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**Client:** European Bank for Reconstruction and Development

**Project:** Kharkiv Metro Expansion Project

**Services:** Feasibility Study

## **Environmental and Social Due Diligence**

### **Resettlement Action Plan and Livelihood Restoration Plan**

**Date:** 29 September 2016  
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In association with:



**Supported by the European Bank for Reconstruction and Development:**



**European Bank**  
for Reconstruction and Development



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## Register of Submissions

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-	07.07.2016	Draft in progress of RAP
00	29.09.2016	Submission of RAP
01	03.10.2016	Minor corrections by the Consultant
02	29.11.2016	Incorporation of comments by EBRD and EIB as listed in the document: Kharkiv-Metro_RAP-Comments_2016-11-21.docx
03	28.04.2017	The RAP agreed with the City

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## Glossary

### Definitions

<b>The Bank</b>	The European Bank for Reconstruction and Development
<b>The Company</b>	The Kharkiv Metro Company
<b>The Consultant</b>	BERNARD Ingenieure ZT GmbH for whom Tebodin Ukraine CFI has prepared this report
<b>The Depot</b>	Metro wagon depot “Oleksiyivske” and connection to the Green Line
<b>The Designer</b>	Design institute “Kharkiv Metro Proekt” contracted for the development of the Project basic design.
<b>The Extension</b>	Extension of the existing 8-station Green Line by 3.5 km and construction of two new stations “Derzhavynska” and “Odeska”
<b>The Green Line</b>	Oleksiiivska Line of Kharkiv Metro System
<b>The Project</b>	The current metro system expansion that includes: <ul style="list-style-type: none"> <li>i) extension of the existing 8-station Metro Green Line (“Oleksiyivska”) by 3.5 km and construction of two new stations “Derzhavynska” and “Odeska”;</li> <li>ii) construction of a metro wagon depot “Oleksiyivske” and connection to Metro Green Line;</li> <li>iii) acquisition of 85 units of rolling stock.; the subject of the Environmental and Social Assessment</li> </ul>
<b>The Project Site</b>	The land plots on which the extension of the line, auxiliary premises and depot will be constructed

### Abbreviations

CCEC	the City Council Executive Committee
EBRD	The European Bank for Reconstruction and Development
EIA	Environmental Impact Assessment (a volume of Design Documents)
ESDD	Environmental and Social Due Diligence
ESP	Environmental and Social Policy of EBRD (2014)
EU	European Union
KMC	Municipal company Kharkiv Metro
MCC	Metro Construction Company, a legal entity established for the execution of the Kharkiv Metro Expansion Project
PAP	People affected by the Project
PR	Performance Requirement of EBRD
SEBS	Socio-Economic Baseline Survey

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## 1. INTRODUCTION

### 1.1 Project context

The City of Kharkiv with the support of the Government of Ukraine have expressed interest in obtaining joint co-financing from the European Bank for Reconstruction and Development (“EBRD” or the “Bank”) and European Investment Bank (“EIB”) to improve urban transport in Kharkiv by expanding the current metro system (the “Project”). A Consultancy Contract dated 9 December 2015 for the Kharkiv Metro Expansion Project – Feasibility Study has been signed by the European Bank for Reconstruction and Development (EBRD) and BERNARD Ingenieure ZT GmbH, who contracted Tebodin Ukraine CFI for the **Environmental and Social Due Diligence (ESDD)**, Task 9 of the Consultant’s Terms of Reference. Upon the findings of the ESDD, the scope of the ESDD has been extended to include the preparation of a Resettlement Action/Livelihood Restoration Plan (RAP). This Report covers the RAP.

A legal entity has been established for the execution of the Kharkiv Metro Expansion Project, namely the Metro Construction Company (MCC). The municipal Kharkiv Metro Company (KMC) is the current metro operator, and will also be the future operator of the Project facilities.

### 1.2 Objectives

The overall objective of the RAP is to mitigate the negative impacts of displacement, identify potential benefits and establish the entitlements of all categories of affected persons, with particular attention paid to the needs of the vulnerable.

The RAP should be in line with Performance Requirement 5 of the EBRD’s 2014 Environmental and Social Policy<sup>1</sup> and agreed to by MCC, the City Council Executive Committee (CCEC) and the Bank.

### 1.3 RAP status

This RAP contains all information currently available to the Consultant from the City. The City intends to conduct further surveys (with involvement of the Street Committees) to fill in the data gaps identified by the Consultant once the financing for the Project is secured. The Consultant’s work as set out in this RAP has included:

#### Task 1: Desktop Review

- Review the applicable laws, methodologies and other provisions
- Identification of specific legal gaps and elaboration of recommendations to ensure compliance with EBRD’s PR5
- Review of the Project design documents, including the changes made to avoid resettlement
- Compilation and sorting of available data on socio-economic conditions of PAP

#### Task 2: Site Visit & Initial Consultation

- Visiting of the affected areas and occasional interviews with affected persons (both the Extension and the Depot sites)
- Meetings with the City Vice Mayor on Legal Issues and Chief of the Architectural Division of the Legal Department of the City Council to understand the City’s policy on resettlement
- Meetings with representatives of the Design Institute and MCC to understand their position on alternative alignment of the Extension
- Meeting with the heads of the Street Committees for discussion on the consequences of the Project for their communities, requirements of the Bank and the scope of information needed for the socio-economic survey

#### Task 3: Plan Preparation as per Sample RAP Contents suggested by the Bank.

- Preparation of the RAP.

#### Task 4: Reconciliation of the Plan with the City.

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<sup>1</sup> Available at <http://www.ebrd.com/downloads/research/policies/esp-final.pdf>

## 1.4 Project description

The Feasibility Study of the Kharkiv Metro Expansion Project comprises three main components:

1. Extension of the existing Green Line towards the airport by 3.47 km and construction of two new stations: “Derzhavinska” and “Odeska” (a third station is planned between the two new stations, but does not form part of this project);
2. Construction of a metro wagon depot for the Green Line;
3. Procurement of 85 units of rolling stock.

