Serbia from April 19, 2018[[34]](#footnote-35), a decision was made to alienate from the public property of the Republic of Serbia real estate located within the spa complex “Zubor” in Kurdumlijska banja, which consists of the following real estate:

* Building no. 1. catering building, number of floors:: Ground floor + 2
* Building no. 3 catering buildings, number of floors:: Ground floor + 1
* Building no. 4 other buildings, number of floors:: Ground floor

Land area of 31,159.00 m2 consisting of:

* lot no. 236/1 in the share of 22917/23252, entered in land registry folio 258
* lot no. 276/1 in the share of 25/455, entered in land registry folio 177
* lot no. 280/1 in the share from 2016/2215, entered in land registry folio 260
* lot no. 279/1 in the share of 1586/4941, entered in land registry folio 259
* lot no. 257 in the share of 597/25735, entered in entered in land registry folio 387
* lot no. 233, entered in entered in land registry folio 32
* lot no. 234, entered in land registry folio 356 all in KO Kursumlijska Banja

Real estate was sold according to the conducted public bidding procedure, i.e. the procedure of collecting written bids in favor of the most favorable bidder at the total initial purchase price in the amount of EUR 210,347.07 in dinars, determined by the act of the City Bureau of Expertise Belgrade PB-68/18 from March 29, 2018 and by supplementing the assessment from 13 April 2018, given that the Act of the Tax Administration of the Prokuplje Branch - Kursumlija Department No. 000-464-08-00140 / 2018-K0071 from 19 March 2018, the Directorate was informed that the Tax Administration was not able to assess the market value of the Spa Complex “Zubor” in Kursumlijska Banja.

The Government agreed that the procedure of alienation of real estate owned by the Republic of Serbia be carried out by the Republic Directorate for Property of the Republic of Serbia, together with the Republic Fund for Pension and Disability Insurance, by forming a joint commission.

The total initial purchase price for real estate owned by the Republic of Serbia and owned by the Republic Pension and Disability Insurance Fund was determined by the act of the City Bureau of Expertise Belgrade PB-68/18 dated March 29, 2018, with an amendment to the estimate dated April 13, 2018, in the amount of 2,359,727.50 euros, provided that the achieved purchase price would be paid in dinars as follows:

* part of the purchase price in the amount of 8.91% to the account of the budget of the Republic of Serbia
* the remaining part of the purchase price in the amount of 91.09% to the account of the Republic Pension and Disability Insurance Fund

Immediately after the adoption of the aforementioned Conclusion of the Government of the Republic of Serbia and the Decision of the RPDIF Steering Committee, the Republic Property Directorate of the Republic of Serbia and the Republic Pension and Disability Insurance Fund, on April 25, 2018, announced a public announcement [[35]](#footnote-36) for the purpose of alienating the real estate of the spa complex “Zubor” in Kursumlijska Banja by collecting written offers.

The following were published for sale in a published public announcement:

1. Real estate entered in land registry folio no. 387 KO Kursumlijska Banja, as follows:

* Hotel building “Zubor”, number of floors:: Ground floor + 7, total area of 16,220.46 m2, existing on the lot 257
1. Real estate entered in land registry folio 244 KO Kursumlijska Banja consisting of:
* Building no. 1. number of floors: Ground floor, area of 38м2, existing on the lot 190
* Building number of floors: Ground floor, area of 72м2, existing on the lot 201
* Swimming pool facility, area of 1114м2, existing on the lot 219 and 281/11
* Building no. 2. number of floors: Ground floor, area of 95 м2, existing on the lot 220/1
* Building no. 1. catering facility “Prepolac”, number of floors: Ground floor, area of 468м2, existing on the lot 220/2
* Building no. 1. number of floors: Ground floor +1+Пк, area of 95м2, existing on the lot 226
* Building no. 1. villa “Milica”, number of floors: Ground floor +1, area of 588м2, existing on the lot 236/3
* Building no. 1. number of floors: Ground floor, area of 25м2, existing on the lot 268
* Building no. 2., number of floors: Ground floor, area of 25м2, existing on the lot 268
* Building no. 3., number of floors: Ground floor, area of 25м2, existing on the lot 268
* Building no. 4., number of floors: Ground floor, area of 29м2, existing on the lot 268
* Building no. 5., number of floors: Ground floor, area of 27м2, existing on the lot 266
* Building no. 6., number of floors: Ground floor, area of 31м2, existing on the lot 268
* Building no. 7., number of floors: Ground floor, area of 20м2, existing on the lot 268
* Building no. 1., number of floors: Ground floor, area of 22м2, existing on the lot 274
* Building no. 2., number of floors: Ground floor, area of 21м2, existing on the lot 274
* Building no. 3., number of floors: Ground floor, area of 23м2, existing on the lot 274
1. Real estate entered in land registry folio 258 KO Kursumlijska Banja consisted of:
* Building no. 1. catering facility, number of floors: Ground floor +2, area of 1.428, existing on the lot 236/1
* Building no. 3. catering facility, Ground floor +1 area of 312м2, existing on the lot 236/1
* Building no. 4. number of floors: Ground floor area of 90м2, existing on the lot 236/1
1. Land with a total area of 95,902m2, all in KO Kursumlijska Banja, which consists of lots in the appropriate scope:

* lot 257, entered in land registry folio 387
* lots 190, 201, 202, 218, 219, 2201/1, 220/2,220/4, 226, 235, 236/3, 251/1, 251/3, 251/7, 251/8, 262/2, 263/2, 264/2, 265/2, 268, 274, 275/2, 419, 425, 493, 506/1, 506/4, 506/5, 506/6, entered in land registry folio 244
* lot 276/1, entered in land registry folio 177
* lot 280/1, entered in land registry folio 260
* lot 236/1, entered in land registry folio 258
* lot 279/1, entered in land registry folio 259
* lot 233, entered in land registry folio 32
* lot 234, entered in land registry folio 356

For the total initial purchase price of the entire spa complex “Zubor” in Kursumlijska Banja in the amount of **2,359,727.50 euros**.

Before the decision was made on the sale of Kursumlijska Banja by the RPDIF Administrative and Professional Service of Sector for Property Affairs, Design and Representation, a Report on the activities undertaken in the spa complex “Zubor” in Kursumlijska Banja since the acquisition of property rights in 2013 was made.[[36]](#footnote-37)

 The mentioned report of the Administrative and Professional Service of the Fund states that the Judgment of the Municipal Court in Kursumlija in 2009 adopted a claim which determined that RPDIF is the owner of the real estate of the Special Hospital “Zubor” in Kursumlijska Banja as well as the right to use the land.

 Deciding on the appeals of the defendant Republic of Serbia and the Special Hospital “Zubor”, in 2012 the Court of Appeals in Nis rejected the appeals of the Republic of Serbia and the Special Hospital “Zubor” as unfounded and confirmed the judgment of the Municipal Court in Kursumlija, according to which RPDIF had the right to facilities of the Special Hospital “Zubor” in Kursumlijska Banja as well as the right to use the land.

Deciding on the revision of the respondent Republic of Serbia against the verdict of the Court of Appeals in Nis, the Supreme Court of Cassation of the Republic of Serbia, by a decision in 2013, rejected as unauthorized the revision of the respondent Republic of Serbia, thus ending the litigation. After the judgments became final and the procedure for registering private property in favor of the Republic Pension and Disability Insurance Fund in the Real Estate Cadastre was initiated, the facility was handed over in March 2013 between the Special Hospital and RPDIF, after which a Report on Current Deficiencies was made as well as an assessment of necessary investments for rehabilitation, reconstruction and adaptation related to:

* Source of thermal spring (rehabilitation of wells and land fencing)
* Power supply to the building
* Validation of all installations in the complex and their rehabilitation
* Rehabilitation and reconstruction of the roof of the hotel “Zubor”
* Installation of a diesel generator

According to the project of reconstruction of the company ”Arh Design”, the total net area of ​​the hotel “Zubor” is 16,222.46 m2, and the gross is 21,890.37 m2.

**The market value** of the (only) hotel building “Zubor” was determined based on the Decision of the Tax Administration of the Prokuplje Branch - Kursumlija Department on the price per square meter of real estate for 2014, on which the property tax was determined in the amount of 648,898,400.00 dinars, which at the middle exchange rate of the NBS on August 29, 2014 amounted to **5,507,292.58 euros**.

As of 2017, RPDIF paid the total amount of RSD 12,028,041.29 in the name of property tax, the tax on the transfer of absolute rights in the amount of RSD 6,199,951.44, while other investments of the Fund until 2015, in terms of rehabilitation of thermal mineral water wells and other works, amounted to 1,803,135.37 dinars.

In addition, in the period from 2013 to 2015, the Fund undertook activities regarding the right to exploit geothermal resources, and in this regard, the Ministry of Natural Resources, Mining and Spatial Planning approved the Fund to conduct detailed hydrogeological surveys of thermo-mineral waters in the wider area of Kursumlijska Banja, which was an introduction to the procedure for obtaining the exploitation right on geothermal springs. The investigative right expired on June 16, 2015, after which a new request for approval for research was submitted to the Ministry. In addition, on August 5, 2015, a request was submitted for the issuance of an opinion on previously issued geothermal conditions for nature protection, after which an opinion was obtained on the compliance of nature protection conditions with the project. The project envisaged two phases of which the first included works on the rehabilitation of the damaged head of the main exploitation facility in Banja - the well, which previously led to the uncontrolled leakage of thermo-mineral waters into the field around the well.

After the completion of the first phase, it was planned to start the next, second phase, which aimed to provide a sufficient level of bases for the assessment of reserves of “B” category of the existing source of thermal mineral waters of Kursulmlijska Banja, which, however, was not approached after 2015.

In addition to the above, it should also be pointed out that the Republic Pension and Disability Insurance Fund acquired the right of ownership over the facilities, i.e. real estate of the Special Hospital, but not that it was the legal successor of the legal entity of the Special Hospital “Zubor”.

The legal entity, the Institute for Disability Prevention and Rehabilitation “Zubor” as a health institution has been blocked since 2006, and has been in the restructuring procedure led by the Privatization Agency since December 9, 2011.

However, for the sake of complete information, we believe that it is important to point out that besides the legal status of the legal entity of the Special Hospital “Zubor”, as a health institution, its debts and the like, another legal entity appeared, the company “Zubor” d.o.o. Kursumlija, which was established by the Decision of the Government of the Republic of Serbia, in parallel with the health institution Special Hospital “Zubor”.

Namely, in the register of business entities kept with the Business Registers Agency, by Decision BD 4166/2013, the company “Zubor” d.o.o. Kursumlija was established. with its headquarters in Kushumlijska Banja, with the predominant activity of hotels and similar accommodation. The founder of the company is the Republic of Serbia, and the founding capital amounted to 100.00 dinars. The mentioned company was founded by the decision of the Government of the Republic of Serbia on January 23, 2013, and as determined by the Fund, by checking with the National Bank of Serbia, and through the ID number and registration number of the legal entity, it was determined that the current account was not opened, so that the company did not actually operate.

The establishment of the mentioned legal entity was preceded by the Conclusion of the Government of the Republic of Serbia from 2011[[37]](#footnote-38), by which the Government of RS agreed to take over the uncollected receivables of the **company “Dunav Insurance”** from the company in restructuring in the amount of 1,340,857,205.82 dinars (**13 million euros**), which the company “Dunav Insurance” claimed from 86 companies in restructuring.

By the same Conclusion, the founders of the Rehabilitation Hospital “Zubor”, Kursumlijska Banja and the Rehabilitation Hospital “Zlatar”, Nova Varos were obliged to change their legal form and register as a for-profit corporation, after which the percentage of Dunav Insurance’s participation in these companies in the amount of assumed receivables in the above amount would be determined.

Having in mind the fact that receivables from companies in restructuring according to legal regulations are uncollectible, the cited Decision of the Government of the Republic of Serbia was a manipulative and corrupt attempt for Dunav Insurance to acquire ownership of the special hospitals “Zubor” and “Zlatar”, aware of the fact that receivables of 13 million euros cannot be collected from companies undergoing restructuring.

The realization of the aforementioned Conclusion of the Government of the Republic of Serbia and the takeover of the mentioned special hospitals “Zubor” and “Zlatar” by the company Dunav Insurance did not take place, considering that in the meantime some members of the RPDIF Steering Committee reacted through the media[[38]](#footnote-39) and warned the public about the elements of corruption in the mentioned legal business, after which, based on the decision of the Steering Committee of the Fund, court proceedings were initiated to annul the aforementioned Conclusion of the Government of the Republic of Serbia, as well as the fact that RPDIF became the owner of real estate.

Debts of the legal entity of the Special Hospital for Rehabilitation “Zubor” on behalf of the tax administration from 2006 to 2015 with a total interest were 217,376,503.79 dinars, the basic debt to EDB as of 2006 amounted to 5,982,289, 62 dinars, and interest until July 31, 2013 amounted to 10,621,911 dinars, while debts based on contributions for compulsory social insurance to workers amounted to 33,052,574.66 dinars.

