

PUBLIC-PRIVATE PARTNERSHIP IN SERBIA: LEGAL FRAMEWORK AND THE POSSIBILITY OF ITS ESTABLISHMENT IN RURAL AREAS AND AGRICULTURE

Milan Rapajić¹, Sveto Purić², Jelena Purić³

Summary

The aim of this paper is to present some legal solutions from this Law, particularly the legal forms of public-private partnership foreseen by the Law: institutional and contractual. One of the most significant positive results of public-private partnership in the future should be its application in rural areas and agriculture in order to support the natural predispositions, that is advantages of the Republic of Serbia in certain economic branches (particularly in agriculture).

The authors applied the legal method in combination with the comparative. Also, it was applied case study regarding to the establishment of public-private partnerships in agriculture. One of the purposes of this paper is to influence on the scientific community to prefer public-private partnership, in requirements for encouraging agricultural production, then pure privatization (the purchase of large agricultural areas). Land is the national treasures and should be owned by domestic residents and legal entities.

Key words: *public-private partnership, legal framework, rural areas, agriculture*

JEL: *Q15, Q18*

Initial considerations on public-private partnership

Public-private partnership is a new legal institute in the Republic of Serbia legal system. Unlike Serbia, in some countries the public-private partnership has been regulated in

1 Milan Rapajić, L.L.M., Assistant, University of Kragujevac, Faculty of Law, Jovana Cvijića Street no. 1, 34000 Kragujevac, Serbia, Phone: +381 34 306 523, E-mail: mrpapajic@jura.kg.ac.rs

2 Prof. dr Sveto Purić, Full professor, University of Kragujevac, Faculty of Law, Jovana Cvijića Street no. 1, 34000 Kragujevac, Serbia, Phone: +381 61 193 21 46, E-mail: svetopuric@yahoo.com

3 Jelena Purić, M.A., Ph.D. student, University of Kragujevac, Faculty of Economics, Bunjevačka Street no. 28, 34000 Kragujevac, Serbia, Phone: +381 64 700 57 48, E-mail: jecapuric@yahoo.com

positive law for more than two decades⁴. In the EU states, this institute has started its legal life back in the 1990s. As for the countries which once formed Federal Republic of Yugoslavia, Slovenia enacted the new public-private partnership legislation in 2006 (the Law on public-private partnership, no. 127/2006). As for concessions, in Slovenia this area is regulated by the Law on economic public services (the Law on economic public services, no. 32/93 and 30/98). In the Republic of Croatia, the public-private partnership was regulated in positive law by the adoption of the Law on public-private partnership in 2008 (the Law on public-private partnership, no. 129/2009). Before enacting this Law, this field had been covered by the Law on concession from 1992. “During the time when there were no direct legal norms regulating this field, the Republic of Croatia passed the guidelines for the application of contractual forms of public-private partnership in 2006. Also, there existed a Decree on giving the prior consent for signing the contracts on public-private partnerships according to the model of private financial initiative from 2007. This Decree was based on the budget laws and regulated the procedure of giving a consent for signing the contract on public-private partnership, but exclusively for its contractual form (the model of private financial initiative), while there were no norms regulating other forms of public-private partnerships” (Rapajić, 2013). The public-private partnership is the subject regulated by several laws in the Republic of Montenegro, such as the Law on participation of private sector in performing public services from 2002 (the Law on participation of private sector in performing public services, no. 20/2002) and the Law on concessions from 2009 (the Law on concessions, no. 8/2009). Given the fact that the first law also regulates the matter of concessions, *lex specialis* from 2009, which today regulates this matter in Montenegro, derogated the provisions referring to concessions from the first law. As for Republika Srpska, public-private partnership is regulated by the Law on public-private partnership enacted in 2009 (the Law on public-private partnership in Republika Srpska, no. 59/2009).