The metro extension is located in an urban area south of Kharkiv’s city centre (Figure 1). The entire alignment runs underground though is generally shallow (~ max. depth 15 m to track level). Geotechnical exploration has already been undertaken and indicated geological / hydrogeological ground conditions of fines with groundwater and potential for confined groundwater levels.

As shown in Figure 1 the alignment runs mainly along Gagarina Avenue and partially along Derzhavinskaya Street. The proposed extension of the Green Line starts at the already existing part of the route south of the station Metrobudivnykiv and leads south to the planned stations Derzhavinska and Odeska. The alignment underpasses the Gagarina Avenue at a very acute angle in a reverse curve. From there, the alignment remains on the western side of Gagarina Avenue, underpasses the railway line and continues in a straight alignment to the Odeska station. South of the Odeska station, a four-rail reverser including necessary switch connections is designed.

Both stations are designed with island platforms, with a length able to receive a train with five metro wagons.

**“Derzhavinska”** is a shallow station located on the east side of Gagarin Avenue on a private development area. Access to the underground halls from opposite sides of the Gagarin Avenue is ensured by a passageway underneath the Gagarin Avenue.

**“Odeska”** is a shallow station located under the Gagarin Avenue in the area of Odeska and Heroyiv Stalingradu streets. It will function as an end station with 4 tracks for turn-around. Access to the underground halls from opposite sides of the Gagarina Avenue is ensured by a passageway underneath the Gagarina Avenue.

The section from the existing tunnels to the station Derzhavinska (959 m long) is planned to be built in **open cut technology, i.e. from the ground surface**. The construction pits will be made of bored pile walls. Dewatering of the construction pits will be required. The construction will either be of prefabricated concrete elements or cast-in-place reinforced concrete. The double-track section will consist of two separated frame-structures, which merge into the station Derzhavinska.

The stations Derzhavinska and Odeska will be built in open cut technology, similar to the section between the Metrobudivnykiv and Derzhavinska stations.

For the section between stations Derzhavinska and Odeska (2510 m long) **tunnelling by means of a shielded TBM** – an EPB (Earth-Pressure-Balance) shield – is planned. Two tunnel drives will be required (since the metro tunnels will be twin-tube). The launching shaft is situated south of the station Odeska, the receiving pit is designed to be in the area of the northern end of Derzhavinskaya station. Shafts will be constructed top-down. The tunnels are lined with precast, watertight, reinforced concrete segments.

The extension of the existing 8-station Metro Green Line requires installation of the temporary construction camp. Administrative and household facilities for the use of 120 construction workers will be located nearby the planned Odeska station.

The operation of the extended Green line requires the construction of the wagon Depot. The areas designated for Oleksiivske Depot (7.4 ha) and the Green line connector thread (4.0 ha) are situated on the outer side of the city ring road (Derhachivskiy district of Kharkiv region) near the Derhachivska interchange. The Depot area is currently used for deposition of piles of clay soil, delivered from the pit of Prospect Peremohy station. Some informal gardening takes place on the connector line land plot.