As can be concluded from the mentioned activities that RPDIF has undertaken since 2013, when it became the owner of the facilities of the Special Hospital “Zubor”, it can be concluded that the Fund undertook certain activities until 2015, mainly related to the rehabilitation of springs and roofs of hotels “Zubor”, but without a clear business plan and plan for revitalization of all facilities and their commissioning in order to implement the measures from the Baseline for Restructuring RPDIF adopted by the Steering Committee of the Fund in 2012, especially in the case of drafting a revitalization of the entire spa complex, assessment of the value of works on the entire adaptation of the spa complex and the possible search for a strategic partner with whom to recapitalize, etc.

As in the meantime, in 2014, the Law on Pension and Disability Insurance changed the management structure of the Fund, i.e. since the state took over the management of RPDIF, so its activities regarding the arrangement of Kursumlijska Banja have been reduced to a minimum, i.e. completely stopped.

When it comes to the market value of the spa complex “Zubor”, it had been determined on two occasions until the sale was announced, both by the RPDIF itself and by the competent tax administration.

Thus, in the “Analysis of the conditions and possibilities of work and development of residential treatment facilities and natural health resorts for prevention, treatment and rehabilitation” made by the RPDIF Working Group[[39]](#footnote-40), it was determined that the facility of the Special Hospital - Hotel “Zubor” had an area of ​​16,000 m2, and that its estimated value according to the condition of the building was **350 euros/m2**, which was a total of **5,775,000.00 euros**, and the value of the location of the land, its area and infrastructure was estimated at **500,000 euros**, so that the total estimated market value of the building - Hotel “Zubor” in Kursumlijska Banja, together with the associated land, amounted to **6,275,000 euros**.

In addition, the market value of the facility - Hotel “Zubor” in Kursumlijska Banja was also estimated in 2014 by the competent Tax Administration - Kursumlija Branch[[40]](#footnote-41) in the amount of **5,507,292.58 euros** when determining the basis for payment of property tax of the Republic Pension and Disability Insurance Fund after the finality of the judgment on the basis of which the right of ownership of real estate was acquired in favor of RPDIF. However, although the Rulebook on the Disposal of RPDIF Real Estate stipulates that RPDIF real estate can be alienated primarily according to the market price determined by the competent tax administration, and then based on the assessment of another competent authority, the spa complex “Zubor” was offered for sale at market value based on the assessment of the City Bureau of Expertise, despite the fact that the RPDIF management was aware that the market value of the hotel “Zubor” had already been assessed by the competent tax administration, as well as that it had already been assessed by the cited “Analysis of the conditions and possibilities of work and development of residential treatment facilities and natural health resorts for prevention, treatment and rehabilitation” of the RPDIF Working Group.

After a public announcement for the sale of the entire spa complex “Zubor” was published on April 25, 2018 for the initial amount of 2,359,727.50 euros, which amount was two and a half times lower than the estimated market value in the “Analysis of the conditions and possibilities of work and development of residential treatment facilities and natural health resorts for prevention, treatment and rehabilitation” of the RPDIF Working Group from 2009 of the hotel “Zubor” with the land without other facilities, i.e. twice lower than the market value of the facility - Hotel Zubor, whose value was estimated by the Tax Administration - Kursumlija Branch in 2014, during the determination of property tax to the Republic Fund for Pension and Disability Insurance, as stated in the Report of the Sector for Property Legal Affairs, Design and Representation in 2015, the Fund’s Steering Committee was sent an expert opinion of the Fund’s Administrative and Professional Service[[41]](#footnote-42), which timely proposed that the Decision of the Steering Committee on the sale of Kursumlijska Banja be repealed as **illegal and harmful** to the Fund, as well as the public announcement on its sale be annulled.

The attached opinion states that the disputed Decision of the Steering Committee on the sale of real estate of the Republic Pension and Disability Insurance Fund in Kursumlijska Banja is in direct contradiction and conflict with the decisions of the RPDIF Steering Committee on long-term business policy of the Fund, which were adopted in the period from 2005 to 2014, in whose work all partners who manage the Fund participated and decided, i.e. the representatives of the insured, beneficiaries and employers, that such decisions were never repealed, and that the aim of such decisions had not been to sell the real estate of Special Hospitals owned by RPDIF, but to put it into operation with the aim of gaining income and profits from the facilities owned by the Fund.

It was pointed out that the Fund’s real estate was registered in the Real Estate Cadastre as private property, and that state officials who had a majority in the Fund’s Steering Committee must be guided by the Fund’s interests on whose behalf they made decisions in accordance with the Law and the Fund’s Statute, which stipulated that the Steering Committee take care of increasing and not decreasing the Fund’s assets, as well as that civil servants elected as members of the Fund’s Steering Committee were in a conflict of interest when making decisions on the alienation of real estate of the Fund that was in private ownership.

In addition, it was pointed out that in accordance with the established business policy, the Fund’s interest in Kursumlijska Banja was a strategic partnership in the form of recapitalization in such a way that the value of the Fund’s assets in buildings and land would represent the Fund’s non-cash capital contribution in the newly established for-profit company while the remaining part of the cash capital would be provided by a strategic partner, in which way the sale would be prevented on the one hand, while on the other hand the Fund would have the right to manage the newly established company, as well as the right to profit in the amount of its non-cash capital contribution.

In addition, it was pointed out that the determined market price of the entire spa complex “Zubor” in the amount of 2,359,727.50 euros was unrealistically low, and that the act of the City Bureau of Expertise determining such market price was not submitted to the Fund’s Administrative and Professional Service.

That within the mentioned act of the City Bureau of Expertise, within the determined total market value of the entire spa complex “Zubor” in the total amount of 2,359,727.50 euros, only the hotel “Zubor” had an area of 16,000 m2, as part of the complex estimated at 1,503. 825.70 euros, which was far lower than the real market value.

It was also noted that the conversion of land use rights into the Fund’s ownership rights on certain cadastral parcels in the area of 41,792.60 m2 was not performed, thus giving the prospective buyer the opportunity to make such a conversion himself after the purchase, which would deprive the Fund of the market value of the land being sold.

However, despite the timely warning of the Administrative and Professional Service about the harmfulness of the decision on the sale and the offered price below the market value of Kursumlijska Banja, the Steering committee of the Fund did not invalidate and annul the decision and public tender for the sale of the spa complex “Zubor” in Kusumlijska Banja.

On the published public announcement for the sale of the spa complex “Zubor” in Kusumlijska Banja, until the deadline for bids on May 25, 2018, no purchase offer was received.

Prior to the announced sale of the spa complex “Zubor” in Kusumlijska Banja, the company AD “Planinka”, on several occasions, together with the management of RPDIF, showed interest in buying the mentioned spa complex, and during the public tender for the sale the director of AD “Planinka”, through the media (“Topličke vesti”[[42]](#footnote-43) on May 2, 2018) stated that the offered price in the amount of 2,359,727 euros for the spa complex “Zubor” was too high, and that the company AD “Planinka” gave up that purchase, given that according to their estimates, the real price of the spa complex “Zubor” was at most 1,000,000 euros.

In addition to the interested buyer, the company AD “Planinka”, some representatives of the Government of the Republic of Serbia also had objections to the estimated value of the spa complex “Zubor” in the amount of 2,359,727 euros, as was the case with the Minister of Tourism, Trade and Telecommunications of the Republic of Serbia who, through the media[[43]](#footnote-44), announced an amendment to the Law on Public Property in order to sell spas with a lower price than the price that was disincentive for potential buyers of real estate of the spa complex “Zubor” in Kusumlijska Banja.

 This was followed by other public statements by representatives of the Government of the Republic of Serbia[[44]](#footnote-45) regarding the estimated value of the spa complex “Zubor”, which stated that the state tried to sell Kursumlijska Banja, and that the public call for its sale ended unsuccessfully, because the spa was assessed at 2.4 million euros, for which price “for that ruin” no one called, and that in the coming period, when it came to spas, another auction would take place for sale at a price of 80% of the estimated value, and if such the sale was unsuccessful, real estate would be offered for 60% of the appraised value.

The aforementioned statements of the Minister of Tourism, Trade and Telecommunications on the sale of real estate in spas below their estimated market value followed before and immediately after the adoption of the Law on Amendments to the Law on Public Property,[[45]](#footnote-46) which enabled the sale of state-owned real estate below their market value, i.e. the value by which the basic Law on Public Property was supplemented by a provision [[46]](#footnote-47), which stipulated that exceptionally, in case the real estate was not alienated from public property in the conducted public advertising procedure in accordance with the provisions of the basic Law on Public Property, the initial estimated value of real estate may be reduced at 80% of the initial estimated value determined in the manner and under the conditions of the basic law.

In the case that the real estate is not alienated from public property even in the repeated procedure of public advertising with reduced initial value, the initial estimated value of the real estate at which it is alienated can be reduced to 60%, at which price public advertising will continue.

The decision on impairment is made by the Government of the Republic of Serbia, i.e. the competent body of the Autonomous Province, i.e. the unit of local self-government, provided that it is of interest to the Republic of Serbia, the Autonomous Province, i.e. the unit of local self-government.

Provision of the basic Law on Public Property[[47]](#footnote-48) Provision of the basic Law on Public Property since when the Law on Amendments to the Law on Public Property made an exception which prescribes that “immovable property acquired in public ownership and alienated from public property, starting from the market value of real estate, assessed by tax or other competent authority or the licensed appraiser in the public bidding procedure, i.e. by collecting written bids, unless otherwise provided by law ”.

Immediately after the Law on Amendments to the Law on Public Property stipulated that public real estate can be alienated below its market value, the Steering Committee of the Republic Pension and Disability Insurance Fund passed a Decision on amending the Rulebook on Real Estate Disposal of the Republic Pension and Disability Insurance Fund[[48]](#footnote-49) that is supplemented by a provision which in an identical manner prescribes the possibility of selling real estate below their market value, i.e. by a new provision[[49]](#footnote-50) which prescribes that exceptionally from the provisions of the Basic Rulebook, in case the real estate is jointly alienated with the holder of public property, and in accordance with the act of public property right holder, and provided that the real estate is not alienated in the conducted public bidding or bidding procedure in accordance with the provisions of the Basic Rulebook, the initial selling price of the real estate in the repeated public bidding or written bidding procedure may be reduced to 80% of the initial selling value in the manner described in the article of the Basic Rulebook.

In the case that the real estate is not alienated even in the repeated procedure of public bidding or collection of written offers with reduced sales value, the initial selling price at which the real estate is alienated may be reduced to 60% of the initial selling price, at which the sale price will continue the bidding procedure or collecting written bids.

Decision on impairment of real estate from para. 1 and 2 of this Article shall be adopted by the Steering Committee of the Fund, upon the proposal of the Director of the Fund.

After the decision to amend the Rulebook on the Disposal of Real Estate of the Republic Pension and Disability Insurance Fund by the Steering Committee of RPDIF, which enabled the sale of real estate of the Fund below the estimated market value, on April 20, 2019, a new public announcement for the sale of the spa complex “Zubor” in Kursumlijska Banja [[50]](#footnote-51) was announced at a price of **1,887,782 euros**, i.e. by an amount lower by 471,945 euros than the initial selling price, which was 80% lower than the initial estimated value of the real estate of the spa complex “Zubor” in Kursumlijska Banja.

The new expert opinion of the Fund’s Administrative and Professional Service[[51]](#footnote-52), which was sent to the RPDIF Steering Committee, **proposed repealing the Decision** of the RPDIF Steering Committee on amending the Rulebook on Real Estate Disposal of the RPDIF, which unjustifiably allowed the sale of the Fund’s real estate below its market value, as well as the **annulment of the public announcement** for the alienation of the real estate of the spa complex “Zubor” in Kursumlijska Banja, which was published in the media on April 20, 2019.

The submitted opinion states that the Decision of the Steering Committee of the Fund on amending the Rulebook on Disposal of Real Estate of the Fund, which allows the sale of real estate below their market value is against the interests of the Fund, that the Administrative and Professional Service of the Fund has not been consulted on the proposal to amend the Rulebook, as well as that there is no legal basis for amending the Rulebook on the Disposal of the Fund’s Real Estate, given that these are privately owned property, and that in the case of the sale in question, RPDIF will suffer multimillion material damage.

It was also pointed out that the amendment to the Law on Public Property, which enables the sale of publicly owned real estate below their market value, has no causal connection with real estate owned by RPDIF, given that they are privately owned, and that the amendment to the Law on Public Property cannot be a legal basis for amending the RPDIF Rulebook, and that the obvious reason for amending the RPDIF Disposal of Real Estate Rulebook is a **premeditated effort** to sell the spa complex “Zubor” for an amount corresponding to the buyer, which was publicly announced by their representative via media.

The mentioned opinion also states that in the situation when the RPDIF Supervisory Board has been abolished, the members of the Fund’s Steering Committee have greater responsibility when making decisions related to the RPDIF’s assets, given that it is privately owned, and that the Fund’s interest must be respected, and not the interest of potential buyers who, through the media and orchestrated campaign, expressed a desire to buy real estate spa complex “Zubor” below its market value, and that the Recommendation of the Government of the Republic of Serbia on the sale of real estate has no binding effect on the Fund.

