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DEVELOPMENT LIMITATIONS OF POLISH SPAS (LEGAL AND FINANCIAL BARRIERS)

Abstract: Spa parishes belong to such a category of parishes whose development does not depend upon the activity of their inhabitants, but upon centralised solutions. Due to their specific character, spa parishes have been subject to far-reaching developmental limitations so that they could realise their statutory curative aims. This article analyses the legal and financial problems of spa parishes, illustrating their different character and their inability to cope with current economic reality, based on the 1966 Spa Act, which (unfortunately) still regulates spa operations.

Keywords: spas, spa therapeutics, legal barriers, financing, infrastructure, legal regulations

In the pre-war period, Polish spas competed effectively with such giants as Vichy, Chamonix, Saint Tropez and many more. Similarly, the pre-war period can serve as a shining model of development in terms of medicinal offerings, spa therapeutics, tourism, sport and recreation and the important role of spas as centres of culture. Unfortunately, to post-war period was a time, when these cultural centres were transformed into immense curative hospitals, which enforced mass discipline, created specific models of behaviour and functioned on operational rules that encompassed all areas and were universal for all. Free therapy was intended to encompass the biggest possible number of patients, regardless of whether the therapeutic, rehabilitative or prophylactic method fulfilled specific medical norms or whether it brought desired curative effects.

As a result, Polish spas were frequented by the same people several times a year, and in the external spa image there appeared prohibitions to the development of a tourist, recreational and sports base, which resulted in a unique impoverishment of their offer. 1989 and 1990 exposed the true state of Polish spas – their base, treatments models, the level of the hotel and infrastructure. The rules of the new market economy made everyone realise the inadequacy of Polish spas when it came to facing the radically changed economic reality. Disproportions in medical, recreational and sport base also became apparent.

Our southern neighbours, Czech and Slovak Republics, began to experience increased tourism, while Polish spas were unable to compete even with the Slovak offer. Visitor rates in holiday homes, boarding-houses, even sanatoria fell to such drastically low levels, that it became financially unsound to accept and serve the minute number of tourists who still came.

There was complete miscomprehension of the fact that a spa is not just a hospital and sanatorium, but also hotels, boarding-houses, holiday homes, that it isn't only the sick, but also the healthy, that it isn't only mineral waters and baths but also skiing tracks, tennis courts, sports halls, gyms, pools and sports parks. As a result, Polish spas are under-invested, and many places haven't managed to regain their previous splendour.

In 2002, Poland has 42 spas and around 70 locations with recuperative properties. Those towns and cities posses a huge and under-utilised healing, tourist and sports-recreational base – close to 45 000 sanatoria beds and over 180 000 tourist beds (Golba 2001). In the towns there is a sizeable number of qualified medical staff and a huge number of un-qualified medically workers who service the tourism and sanatoria customers. This single-sector employment structure, connected to the decreasing client numbers of sanatoria and holiday homes, brings about sizeable unemployment in many Polish spas – 20-30%[1]. The development of those parishes isn't connected with the activity of local communities but with top-down centralised solutions, since they are subject to far-reaching restrictions of their development that encompass nearly all spheres of life. The restrictions cover (Wołowiec 2001b):

1. Prohibitions on locating on parish territory of companies whose activity may in any way negatively influence the natural habitat;
2. Prohibitions on locating facilities, whose effect on the environment may not be entirely negative, but which could lead to a potential threat towards mineral water and medicinal minerals resources;
3. Prohibitions on locating facilities, that may not cause direct harm to the mineral resources, but the very nature of their activities (for example: trade, transport, communications, food) may inversely impact peace or negatively influence the resting and recuperating customers, and as a result lead to an increased discomfort during their rest or treatment.

As a result of the abovementioned prohibitions, the economy of spa parishes is focused on medicinal services, tourism and small industry that doesn't endanger the natural healing properties of the environment. Unfortunately, such a shape of spa economic development is extremely dangerous in the time of economic change (like the public health reform, spa privatisations, etc) (Wołowiec 2001b) and makes them very susceptible to changes in demand, as they have become apparent in today's tourism and health, curative industries.