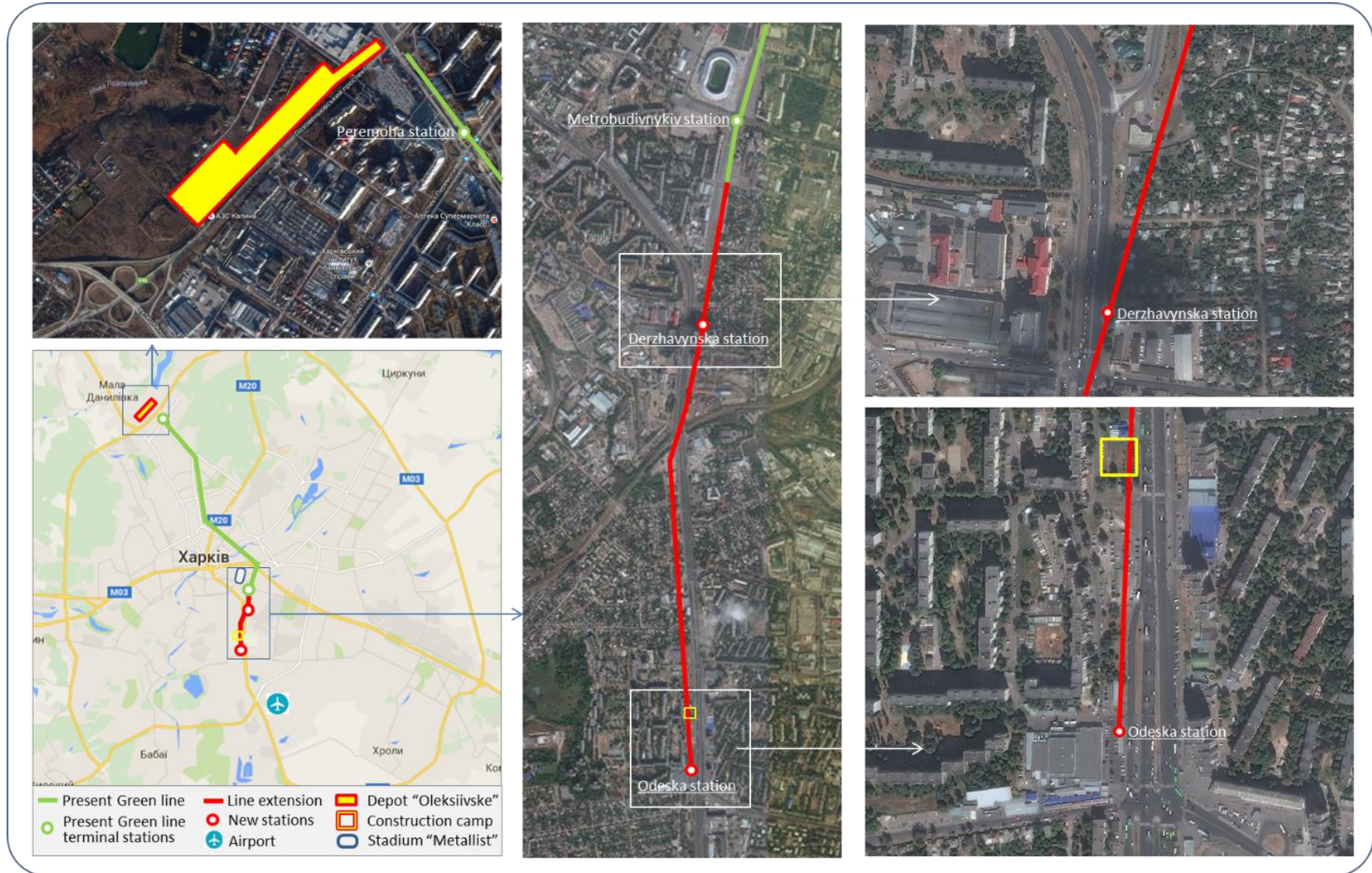


Figure 1: Location of the Project components

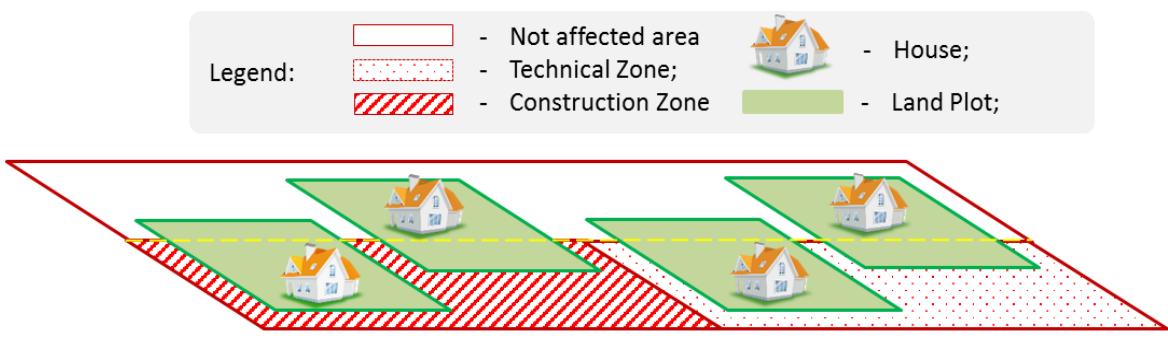
## 1.5 Impact on affected properties

### 1.5.1 Land and housing

The major Project’s impact on affected properties is associated with construction and operations of the Extension. The open cut method of the stations (and partly tunnel) construction requires the arrangement of the *Construction Zone* – the area of around 11 ha along the alignment for excavation of pits, placement of construction materials, building site access roads, relocation of utility networks, etc. Since land plots within the Construction zone are currently occupied by private households, block houses and business facilities the acquisition of this land triggers resettlement and economic displacement.

Although tunnelling by means of EPB shield does not directly affect the properties on the ground surface, the operations of the metro entail restrictions to be imposed on the use of the buildings that fall within the planned route corridor (*Technical Zone*). According to the national construction standard, buildings that fall within the Technical Zone can’t serve as accommodation, yet can be used for other purposes.

In total 42 private households and 3 block houses will be directly affected by the construction and operations of the Extension. Table 1 presents four common types of impact on affected properties (hereinafter referred as A, B, C, and D) and summarises the associated consequences.



	A	B	C	D
<b>Type of Impact</b>	Land plot wholly or mostly falls within the Construction Zone. The house or business facilities are on the affected part of the land plot	Land plot partly falls within the Construction zone. The house is on the unaffected part of the land plot.	Land plot wholly or mostly falls within the Technical Zone. The house is on the affected part of the land plot.	Land plot partly falls within the Technical Zone. The house is on the unaffected part of the land plot.
<b>Consequences</b>	Acquisition of the entire land plot, house and other immovable assets located on it.	Acquisition of the entire land plot, house and other immovable assets located on it or acquisition of the affected part of the land plot.	Acquisition of the entire land plot, house and other immovable assets located on it	Acquisition of the entire land plot, house and other immovable assets located on it, or acquisition of the affected part of the land plot or registration of the use rights for the affected part of the land plot
<b>Affected Properties</b>	20 private households and 1 block house	Land plots of 3 private households will be partly used for relocation of the gas network. The houses will not be affected	11 private households and 2 municipal block houses	Parts of land plots and non-residential structures belonging to 8 private households

**Table 1: Summary of impacts on the affected properties**

### **1.5.2 Businesses**

A number of local businesses and public facilities (city ambulance depot) are located in the vicinity of the planned Derzhavinska Station and along the associated open-pit tunnels, as well as at the planned Odeska Station. These businesses will be affected by the project and will have to be moved because of the construction.

At the same time businesses located within the Technical Zone will not be required to move. The restrictions cover the residential houses only.

## **1.6 Environmental and Social Analysis**

The information presented in this document is based on the efforts related to the Environmental and Social Analysis, in particular:

- The Environmental Impact Assessment (EIA) of both the extension and the Depot has to be prepared by the Project designer, i.e., KharkivMetroProekt (as an integral part of basic design documents) and examined by the State Expertise. The Consultant has been presented drafts of EIA that have not yet passed the Expertise
- Reports of the formal public consultations carried out by MCC within the framework of the environmental impact assessment
- Records of informal public consultations conducted by the heads of Street Committees with the residents and owners of the houses and land plots subject to acquisition for the needs of the Project
- Meetings with representatives of the City Council Legal Department, MCC and land acquisition task force, Osnovynskyi and Slobidskyi district administrations, Heads of the Street Committees.

## **2. MINIMISING RESETTLEMENT**

### **2.1 The Extension**

The City is interested in minimising resettlement to avoid any unnecessary negative impacts on PAP and also due to substantial costs that are associated with the process. Minimising resettlement has been a design requirement since the early nineties at the time of the first Feasibility Study of the Extension.

Experts of the MCC together with the design institute “Kharkiv Metro Proekt” (the Designer) have made adjustments to the Project design to reduce the impact on the infrastructure and population. Three households and several commercial buildings have already been removed from the list of affected properties by optimizing the alignment of utility networks, access roads, redevelopment and construction sites.