In European Union, public-private partnership is not recognized as a unified legal institute. Thus, there is no a single supranational law which either directly or indirectly binds the member states to apply the regulations related to public-private partnership. Given the fact that public-private partnership actually originated and is being widely applied in the EU countries, this institute could not escape the attention of its bodies. Thus, the European Commission adopted the Guidelines for successful public-private partnership in 2003 that serve as instructions for defining the issues of key importance for successful realization of this type of economic and legal linkage. The European Union offered significant support to public-private partnership by publishing Green Paper on public-private partnerships and community law on public contracts and concessions in 2004. Sustainability of public-private partnership as a legal institute for more than two decades, positive effects of its application and its spreading into legal systems of the countries which had not recognized it before, speak in favour of the fact that in certain economic areas public-private partnership remains the most profit-

4 The UK is among the first states of the European Union to introduce a public-private partnership in the legal system in 1992 during the government of Conservative Prime Minister John Major called Private finance initiative.

able form of economic activity. The preceding review on public-private partnership raises a logical question - what are the reasons for establishing public-private partnerships? Before we move on to theoretical definitions of public-private partnership from the aspect of positive law, we need to answer this question first. "Public-private partnership is a direct consequence of the country's need to, instead of obtaining a loan for building and development of the infrastructure and sustainable system for performing services of public interest, establish partnership relations with private capital" (Cvetković, Milenković Kerković, 2011). This partnership actually represents a unique market transaction which may be manifested in various forms within a wide scope of public services. There is a state or local government ordering services on one side and a private company providing services on the other side.

Some characteristics of public-private partnership make this relationship rather complex. First, the motives of service providers are different from those of their clients – public authorities. Second, when the public and private parties agree to cooperate, they have to develop adequate planning, supplying and managing practices, as well as organizational schemes and payment methods. These adequate planning and managing practices should lead to the achievement of goals that justify the establishment of public-private partnership and their mutual interests. For private subjects this relationship with public sector partner represents an economic endeavour aimed at gaining financial profit out of this business activity. The benefits of public sector cannot be measured as the benefits gained through a business activity. The realization of public sector goals is based on the activities that are presumed to bring realistic progress in achieving the public interest. The activities undertaken by the partner from the public sector in order to achieve its goal can be divided into several elements: defining an adequate legal structure that will deter the private sector party from wrongdoing, securing minimum risk in performing the activities of general interest, ensuring successful application of the public-private partnership enabling the realization of social goals since the responsible state that invests the budget resources into this partnership, must pay attention to the elements of social justice. The state organs, particularly, the government, as the chief subject of economic policy (the constituent part of the state's national policy) must ensure that the entire process of the establishment and implementation of public-private partnership is transparent, and that adequate control mechanisms are set up by the state, non-governmental organizations and the general public.

Legal framework for public-private partnership in the Republic of Serbia

This legal and economic institute has been recently regulated in the Republic of Serbia by enacting the Law on public-private partnership and concessions which represents a systematic legal frame in this field (the Law on public-private partnership, no. 88/2011). Besides the Law on public-private partnership and concessions, this matter is also directly regulated by the Law on public procurement (the Law on public-private partnership, no. 116/2008). This Law does not treat public-private partnership as a legal institute, but it directly regulates it since the Law on public-private partnership and concessions calls for the application of the provisions of the Law on public procurement. In this way these provisions indirectly form the constituent part of the Law on public-private partnership. In addition, the institute of public-private partnership is also directly regulated by the Law on