In addition to the above, the opinion states that in 2019 the Government of the Republic of Serbia passed a **Decree on determining the criteria for granting incentives to attract direct investment in the hotel accommodation sector[[52]](#footnote-53)**, by which it decided to support investment projects in the hotel accommodation sector in spa areas, whose minimum value is two million euros, i.e. to allocate incentives and subsidies for the development of spa tourism, and that in a situation where RPDIF is the owner of most special hospitals for rehabilitation and spa resorts in the Republic of Serbia it would be expedient and economically justified, both in the public interest and and in the interest of the Fund that the funds for incentives and subsidies by the Government of the Republic of Serbia **belong to the Fund**, i.e. the for-profit company whose founder would be RPDIF as an investor and owner of real estate of the spa complex “Zubor” for the investment project of reviving Kursumlijska Banja.

However, as in the repeated procedure for the sale of real estate of the Republic Pension and Disability Insurance Fund in the spa complex “Zubor” in Kursumlijska Banja at a price lower by 80% of the overestimated value of real estate, the sale was not realized, the Republic Property Directorate of the Republic of Serbia and the Republic Pension and Disability Insurance Fund announced on July 25, 2019, a new public announcement[[53]](#footnote-54) for the alienation of the spa complex “Zubor” in Kursumlijska Banja for the amount of **1,415,836 euros**, that is for the amount of 60% of the initial selling price.

After the publication of a new announcement on the sale of the spa complex “Zubor” in Kursumlijska Banja, at a price of 1,415,836 euros, part of the Fund’s Administrative and Professional Service again addressed the Steering Committee of the Republic Pension and Disability Insurance Fund with a new expert opinion[[54]](#footnote-55) and a **proposal to annul the RPDIF Committee’s Decision** on the sale of the spa complex “Zubor” in Kursumlijska Banja for the amount of 1,415,836 euros.

In the quoted opinion, the Steering Committee of RPDIF was warned by part of the Administrative and Professional Service that if the sale of the spa complex “Zubor” in Kursumlijska Banja at a price lower by 1,000,000 euros was realized than the determined market value of the spa complex “Zubor”, the Republic Pension and Disability Insurance Fund would be consciously and intentionally damaged for the amount of at least 1,000,000 euros, while on the other hand the potential buyer for the same amount would be unjustly enriched.

At the same time, the RPDIF Steering Committee was warned that the real estate in question could not be the subject of sale due to the fact that in the Agency for Restitution Regional Unit Nis there was proceedings in the process for the restitution of confiscated property[[55]](#footnote-56),at the request of the heirs of the former real estate owners, the Vasic brothers from Kursumlija, on cadastral parcels on which the conversion of the right of use into the right of ownership had not been performed, and which proceedings before the Agency for Restitution had not been completed yet.

One bidder, the Joint Stock Company for Natural Spas, Tourism, Catering and Production “PLANINKA” from Kursumlija, responded to the published public announcement for the sale of the spa complex “Zubor” in Kursumlijska Banja, which was the only bidder to buy the spa complex “Zubor” in Kursumlijska Banja for the amount of 1,415,836 euros, which ended the sale procedure and concluded a contract for the sale of real estate between the seller, the Republic Pension and Disability Insurance Fund and the Republic of Serbia on the one side and the Joint Stock Company for Natural Spas, Tourism, Catering and Production “PLANINKA” from Kursumlija as a buyer on the other side[[56]](#footnote-57).

The contract was concluded, i.e. solemnized with the Notary Public on January 27, 2020, five months after the end of the sale procedure by the Republic Pension and Disability Insurance Fund and the Republic Property Directorate of the Republic of Serbia and the selection of AD Planinka from Kursumlija as the only bidder for the purchase of the spa complex “Zubor” in Kursumlijska Banja.

Previously, between the second and third public announcement for the sale of the spa complex “Zubor”, the Ministry of Economy of the Republic of Serbia and the buyer AD PLANINKA concluded, on the basis of the mentioned Decree on determining the criteria for awarding incentives to attract direct investments in the hotel accommodation sector (“Official Gazette of RS” no. 33/19) and the Conclusion of the Government of the Republic of Serbia no. 401-8499/19 of August 29, 2019 on giving consent, a contract no. 401-00-03507/19 of September 3, 2019 on the allocation of incentive funds to AD PLANINKA in the amount of 1,637,101.90 euros**[[57]](#footnote-58)**.

# **SALE OF LAND (WITHOUT THE EXISTING FACILITY) OF VRANJSKA BANJA SPECIAL HOSPITAL**

By the analysis of the state and possibilities of work and development of health-inpatient institutions and natural spas for prevention, treatment and rehabilitation of the RPDIF Working Group[[58]](#footnote-59) made in 2009, based on relevant data obtained by the Special Hospital Vranjska Banja and findings and opinions of construction and financial experts, it was determined that the building was built in the period from 1977 to 1985, that it is 50m away from the main road, and 2km from the corridor 10 of the highway, that the total area of ​​the building was **16,000m2**, and that it was designed in the category classifying it as a 5-star hotel.

The construction of the building was performed in full, it was of good quality, it had been preserved and minimal interventions were needed. It was also stated that the structural elements of the foundations, pillars, slabs and beams were made of reinforced concrete, that all works on passable and impassable terraces were completely performed, but the thermal insulation, waterproofing and final substrate failed and it needed to be changed, etc.

The estimated value of the building during the expertise according to the condition of the building is 200 euros/m2, which is a total of **3,200,000 euros**, the value of the location of the land in relation to the road is **2,800,000 euros**, so the total estimated value of the building together with land is **6,000,000 euros**.

At the session of the Steering Committee of the Republic Fund for Pension and Disability Insurance, which was held on July 24, 2019, the decision no. 022.1-1/33o was made on the alienation of ½ of the ideal part of the real estate, i.e. the sale of land in Vranjska Banja of the area of ​​8,426m2 euros, without the building owned by RPDIF, for the amount of 126,282.10 euros, while previously the Government of the Republic of Serbia with its Conclusion 05 no. 464-7285/19 from July18, 2019 also made a decision to alienate from the property of the Republic of Serbia 1/2 of the real estate in question - land in Vranjska Vanja, without a building, for the amount of 126,282.10, which was a total of **252,464.21 euros** of market real estate in Vranjska Banja, which was offered for sale. The assessment of the market value of the real estate was determined on the basis of the Act of the Tax Administration - Vranje Branch no. 000-464-08-00278/ 019-K0071 dated July 3, 2019.

Based on the aforementioned Decision of the RPDIF Steering Committee, the Republic Property Directorate of the Republic of Serbia and the Republic Pension and Disability Insurance Fund, on July 24, 2019, published a public announcement for the alienation of real estate - land of a cadastral parcel no. 2041 KO Vranjska Banja by collecting written bids.[[59]](#footnote-60)

The subject of alienation is:

* Immovable property - land owned by the Republic of Serbia and owned by the Republic Pension and Disability Insurance Fund with a share of ½ each on the lot no. 2041 KO Vranjska Banja, area of 8426 m2, entered in land registry folio 2771 KO Vranjska Banja

**The subject of the sale is not an object existing on the lot** no. 2041 KO Vranjska Banja, with the ground area of 3138m2, number of floors: Ground floor + 5, registered as a “health facility” that has a building permit, but no permit for use, given that the final decision of the City Administration of the City of Vranje - Department of Inspection Affairs - Construction Inspections no. 356-120/2019-13 from June 4, 2019, ordered the owners of the facility - the Republic of Serbia, the Republic Directorate for Property of the Republic of Serbia, the Republic Fund for Pension and Disability Insurance, to remove the object in question within 90 days of receiving the decision.

The future buyer was obliged to the Decision of the City Administration of the City of Vranje - Department for Inspection Affairs - Construction Inspection no. 356-120 2019-13 from June 4, 2019 on the demolition of the building, existing on lot no. 2041 KO Vranjska Banja implemented at its own expense.

The total initial purchase price of real estate in Vranjska Banja was 252,464.21 euros.

After publishing the public announcement for the sale of land in Vranjska Banja, the Steering Committee of the Republic Pension and Disability Insurance Fund was addressed by a part of the Administrative and Professional Service with an expert opinion[[60]](#footnote-61) stating that the **Decision of the Steering Committee on selling the land in Vranjska Banja was illegal** and passed without expert opinion, **and as such should be annulled**, **together with the public announcement of the sale of real estate in Vranjska Banja.**

The expert opinion states that there is a building on the subject land for which a building permit has been issued, which is not the subject of sale, **and that the subject of sale can only be a building with the right to use the land, not just land without a building**, and that such disposal is illegal and contrary to the provisions of the Law on Real Estate.

Also, suspicion was expressed that it was a pre-organized campaign to sell Vranjska Banja at a bargain price, having in mind the fact that the Construction Inspection of the City Administration of Vranje passed an illegal decision dated June 4, 2019 on demolition of the building area of ​​3148m2, number of floors: Ground floor + 5, which could not be the subject of demolition, given the fact that it had a building permit, or that it could not be the subject of demolition because the building was not illegally erected, and that the Fund had to file an appeal against such an illegal decision *ex officio* and annul it as illegal.

The submitted opinion also states that the director of the Fund, Dragana Kalinović, was previously warned in writing by the Administrative and professional Service that the conclusion of a court settlement according to which the Fund would have 50% of property rights in Vranjska Banja was harmful to the Fund, having in mind the indisputable fact that the Fund financed the construction of real estate in Vranjska Banja with its own funds (100%), and that concluding such an amateurish and rough settlement in the proportion of 50-50% of the real estate share without expertise of construction and financial experts would cause material damage to the Republic Pension and Disability Insurance Fund.

Pointing to the illegality of concluding the proposed court settlement in relation to 50% -50% of real estate in Vranjska Banja with the Republic of Serbia, the opinion states that during the court proceedings to determine the ownership rights to the facilities of the Special Hospital Vranjska Banja, it was pointed out that by the decision of the Management Board of the Special Hospital Vranjska Banja, no. 208 dated 28 May 2010, an offer for a court settlement was submitted to the Fund[[61]](#footnote-62), **but not for any division of property** on real estate in Vranjska Banja, but only for increasing the number of pension beneficiaries that the Fund would send for recovery, based on the Rulebook on Social Standards of Pension Beneficiaries. while in return the Special Hospital would withdraw the lawsuit to determine the ownership rights to the disputed real estate, which would end the court dispute and RPDIF would become the owner of the **entire disputed facility and the user** of the Special Hospital in Vranjska Banja, which, however, **was rejected** by the Fund’s Director Dragana Kalinovic, so that the court proceedings were unnecessarily continued for several years.

However, despite a written warning about its harmfulness[[62]](#footnote-63) a court settlement was concluded between the Republic Pension and Disability Insurance Fund and the Republic of Serbia, according to which the right of ownership of real estate in Vranjska Banja was divided into 50% -50% ownership in favor of the Republic of Serbia, which did not put a single dinar in financing the construction of the facility and the Republic Pension and Disability Insurance Fund, which built the facility in its entirety with its own funds, all in accordance with the illegal oral agreement reached at the meeting of the Working Group formed by the Conclusion of the Government of the Republic of Serbia, held on 26 December 2016[[63]](#footnote-64), discussed above. On the published advertisement, the subject of which is the alienation of the real estate - land owned by the Republic of Serbia and the property of the Republic Pension and Disability Insurance Fund with the scope of the share of ½ each, which is a lot no. 2041 KO Vranjska banja, area of 8426m2, entered in land registry folio 2771 KO Vranjska banja, without a building, one bidder responded with a written offer, the Company for Engineering and Services “MILLENIUM RESORTS” d.o.o. from Belgrade, which bought the subject land without a building for a total amount of 255,000.00 euros, which ended the sale procedure and concluded a contract for the sale of real estate between the Republic Pension and Disability Insurance Fund and the Republic of Serbia as a seller from one and the company “MILLENIUM RESORTS” d.o.o. as a buyer on the other hand and solemnized by the Notary Public Olivera Stamenković under no.OPU: 420-2019 from 5 September 2019.[[64]](#footnote-65)

After the sale of real estate of the spa complex “Zubor” in Kursumlijska Banja and real estate in Vranjska Banja, and after the real estate in question was purchased by the Company AD “Planinka” from Kursumlija and the Company “Millennium Team”, i.e. Millenium resosrts д.о.о. from Belgrade, part of the Administrative and Professional Service of the Fund again addressed the RPDIF Steering Committee with an expert opinion[[65]](#footnote-66) with a proposal to cancel the decisions on the sale of the spa complex “Zubor” in Kursumlijska Banja and real estate - land in Vranjska Banja **and annul the concluded purchase agreements with buyers “Planinka” from Kursumlija and “Millennium Team”, i.e. Millennium Resorts d.o.o. from Belgrade.**

The opinion again warned of the fact that the decisions of the RPDIF Steering Committee on the sale of Kursumlijska and Vranjska Banja were illegal and harmful to the Fund, and that the contracts concluded on the basis of them would be null and void if someone invoked their nullity, in which case, as an unscrupulous seller, the material damage that would be suffered by the buyers would be borne by RPDIF.