After careful consideration, an alternative land plot for the construction camp has been selected. The initial site is occupied with private garages, underground food storages and a playground. The Project would require relocation of these facilities. The new site, located in 200 metres to the North East from the initial one, is free of third-parties’ property and public amenities.

To minimize resettlement further, two alternatives routes to the original route design are studied, compared and assessed by the Consultant in the course of Feasibility Studies for the Bank. MCC jointly with the Metro Design Institute have examined the suggested changes in horizontal alignment and decided to keep the original design. According to MCC both suggested alternatives entail material difficulties related necessity of crossing the main sewer located under the avenue. The excessive cost of transferring the affected utilities network negates the possible social benefits.

### **2.2 The Depot**

The construction at the land earmarked for the metro connection line to the Depot could affect the people who informally use this land for gardening. However, after careful consideration the MCC finds it feasible and makes a commitment to avoid withdrawal of these land plots through narrowing the construction area of the connection line. The application of appropriate construction practices that enable the narrowing will be controlled by the MCC.

### 3. PRINCIPLES AND OBJECTIVES

#### 3.1 Policy principles

##### 3.1.1 EBRD

The European Bank for Reconstruction and Development is committed to promoting “environmentally sound and sustainable development” in the full range of its investment. All projects financed by the EBRD shall be structured to meet the requirements of the Bank’s Policy Environmental and Social Policy. Performance Requirement 5 (PR5) of the Policy covers the issues of Land Acquisition, Involuntary Resettlement and Economic Displacement.

According to PR5, involuntary resettlement refers both to physical displacement (relocation or loss of shelter) and economic displacement (loss of assets or resources that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition and/or restrictions on land use. Resettlement is considered involuntary when affected individuals do not have the right to refuse the land acquisition which results in displacement.

The key policy principles in respect of physical displacement and economic displacement spelled in the PR5 are as follows:

- **Avoid or minimise displacement:** feasible alternative project designs to avoid/minimize displacement should be considered.
- **Negotiated settlement** should prevail over expropriation.
- **Consultations:** early and informed participation of PAP in decision-making processes related to resettlement
- **Compensation** for all displaced persons and communities for loss of assets at full replacement cost and other assistance.

The Policy classifies Displaced persons as those:

- Who have formal legal rights to the land (including customary and traditional rights recognised under national laws);
- who do not have formal legal rights to land at the time of the census, but who have a claim to land that is recognised or recognisable under national laws; or
- who have no recognisable legal right or claim to the land they occupy.

PR5 presents the requirements on compensation and assistance for each group of PAP.

MCC will develop a summary document with all the applicable norms and requirements in one document where all the steps of the process will be listed with the reference to the legal norms.

##### 3.1.2 EIB

The European Investment Bank (EIB) requires that all the projects it is financing are acceptable in environmental and social terms by applying appropriate safeguards to all its operations. The EIB’s requirements on involuntary resettlement, presented in the *Statement of Environmental and Social Principles and Standards*, are as follows:

- People whose livelihoods are negatively affected by a project should have their livelihoods improved or at minimum restored and/or adequately compensated for any losses incurred. As such, where physical or economic displacement is unavoidable, the Bank requires the promoter to develop an acceptable Resettlement Action Plan. The plan should incorporate and follow the right to due process, and to meaningful and culturally appropriate consultation and participation, including that of host communities.

### **3.2 Objectives of the RAP**

The overall objective of the Resettlement Action/Livelihood Restoration Plan (RAP) plan is to mitigate the negative impacts of displacement, identify potential benefits and establish the entitlements of all categories of affected persons (including host communities), with particular attention paid to the needs of the vulnerable.

The specific objectives of the RAP are to:

- document all procedures to acquire land rights as well as compensation measures and relocation activities;
- identify project affected people (PAP) who will experience physical and/or economic displacement and require resettlement/livelihood restoration;
- determine who requires compensation and which kind;
- establish procedures to monitor and evaluate the implementation of resettlement activities.

#### 4. SOCIO-ECONOMIC BASELINE SURVEY

The socio-economic baseline survey (SEBS) on people affected by the Project is conducted in order to identify impacts within a Project's social context and the needs and rights of the affected people and develop appropriate actions to minimise and mitigate resettlement impacts.

It has been established that at least 246 residents registered at 69 residential premises that belong to 145 owners will be affected. The split by type of affected premises provided by the City is given in the Table 2.

Type of affected residential premises	Quantity of premises	Number of registered residents
households with registered property rights for the land	13	45, including 8 minors
households with no registered property rights for the land	29	147, including 21 minors
private apartments (flats, rooms)	25	47, including 6 minors
municipal apartments	2	7, including 2 minors
<b>TOTAL</b>	<b>69</b>	<b>246, including 37 minors</b>

*Table 2 Coverage of the SEBS*

The scope of the SEBS includes:

- incomes and expenditures,
- occupational and livelihood patterns,
- social and community organisation(s),
- cultural parameters,
- specific needs of women, elderly, youth or other potentially vulnerable groups;

The initial stage of the SEBS has been carried out by the Local Community Based Organisations – Street Committees and the City District Administrations (Osnovyanska and Slobidska DAs) in July 2016. The survey focussed on the owners and inhabitants of the private households and block houses that will be directly affected by the Extension construction and operation.

In January and February 2017 the Project group (included representatives of the street committees, Osnov'yanska and Slobidska district administration, Executive Committee of the City Council and MCC) has conducted further surveys in order to specify the SEBS information. At this stage, a standard questionnaire (provided by the EBRD, adapted and translated into Ukrainian by the Consultant) was used. Through such questionnaires, information on 211 PAP has been collected, while 23 persons have refused to provide their details.

The interim results of the SEBS are presented in Figure 2.

The need for easily accessible social infrastructure (schools, hospitals) and transport is relevant for all the PAP groups. Specific needs of vulnerable groups have been identified:

- two disabled persons and two seriously ill person who will be displaced require an accommodation accessible by a wheelchair.
- two single mothers whose houses are subject to acquisition will need a kindergarten in the vicinity of their new houses.

Further details on socio-economic conditions of the affected persons can only be collected after the official decision on the land acquisition is adopted by the City Council, and the owners are formally notified (the cut-off date).