utility services (the Law on public-private partnership, no. 88/2011), which was enacted at the same time with the Law on public-private partnership and concessions. Namely, the Law on utility services regulates the public-private partnership in the field of utility services. The public-private partnership is also indirectly regulated by the system laws which govern the economic system of the Republic of Serbia., the most significant being: the Law on public property(the Law on public-private partnership, no. 72/2011), the Law on foreign investment(The Law on public-private partnership, no. 3/2002 and5/2003), the Energy Law,(the Law on public-private partnership, no. 57/2011, 80/2011 – amended and 93/2012), etc. As for the Law on public property, it creates the preconditions for property relations in the field of public-private partnership. Mentioned legal acts, or the so-called special laws – *lex specialis* for this field of public- private partnerships in specific areas such as the case with the Public Utilities Law or is it a general law - the *lex generalis* of which must comply with the Public-private partnership Law as the Public Property Law. This legislation should be interpreted in practice as extensive or in favour of the conclusion of various forms of public-private partnerships with the aim of fostering economic development and improving the quality of public services. Incorrect interpretation of the provisions of these laws can lead to an incorrect application of the institute of public-private partnerships and to have any negative effects. Because of that they required special knowledge to implement the law on public- private partnership , therefore, the membership of the Commission for Public-Private Partnerships as condition requires a person is a member of the Commission in addition to the citizenship of the Republic of Serbia has at least a high level of education and has particular expertise knowledge in the field of public-private partnerships, public procurement and concessions, as well as the rights of the European Union. So can be said that the Law on public-private partnership and concessions indisputably represents a step forward in the harmonization of the Republic of Serbia legal system with EU law but certain time will pass before its effects could be measured . By enacting this Law, the old law on concessions from 2003 ceased to exist. The experiences with this old law were not positive since it was hardly implemented in practice, or its implementation was just partial. The reason for this can be found in the fact that many officials avoided this law fearing that they could be held liable for wrong decisions made in this field.

Also, there is a predominant public opinion that only privatization is the cure for the problems in public sector. It is rather an extreme opinion that every economic field can be privatized because it is only the private capital that has a necessary degree of flexibility to offer the most optimal solution for a certain problem. Therefore, the reason why the Law on public-private partnership and concessions was passed was to achieve the goals such as: enhancing the financial capacity for building the infrastructure, improving the quality of public services, allowing a transparent procedure for the use of public resources and harmonizing the national legal system with EU law and best practices. The subject matter of the Law on public-private partnership and concessions is broadly defined. The Law regulates the conditions and methods for defining, proposing and approving the partnerships, defines the subjects authorized to propose and realize the projects of public-private partnerships, the rights and duties of the public and private sector partners, the form and the content of the public contract, with or without the concession elements, the legal protection in the procedure of awarding

the public contract, the subject of concession, as well as all other issues which are significant for the realization of a public-private partnership (the Law on public-private partnership and concessions, no. 88/2011). In our further text we will confine ourselves to describing the forms of public-private partnership.

Legal forms of public-private partnership

Public-private partnership is achieved in two ways, that is, it is organized in two legal forms: contractual and institutional. Concessions form a special part of public-private partnership. Contractual public-private partnership is based on a contract which the parties sign to regulate mutual rights and duties in the realization of the project of public-private partnership⁵. This contract may also contain the elements of concession. The contents of this contract are legally prescribed and such a contract is called a public contract⁶. There is a possibility that the contents of this contract are regulated by contracting parties on the principles of will and autonomy and according to the provisions of Civil Obligations Law. It is a form of an administrative contract with prevailing element of public law. "An administrative contract shows that there is not only a division on public and private law, but it also makes a wide distinction between public-administrative and obligatory-private law" (Kavran, 1993). This type of contract should be regarded as long term and it is described by the following statement: "Not every transaction fits comfortably into the classical-contracting scheme. In particular, long-term contracts executed under conditions of uncertainty are ones for which complete presentation is apt to be prohibitively costly if not impossible" (Williamson, 1979). Institutional public-private partnership is based on a legal relationship between a public and private sector partner in the capacity of the members of a joint association, that is a company, which carries out the project activities related to public-private partnership. The legal relationship between the members of a joint association may be manifested in practice in two legal forms: as the joint founders of the company which bring their founding capital into the joint company or as the private partner's investment into the company in exchange for the ownership share that is the equity increase of the existing company. The joint association or the company which the Serbian legislator calls "the association for specific purposes" is founded for the purpose of the realization of the project of public-private partnership according to the Law on business associations - companies.⁷