In addition, it was pointed out that the Steering Committee of the Fund was timely warned that certain facilities and land in Kusumlijska Banja were subject to restitution proceedings before the Agency for Restitution at the request of the heirs of former owners whose real estate was nationalized, and that as such those immovables may not be sold until the restitution procedure was completed. It is stated that in the meantime, the Agency for Restitution issued several decisions on the return of nationalized real estate to the owners, which were the subject of sale by the RPDIF in Kursumlija Spa.

In addition, it was stated that the Steering Committee of the Fund was timely warned of the illegal sale of real estate in Vranjska Banja, whose subject of sale was **land without a building**, although the building was on the land, i.e. the building of an area of 3146m2, floors: Ground floor + 5, for which there was building permit, **which reduced the market price of the sold real estate several times and offered for sale for the amount of only 252,464.21 euros and sold for the amount of 255,000 euros.**

The opinion also states that despite the fact that the facility in Vranjska Banja, which is located on the land that was sold, was not built illegally but has a building permit, the Fund knowingly did not file an appeal against the decision of the Construction Inspection of Vranje City Administration in order to feign the sale of land without a building, for a much lower price than the market price, which means that those responsible in the Fund abused their official position and thus enabled the occurrence of material damage to the RPDIF.

# **SALE OF REAL ESTATE - COMPLEX OF FACILITIES AND LAND OF THE SPECIAL HOSPITAL FOR REHABILITATION VRANJSKA BANJA - STATE-OWNED HOSPITAL**

 Immediately after the purchase of land without the building of the Special Hospital Vranjska Banja, which is located on the cadastral parcel no. 2041 KO Vranjska Banja for the amount of **252,464.21 euros** by the buyer “MILLENIUM RESORTS”, the sale of the remaining facilities and land in Vranjska Banja was started, namely the hospital of the Special Hospital Vranjska Banja with the associated facilities and land.

The subject of the sale was the facility of the health institution of the Special Hospital for Rehabilitation Vranjska Banja, built in 1880, with 120 beds, which is located in the network of health institutions of the Republic of Serbia and which is by the Act of the Institute for the Protection of Cultural Monuments of Nis on the conditions of storage, maintenance and use and established measures for the protection of cultural property that enjoy prior protection no. 613/2 dated 30 December 2010 in the Plan of General Regulation of Vranjska Banja, was placed in previous protection, which is confirmed by the opinion of the Institute for the Protection of Cultural Monuments Nis no.1166 / 2 of 24.09.2014.[[66]](#footnote-67)

 The hospital of the Special Hospital for Rehabilitation is a building of civil architecture from the end of the 19th and the beginning of the 20th century which bears the epithet of the Royal Spa, considering that King Peter I Karadjordjevic was treated there and had his Royal Bath and where he was declared a war by Austro-Hungarian 1914.

In addition, next to the Special Hospital there is a source of thermal water whose temperature on the surface of the earth is 96C, which makes it the hottest source in Europe, whose water was used by the Special Hospital for the treatment and rehabilitation of the sick.

By the conclusion of the Government of the Republic of Serbia, no. 464-4953/2020 dated 18 June 2020[[67]](#footnote-68), it was decided to sell the real estate of the Special Hospital for Rehabilitation Vranjska Banja as follows:

* Health building of the Special Hospital No. 1, usable area 2,257 m2, construction area 2930 m2, floors: Ground floor + 1, existing on the lot 2747 KO Vranjska Banja
* Catering building - Kičer no.1, usable area 1204m2, construction area 1318m2, floors Ground floor + 1, existing on the lot 2746

- Auxiliary building no.1, usable area 46m2, construction area 62m2, floors: Ground floor, existing on the lot 2748 KO Vranjska banja

 - Auxiliary building no.1, usable area 12m2, construction area 18m2, floors: Ground floor, existing on the lot 2749 KO Vranjska banja

- Other buildings no.1, usable area 204m2, construction area 345m2, floors: Ground floor, existing on the lot No.2750 KO Vranjska Banja

* Land with a total area of ​​3924m2 registered in LN 2715 KO Vranjska Banja as public property consisting of a lot 2745 of 18m2, lot 2746, area 430m2, lot 2747 of 1638m2, lot 2748 of 62m2, lot 2749 of 18m2, lot 2750, area of ​​402m2, lot 2751, area of 55m2, 2752 area 277m2, lot 2754, area of ​​10m2, lot 2757, area of ​​1014m2.

Before the adoption of the cited Conclusion of the Government of the Republic of Serbia on June 18, 2020, on the sale of the Special Hospital for Rehabilitation Vranjska Banja, the preparation of its sale was started in terms of assessing the market value of the building and land of the Special Hospital, and to that end the Ministry of Economy of the Republic of Serbia concluded a contract for consulting services with the company Beoconex doo as a certified appraiser.[[68]](#footnote-69)

 In May 2019, the mentioned Company submitted to the Ministry of Economy of the Republic of Serbia a report on the market value of the facilities of the Special Hospital Vranjska Banja, whose market value of the facilities without land **was estimated at 2,100,753.34 euros**, and what should have, after market value of land, represented the initial market value of real estate of the Special Hospital for Rehabilitation Vranjska Banja.

However, although the market value (excluding the value of the land) of the Special Hospital facilities was already estimated at 2,100,753.34 euros, the Republic Property Directorate of the Republic of Serbia addressed the competent Tax Administration of the Vranje Branch with a request to assess the market value of the above real estate and received the answer that the Tax Administration of the Vranje Branch did not have the parameters to determine the value of buildings and land of the Special Hospital Vranjska Banja, and that it could not assess their market value[[69]](#footnote-70) (although the same Branch assessed the market value of real estate of the Special Hospital Vranjska Banja a year earlier, when it estimated the market value at 252,464.21 eurosAfter receiving a response from the Tax Administration of the Vranje Branch, the Republic Property Directorate of the Republic of Serbia (as in the case of the sale of Kursumlijska Banja) addressed the City Expertise Institute from Belgrade, which estimated the market value of the building and land of the Special Hospital for Rehabilitation Vranjska Banja in their Report no. PB-54/20 dated 25 May 2020, at the amount of 870,304.00 euros,[[70]](#footnote-71) which was the starting price at the time of sale, i.e. the amount almost three times lower than the already estimated market value of the Special Hospital. In parallel with the undertaken activities regarding the assessment of the market value of real estate and preparation of the sale, there were also activities regarding the deletion of the health institution of the Special Hospital for Rehabilitation Vranjska Banja from the network of health institutions of the Republic of Serbia, which followed on the basis of Serbian Government Decree no.110-4976 / 2020 from 18 June 2020 (Official Gazette of RS no.88/20),[[71]](#footnote-72) by which the Special Hospital for Rehabilitation **was deleted from the network** of health institutions of the Republic of Serbia.

 Immediately after the adoption of the Conclusion of the Government of the Republic on the sale of real estate of the Special Hospital for Rehabilitation Vranjska Banja no. 464-4953/2020 dated 18 June 2020 and the Decree of the Government of the Republic of Serbia no. 110-4976/2020 dated 18 June 2020, on the deletion of the Special Hospital for Rehabilitation Vranjska Banja from the network of health institutions of the Republic of Serbia, the Republic Directorate for Property of the Republic of Serbia announced on July 13, 2020 a public announcement for the sale of real estate complex of the Special Hospital Vranjska Banja.[[72]](#footnote-73)

After the arrival of written offers for purchase, the Republic Property Directorate of the Republic of Serbia accepted the offer of the Engineering and Services Company MILLENIUM RESORTS d.o.o. from Belgrade with which a purchase agreement was concluded on the sale of real estate - buildings and land that made up the complex of the Special Hospital Vranjska Banja for the amount of 1,600,000 euros**,[[73]](#footnote-74)** which was solemnized by the Public Notary under no. OVP: 908-2020 from 11 September 2020. The purchase of all real estate - facilities and land that made up the complex of the Special Hospital for Rehabilitation Vranjska Banja for the amount of 1,600,000 euros in 2020, as well as the previous purchase of land of the Special Hospital Vranjska Banja on lot 2041 KO Vranjska Banja without existing building permit in the area of ​​16,000 m2, which was performed in 2019 for the amount of 255,000 euros, the Company for Engineering and Services **MILLENIUM RESORTS d.o.o.** became the owner of the entire core of the City Municipality of Vranjska Banja, in the center of which is a source of thermal water with a temperature of 96C, which is one kilometer away from the highway of Corridor 10, for a total of **1,855,000 euros**.

# **EXPERIENCES OF THE COUNCIL IN WORKING WITH THE REPUBLIC PENSION AND DISABILITY INSURANCE** **FUND**

The introduction to this report states that the Council has continuously monitored the activities of the Republic Pension and Disability Insurance Fund related to the property of RPDIF, starting in 2009, especially when it comes to real estate of special hospitals for rehabilitation and their disposal.

The Council was informed on the basis of petitions and information from the Fund’s Administrative and Professional Service, as well as information collected by itself, given that the Fund, to which requests for information were sent, either did not respond or were incomplete.

After the Anti-Corruption Council was acquainted with the aforementioned sales of the spa complex “Zubor” in Kursumlijska Banja and land in Vranjska Banja, in accordance with the Law on Access to Public Information, the Council addressed a letter no. Official. from 20 August 2019[[74]](#footnote-75) to the Republic Pension and Disability Insurance Fund with a request for delivery of the following information:

* On what legal basis the RPDIF Management Board made a decision to amend the Rulebook on the Disposal of the Fund’s Real Estate, by adding Article 14a, according to which RPDIF real estate can be sold below the established market price;
* What has the Fund done in the period since 2013, when it became the owner of the facility in Kursumlijska Banja, on the basis of a final court ruling, to prevent its further deterioration and for what reason the mentioned facilities were not put into operation for the Fund’s income;
* Has the Fund converted the right to use the land for which a decision on sale in the area of 9.5 ha has been made into the right of ownership in the Real Estate Cadastre;
* Did the representatives of the Fund, before making a decision on the sale of Kursumlijska Banja, negotiate with the representatives of AD “Planinka”, to reduce its market value by 1,000,000 euros;
* Were the Fund members and the management of the Fund informed and warned by the Fund’s Administrative and Professional Service, before making the decision to sell Kursumlijska Banja that the Fund would suffer material damage in the amount of 1,000,000 euros if the decision to sell Kursumlija Spa for 1,415,836 euros would be realized;
* Whether the real estate in Kursumlijska Banja that was exposed for sale was the subject of claims of former owners under the Law on Restitution of Property and Compensation and if so, whether such restitution proceedings have been finalized by the Agency for Restitution or are still ongoing;
* Were the Fund’s Steering Committee, as well as the Fund’s management, during the decision making on the sale of land in Vranjska Banja, warned by the Fund’s Administrative and Professional Service that a building of several thousand m2 was located on the cadastral parcel exposed for sale, and that according to the Law on Real Estate, only a building with the right to use the belonging land may sell, and not only land without a building built on the basis of a building permit;
* Did Fund’s Administrative and Professional Service file a complaint against the decision of the Construction Inspection of the Municipality of Vranje on the demolition of the building on the lot exposed to sale to the second instance body, considering that it is a building that has not been built illegally, but has a building permit;
* On the basis of which parameters and by whom the initial selling price in the amount of 235,000 euros of land in Vranjska Banja was offered for sale through a public announcement, and whether the value assessment was performed for built or unbuilt land;
* Has the decision on the sale of land in Vranjska Banja been implemented, how many bids were there and whose bid was accepted;
* Agreement on the sale of Kursumlijska Banja concluded by the Fund with AD Planinka;
* Agreement on the sale of land in Vranjska Banja.

Considering that the Republic Pension and Disability Insurance Fund **did not act upon the reques**t of the Council for delivery of the requested information and documents, the Council addressed the Commissioner for Information of Public Importance, who, with his decision of December 5, 2019[[75]](#footnote-76), ordered the Republic Pension and Disability Insurance Fund to inform the Council without delay, and no later than within three days, whether it possessed the requested information, i.e. the documents in which they were contained.

The Republic Pension and Disability Insurance Fund, however, did not act within the legal deadline of three days for the delivery of the requested information, as ordered by the decision of the Commissioner, but submitted a letter to the Council dated January 9, 2020[[76]](#footnote-77), which, in addition to being untimely, did not contain or only partially contained answers to the requested information. The Republic Pension and Disability Insurance Fund only partially acted on the decision of the Commissioner to submit information and documents to the Council from which it is possible to find out:

* On what legal basis the RPDIF Steering Committee made a decision to amend the Rulebook on Disposal of the Fund’s Real Estate, by adding Article 14a, according to which RPDIF real estate can be sold below the established market price.