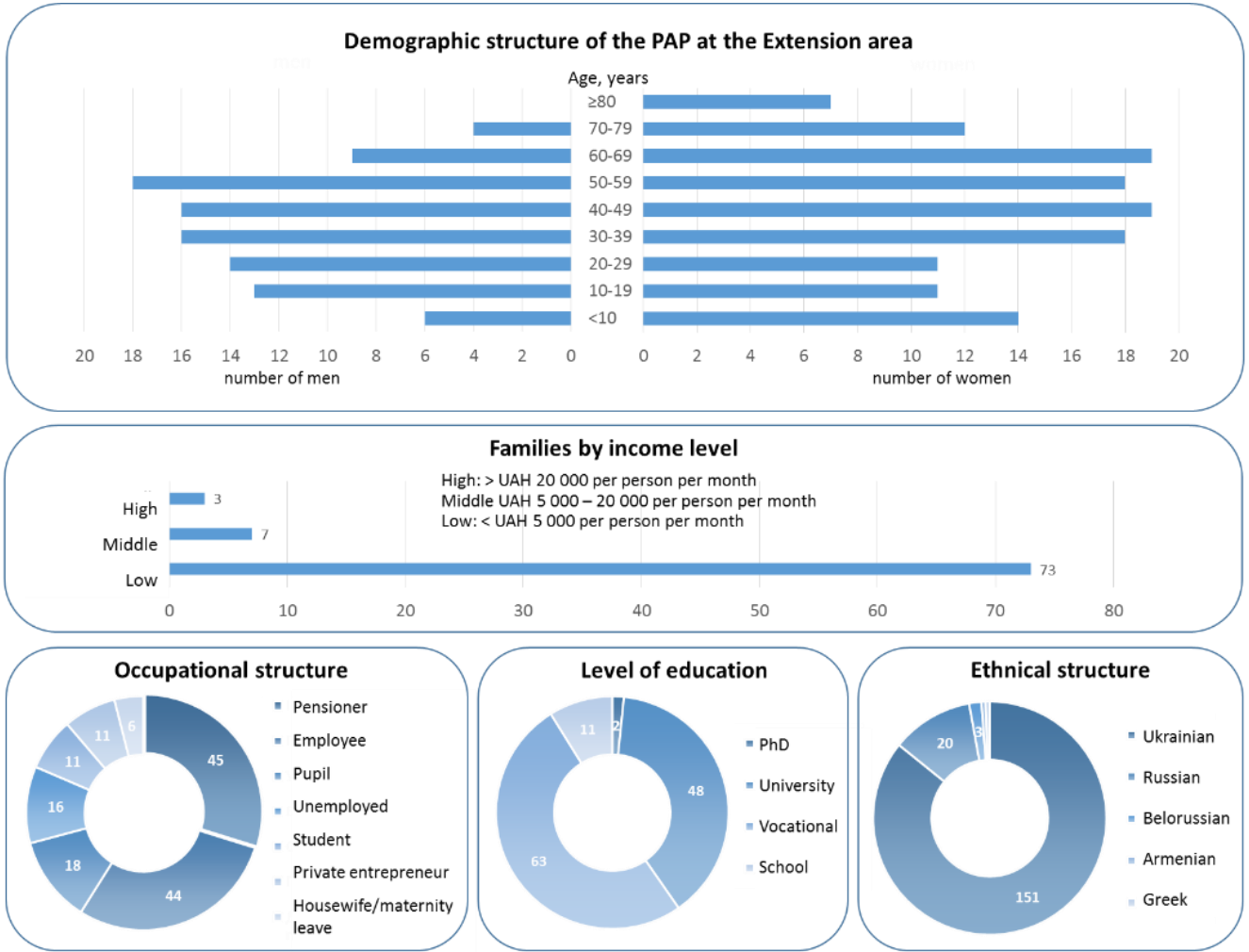


Figure 2: Interim results<sup>2</sup> of the SEBS

<sup>2</sup> Demographic structure based on details of 225 individuals (92% of registered PAP)  
Data on occupational and livelihood patterns is available for 151 individuals (62% of the registered PAP)  
Data on the level of education provided 124 individuals (51% of the registered PAP).  
Data on ethnicity is available for 176 individuals (72% of the registered PAP)



## 5. LEGAL REVIEW AND GAP ANALYSIS

### 5.1 Local laws, customs and regulations, EBRD and EIB policy

The key national Ukrainian regulations central to the topic of the RAP/LRF are as follows:

1. The Law of Ukraine “*On Acquisition of private Land and Other Immovable Property Located at Them, for Public Needs or Social Necessity*” as of 17.11.2009 № 1559-VI. – regulates the process of land (and other property) acquisition; determines the rights and responsibilities of property owners, eligibility for compensation and its form and size.
2. The Law of Ukraine “*On privatization of public housing*” as of 19.06.1992 № 2482-XII. Establishes the citizen’s rights for free of charge privatization of state/municipal owned households.
3. The Law of Ukraine “*On peculiarities of ownership in an apartment house*” as of 14.05.2015 № 417-VIII. Establishes flats owners’ rights over the land under and around an apartment house
4. “*Land Code of Ukraine*” as of 25.10.2001 № 2768-III provides an overall framework for land relations. Contains specific provisions on land ownership, acquisition/withdrawal and compensation of losses.
5. The Law of Ukraine “*On Land Lease*” as of 06.10.1998 № 161-XIV. Establishes the framework for land lease; contains specific provisions on termination of lease agreements in order to secure public needs or social necessity
6. “*Residential Code of Ukrainian SSR*” as of 30.06.1983 № 5464-X – regulates the process of resettlement for registered tenants. Determines the norms of compensation for physical displacement.
7. The Law of Ukraine “*On the valuation of property, property rights and professional valuation activities in Ukraine*” 12.07.2001 № 2658-III
8. The Law of Ukraine “*On the evaluation of land*” as of 11.12.2003 № 1378-IV. Provides the framework and methodology for evaluation of land.
9. The Civil Code of Ukraine as of 16.01.2003 № 435-IV.
10. State construction standard of Ukraine “*Structure and Content of Environmental Impact Assessment (EIA) during design and construction of industrial and civil facilities*”, ДБН А.2.2-1-2003
11. The Law of Ukraine “*On Community Organisation*” defines the legal status, creation and functioning of community organizations.
12. The Law of Ukraine “*On Equal Rights And Opportunities For Women And Men*” № 2866-IV as of 08.09.2005
13. The Family Code of Ukraine № 2947-III as of 10.01.2002 establishes equal property rights for both spouses

The Bank’s policy on resettlement which is spelled out in its Performance Requirement 5: Land Acquisition, Involuntary Resettlement and Economic Displacement (PR5). Policy principles are described in Chapter 3.1.