-
- 5 Concessions represent a subtype of contractual public-private partnership and are based on public contracts that regulate commercial use. That is economic valorization of natural resources or goods in general use which fall under the regime of public property.
 - 6 The legal definition of public contract, as the contract on public-private partnership, with or without the concession elements, states that it is prepared in a written form and signed by two parties (a public and a private sector party) for the purpose of realization of a project on public-private partnership and regulates their mutual rights and duties.
 - 7 The Law on public-private partnership and concessions (Article 6.1.6) foresees that the association for specific purposes, as a business association, may be established by a private or a public partner even for the purpose of signing a public contract.

The possibility of establishment of public-private partnerships in rural areas and agriculture

In practice, public-private partnerships can cover a wide range of activities depending on the property relations, invested resources, partners involved, and a number of other factors. The projects themselves can be implemented in large infrastructural areas, but also on a micro level, in small local communities. Public-private partnerships are based on the distribution of risks and profit among the partners. They are particularly established in the field of infrastructure, in the projects which require large investments and long period of repayment. This type of business cooperation between public and private partners, which assumed a legal form in the Republic of Serbia positive law, was originally established in the sectors demanding big investments, such as transport infrastructure, utility services, and similar infrastructural endeavours. Before the appearance of public-private partnerships the participation of private sector on a legal scene and in business reality was traditionally restricted to planning, designing and building activities based on the contract on service providing signed with relevant state authorities. To translate this to the language of civil obligations law – this was a simple service contract (the contract for performed services), or a form of mixed contract which combined the elements of a service contract and a building contract. The new legal solutions bring new quality in the relationship between public and private partners. They assign a more active role to private sector, not only in the process of the realization of joint project activities, but also in decision-making process.

The social role of public-private partnership allows public entities, the representatives of business sector and civil society to assume the responsibility for development and to enhance their environment by joint action. In developing, and particularly in undeveloped countries, successful private sector, that is the representatives of “Large Cap” are expected to be socially responsible and the leaders in the battle against poverty and for social inclusion that would eventually lead to the improving of life quality on both the micro and macro levels. Before we proceed to discuss the possibility of establishment of public-private partnerships in rural areas, we will mention certain negative arguments which do not favour public-private partnership. The negative aspects of the cooperation between public bodies and private partners are reflected in the following: it is not easy to reconcile the interests of public and private sector. The public sector interest is manifested in the form of already mentioned battle against poverty and striving towards sustainable development. The private sector interest is governed by the incentive for profitability and income increase. Public-private partnership, as well as other forms of cooperation where there are multiple subjects of different legal status, bears the risk of increased corrupt behaviour. It can be manifested in the misuse of public funds for the purpose of subsidizing private and personal interests. In societies which strive towards stable systems governed by the rule of law, but in which these systems are just under construction and without prior experiences in this field, public-private partnerships can lead to favourable treatment of certain companies and unfair business conditions. This is particularly dangerous in the areas of public interest, such as energy, utility services, health protection that may be subjected to complete commercialization through the projects of public-private partnerships. Namely, if their services were charged at a market price, the principle of social justice would disappear, along with the principle of rule of law, not to mention the fact that

this would represent a wilful disregard of the interest of poor citizens. Regardless the criticism which has to be taken into consideration when applying the Republic of Serbia Law on public-private partnership and concessions, the economy wishing to be competitive on the world market should encourage the establishment of public-private partnerships in the field of service providing and infrastructure building.