The Republic Pension and Disability Insurance Fund for did not act according to the decision of the Commissioner to provide the Council with information and documents from which it can be learnt:

* On what legal basis the RPDIF Management Board made a decision to amend the Rulebook on the Disposal of the Fund’s Real Estate, by adding Article 14a, according to which RPDIF real estate can be sold below the established market price;
* What has the Fund done in the period since 2013, when it became the owner of the facility in Kursumlijska Banja, on the basis of a final court ruling, to prevent its further deterioration and for what reason the mentioned facilities were not put into operation for the Fund’s income;
* Has the Fund converted the right to use the land for which a decision on sale in the area of 9.5 ha has been made into the right of ownership in the Real Estate Cadastre;
* Were the Fund members and the management of the Fund informed and warned by the Fund’s Administrative and Professional Service, before making the decision to sell Kursumlijska Banja that the Fund would suffer material damage in the amount of 1,000,000 euros if the decision to sell Kursumlija Spa for 1,415,836 euros would be realized;
* Whether the real estate in Kursumlijska Banja that was exposed for sale was the subject of claims of former owners under the Law on Restitution of Property and Compensation and if so, whether such restitution proceedings have been finalized by the Agency for Restitution or are still ongoing;
* Were the Fund’s Steering Committee, as well as the Fund’s management, during the decision making on the sale of land in Vranjska Banja, warned by the Fund’s Administrative and Professional Service that a building of several thousand m2 was located on the cadastral parcel exposed for sale, and that according to the Law on Real Estate Transactions, only a building with the right to use the belonging land may sell, and not only land without a building built on the basis of a building permit;
* Did Fund’s Administrative and Professional Service file a complaint against the decision of the Construction Inspection of the Municipality of Vranje on the demolition of the building on the lot exposed to sale to the second instance body, considering that it is a building that has not been built illegally, but has a building permit;
* On the basis of which parameters and by whom the initial selling price in the amount of 235,000 euros of land in Vranjska Banja was offered for sale through a public announcement, and whether the value assessment was performed for built or unbuilt land;
* Has the decision on the sale of land in Vranjska Banja been implemented, how many bids were there and whose bid was accepted;

The Republic Pension and Disability Insurance Fund did not act upon the decision of the Commissioner to submit to the Council:

* Agreement on the sale of Kursumlijska Banja;
* Agreement on the sale of land in Vranjska Banja.

Having in mind the fact that the Republic Pension and Disability Insurance Fund did not act upon the decision of the Commissioner for Information of Public Importance and Personal Data Protection no. 071-01-4996/2019-03 dated 5December 2019, the Anti-Corruption Council, in accordance with Art. 192 Para. 2. of the Law on General Administrative Procedure, in connection with Art. 28 Para. 2. of the Law on Free Access to Information of Public Importance, submitted to the Commissioner a proposal proposing that the Commissioner, in accordance with his legal powers, conduct the procedure of administrative execution of the above decision and enable the Anti-Corruption Council to obtain the requested information.

After the Council proposed to the Commissioner for Information of Public Importance and Personal Data Protection the implementation of the procedure of administrative execution of the decision, the Republic Pension and Disability Insurance Fund submitted the requested purchase agreements by letter[[77]](#footnote-78), which was submitted to the Anti-Corruption Council on June 11, 2020, with contradictory answers that contradict the written evidence available to the Council, as well as without the required supporting documentation.

# **CONCLUSION**

Based on the available documentation that the Anti-Corruption Council has in terms of monitoring the legality of the work of the Republic Pension and Disability Insurance Fund when it comes to disposing of property, with special reference to the disposal of special rehabilitation hospitals owned by the Republic Pension and Disability Insurance Fund, The Council has come to the conclusion that there is a suspicion that there are elements of systemically organized corruption of large scale, aimed, on the one hand, at knowingly causing material damage to the Fund and the Republic of Serbia, and on the other hand knowingly enabling third parties to enrich themselves by doing or not doing so by the Fund and certain state bodies at the expense of their property by purchasing real estate at prices below market.

In the period in which the Council monitored the work of the Fund, i.e. from 2009 to 2019, we can see two or three diametrically opposite periods, **the first**, in which the Fund together with all management bodies and Administrative and Professional Service implemented a policy aimed at enlarging the Fund’s assets, defining them, protecting them and putting them into operation in order to generate RPDIF revenues, in order to reduce grants and relieve the budget of the Republic of Serbia.

**The second**, in which after the Fund’s assets were defined and after the Fund formally became the owner of the real estate, it acted contrary to the powers belonging to the owner of one thing, i.e. to take care of it, collect income from it and manage it in the spirit of a good host, and **the third**, in which it is evident that the Fund not only behaved in non-domestic manner with regard to its property, but that it knowingly took actions in order to reduce it, causing it great material damage.

Regarding the **first period**, which lasted until 2014, the Council considers that the Fund has not only shown a high degree of responsibility when it comes to its assets, by taking measures and activities regarding its protection, initiation, conduct and termination of court proceedings on the basis of which it acquired the right of ownership on the facilities of special hospitals for rehabilitation, thus preventing their privatization and sale, but also with the decisions adopted by the governing bodies, it seriously dealt with the appropriate reform of pension and disability insurance by making decisions aimed at reducing present deficit in the operations of RPDIF, as well as the reduction of grants from the budget of the Republic of Serbia.

If the Fund had continued to implement the established business policy adopted by the decisions of the Fund’s Steering Committee in 2012, which adopted the **Baseline for Restructuring RPDIF**, and that on the other hand such decisions were supported by the Government of the Republic of Serbia and implemented in the proposed legal regulations, it is very likely that today **grants** to the Republic Pension and Disability Insurance Fund by the state, which according to official reports amount to about 23%, **would have been be reduced by more than half**, which would *de facto* represent both relieving the Fund and more money in the Republic budget for users in the field of health, culture, education, etc.

The revenues that the Fund would generate from its assets, as proposed by the mentioned decisions, would further reduce the mentioned grants from the budget and enable its greater sustainability, through the proposed establishment of a legal entity in the form of the RPDIF Asset Management Directorate, which would manage its assets in the name and on behalf of the Fund, it would be possible to remove professional activities related to asset management from the Fund, while it would continue to deal exclusively with activities in the field of pension and disability insurance.

When it comes to the Fund’s investment funds, which would be necessary for the construction or revitalization, adaptation and reconstruction of existing real estate in spa resorts owned by the Fund, in addition to being able to be provided from own funds, could be provided in the same way as it was provided to investors on the basis of the **Decree of the Government of the Republic of Serbia on determining the criteria for granting incentives to attract direct investment in the hotel accommodation sector in spas and climatic places**, i.e. subsidies, especially since in that way both the public and the interest of the Fund would be realized in many ways.

In the proposed manner, spa resorts in the Republic of Serbia would not be exposed to sale, and the Fund, as the owner of the real estate of special hospitals, would be able to generate income, while special hospitals would continue to exercise their health function which they would lose by privatization, and at the same time natural and healing resources would not be transferred to private property out of reach of the state and the Fund.

On the basis of the mentioned Decree, exclusion of the possibility for the Fund to be given, as the owner of special hospitals in spas as an investor, either directly or through a capital company founded by the Fund with its non-cash capital contribution in the form of value of its facilities and land, subsidies in the amount of several million euros for the revitalization and reconstruction of facilities in spas, is an example of **discrimination of the Fund** in relation to investors, who are allowed the right to participate in the procedure of allocating funds for incentives.

An obvious example of discrimination of the Fund as the owner of real estate in spa resorts can be seen in the example of the sale of the spa complex “Zubor” in Kursumlijska Banja where instead of the Fund as the owner of real estate, incentives or subsidies **were awarded to the buyer** of the spa complex “Zubor” in Kursumlijska Banja AD PLANINKA in the amount of **1,637,101.90 euros.**

**The second period**, which begins with the adoption of the Law on Amendments to the Law on Pension and Disability Insurance in the period of 2014 to 2018, is characterized by increasing deviation of management from the adopted business policy of the Fund determined by decisions of the previous Steering Committee when it comes to the Fund’s assets and mainly comes down to inaction, i.e. deliberate failure of the Fund’s management to put the acquired real estate into operation and the Fund to start generating income, without the previous binding decisions of the Fund’s Steering Committee being revoked.

The Council noticed huge expenditures of the Fund when it comes to special hospital facilities, as well as failure to take all actions to relieve the expenditures of the Fund, i.e. deliberate omission of appropriate legal remedies against administrative acts of the Tax Administration by which knowingly, in an illegal manner, the Fund was imposed a tax on the transfer of absolute rights to the facilities of special hospitals, although in this case it is not a transfer of ownership of real estate through purchase, transfer for a fee, or joint construction, but the acquisition of property rights on the basis of final court judgments.

The Council is of the opinion that, given the fact that the expenditures that the Fund had in terms of taxes on the transfer of absolute rights and property taxes in the given period (2014-2019) for special hospitals amounted to over 250 million dinars (**over 22 million euros**), and when you add to that the fact that the Fund in a given period financed the free recovery of pensioners in their facilities, or facilities of special hospitals owned by the Fund in the amount of over 2 billion dinars (**about 200 million euros**), and that the Fund did not have or try to have any income from such facilities, that the management of the Fund **not only operated their property in a non-domestic manner** but that their business was also **unscrupulous**, having in mind the obligation of general acts of the Fund by which the management of the Fund was obliged to increase, and not to reduce the Fund’s income.

Unscrupulousness and inconsistency of the Fund’s management is also noticeable when concluding court settlements in certain court proceedings for determining property rights on facilities of special rehabilitation hospitals that were not finalized, and which were agreed and concluded **arbitrarily** by the Fund’s director, contrary to written evidence and expert opinion of the Administrative and Professional Service of the Fund, which was especially the case with real estate in Vranjska Banja.

 Given the fact that RPDIF **resolved most court disputes in its favor**, with established case law and binding legal position of the Supreme Court of Cassation according to which the Fund, based on funds invested in construction, has the right to own special hospitals for rehabilitation, accepting the recommendation of the Serbian Government regarding the proposal to end litigation by concluding a settlement or withdrawing lawsuits and remedies filed by the Fund as a prosecutor, it made sense in terms of economy only in cases where there was a legal basis for it, which, however, **was missing** in several cases, and certain decisions on settlements, withdrawal of lawsuits and legal remedies by the Fund were made without an expert opinion, i.e. contrary to the opinion of the RPDIF Administrative and Professional Service which was authorized to represent the property interests of the Fund.

 The Law on Amendments to the Law on Pension and Disability Insurance in 2014, which changed the management structure of the Fund, i.e. since when the Fund **was nationalized by a majority of members of the Steering Committee** on the proposal of the Minister responsible for pension and disability insurance and the Minister responsible for finance, when it comes to the Fund’s assets, nonsense has been made, given that **the RPDIF’s privately owned assets are managed through their representatives by a non-owner, i.e. a state that is not its holder**, and accordingly there is a serious suspicion of **conflict of interest** when it comes to the decisions of the RPDIF’s Steering Committee on the disposal of real estate that is privately owned by the Fund, on which decisions are made by members of the Steering Committee appointed by the Government of the Republic of Serbia.

The Council thinks that in the indisputable fact that the real estate of special hospitals owned by the Fund was not acquired and built with state funds, but with funds from the contributions of the insured, and that according to the provisions of the previous Law on Funds Owned by the Republic of Serbia and the Law on Public Property, privately owned Fund assets as a mandatory social insurance organization, that members of the Steering Committee were elected by the state, must primarily represent the interests of the Fund, given the above reasons and regulations because otherwise they violate the provisions of the Law on Pension and Disability Insurance, Statute of the Republic Pension and Disability Insurance Fund and other general acts of the Fund, which, however, was not the case when making decisions on the sale of real estate owned by RPDIF.

When this is added with the fact that the Law on Amendments to the Law on Pension and Disability Insurance from 2014 **abolished the Supervisory Board of the Fund**, which supervised the legality of the Steering Committee, all its members have special and increased responsibility when making decisions on the disposal of RPDIF assets, which was also not the case when selling the Fund’s real estate.

Also, it is completely legally unfounded and irrational that the reason stated in the explanation of the amendments to the provisions of the Rulebook on Real Estate Disposal of RPDIF which enabled the Fund’s assets to be sold below their market price, joint sale with the Republic of Serbia, i.e. that this fact guided RPDIF to amend the said Rulebook and sell its property below their market value, when from the attached evidence and facts it can be concluded that the amendment of the Law on Public Property and the Rulebook on Real Estate Disposal RPDIF occurred solely to **satisfy the wishes of buyers** to buy real estate at lower prices from the market price and in that way to get unjustifiably enriched for the difference in the price of real estate.

In addition, the Council is of the opinion that the privatization of Special Rehabilitation Hospitals **should be suspended, given that their sale loses the purpose and goal** set by the Fund to build such facilities, i.e. that the Fund’s funds spent on their construction **have been strictly earmarked** whose purpose cannot be changed, and which, after all, results from court decisions which, on the basis of adopted temporary measures, prohibit the Republic of Serbia and the Privatization Agency from selling and disposing of special hospital facilities, and then by final judgments determining the Fund’s ownership of the said facilities, among other things, because the Fund’s funds were earmarked, the purpose of which is lost through sale, i.e. privatization.

Simultaneously with the writing of this Report, the Council learned that an attempt was being made to sell another special hospital for rehabilitation, at a starting price lower than its market value and to the Council’s knowledge, the square footage of the hospital reduced by about 5000m2. This is the **Special Hospital for Rehabilitation “Zlatar” from Nova Varos**, owned by the Republic Pension and Disability Insurance Fund, for the sale of which a public announcement was published no. 23 by the Republic Property Directorate of the Republic of Serbia and the Republic Pension and Disability Insurance Fund from 7 October 2020, at a starting price of **2,341,995 euros**.