The beginnings of Polish spas didn't promise such a state of affairs. They developed intensively thanks to the 1922 Spa Act, which ensured that spas had a special legal and financial status. This enabled Polish spas to compete for decades with European

[1] As based on a phone poll conducted in 39 spa parishes.

facilities. The 1922 Act identified two types of spas: public and others. To gain the status of a public spa, the applicant had to fulfil a set of detailed and difficult requirements, as outlined in the Act. Obtaining such status also resulted in a set of specific privileges – Article 8 of the Act outlined the financial assistance available from the state budget for realising investment projects in:

– waterworks,
– refuse disposal,
– sanitary utilities.

Additionally, the spa, which held a public-utility status, was able to create a Curative Fund, which was funded by a curative rate (tax), fees from companies operating in the parish and fees from concerts, shows, spectacles, as well as penalties and subsidies from the State Budget. Money gained in such way was used for maintaining of:

– the spa orchestra,
– the library and reading rooms,
– mineral water drinking facilities,
– promenades,
– waterworks and sanitary utilities,
– town greenery,
– sports and recreation facilities.

Similar solutions exist in legal regulations outlining the functioning of spas in Austria, Germany, France and Italy. Those countries also posses a system of subsidising and assisting pro-ecological solutions, subsidising gas purchases, etc. Analogies to the Polish Act of 1922 can be seen in the curative rate, which finances the benefits available to visitors - enabling them to use the various curative systems (Staddefeld 1993). The operations of the curative rate are regulated in those countries through special acts relating to communal taxation.

The spa state of prosperity and their solid functional bases have been further sanctioned by a unification act of 23rd June 1933 (Dz. U. Nr. 35 from 1933) where a new term appeared – public utility spas.

Pre-war legal solutions guaranteed State support for spas in the realisation of projects in: waterworks, water source, water treatment, sewers, refuse and sanitary utilities. The spa was also able to charge a climate rate of up to 30% of the fees charged to the curative patient.

Unfortunately, 1966 brought about the beginning of spa degradation. The Act of 17th June 1966 on Spas and Spa Therapeutics got rid of the Spa Committee and introduced the Spa Chief Medical Officer. The Act introduced a negative aspect to spa operations – they became part of the unified funding system under State control. A new term appeared – "spa therapeutics", which was part of the social health system. The Spa Chief Medical Officer wasn't given any powers and his function was a charitable one, for which he received a symbolic remuneration.

The 1966 Act didn't regulate the spa constitution - the overarching thought of the Act is that, if spas exist, there is no need to bother with them. What is needed instead, is the development of spa therapeutics, i.e. widening of the medicinal base, providing the means to heal. The Act does not mention anything about the means of

upholding and maintaining the sanatorium and healing base. Because funds were passed for the sole purpose of supporting the health vacationer, holiday homes with a higher standard of service were transformed into sanatoriums, whereas the others became so-called prophylactic-healing homes. For years, there were available funds for healing at a spa, yet there weren't any for water treatment plants, refuse, sewers, waterworks, greenery, walk paths and promenades.

The 1966 Act has not only bypassed the creation of suitable legal framework for the effective administering of a spa resort and the managing of a spa economy, but it has also completely bypassed the problems related to the very functioning of a spa, focusing instead on spa therapeutics. The Act was passed while State-owned institutions still had a monopoly on the exploitation of healing-related resources, their transformation and trading in them and, as a result, the Act doesn't really contain the appropriate legal solutions necessary to conduct business activity in the free market economy.

On one side, the system denies the spa parishes any power over the spas themselves, yet on the other, it places upon them the following duties (in accordance with article 5 of the abovementioned Act) aimed at ensuring appropriate conditions for spa therapeutics:

1. Developing of local economy whilst considering the needs of spa therapeutics and tourist and holiday units.
2. Monitoring of spa nature conditions, so that they aren't limited or affected in any negative way.
3. Operating of economic entities that fulfil common needs of spa therapeutics and holiday institutions, if there are underlying reasons for the rational utilisation of material resources.
4. Fulfilling the needs of health vacationers, holiday-makers and tourists in terms of communal, cultural and service-side equipment.

Such serious duties require extensive financial resources, but the lawmakers only outlined (in Article 12) their financing as coming solely from spa rates, which make up a minute portion of spa parish budgets[2]. The lack of financial resources has lead to the situation when Polish spas have transformed into:

- single function spas, whose very reason for existence is spa therapeutics.
- characterised by single-sector employment.
- devoid of the communal, healing and ecological infrastructure.
- devoid of infrastructure surrounding the spa system, i.e. of recreational and sports infrastructure.