Since Serbia is characterized by uneven regional development, the government policy should more insist on the implementation of rural development projects. The rural development itself “represents a complex development of a particular rural area on the bases of available natural, material, infrastructural and human resources carefully managed for the purpose of maintaining the balance between nature and human beings” (Zakić, Stojanoivć, 2008). This is an opportunity for the realization of the legal framework of the public-private partnership in practice. Since Serbia was predominantly agricultural country in the past, the future negotiations for the access to the European Union should focus on agriculture and agricultural products where Serbia has competitive advantages over the neighbouring countries. Serbia possesses unexploited potentials for enhancing the cooperation with private and business sector for the development of rural areas. The global food industry has increased its turnover and the food market has been liberalized to a great extent, yet in Serbia, rural infrastructure is undeveloped, and rich natural resources are not sufficiently exploited. The forms of global public-private partnerships related to rural areas are mostly focused on organic food industry, forest industry, promotion of rural tourism or certification of ecological products. Serbia should learn from foreign experiences and best practices in this field. According to these experiences, the cooperation between public and private sectors in the projects and activities related to rural areas has followed several paths. Thus, for example, the establishment of public-private partnership in the field of agriculture has been realized through contacts and cooperation leading to enhancing the efficiency and effectiveness of applied research, exchange of knowledge and new technologies in agriculture, enhancing the availability of new products and services to rural population, as well as encouraging of innovations in food industry and agriculture. The cooperation of private and public partners aimed at the advancement of agricultural production should also include the support in facilitating the international trade and access to foreign markets. The public-private partnership in rural areas of the Republic of Serbia should contribute to the improvement of the quality of life making medical and social services available for larger number of inhabitants in these areas. Besides the improvement of medical conditions in rural area, these partnerships can enhance the quality of education creating the ambient for larger competitiveness of rural labour force on labour market.⁸

Finally, we would like to underline that public-private partnership can have positive impact on the improvement of overall business conditions and entrepreneurial environment in local communities that would attract future investments. It is characteristic for developing countries that projects of public-private partnerships, such as building of infrastructure,

⁸ Public-private partnership in this area would assume that the private partner signs the contract with a health authority and is in charge of certain medical services in rural areas, such as certain preventive and educational activities, or offering assistance to elderly and disabled population.

promotion of local communities, etc., are also intended to solve large infrastructural problems in agriculture. Namely, agriculture, as the branch of economy should be given special attention - instead, it has been constantly neglected by the state” (Purić et al., 2012). In order to prevent the neglect of such an important economic field in Serbia, public-private partnerships (in all forms recognized by the Republic of Serbia Law on public-private partnership and concessions) can play the key role in the modernization and increase of agricultural production in Serbian rural areas that have natural predispositions for rapid development, but which, unfortunately have witnessed a decline of agricultural activities. Therefore, a Decision passed by the Nis City Council in June of 2013 on establishing public-private partnerships in the field of agriculture was a promising sign. The goals of this Decision were to encourage the economic and social development of the City of Nis, improvement of living standards and the material position of its inhabitants, development and growth of agricultural production on its territory, raising the revenue, that is the city budget and the development of other agriculture-related activities (trade, tourism, catering, crafts, etc.). By passing this Decision, the City of Nis, as the public sector representative has created the ambient to enter into partnership with private sector partner setting up an association for specific purposes pursuant to the provisions of Republic of Serbia Law on associations and companies. The goal of this association would be to implement the projects mostly related to the production of healthy food and organic seeds. The first step would be to build greenhouses for these purposes where the Israeli company MC GROUP appears as the private sector partner. This business association plans to build green houses on the land of 60 ha located in Gornja Toponica, near the city of Nis that will produce organic food for export. According to the Republic of Serbia Law on public-private partnership and concessions, the realization of this partnership between the City of Nis and Israeli company can start after the adoption of the City Council Decision by the City Assembly and after obtaining the approval from the Ministry in charge of agriculture.⁹