In addition to the above, the sale of special hospitals for rehabilitation should be suspended having in mind the health aspect, i.e. the fact that the privatization and sale of special hospitals for rehabilitation **would jeopardize the health system of the Republic of Serbia**, and treatment and rehabilitation of citizens of the Republic of Serbia would be disabled or significantly hampered by the exclusion of special hospitals from the network of health care institutions, which would inevitably occur after their privatization and sale.

In support of the above fact, we must cite a recent example of the Covid-19 virus pandemic, where several special hospitals were turned into covid hospitals due to the epidemic, which if sold or privatized, would no longer be in the health system of the Republic of Serbia.

In this regard, the Council must point out the **inadmissible fact** that the sale of the Special Hospital for Rehabilitation Vranjska Banja **was carried out during the most intensive duration of the second wave of the Covid virus pandemic in July 2020**, when a state of emergency was declared in the Municipality of Vranje, and that the Special Hospital for Rehabilitation Vranjska Banja with 120 beds, due to the sale by the Decree of the Government of the Republic of Serbia, **was deleted from the network of health institutions** of the Republic of Serbia at a time when hospitals in Vranje and Pcinj district were looking for more beds for Covid -19 virus patients, with unfortunately daily and multiple deaths.

**The third period** of the Council’s analysis of the Fund’s operations, when it comes to disposing of the Fund’s real estate, included the period from 2018 to 2019, in which real estate owned by the Fund in Kursumlijska and Vranjska Banja was alienated or sold.

The Fund’s activities in that period are not only contrary to the Law on Pension and Disability Insurance, the RPDIF Statute and the original RPDIF Real Estate Disposal, i.e. the Fund’s interests and business policy, which was previously determined precisely to prevent the privatization of special hospitals for rehabilitation and their sale, but they represent the undertaking of conscious activities suspected of having elements of organized corruption and abuse of official position of responsible persons in the Fund, with the aim of reducing the Fund’s assets and selling real estate below their market value.

**By concealing the fact** by the RPDIF management of the already established market value of the hotel “Zubor" in Kursumlijska Banja, first by the Fund itself in the “Analysis of the conditions and possibilities of work and development of residential treatment facilities and natural health resorts for prevention, treatment and rehabilitation” made by the RPDIF Working Group, according to which the market value of the hotel “Zubor” with the land was estimated at (**6,275,000 euros**), and then the market value of the hotel “Zubor” determined by the decision of the competent authority of the Tax Administration Kursumlija Department (**5,507,292.58 euros**), on the basis of which the Fund was determined the basis for payment of property tax, which the Fund paid for years and by accepting the findings and opinion of the City Bureau of Expertise on the market value of the Spa complex Kursumlijska Banja (**2,359,727.59 euros**) as the starting sale price, that is by an amount lower by **3,147,565** **euros** than the already determined market value of the real estate, i.e. by making an offer through a public announcement for the sale of real estate based on inaccurate data on their market value, the management of the Fund and the Republic Directorate for Property and the competent Tax Administration abused their position, knowingly allowing the sale of real estate of the spa complex “Zubor” below its market value.

When we add to that the fact that the spa complex “Zubor”, after the sale, after purposefully, in accordance with the wishes of the buyer, there was a change in the Law on Public Property and a change in the Rulebook on Real Estate Disposal of RPDIF, which allows the sale of real estate below their market value, purchased by the company AD PLANINKA for the amount of only **1,415,832 euros**, **material damage suffered by RPDIF** with its share of 91.09% and **the Republic of Serbia** with its share of 8.91 % in relation to the market value of the spa complex “Zubor” determined by the competent Tax Authority amounted to **4,091,456** **euros**, for which amount the buyer of the Company AD Planinka unjustifiably enriched.

In addition, the Council thinks that the activities of the state regarding the amendment of the Law on Public Property, as well as the activities of the Fund, are aimed at amending the RPDIF Rulebook on Real Estate Disposal, which enabled the sale of real estate below their market value, **are the product of the agreement of the participants in the sale, i.e. the Fund and the Republic of Serbia as the seller and the Company AD Planinka as the buyer**, having in mind the public statement of the future buyer on the initial selling price of the spa complex “Zubor”, which preceded the amendments to the Law on Public Property and the Rulebook on Real Estate Disposal of RPDIF.

The Council is of the opinion that the entire procedure of privatization, i.e. sale of real estate of the spa complex “Zubor” in Kursumlijska Banja by RPDIF and the Republic Property Directorate of the Republic of Serbia is based on undertaking a number of illegal actions, both by the responsible persons of the Fund who concealed the fact of the existence of the estimated value of real estate in Kursumlijska Banja on which they pay property tax in the amount of **5,507,292.58** **euros** and the Directorate that knew or should have known that RPDIF property in Kursumlijska Banja was already taxed and what the basis for the property tax of the hotel “Zubor” was, on the basis of which the Fund has been paying property tax since 2014, with the simultaneous responsibility of the Tax Administration - Kursumlija Department, which in preparing for the sale of Kursumlijska Banja, in its Act of 2018 , stated that it was unable to assess its market value.

Also is indicative the fact that creates suspicion that there are elements of organized activities, calculated in advance with the aim of reducing the market price of the spa complex “Zubor” is that the competent tax administration of the Prokuplje Branch - Kursumlija Branch, after assessing the market value of the hotel“Zubor” in Kuršumlijska Banja in 2014 in the amount of **5,507,292.58 euros**, on the basis of which the RPDIF paid property tax, **the same Branch submitted the act to the Republic Property Directorate in 2017 according to which it was not able to assess the market value** of the spa complex “Zubor”, which conditioned the assessment of its market value by the City Bureau of Expertise in the amount of **2,359,727.59** **euros**, or twice lower amount than the assessment of the tax administration, and which led to the sale of the Spa complex at a starting price many times lower than its actual market value, which caused material damage to the Republic Pension and Disability Insurance Fund and the Republic of Serbia in the amount of several million euros.

The Council also thinks that RPDIF and the Republic Directorate for Property could not offer for sale the real estate in Kursumlijska Banja which was the subject of the procedure of returning the confiscated property before the Agency for Restitution at the request of the heirs of the former owners, who initiated the procedure for returning the property in 2014. Such actions of RPDIF and the Republic Directorate for Property led to the sale of certain buildings and land in Kursumlijska Banja, which were returned to the old owners based on the **final decision of the Agency for Restitution**, which is extremely inadmissible and endangers the legal security of citizens.

At the same time, the Council considers that **during the sale of land in Vranjska Banja for the amount of only 252,464.21 euros**, RPDIF undertook activities that enabled a conscious reduction of the Fund’s assets subject to sale, on the one hand by exploiting the position of the Fund’s director when concluding a court settlement with the Republic of Serbia, on which occasion the shares on real estate were determined in the proportion of ½, **without a legal basis**, contrary to the opinion of the Administrative and Professional Service and to the detriment of the property of RPDIF, and on the other hand by inaction of the Fund’s management, when failing to invest legal remedies against the decision of the administrative body which, immediately before the announcement of the public announcement for sale, ordered the demolition of the legal building of an area of 16,000 m2 which has had a building permit on the subject land in Vranjska Banja.

 When we add to that the fact that the Republic Directorate for Property of the Republic of Serbia did not perform its duty to invest a legal remedy against the decision to demolish the building in Vranjska Banja, the Council is of the opinion that **inaction by the Fund and the Directorate in this case is a product of reducing the subject of the property that is exposed to sale, and thus the market price of the offered real estate**, especially since according to the provisions of the Law on Planning and Construction it is prescribed that if there is insecurity of the building, it can be removed by reconstructing the building or one of its parts by its owner.

In addition, by concluding an illegal contract on the sale of land in Vranjska Banja, concluded between RPDIF and the Republic Property Directorate of the Republic of Serbia as a seller and the Company MILLENIUM RESORETS d.o.o. as a buyer**, without an existing building** that had a building permit and which at the time of concluding the contract of sale was located, i.e. existed on the purchased land, contrary to the provisions of the Law on Real Estate, and of which fact the buyer was aware, the Republic Pension and Disability Insurance Fund and The Republic of Serbia were knowingly caused a material damage in the form of reduction of the market value of the real estate offered for sale, and at the same time **violated the Law on Real Estate, which makes the concluded contract of sale null and void.**

Conscious concealment of the fact by RPDIF that the building of the special hospital in Vranjska Banja of an area of ​​16,000 m2, and not 3142 m2, whose value in the “Analysis” of the Fund itself was estimated at **3,200,000 euros**, and the value of land at **2,800,000 euros,** which made a total of **6,000,000 euros**, when making a decision on the sale and publication of a public announcement for the sale of land by RPDIF and the Republic Directorate for Property for the amount of **252,464.21 euros**, according to the Council is not only an example of negligent and non-domestic management of RPDIF property, but also knowingly causing multimillion damage to the Fund and knowingly enabling the buyer MILLENIUM RESORTS doo to unjustly and illegally enrich.

The Council had in mind the fact that the assessment of the market value of the facility in Vranjska Banja in the amount of **3,200,000 euros** was made in 2009, and that its value at the time of sale could be lower than estimated, but that the market value of the existing facility of 16,000m2 that had a building permit when selling was reduced to zero as if the object does not exist, was extremely inadmissible and impermissible.

The Council also had in mind the estimated value of the land in Vranjska Banja, which was estimated by the expert opinion in the RPDIF “Analysis of the conditions and possibilities of work and development of residential treatment facilities and natural health resorts for prevention, treatment and rehabilitation” at **2,800,000 euros** and the fact that in the meantime, the infrastructure built in the immediate vicinity of the sold plot, as well as the location of the land in relation to the frequent road Corridor 10 of the highway could only increase its market value, and **not reduce it by ten times** and offer it for sale for only **252,464, 21 euros.**

Also, considering that the Fund’s management **was informed and warned in a timely manner** about all illegalities and harmful consequences of concluding the aforementioned contracts and the material damage that RPDIF would suffer, as well as with other actions and activities of the Fund’s management that preceded them, and which were aimed at reducing the assets of RPDIF, the Council is of the opinion that in specific cases of the sale of real estate by the Fund in Kursumlijska and Vranjska Banja we cannot talk only about negligence, but about the existence of suspicion that it can be a case of negligent business and corrupt actions during their sale by the management of the Fund, as well as by the Republic Property Directorate of the Republic of Serbia, which according to the law had to protect the property and property interests of the Republic of Serbia and RPDIF.

In addition, elements of systemic corruption and coordination of certain state bodies with the aim of reducing the market values ​​of real estate offered for sale, with the aim of satisfying the wishes of foreseen buyers, are clearly visible in the case of sale of real estate complex of the Health Institution - Special Hospital for Rehabilitation Vranjska Banja, where the Republic Directorate for Property of the Republic of Serbia **has had consciously neglected the assessment of the market value** of the Special Hospital for Rehabilitation Vranjska Banja, which was ordered by the Ministry of Economy of the Republic of Serbia by an authorized appraiser of **Beoconex doo** in 2019, when the market value of the Special Hospital for Rehabilitation Vranjska Banja was estimated at **2,100,753.34 euros**.

After ignoring the already determined market value of the real estate in question at the Vranjska Banja Special Hospital, the Republic Property Directorate of the Republic of Serbia, in the already seen and established principle (as well as during the sale of the “Zubor“ Spa Complex in Kursumlijska Banja, where the market value had already been determined) addressed the competent **Tax Administration of the Vranje Branch, from which they received the answer that it did not have the parameters for assessing the market value of the real estate of the Special Hospital for Rehabilitation Vranjska Banja.** On that occasion, the Tax Administration of the Vranje Branch, however, **overlooked the fact** that during the previous sale of the land of the Special Hospital Vranjska Banja, which was performed in 2019, based on its parameters, it itself estimated the market value of real estate in Vranjska Banja in the amount of **252,464.21 euros**, which it submitted to the Republic Directorate for Property of the Republic of Serbia by its act, for which amount the real estate in question was offered for sale and purchased by the company MILLENIUM RESORTS d.o.o. for the amount of 255,000 euros.

Also, according to the already established rule, after the answer of the Tax Administration of the Vranje Branch that it was not able to assess the market value of the real estate of the Special Hospital Vranjska Banja, the Republic Property Directorate of the Republic of Serbia addressed the City Bureau of Expertise, which with its report determined the market value of the real estate of the Special Hospital for Rehabilitation Vranjska Banja, which (as in the case of estimating the market value of the Spa Complex of Kursumlijska Banja) estimated the market value of real estate offered for sale for an amount **almost three times lower** than the amount previously estimated by an authorized appraiser Beoconex d.o.o., i.e. in the amount of **870,000 euros**, which was the starting price during the sale of the real estate in question, which were purchased by MILLENIUM RESORTS d.o.o. from Belgrade upon completion of the sale procedure for the amount of **1,600,000 euros**, i.e. for a smaller amount than the estimated market value of the real estate of the Special Hospital for Rehabilitation Vranjska Banja.