Article 3 of the 1966 Act (and Acts related to it) illustrates clearly the operational limitations and extensive duties placed upon the spa parishes - it requires that each spa had its own Statute. The Statute defines: spa borders, the territory under curative

[2] Based on a survey of 25 spa parishes, contained in *Structural Analysis of Parish Tax revenues, 1992-1998*, Urząd Gminy Uzrdrowiskowej w Krynicy, typescript, 1999. The percentage of these rates in the income of analysed budgets varied between 0.01-004% of total budgetary revenues.

protection, the activities, which due to their effects upon the ecology and the environmental factors, may be undertaken only after reaching an agreement with the Spa Chief Medical Officer. It also outlines matters, which due to their importance for spa therapeutics have to be agreed with the Health Minister.

The protective area of a spa region consist of Zones A, B and C, in which there are extensive restrictions regarding the possible economic activity that can be undertaken, the building of new structures, renovations, road traffic regulations, even the placement of advertisements and information posts. All activities in this area require prior agreement from the Health Ministry.

For the protection of therapeutic waters and other natural resources, a mining zone is created within the spa, defined in the Act of 4th February 1994 by the Geological and Mining Law. The territory defined as a mining zone is under strict and detailed commercial regulations, focusing on the overarching goal of preserving water reserves and other mined resources. Each and every investment project has to be agreed with the Regional Mining Commission.

In the case of investment projects being located in the vicinity of mineral water wells, or in the area directly affecting them, the investor is duty bound to create a so-called movement map and agree the investment project with a mining supervision body and the Health Ministry. Within a mining zone, there is a requirement to posses waterworks, water treatment, refuse disposal infrastructure, located outside the protective zone.

An additional burden on spa parishes results from Article 145 of the Geological and Mining Law, according to which, when it comes to preparing the spatial utilisation proposal for the mining zone owned by an entrepreneur, half of the financial burden is carried by the parish, on whose territory does the mining zone lies. It can be said that the mining zone prohibits form:

– locating of entities negatively affecting the natural environment.
– locating objects, whose continued functioning could lead to the endangering and degradation of healing waters and minerals.
– any activity that could lead to a change in the underground water table.

Additional limitations and duties placed upon spa parishes result from the Act of 31st January 1980 regarding the Protection and Shaping of the Environment, and the executable laws published in its aftermath. According to those laws, spa territory is subject to special protection with enhanced environmental protection standards including noise and dust emissions. To fulfil the standards, spa parishes must realise many pro-environment investment projects and realise tough management regulations. Spas create conservation zones regarding housing and infrastructure development and environmental protection, regarding especially natures zones (health, nature and national parks). Their creation is not only subject to the upholding of management rules prevalent in zones, but also with extensive financial outlays for their maintenance.

According to Article 28 of the 28th September 1991 Act regarding the forests surrounding spas, forests are created. They are characterised by very specific regulations regarding forestry management – those forest are created to enhance the retention of water reservoirs and enhancing the therapeutic values of the spa's climate.

Aiming at maintaining the climate of Polish spas, the parishes are prohibited from running any economic activity or locating objects that may change the environment or negatively affect it. Spas face a very high level of unemployment. Of course, there are new employment places appearing but not in sanatoria or holiday homes, but rather in institutions undermining the healing properties of the place. The consequences of recently conducted reforms (social and medical insurance, the health service, etc.) negatively impacted spa operations – the introduction of fees for food and board in sanatoriums drastically reduced the number of visitors, which resulted in a mounting need to change industries (to hotels for example) in spa therapeutics and a reduction in the highly-qualified medical cadres and the sanatorium-medical base, which may lead to an irreversible degradation of the spa curative characteristics.

The abovementioned spa parish problems mean that any parishes that have spas on their territory have to abide by many operating restrictions, including: environmental protection, sanitary, building, geological and mining standards. Such limitations prevent local populations from benefiting from development opportunities available to other parishes.

On the other hand the problems impose duties unknown to non-spa parishes. The duties are aimed at not only providing restitution for the abovementioned extensive restrictions but also to allow for appropriate treatment and prevent the patients from experiencing any discomfort during their curative stay or treatments.