Serbia and the former Yugoslavia were rich in agricultural combines. The collapse of the economy based on the concept of self-management and the transition to a market economy in the last decade of the twentieth century, unfortunately, did not foster the development of agricultural production in Serbia until 2012. There have been many failed privatization. This is also related to agricultural combines. Thus, the sale of agricultural combine Sombor has repeatedly been unsuccessful, and there was not the successful transformation of the ownership of state property into the hands of private owners of capital. Just in the 2008 there were performed three unsuccessful attempts of auction privatization. Agricultural Combine Sombor was sold from the fifth attempt to Abrado the company from Zagreb. This data suggests that it was difficult to attract investment in Serbian agriculture. The situation, however, has changed for better. The company Al Dahra from the United Arab Emirates appears as a buyer of several Serbian agricultural combines such as Agrobaccka - Bac, Bratstvo i jedinstvo - Neuzin, Dragan Markovic – Obrenovac, Jadran - Nova Gajdobra, Mladi borac - Sonta, Vojvodina - Starcevo. Buying a new company made mixed ownership structure and 80% will

9 Positive effects of this partnership are expected in the form of new job positions (around 400) and opportunities for subcontractors in the later phase of this public-private partnership.

be owned by Al Dahra and the rest will be owned by the Republic of Serbia and Belgrade City.¹⁰ As we can see, here we talk about the privatization process, which was conducted on the basis of the Law on Privatization. We believe that the approach of the concept of public-private partnerships is more acceptable for long-term agricultural development in Serbia from the standpoint of the national economy (based on this concept, agricultural land remains in the property of the state). Public-private partnership requires a long-term cooperation between the public and private partners where different kinds of things that were the object of the rights of state or public property (and today it is a public property in Republic of Serbia) are transferred to long-term use (more precisely usufruct) to the private partner. In this case, it is agricultural land which the private partner, in the form of foreign or domestic investor, should use in such a way that raise the level of agricultural production, and during the project of public-private partnership, the greatest benefit in the form of extracts obtain private partner. The state with the natural predisposition for agricultural production such as Serbia could also have the use of the public private partnership in other industries. After the expiry of the contract signed form public-private partnerships, agricultural land as a subject of the contract, would be returned to the State as a public partner “because the state creates an economic policy that wants to help the development of certain regions, particularly those that legislator calls devastated” (Vasiljević, Dedeić, 2011). That shows previously mentioned privatization process, with a major partaker Al Dahra. The stated company will receive the right to use an area of 3.664 hectares of land currently used by the military establishment “Moravić” – section Karađorđevo for a period of 30 years. This land is owned by the state, and the Al Dahra will have to conclude the contract with the Ministry of Defense, which has the right of use over it. It is predicted that the new company will have to set aside 20 percent of the annual income achieved in this land. From the above it can be concluded that the public authorities of Republic of Serbia in the privatization process of agriculture combines, incorporated in it the elements of public-private partnerships through the institution of the land use right of the military institution “Moravić” – section Karađorđevo for a period of 30 years. Therefore in agricultural development, the concept of public-private partnership should have the advantage over pure privatization process because the agricultural land remains in state ownership and in privatization it is no longer an object of ownership of the public domain. Public-private partnerships and the possibility of establishing in agriculture can be viewed from the perspective of enlargement of agricultural land. It is thought on the way to a number of small farmers group their land to certain agricultural combine (part of the land of the agricultural complex) and create much larger agricultural land (for example a few hundred acres), which becomes the economic base of society for special purposes for the institutional form of cooperation between the two parties - the state, which owns the agricultural combine and private partners, which represents a collective of small farmers.

Conclusion

As we stated at the beginning of this work, public-private partnership is a new legal institute in the Republic of Serbia positive law. The Republic of Serbia Law on public-private

¹⁰ When we talk about Belgrade Agricultural Corporation, new company will buy land, from this corporation of the company 7. Juli.