In these specific cases, the **coordination established** between RPDIF, the Republic Property Directorate of the Republic of Serbia, the competent Tax Administrations of the Kursumlija and Vranje Branches and the City Bureau of Expertise is obvious, calculated on reducing the market values ​​of real estate offered for sale and satisfying the wishes of well-known buyers, that is AD PLANINKA and MILLENIUM RESORTS d.o.o., which through the media and a letter of intent in advance clearly expressed a desire to purchase real estate of the special hospitals „Zubor“ in Kursumlijska Banja and Vranjska Banja.

In addition to the above-mentioned observed illegalities, irregularities and the emergence of systemic corruption, the Council also points to the fact that the Special Hospital for Rehabilitation Vranjska Banja is a cultural and historical asset, which due to its architectural aspects of civic architecture from the late nineteenth and early twentieth century and historical aspects related to King Peter I Karadjordjevic, based on the opinion of the Institute for the Protection of Cultural Monuments Nis, and in accordance with the Law on Cultural Heritage, was placed under prior protection, **and as such could not be subject to privatization or sale,** given that in this way, contrary to Art. 7. of The Law on Cultural Property, among other things, its purpose is lost, and in the opinion of the Council, the sale in question is illegal from that aspect as well.

Also, considering that the Institute for the Protection of Cultural Monuments in Nis placed the building of the Special Hospital for Rehabilitation Vranjska Banja under previous protection because it met all the conditions to be declared a cultural monument, privatization, i.e. sale of such a building was contrary to the provisions of the Law on Privatization in accordance with Art. 5 Para. 3. and the provisions of the Law on Public Property in accordance with Art. 10 Para 6 and Art. 16 Para 6, and in the opinion of the Council, and for that reason, the sale in question is disputable.

The Council is of the opinion that the Republic Pension and Disability Insurance Fund and the Republic of Serbia have suffered material damage in the amount of several million euros, which at the same time led to illegal acquisition of property by third parties, i.e. buyers of real estate in particular case, and having in mind all the illegalities that were noticed during the sale procedure, the Council considers that the concluded contracts for the sale of real estate of the spa complex “Zubor“ in Kursumlijska Banja and Vranjska Banja are illegal and as such cannot produce legal effect.

Having in mind the fact that the facilities that were privatized, i.e. sold, **were purpose-built as health rehabilitation institutions** that used thermal springs as a basis for treating patients and had a decades-long tradition in treating and rehabilitating citizens of the Republic of Serbia, the question arises as to what their extinguishing and privatization and the expediency of their sale are for, and whether the interest of the Republic of Serbia and the Fund was in their preservation or sale for nothing to the detriment of the health of its population, and in this regard **the Council considers that the sale and privatization of such facilities and shutdown of such health facilities is inadmissible and contrary to the interests of the citizens of the Republic of Serbia and contrary to the interests of preserving public health, the protection of which the state is obliged by the Constitution of the Republic of Serbia.**

# **RECOMMENDATIONS**

The Council proposes to the State Audit Institution:

* to audit the determination of the market value assessment during the sale of the real estate of the spa complex “Zubor” in Kursumlijska Banja, bearing in mind that the real estate was appraised and then sold for many times lower than their originally appraised market value by the Tax Administration of Kursumlija Branch;
* to audit the determination of the market value assessment during the sale of land without the existing facility of 16,000 m2 on lot 2041 KO Vranjska Banja, Special Hospital in Vranjska Banja, bearing in mind that the real estate was appraised and then sold for ten times lower price than originally estimated market value of the land offered for sale;
* to revise the determination of the assessment of market value during the sale of the complex of the Special Hospital for Rehabilitation Vranjska Banja, bearing in mind that real estate was offered for sale at a starting price many times lower than the already determined market value of real estate offered for sale;
* in accordance with its powers, after the audit, to initiate appropriate proceedings against those responsible.

The Council proposes to the Government of the Republic of Serbia:

* to instruct the competent institutions, given that there are indications of the existence and commission of organized crime, primarily the Prosecutor’s Office for Organized Crime, to take statutory measures to identify perpetrators, as well as to prosecute them in connection with the sale of real estate spa complex “Zubor” in Kursumlijska Banja and real estate in Vranjska Banja due to knowingly diminishing their market value in order to obtain illegal property benefits to third parties, namely those responsible from the Republic Pension and Disability Insurance Fund, the Republic Property Directorate of the Republic of Serbia, the Tax Administration of the Kursumilija Branch, the Tax Administration Vranje Branch, City Institute for Expertise from Belgrade;
* to initiate proceedings with the competent Prosecutor’s Office for Organized Crime due to the existence of indications of organized crime of responsible persons in front of the real estate seller of the Spa Complex “Zubor” in Kursumlijska Banja and real estate in Vranjska Banja, the Republic Pension and Disability Insurance Fund and the Republic Property Directorate of the Republic of Serbia and buyers AD Planinka company from Kursumlija and the company MILLLENIUM RESORTS d.o.o from Belgrade, with the aim of pre-agreed purchase of the real estate in question below their market value;
* to initiate with the competent institutions, the State Attorney's Office of the Republic of Serbia and the Republic Pension and Disability Insurance Fund to initiate proceedings to determine the nullity of the contract of sale of real estate Spa complex “Zubor” in Kursumlijska Banja, real estate - land of Special Hospital Vranjska Banja on lot 2041 KO Vranjska Banja and initiate disciplinary proceedings against the Public Notary Chamber against the Notary Public Olivera Stamenovic from Vranje, who solemnized the illegal contract on the sale of land without the existing facility on lot 2041 KO Vranjska Banja under no. OVP: 420-2019 dated 5 September 2019, to initiate proceedings with the State Attorney's Office of the Republic of Serbia to determine the nullity of the contract of sale - real estate complex of the Special Hospital for Rehabilitation Vranjska Banja, given that it was concluded contrary to the Law on Cultural Heritage, the Law on Privatization and the Law on Public Property, as well as other reasons that make the contract null and void;
* to propose to the National Assembly of the Republic of Serbia to amend the provisions of Chapter XII of the Law on Pension and Disability Insurance which defines the organization of the Republic Pension and Disability Insurance Fund in terms of proportionate and equal management of the Fund by beneficiaries, insured persons and employers, bearing in mind that the RPDIF property is privately owned, and that due to the existing conflict of interest, decisions on the disposal of real estate cannot be made by the RPDIF Steering Committee, the majority of which are representatives of the Government of the Republic of Serbia;
* to supplement the existing Decree on determining the criteria for awarding incentives to attract direct investment in the hotel accommodation sector in spas and climatic places, with the right of the Republic Pension and Disability Insurance Fund to participate as the owner of real estate in spas and climatic places in the process of allocating incentives, so that the RPDIF would not be in a discriminatory position in relation to other users of funds, i.e. investors;
* to propose to the National Assembly of the Republic of Serbia the adoption of the Law on Amendments to the Law on Public Property, which would delete the provision according to which public real estate can be sold below their market value, as well as to propose to the Republic Pension and Disability Insurance Fund an amendment to the RPDIF Rulebook on Real Estate Disposal, which would delete the provision according to which RPDIF real estate can be sold below their market value;
* to initiate with the Republic Property Directorate of the Republic of Serbia and the Republic Pension and Disability Insurance Fund the annulment of the public tender for the sale of the Special Hospital “Zlatar” from Nova Varos and initiate the suspension of all other privatization and sale of special hospitals for rehabilitation in the Republic of Serbia in order to preserve the health and health protection of the citizens of the Republic of Serbia.

VICE PRESIDENT OF THE COUNCIL

Prof. Dr. Miroslav Milicevic

1. Conclusion of the RPDIF Steering Committee on initiating the amendment of the provisions of the Law on PDI, which refer to the status, activity and property of the Fund, as well as the amendment of the Law on the Share Fund of the Law on Privatization from June 6, 2006, Information to the RPDIF Steering Committee on the Fun's assets from March 2008 by the advisor to the director, Valerijan Kadijević, / attached /. [↑](#footnote-ref-2)
2. Law on Pension and Disability Insurance (Official Gazette of the SRS No. 51/72) [↑](#footnote-ref-3)
3. Article 65a, Article 67, paragraph 1, Article 70, paragraph 1 of the Law [↑](#footnote-ref-4)
4. Statute of the Republic Fund for Pension and Disability Insurance (Official Gazette of the SRS No. 12/78) [↑](#footnote-ref-5)
5. Article 18, Paragraph 1. of the Statute [↑](#footnote-ref-6)
6. Law on Pension and Disability Insurance (Official Gazette of the SRS No. 15/83) [↑](#footnote-ref-7)
7. Article 166 of the Law [↑](#footnote-ref-8)
8. Law on Pension and Disability Insurance (Official Gazette of RS No. 27/92) [↑](#footnote-ref-9)
9. Article 214, paragraph 2 of the Law [↑](#footnote-ref-10)
10. Law on Assets Owned by the Republic of Serbia (“Official Gazette of RS”', No. 53/95, 3/96, 54/96, 32/97) [↑](#footnote-ref-11)
11. Article 1. Para 3. Item 3. of the Law on Assets Owned by the Republic of Serbia [↑](#footnote-ref-12)
12. Conclusion of the Government of the Republic of Serbia No. 022-7918 / 2007 dated 29 November, 2007 / attached / [↑](#footnote-ref-13)
13. “Analysis of the conditions and possibilities of work and development of residential treatment facilities and natural health resorts for prevention, treatment and rehabilitation” made by the Working Group of the Republic Fund for Pension and Disability Insurance 2009, p. 23-33 / attached / [↑](#footnote-ref-14)
14. Decision of the RPDIF Steering Committee on the amendment of the Statute of the Republic Pension and Disability Insurance Fund No. 022.2-10 / 59 of November 25, 2008 / attached /