Restrictions in economic activity mean that the Economic Activity Act and its related laws, that assure unrestricted functioning for any entity regardless of its organisational and legal form, are of reduced importance in spas.

Fulfilling the requirements of Article 5 of the Act on Spas and Spa Therapeutics regarding environmental protection and the conditions for the spa's functioning within the communal, cultural and supporting services infrastructure means that spa parishes have expenditure for spa activity unknown to other parishes and related to (Golba 2001) :

- the realisation of pro-environment investment projects (waste treatment, trash disposal, collectors, gas heating) that pass up-rated criteria regarding their exploitation and environmental pollution (spa norms),
- maintenance of Spa Parks and immense areas of greenery and recreational spaces,
- building and maintenance of walkways, parks and Spa Orchestras,
- maintaining of cultural centres,
- maintaining of libraries and reading rooms for curative visitors,
- maintaining of the communal infrastructure that is of higher standard (sidewalks, roads, flowers, street lighting, communication, etc).

Wanting to fulfil such requirements spa parishes must focus on:

- That geological and geographical resources, including curative resources (mineral waters, gasses, peloids), climactic or sea-related conditions don't loose their curative characteristics,
- That the surrounding landscapes, the infrastructure and architectural shaping of the environment and the town's development were strongly protected from influences that might endanger, negatively affect or destroy the curative characteristics of the area.

Its is clear, that spa regions have been subject to far-reaching limitations and protective restrictions, whose fulfilment is very expensive and leads to the restricting of the region's development. All this means that spa parishes are unable to acquire the necessary resources to fulfil the requirements through increased economic activity, but realise them purely thanks to the wealth of their inhabitants. Spa parishes face increased costs unknown to other parishes, and they are simultaneously loosing noticeable income due to economic restrictions, but also due to the introduction of various tax breaks and fee reductions for entities conducting economic activity on spa territory (Wołowiec 2001) . They do not earn appropriate income from taxes and fees for activity, for the existence and operations of which they undertake direct financial efforts – for example from sanatoriums, for their right to exploit mineral and curative waters (Gilowska 1996).

Existing laws, with their inherent discounts mean that spa parishes have no right to gain incomes due to (Wołowiec 1999) :

- a reduced by 60% building tax, that is paid by sanatoriums, spa hospitals, prevention clinics and other curative institutions,
- lack of any taxes from historical buildings,
- low exploitation fee (the symbolic fee charged for curative waters),
- a low equalisation subsidy (when calculating the subsidy the patients are not considered, even when they spend an entire year at the spa and thus raise the number of inhabitants, and who have needs much more specific and sublime than parish inhabitants).

Imprecise statements in the Act of 12th January 1991 regarding Taxes and Local Fees mean that sanatoriums, as medical institutions, pay the building tax with a 60% discount, compared to holiday homes, i.e. according to the rates for "other land", instead of the rate for land and buildings "related to commercial activity" (Wołowiec 2001) .

Polish spas should be made interested in developing their curative characteristics (instead of their limiting) through an appropriate State policy. Unfortunately, each fee, rate or tax discount, and the resulting spa parish income restrictions, mean that the local populace is forced to carry the financing of tasks that do not lie within the local government's mandate. Spa parishes are not demanding any preferential treatment, only equal opportunities for their development. It is unquestionable that spa parishes are realising missions that are not related directly to the parish mission statement and for people who are not its citizens with funds from its own inhabitants. An ideal solution would be the creation of a standalone legal Act, which would outline the legal and financial independence of spa parishes and that would provide them with appropriate conditions for development.

The leaders of spa local governments elected in 1990 pointed out that the state is vastly unfair, prohibitive to spa development and impeding the effective functioning of spa parishes. It turned out that spa status, instead of ennobling the parish, became a barrier to its development, a limiter to the growth of communal infrastructure, requiring the parishes to bear an increased financial burden for the upholding of communal services catering to the curative visitors.

Once we consider the abovementioned factors, it is clear that there exists a need to pass an appropriate Act regarding Spa Therapeutics, which would provide spa parishes

with appropriate legal and financial conditions for their functioning. The lack of a specific legal and financial framework, means that those parishes are reduced to a uniform economic development, single-sector employment and serious budgetary problems.

How can investments into spa infrastructure be funded? Where can the funds for restructuring and modernising spas and spa therapeutics come from?