partnership and concessions is the main system law whose content is focused on substantive law provisions governing the issues of the subject matter, actors and forms of public-private partnership, as well as the rules related to the contract on public-private partnership. The Law explicitly underlines the importance of the issue of public interest as a constituent and crucial element of this form of legal and economic association. However, this would be a simplified view of a very complex systematic legal act because its provisions are aimed at ensuring a relative equilibrium of public and private interests which are unavoidably present in every project of public-private partnership. Also, the objective of these provisions (and each law tends to incorporate the equity aspect in order to avoid the negative epithet of an unjust law) is to protect the interests of both contracting parties, so it is obvious that the principle of equality constitutes the essential principle of this law. The Law on public-private partnership and concessions foresees the realization of the principle of equality in the procedure for the selection of private sector partners underlying the principle of their equal and fair treatment in the phase of awarding the public contract and forbidding discrimination on any ground. This assumes the principle of open market competition which is in practice realized through the protection of competition in the private partner selection procedure. The legal framework of public-private partnership and concessions, mostly embodied in the mentioned law, forms a stable basis for the realization of such projects in practice. Yet, this legal framework is not flawless. We would like to underline the objection related to Article 26 of this Law. This Article foresees the possibility that private entities (both companies and individuals) may propose projects to public sector bodies (the state organs, as well as the provincial and local government organs) for the realization of public-private partnerships and the public sector bodies are entitled to take these proposals into consideration and for possible approval. If it is believed that a proposal of public interest and if a public body decide to approve such a project, this body acts in accordance to Article 26 of this Law. It is obvious that this procedure of awarding a public contract is not adequate, since the public sector may get information related to certain projects, and, yet, reject them. It should be noted that Serbia is not sufficiently experienced in applying the regulations related to public-private partnerships. We can mention the unsuccessful attempt to establish public-private partnership related to the concession for Corridor 10, although there have been many other examples of failure. Yet, in this paper we have attempted to provide information related to the first formalized initiative for the establishment of public-private partnerships in the field of agriculture, which is encouraging news. As we mention public-private partnership should be favoured in agriculture over pure privatization process. This means that we should not be hopeless at the beginning of the application of a new legal institute, but we should give it a full support for a successful implementation. The benefits of this form of cooperation between public and private sectors are obvious in the field of utility services, such as, for example, waste management, regional waste dumps, or waste recycling. This form of cooperation can also be successful in the exploitation of wind, sun and geothermal energy, as well as in the development of rural areas and agriculture. Public-private partnership is essential for the development of rural areas since, in Serbia, they face the problems of small-scale, non-competitive farming, decrease and aging of population and high unemployment rate. So far, rural development has concentrated on the improvement of agricultural performance, competitiveness, consolidation of soil and enhanced market orientation. The application of the projects on public-private partnership,

as one of new rural-oriented measures, would focus on, among other things, securing the principle of environment protection in agricultural production and sustainable exploitation of resources. The goal is to achieve a balance between agricultural production and other economic activities, environment protection and social development. It is necessary to apply the measures that will enable public-private partnership to achieve the diversification of rural economy by applying socially, economically and ecologically sustainable techniques in order to improve the quality of life in rural areas and to decrease poverty, and the destruction of environment and natural resources.

Literature

1. Cvetković, P., Milenković Kerković, T. (2011): *Public-private partnership: initial considerations*, "Law and economy", the association of lawyers in the economy, no. 4-6, Belgrade.
2. *Green Paper on public-private partnerships and community law on public contracts and concessions*, published in: com /2004/0327/ final, published: eur-lex.europa.eu ›EUROPA›EUR-Lex, Home on 30/04/2004.
3. Kavran, D. (1993): *Administrative contracts, characteristics, types and development*, Pravni život, the Association of Serbian Lawyers, no. 11-12, Belgrade.
4. Purić, S., Purić, J., Gligić, S. (2012): *Agriculture as business and way of life*, Journal Economics of Agriculture, IAE, Belgrade, vol. 59, no. 3, pp. 513-522.
5. Rapajić, M. (2013): *Initial considerations on public-private partnership and service quality management in public-private partnership*, Collected Works – Uslužno pravo, Faculty of Law in Kragujevac.
6. *The Energy Law*, Official Gazette of Republic of Serbia, no. 57/2011, 80/2011 – amended, 93/2012.
7. *The Law on concessions*, Official Journal of the Republic of Montenegro, no. 8/2009.
8. *The Law on economic public services*, Official Journal of the Republic of Slovenia, no. 32/93, 30/98.
9. *The Law on Foreign Investment*, Official Gazette of FR Yugoslavia, no. 3/2002, 5/2003.
10. *The Law on participation of private sector in performing public services*, Official Journal of the Republic of Montenegro, no. 20/2002.
11. *The Law on public-private partnership in Republika Srpska*, Official Journal of Republika Srpska, no. 59/2009.
12. *The Law on public-private partnership*, Law was adopted in the Republic of Serbia National Assembly on 22 Nov 2011, it become effective on 2 Dec 2011, Official Gazette of the Republic of Serbia, no. 88/2011.
13. *The Law on public-private partnership*, National Journal, no. 129/2009.
14. *The Law on public-private partnership*, Official Journal of the Republic of Slovenia, no. 127/2006.