The EIB’s requirement on involuntary resettlement are stated in *The EIB Statement of Environmental and Social Principles and Standards (2009)*. Further guidelines on implementation of the requirements are presented in *The EIB Environmental and Social Handbook (Version 9.0 of 02/12/2013)*.

### 5.2 Gap analysis table

Although the national legal framework applicable to land acquisition, resettlement and related issues is well developed, the scope of its provisions is generally less than the Bank’s requirements. The

Consultant has compared the national legal framework with the Bank's requirements relevant to the Project related issues of:

- Eligibility;
- valuation;
- types of losses and compensation;
- methodologies and provisions for compensation;
- consultations;
- social assistance;
- grievance processes;
- timing of implementation;
- gender-based resettlement measures

The main identified gaps and measures to bridge them are summarized in Table 3 below

<b>GAP ANALYSIS TABLE</b>		
EBRD ESP / EIB requirement	National Legislation	Measures to bridge gap
<b>Eligibility</b>		
<p>The client will offer <u>all</u> displaced persons and communities compensation.</p> <p>Displaced persons may be classified as persons:</p> <ol style="list-style-type: none"> <li>i. who have formal legal rights to the land;</li> <li>ii. who do not have formal legal rights to land at the time of the census, but who have a claim to land that is recognised or recognisable under national laws;</li> <li>iii. who have no recognisable legal right or claim to the land they occupy.</li> </ol>	<p>Owners are eligible for compensation in case of physical displacement (1)<sup>3</sup>.</p> <p>Registered tenants are eligible for compensation in case of physical displacement (2).</p> <p>Registered tenants are eligible for free of charge privatisation of the state owned housing facilities that they occupy (2).</p> <p>Persons who have no recognisable legal right or claim to the land they occupy are not eligible for compensation.</p>	<p>The interests and needs for assistance of people who have no recognized legal right or claim to real property will be considered during the negotiation procedure to ensure their living conditions</p>
<b>Types of loss and compensation</b>		
<p><u>Physical displacement</u></p> <p>In the case of physically displaced persons classified under (i) or (ii), the client will offer them choices among feasible resettlement options, including adequate<sup>4</sup> replacement</p>	<p><u>Owners</u></p> <p>The owner can choose equivalent land plot or other real estate instead of cash compensation for the acquired land plot and other immovable property located on it (1)</p>	<p>Registered tenants of the municipal flats who are eligible for privatisation will be given a choice between receiving the compensation as an owner (after privatization) or as a registered tenant.</p>

<sup>3</sup> Reference numbers in Table 3 correspond to the list of national Ukrainian regulations presented in Chapter 5.1

<sup>4</sup> According to criteria specified by the UN Habitat, Office of the UN High Commissioner for Human Rights that include: (a) security of tenure; (b) services, materials, facilities and infrastructure such as potable water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services, and to natural and common resources, where appropriate; (c) affordable housing; (d) habitable housing providing inhabitants with adequate space, protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors, and ensuring the physical safety of occupants; (e) accessibility for disadvantaged

GAP ANALYSIS TABLE		
EBRD ESP / EIB requirement	National Legislation	Measures to bridge gap
<p>housing (of equal or higher value) or cash compensation where appropriate.</p> <p>In the case of physically displaced persons classified under (iii), the client will offer them a choice of options for adequate housing with security of tenure so that they can resettle legally without having to face the risk of forced eviction.</p>	<p><u>Registered Tenants</u></p> <p>If the building subject to demolition is due to land acquisition for state or public needs, the displaced persons will be provided with an alternative comfortable residential premises according to the norms (2)</p> <p>Registered tenants who are eligible for free of charge privatisation of the housing facilities that they occupy will be not compensated as owners</p>	<p>Criteria of adequate housing specified by the UN Habitat will be applied.</p> <p>The client will provide relocation assistance suited to the needs of each group of displaced persons, with particular attention paid to the needs of the poor and the vulnerable.</p>
<p><u>Economic displacement</u></p> <p>The client will compensate:</p> <p>i. economically displaced persons for loss of assets or access to assets</p> <p>ii. affected business owner:</p> <ul style="list-style-type: none"> <li>- the cost of re-establishing commercial activities elsewhere;</li> <li>- lost net income during the period of transition; and</li> <li>- the costs of the transfer and reinstallation of the plant, machinery or other equipment, as applicable.</li> </ul> <p>iii. economically displaced persons who are without legally recognisable claims to land for lost assets other than land, at full replacement cost.</p>	<p><u>Owners</u></p> <p>The compensation to owner covers the loss of assets and losses caused to the owner as a result of the land acquisition including the related to early termination of owner's obligations to third parties, including loss of profits in full (1).</p> <p><u>Leaseholders</u></p> <p>In case of early lease agreement termination initiated by a landlord it reimburses the losses incurred by the leaseholder as a result of the early termination of the lease agreement, unless otherwise stipulated in the lease agreement. (5)</p> <p>Any compensation is not stipulated for losses persons who are without legally recognisable claims to land</p>	<p>The compensation of lost assets including lost profits (at the level established by an independent valuation experts) will be considered during the negotiation procedure</p>
<p><u>Loss of public amenities</u></p> <p>Where a project involves the loss of public amenities, the client shall undertake meaningful consultation, in accordance with PR 10, with the locally affected community to identify and, where possible, agree upon a suitable alternative.</p>	<p>Municipally owned land plots provided for permanent use can be withdrawn for social needs by city council.</p> <p>Withdrawal should be agreed with the land users. In case the users do not agree, the withdrawal is settled in a court (5).</p>	<p>No action required</p>
<b>Methodologies and provisions for compensation</b>		
<p>The rate of compensation for lost assets should be calculated at full replacement cost (market value of</p>	<p><u>Owners</u></p> <p>Purchase price (compensation) = land plot + house + other structures</p>	<p>Relocation assistance that meets the needs of each group of displaced persons (with special attention to the</p>

groups; (f) access to employment options, health-care services, schools, childcare centres and other social facilities, whether in urban or rural areas; and (g) culturally appropriate housing