In the past many have tried to show the sources for financing of the spa, curative, tourist and sports infrastructure. Initially, it was supposed to be provided by communalisation and later by privatisation. Resources gained through such means were to be invested into developing the societal and technical infrastructure, while investor resources were aimed at enhancing the standards of buildings, services, etc. At the current moment there are no means for financing spa infrastructures, and the lack of a Spa Act means that Polish spas continuously function on the basis of the 1966 Act. Such a situation results in a continuously deteriorating economic state of Polish spas and their parishes. Many economic entities are undergoing de-capitalisation, structural unemployment is rising and the quality of the medical infrastructure is falling.

Privatisation offers a great hope, but it should be a privatisation of not only spa joint ventures and corporations but it should also enable the acquisition of resources for infrastructure development. Due to the persistent under-funding of spa infrastructure, it could become apparent that an investor might be more inclined towards the production and distribution of mineral water than operating a curative service, especially in the difficult market situation and in conditions of a persistent lack of supporting infrastructure.

The best solution would be to utilise the financial resources, gained through privatisation, and directing them at the recuperative, tourist and sports infrastructure, while the resources gained from investors should be directed at increasing the standards of spa companies. The investor would provide a dual financial injection:

– for the stock, aimed at the infrastructure investments.

– an investment one, for the increase in recuperative and tourist base.

If resources gained through privatisation were directed towards the spa infrastructure, such a strategy would make Polish spas more competitive, while the investment projects would generate new employment opportunities. As a result, such an approach should generate work places not only during the tenure of the investment project, but also after its conclusion (services), which should free up the entrepreneurial activity of the local population. In the long run, there would be a possibility of creating a spa infrastructure that would decidedly enrich the recuperative and tourist offer, which would be of primary importance in gaining curative visitors from Poland and abroad.

Summary

Spa parishes belong to such a category of parishes whose development does not depend upon the activity of their inhabitants, but upon centralised solutions. Due to their specific character, spa parishes have been subjected to far-reaching developmental limitations so that they could realise their statutory curative aims. The problems result

from the fact that spa parishes were "inserted" into a unified system of funding local governance units, which prevents them not only from developing, but also from effectively functioning. This article analyses the legal and financial problems of spa parishes, illustrating their different character and their inability to cope with current economic reality, based on the 1966 Spa Act, which (unfortunately) still regulates spa operations.

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Ograniczenia rozwoju polskich uzdrowisk (bariery)

Streszczenie

Stan i perspektywy rozwoju turystyki uzdrowiskowej są skorelowane z kondycją polskich uzdrowisk oraz z przebiegiem procesu prywatyzacji tego sektora. Konieczne reformy gospodarki uzdrowiskowej są wymuszone wzrastającą konkurencją zagranicznych kurortów oraz potrzebą wykorzystania ogromnego potencjału ludzkiego i materialnego (infrastruktura turystyczna, sportowa i rekreacyjna), jaki skupiony jest w polskich uzdrowiskach.

Przyszłość polskich uzdrowisk zależy od regulacji prawnych, które unormowały by funkcjonowanie tej kategorii gmin. Brak ustawy o gminach uzdrowiskowych, liczne ograniczenia rozwoju oraz permanentne niedofinansowanie polskich gmin uzdrowiskowych, stanowi zagrożenie dla infrastruktury uzdrowiskowej, lecznictwa uzdrowiskowego i szans rozwoju tej kategorii gmin. Ustawa o gminach uzdrowiskowych to akt prawny kompleksowo normujący całokształt gospodarki gmin uzdrowiskowych, podobnie jak ma to miejsce w innych krajach Unii Europejskiej. Posiadanie statusu

gminy uzdrowiskowej musi być zatem uregulowane prawnie, gdyż wymagania stawiane zasadom gospodarowania w tych gminach są niezwykle rygorystyczne, a kompetencje organów zarządzających gmin uzdrowiskowych znacznie ograniczone.

Ważnym elementem aktywizacji polskich uzdrowisk jest również właściwie realizowana polityka turystyczna wobec tego sektora, rozumiana jako inspirowanie pro uzdrowiskowych rozwiązań prawnych, podatkowych i finansowych oraz preferowanie turystyki na lokalnym (uzdrowiskowym) rynku pracy.

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