 [↑](#footnote-ref-15)
15. Conclusion of the Government of the Republic of Serbia No. 023-405 / 2008-2 of February 21, 2008 /attached/ [↑](#footnote-ref-16)
16. Letter to the Director of RFPIO No. 031-7582/11 dated 21 December 2011, with the Conclusion of the Working Group of the Steering Committee of the RFPIO Restructuring Fund /attached/ [↑](#footnote-ref-17)
17. Judgment of the Supreme Court of Cassation Rev. no. 363/12 dated 21 February 2013 /attached/ [↑](#footnote-ref-18)
18. Baseline for the Restructuring of the RPDIF Steering Commitee Working Group adopted by the RFPIO Steering Commitee at its session in May 2012, with Measures to Improve the Structure of Pension and Disability Insurance Financing, prepared by RFPIO Financial Director Ivan Mimic and Analysis and proposals of short-term measures leading to direct reduction of the current RFPIO deficit, with special reference to previous investments of the Fund, potential assets of the Fund with legal solutions of such measures, prepared by the advisor to the director of RFPIO Valerijan Kadijevic. [↑](#footnote-ref-19)
19. Law on Public Property (Official Gazette of RS No. 72/2011, 88/2013, 105/2014, 104/2016, 108/2016, 113/2017, 95/2018) [↑](#footnote-ref-20)
20. Article 3. Para 2. of the Law on Public Property [↑](#footnote-ref-21)
21. Rulebook on Disposal of Real Estate of the Republic Fund for Pension and Disability Insurance (Official Gazette of RS No. 33/2014), Article 14, Paragraph 1 and Paragraph 3 of the Rulebook on Disposal of Real Estate of the Republic Pension and Disability Insurance Fund [↑](#footnote-ref-22)
22. Conclusion of the Government of the Republic of Serbia, March 2014 on the suspension of the privatization process and the formation of the Working Group to consider and propose a model for the privatization of special hospitals for rehabilitation [↑](#footnote-ref-23)
23. Law on Amendments to the Law on Pension and Disability Insurance (Official Gazette of RS, No. 75/2014) [↑](#footnote-ref-24)
24. Article 155 of the Law on Amendments to the Law on Pension and Disability Insurance [↑](#footnote-ref-25)
25. Conclusion of the Government of the Republic of Serbia 05 No. 46-9803 / 2016-1 dated 9 November 2016 /attached/ [↑](#footnote-ref-26)
26. Stenographic notes from the meeting of the Working Group held at the Federation Palace on December 26, 2016 /attached/ [↑](#footnote-ref-27)
27. Decision of the Ministry of Finance of the Republic of Serbia no. 400-436-03-00122 / 2014-14001 dated 17 July 2014 /attached/ [↑](#footnote-ref-28)
28. Expert opinion of the Assistant Director of the Sector for Property Affairs, Design and Representation No. 710-4022 / 15 dated 1 June 2015, Taxes paid by the RFPIO on the transfer of absolute rights and property for special hospitals for rehabilitation, as of 2017 /attached/ [↑](#footnote-ref-29)
29. Decision of the Government of the Republic of Serbia 05 No. 02-02-12456/2017-1 dated 14 December 2017, on the formation of the Working Group for Strategic Resolution of Open Issues Related to Spas and Spa Resorts /attached/ [↑](#footnote-ref-30)
30. Conclusion of the Government of the Republic of Serbia 05. No. 46-1896/2018 from 1 March 2018 /attached/ [↑](#footnote-ref-31)
31. Minutes from the 55th session of the Steering Committee of the Republic Fund for Pension and Disability Insurance 08/2 no. 2206/18 dated March 16, 2018 /attached/ [↑](#footnote-ref-32)
32. Decision no. 022.2-11/4 from 16 March 2018, on accepting the recommendation of the Government of the Republic of Serbia and giving consent to the item. 6. of the Conclusion of the Government of the Republic of Serbia 05 no. 46-1896 / 2018-3 from March 1, 2018 /attached/ [↑](#footnote-ref-33)
33. Decision no. 022.2-11/5 from March 16, 2018 on accepting the recommendation of the Working Group for Strategic Resolution of Open Issues Related to Spas and Spa Resorts made by the Decision of the Government of the Republic of Serbia 05 no. 02-02-12456/2017-1 from 14 December 2017 and the Recommendation of the Ministry of Labor, Employment, Veteran and Social Policy no. 020-00-01/2017-01/103 from 29 December 2017 /attached/ [↑](#footnote-ref-34)
34. Закључак Владе Републике Србије од 19.04.2018. године /у прилогу/ Conclusion of the Government of the Republic of Serbia from April 19, 2018 /attached/ [↑](#footnote-ref-35)
35. Public announcement of the Republic Directorate for Property of the Republic of Serbia and the Republic Fund for Pension and Disability Insurance published on April 25, 2018 on the alienation of the real estate of the spa complex “Zubor” in Kursumlijska Banja by collecting bids, published in the newspaper Srpski Telegraf /attached/ [↑](#footnote-ref-36)
36. Report of the Sector for Property Affairs, Design and Representation of RFPIO with a summary of the legal aspect, economic-financial aspect and the current status of the right to exploitation - Kursumlijska Banja from August 7, 2015 /attached/ [↑](#footnote-ref-37)
37. Conclusion of the Government of the Republic of Serbia no. 42-9564/2011 dated 15 December 2011 on granting consent for the takeover of the claims of the Company Dunav Insurance by the Republic of Serbia and change of the ownership structure of the Special Hospitals ‘Zubor” and “Zlatar” in favor of the Company Dunav Insurance /attached/ [↑](#footnote-ref-38)
38. Text published in the magazine “NIN” dated February 9, 2012, entitled “And from the Government Two Spas” with statements by members of the Steering committee of the Republic Pension and Disability Insurance Fund, Dragoljub Rajic, and Advisor to the Director of the Fund, Valerian Kadijevic [↑](#footnote-ref-39)
39. Page 3 of Annex no. 5 to the “ Analysis of the conditions and possibilities of work and development of residential treatment facilities and natural health resorts for prevention, treatment and rehabilitation” of the RPDIF Working Group from 2009 on the assessment of the market value of the hotel “Zubor” with land in the amount of 6,275,000 euros /attached/ [↑](#footnote-ref-40)
40. Page 3. of the Report of the Sector for Property Affairs, Design and Representation of RPDIF with a summary of the legal aspect, economic-financial aspect and the current status of the right to exploitation - Kursumlijska Banja from August 7, 2015, with the estimated market value of the hotel “Zubor” by the Tax Administration of the Kursumlija Branch in the amount of 5,507,292.58 euros as the basis for the payment of property tax /attached/ [↑](#footnote-ref-41)
41. Expert opinion no. 46-4088 18 dated 10 May 2018 of the Assistant Director of the Sector for Property Affairs, Design and Representation, Valerijan Kadijevic, with a proposal for the adoption of the Decision on repealing the Decision of the RFPIO Steering committee on the sale of the spa complex “Zubor” in Kuršumlijska Banja for the amount of 2,359,727.50 euros and cancellation of public announcement [↑](#footnote-ref-42)
42. Statement of the director of the Company AD Planinka published in “Topličke vesti” on May 2, 2018 [↑](#footnote-ref-43)
43. Statement of the Minister of Tourism, Trade and Telecommunications of the Republic of Serbia published in “Topličke vesti” on August 11, 2018 [↑](#footnote-ref-44)
44. Statement of the Minister of Tourism, Trade and Telecommunications to the “Beta” Agency dated January 4, 2019 [↑](#footnote-ref-45)
45. Law on Amendments to the Law on Public Property (Official Gazette of RS No. 95/18) [↑](#footnote-ref-46)
46. Article 31a of the Law on Amendments to the Law on Public Property [↑](#footnote-ref-47)
47. Article 29 para. 1. of the Law on Public Property [↑](#footnote-ref-48)
48. Decision 08/2 No. 22.2-1/9 of March 29, 2019 of the Steering Committee of the Republic Pension and Disability Insurance Fund on the amendment of the Rulebook on the Disposal of Real Estate of the Republic Pension and Disability Insurance Fund (“Official Gazette” of the RS, No. 33/2014, 56/2015, 23/2019) [↑](#footnote-ref-49)
49. Article 14 para. 1 of the Rulebook on Disposal of Real Estate of the Republic Pension and Disability Insurance Fund [↑](#footnote-ref-50)
50. Public announcement published in the daily “Srpski Telegraf” from April 20, 2019 on the sale of the spa complex “Zubor” in Kursumlijska Banja /attached/ [↑](#footnote-ref-51)
51. Expert opinion no. 46-3894/19 dated 15 May 2019, of Assistant Director of the Sector for Property Affairs, Design and Advocacy, Valerian Kadijevic, with a proposal to annul the decision of the RPDIF Steering Committee to amend the Rulebook on Real Estate Disposal of RPDIF and the decision to sell the spa complex “Zubor” in Kursumlijska Banja at a price of 1,887,782 euros and annulment of the public announcement from April 20, 2019 /attached/ [↑](#footnote-ref-52)
52. Decree of the Government of the Republic of Serbia on determining the criteria for granting incentives to attract direct investments in the hotel accommodation services sector, adopted on May 10, 2019, and came into force on May 11, 2019 (Official Gazette of RS No. 33/19) [↑](#footnote-ref-53)
53. Public announcement of the Property Directorate of the Government of the Republic of Serbia and the Republic Pension and Disability Insurance Fund published on July 25, 2019, for the alienation of the spa complex “Zubor” in Kursumlijska Banja, for the amount of 1,415,836 euros /attached/ [↑](#footnote-ref-54)
54. Expert opinion no. 46-6157/19 dated August 2, 2019 of the Assistant Director of the Sector for Property Affairs, Design and Representation, Valerian Kadijevic, with a proposal to annul the Decision of the Steering Committee of RFPIO No. 08/2 No. 022.1-1/34 of July 24, 2019 on the sale of the spa complex “Zubor” in Kursumlijska Banja and the annulment of the public announcement from July 25, 2019 /attached/ [↑](#footnote-ref-55)
55. Final decision of the Agency for Restitution No. 46-019941/2014 of March 5, 2019 on returning the nationalized property to the old owners, a building with land on lot 226 KO Kursumlijska Banja registered in the list of real estate no. 244 KO Kursumliska Banja [↑](#footnote-ref-56)
56. Agreement on the purchase and sale of the spa complex “Zubor” for the total amount of 1,415,836 euros, concluded between the seller the Republic Pension and Disability Insurance Fund and the Republic of Serbia as a seller on one side and the Joint Stock Company for Natural Spas, Tourism, Catering and Production “PLANINKA” from Kursumlija as a buyer on the other side, solemnized under OPU 32-2020 dated 27 January 2020 by Notary Biljana Ilic /attached/ [↑](#footnote-ref-57)
57. Contract concluded between the Ministry of Economy and AD PLANINKA No. 401-00-03507/19 dated September 3, 2019 on the allocation of incentives to AD PLNINKA in the amount of 1,637,101.90 euros [↑](#footnote-ref-58)
58. Annex 5, page 7. to the Analysis of the condition and possibilities of work and development of health - inpatient institutions and natural health resorts for prevention, treatment and rehabilitation of the RFPIO Working Group on the market value of the facility in Vranjska Banja in the amount of 3,200,000 euros and land in the amount of 2,800. 000 euros /attached/ [↑](#footnote-ref-59)
59. Public announcement of the Republic Property Directorate of the Republic of Serbia and the Republic Pension and Disability Insurance Fund published on July 24, 2019, for the alienation of real estate - land consisting of cadastral parcel no. 2041 KO Vranjska Banja by collecting written bids, without the existing facility for the amount of 252,464, 21 euros /attached/ [↑](#footnote-ref-60)
60. Expert opinion no. 46-6157/19 from August 2 2019, of the Assistant Director of the Sector for Property Affairs, Design and Representation, Valerian Kadijevic, sent to the RFPIO Steering Committee with a proposal to annul the decision on the sale of real estate in Vranjska Banja and annul the public announcement published on July 24, 2019 [↑](#footnote-ref-61)
61. Decision of the Management Board of the Special Hospital Vranjska Banja No. 208 of 22 May 2010, for concluding a court settlement between RPDIF and the Special Hospital Vranjska Banja without a share in the ownership of real estate in Vranjska Banja /attached/ [↑](#footnote-ref-62)
62. Expert opinion no. 710-2670 / 18 dated March 29, 2018, Assistant Director of the Sector for Property Legal Affairs, Design and Representation, Valerijan Kadijevic, sent to the Director of RPDIF with a warning about the harmful conclusion of a court settlement between RPDIF and the Republic of Serbia for real estate in Vranjska Banja /attached/ [↑](#footnote-ref-63)
63. Stenographic notes from the meeting of the Working Group, formed by the Conclusion of the Government of the Republic of Serbia no. 46-9803 / 16, which was held on 26 December 2016, p. 12-18 /attached/ [↑](#footnote-ref-64)
64. Contract on purchase and sale of real estate - land in Vranjska Banja concluded on September 5, 2019 between the seller of the Republic Directorate for Property of the Republic of Serbia and the Republic Pension and Disability Insurance Fund as a seller and the Company for Engineering and Services MILLENIUM RESORTS d.o.o. Belgrade as a buyer, solemnized under OPU 420-2019 from 5 September 2019 /attached/ [↑](#footnote-ref-65)
65. Expert opinion no. 46-7274/19 dated 16 September 2019 of the Assistant Director of the Sector for Property Affairs, Design and Representation, Valerijan Kadijevic, sent to the RPDIF Steering Committee with a proposal to repeal the decisions on the sale of the spa complex “Zubor” in Kursumlijska Banja and real estate - land in Vranjska Banja and cancel the concluded sales contracts with the customers of the Company AD “Planinka” from Kursumlija and “Millennium Team”, i.e. Millennium Resorts d.o.o. from Belgrade /attached/ [↑](#footnote-ref-66)
66. Opinion of the Institute for the Protection of Cultural Monuments Nis no. No. 1166/2 of 24 September.2014 [↑](#footnote-ref-67)
67. Conclusion of the Government of the Republic of Serbia No. 464-4953/2020 of June 18, 2020 on the sale of real estate of the Special Hospital Vranjska Banja /attached/ [↑](#footnote-ref-68)
68. Report of the company Beoconex d.o.o. which estimated the value of the facilities of the Special Hospital for Rehabilitation Vranjska Banja at 2,100,753.32 euros [↑](#footnote-ref-69)
69. Notification of the Tax Administration of the Vranje Branch, p. 3. Explanations of the Conclusion of the Government of the Republic of Serbia no. 464-4953/2020 dated 18 June 2020 /attachment/ [↑](#footnote-ref-70)
70. Report of the City Bureau of Expertise no. PB.-54/20 of 25 May 2020, p. 3. Explanations of the Conclusion of the Government of the Republic of Serbia no. 464-4953 / 2020 dated 18 June 2020 /attached/ [↑](#footnote-ref-71)
71. Decree of the Government of the Republic of Serbia No. 110-4976 / 2020. from 18 June 2020 on deleting the Special Hospital for Rehabilitation Vranjska Banja from the network of health institutions of the Republic of Serbia /attached / [↑](#footnote-ref-72)
72. Public announcement of the Republic Directorate for Property of the Republic of Serbia No. 17 for the purpose of alienation of real estate - buildings and land that make up the complex of the Special Hospital Vranjska Banja on the sale of the complex of real estate of the Special Hospital Vranjska Banja /attached/ [↑](#footnote-ref-73)
73. The contract of sale concluded between the Republic Directorate for Property of the Republic of Serbia as a seller and the Company for Engineering and Services MILLENIUM RESORTS d.o.o., solemnized with the Notary Milena Stanković under no. OPU: 908-2020 from 11 September 2020 [↑](#footnote-ref-74)
74. Request of the Anti-Corruption Council No. from 20 August 2019, sent to the Republic Pension and Disability Insurance Fund [↑](#footnote-ref-75)
75. Decision of the Commissioner for Information of Public Importance no. 071-01-4996/2019-03 from 5 December 2019 [↑](#footnote-ref-76)
76. Letter from the Republic Pension and Disability Insurance Fund no. 464-112/2020 dated09 January 2020 [↑](#footnote-ref-77)
77. Letter from the Republic Pension and Disability Insurance Fund No. 181-1599/20 dated 3 March 2020, which was submitted to the Anti-Corruption Council on 11 June 2020 [↑](#footnote-ref-78)