GAP ANALYSIS TABLE		
EBRD ESP / EIB requirement	National Legislation	Measures to bridge gap
the assets plus the transaction costs related to restoring such asset).	<p>+ perennial crops + other losses caused by land acquisition.</p> <p>In kind compensation includes alternative land plot and expenses for land management documentation and ownership registration. (1)</p> <p><u>Tenants</u> Residential premises provided to a displaced person should be in the same settlement. The size is not less than the size of the lost accommodation but within the norm of 13.65 m<sup>2</sup> per person unless eligible for supplementary dwelling space. A room can't be shared by persons of different sex, older than nine years, except for spouses. (2)</p>	needs of poor and vulnerable groups) will be considered during negotiations.
<b>Valuation</b>		
<p>The valuation method for determining replacement cost should be documented in respective Resettlement and/or Livelihood Restoration plans.</p> <p>Where land markets are still in a formative stage, clients should seek valuation by <u>external independent</u> professional valuation experts.</p>	<p>The value of land (and other assets) that is acquired or offered as an in kind compensation is determined on the basis of its monetary expert evaluation conducted in accordance with the law.(1)</p> <p>Entities who can perform monetary expert evaluation of lands are (8):</p> <ul style="list-style-type: none"> <li>- executive bodies and local authorities</li> <li>- legal entities that employ at least one chartered land valuation expert</li> <li>- private entrepreneurs who are chartered land valuation experts and holding a licence for land valuation.</li> </ul>	External independent professional valuation will be conducted by entities not belonging or affiliated to the CCEC.
<b>Timing of implementation</b>		
Compensation will be provided before displacement or imposition of access restrictions	The municipal ownership for the acquired land plot will be registered after the whole purchased price is transferred to the owner or his ownership for alternative land plot is registered (1).	No action required
<p><u>Cut-off date</u></p> <p>In the absence of specific national government procedures, the client will establish the cut-off date for eligibility as foreseen in the applicable legislation and project timeline as appropriate</p> <p>Persons moving into the project</p>	<p>The expenses for new construction (other substantial improvements) at the land plots subject to acquisition will not be compensated if incurred after the written notice on acquisition. (1)</p> <p>In case a third party plans to acquire the land/other property after the</p>	No action required

<b>GAP ANALYSIS TABLE</b>		
EBRD ESP / EIB requirement	National Legislation	Measures to bridge gap
<p>location after the cut-off date are not entitled to compensation or other assistance.</p> <p>The client is not required to compensate or assist opportunistic settlers who encroach on the project area after the cut-off date.</p>	<p>written notice on acquisition of this assets for public needs is received, the owner should notify this third party on the planned acquisition for public needs that will be valid regardless the transaction between the owner and the third party. (10)</p>	
<b>Consultation</b>		
<p>From the earliest stages and through all resettlement activities the client will involve affected men and women, including host communities.</p>	<p>Public consultations with stakeholders on environmental and social issues (including resettlement) are required for the Project design approval (11). Host communities are not specified among stakeholders.</p>	<p>There are no plans for collective resettlement and consequently there is no need for consultations with host communities.</p>
<p>Affected persons shall be given the opportunity to participate in the eligibility requirements, negotiation of the compensation packages, resettlement assistance, suitability of proposed resettlement sites and proposed timing.</p>	<p>The details of compensation are established on the basis of negotiation between the owner and municipal agency responsible for acquisition (1)</p> <p>The eligibility requirements are not subject to discussion with PAPs.</p>	<p>Affected persons will be given the opportunity to participate in the eligibility requirements.</p>
<p>The client will take into account any individuals or groups that may be disadvantaged or vulnerable. In particular, the client will take necessary actions to ensure that vulnerable groups are not disadvantaged in the resettlement process, are fully informed and aware of their rights, and are able to benefit equally from the resettlement opportunities and benefits.</p>	<p>Elderly and disabled PAPs are eligible for receiving accommodations on the lower floors/in the buildings with elevators.(2)</p> <p>No requirements for informing PAPs who belong to vulnerable groups.</p>	<p>To combine the official written notice on land acquisition with live discussion with every household head or representative. PAPs will be explained their rights and provided with legal assistance for complete administrative requirements related to displacement (as for example registration of property rights for alternative assets provided as in-kind compensation). Any questions related to land acquisition /resettlement will be addressed.</p>
<b>Grievance mechanism</b>		
<p>The client will establish an effective grievance mechanism as early as possible in the process.</p>	<p>The Working Group on clearing of the construction zone of the Green line is in charge for processing of all complaints and suggestions relating to acquisition of land and other immovable property.</p> <p>Issues that cannot be resolved in the negotiations will be resolved in accordance with the applicable law in an administrative court.</p>	<p>To establish an effective grievance procedure (as outlined in the SEP) for handling specific concerns about compensation and relocation that will be used by the Working Group.</p> <p>To inform PAP on the grievance procedure during the consultations.</p>