15. Vasiljević, Z., Dedeić, P. (2011): *Public-private partnership: unused developed potential of rural environments*, Journal Economics of Agriculture, vol. 58, no. SB 2, IAE, Belgrade, pp. 125-136.
16. Williamson, O. (1979): *Transaction-cost Economics: The Governance of Contractual Relations*, Journal of Law and Economics, no. 2, University of Chicago Press, Chicago.
17. Zakić, Z, Stojanović, Ž. (2008): *Agrarian Economy*, the Publishing Centre of the Faculty of Economics in Belgrade, Belgrade.

JAVNO-PRIVATNO PARTNERSTVO U SRBIJI: PRAVNI OKVIR I MOGUĆNOST ZASNIVANJA U RURALNIM OBLASTIMA I POLJOPRIVREDI

Milan Rapajić¹¹, Sveto Purić¹², Jelena Purić¹³

Rezime

Cilj ovog dela rada je bio da se prikažu pojedina rešenja Zakona o javno-privatnom partnerstvu i koncesijama i vrste javno-privatnog partnerstva. Tu se misli na pravne forme javno-privatnog partnerstva koje Zakon poznaje – institucionalno i ugovorno. Jedan od najvažnijih pozitivnih rezultata javno-privatnog partnerstva u budućnosti bi trebala da bude njegova primena u ruralnim oblastima i poljoprivredi kako bi se podstakle prirodne predispozicije odnosno prednosti Srbije u pojedinim privrednim granama (misli se pre svega upravo na poljoprivredu).

U radu autori su primenili pravni metod u kombinaciji sa uporednim. Takođe, vršena je analiza slučaja vezano za zasnivanje javno-privatnog partnerstva u poljoprivredi. Jedna od svrha članka je da se utiče na stručnu javnost da u zahtevima za podsticanjem poljoprivredne proizvodnje se prednost da projektima javno-privatnog partnerstva nad čistim privatizacionim procesom odnosno kupovinom velikih poljoprivrednih površina. Zemlja je nacionalno blago i treba da ostane u vlasništvu domaćih fizičkih i pravnih lica.

Ključne reči: *javno-privatno partnerstvo, pravni okvir, ruralne oblasti, poljoprivreda.*

11 Milan Rapajić, M.A., asistent, Pravni fakultet, Univerziteta u Kragujevcu, Jovana Cvijića 1, 34000 Kragujevac, Srbija, Telefon: +381 34 306 523, E-mail: mrapajic@jura.kg.ac.rs

12 Prof. dr Sveto Purić, redovni profesor, Pravni fakultet u Kragujevcu, Jovana Cvijića 1, 34000 Kragujevac, Srbija, Telefon: +381 61 193 21 46, E-mail: svetopuric@yahoo.com

13 Jelena Puric, MA., student doktorskih studija, Ekonomski fakultet, Univerziteta u Kragujevcu, Bunjevačka 28, 34000 Kragujevac, Srbija, Telefon: +381 64 700 57 48, E-mail: jecapuric@yahoo.com