GAP ANALYSIS TABLE		
EBRD ESP / EIB requirement	National Legislation	Measures to bridge gap
<b>Monitoring</b>		
Monitoring of the resettlement and livelihood restoration process will be carried out in accordance with PR 1 and should involve the participation of key stakeholders such as affected communities.  Depending on the scale of a project's resettlement, it may be appropriate for the client to commission an external completion report of the RAP/LRP to determine that the provisions have been met.	No monitoring requirements	In view of complexity of the Project related land acquisition and variety of legal situations, commissioning an external completion report of the RAP/LRP to determine that the provisions have been met will be required for ensuring the objectives of all applicable requirements are fulfilled.
<b>Gender-based resettlement measures</b>		
The promoter must ensure equal treatment of women during compensation and income restoration processes, especially with regard to women's rights and interests in land, property, assets, and compensation and relocation assistance, even where these are not recognised in formal law.	Discrimination based on sex is prohibited (13). The executive authorities, local governments, institutions and organizations equally take into account the interests of women and men in the implementation of measures for their social protection (13). The wife and husband (or man and woman living as one family, but not married to each other) have equal rights to own, use and dispose of property that belongs to them by right of joint ownership, unless otherwise agreed between them (14).	No action required

**Table 3: Gap analysis**

### 5.3 Valuation methods for affected structures, trees, land

The value of land and/or other property that is acquired or transferred into ownership as a compensation for the acquired assets is determined based on its *monetary expert valuation* conducted in accordance applicable legislation.

Reports of monetary expert valuation subject to review by the State Land Expertise in cases and in the manner prescribed by law

Executive authority that initiated the acquisition, in the manner prescribed by law, selects a valuator for the monetary expert valuation of the properties earmarked for acquisition for the public needs. The State Land Expertise review fee is covered by costs of corresponding budgets.

If the owner argues that the asset's value as established by the valuator is inappropriate, it can involve (at its own cost) another valuator for the new appraisal or review of the Valuation Report.

The value (repurchase price) includes full costs of:

- the land plot (or its part),

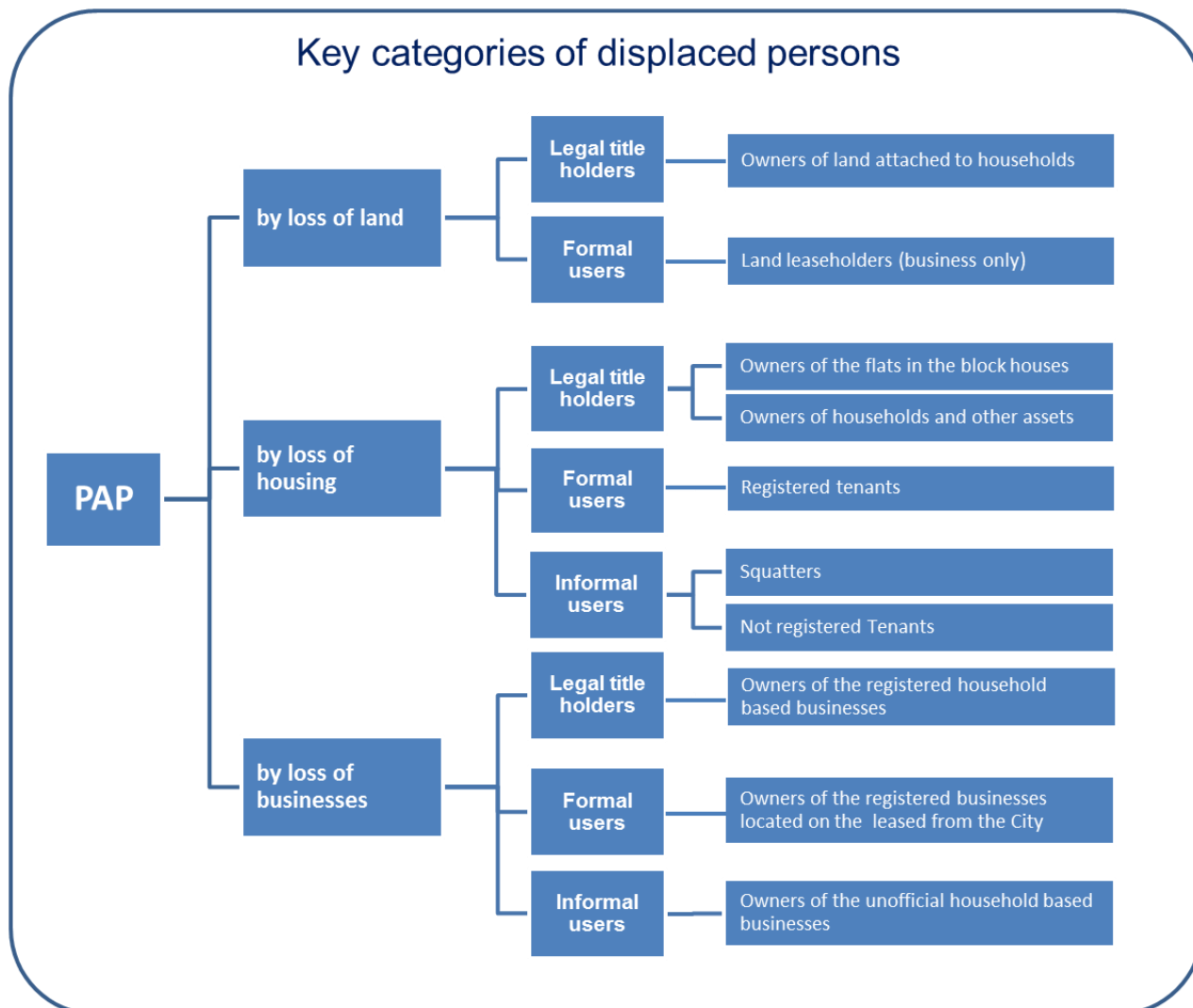
- residential building
- other structures,
- perennial plants
- the damage caused to the owner as a result of the land acquisition, including the losses suffered by the owner in connection with the early termination of its obligations to third parties, including loss of profits.

Expert monetary valuation of land is based on the following methodological approaches:

- capitalization of the net operating income from the rental or use of land;
- comparing the sales price of similar land plots;
- taking into account the cost of land improvements.

## 6. ELIGIBILITY AND ENTITLEMENTS

As described in Chapter 1.5 the Project affects property that is owned and/or used by people and thus affects these people. Key categories of PAP that will be physically or economically displaced are shown in Figure 3:



**Figure 3: Key categories of PAP**

The subsections below outline the entitlement measures and eligibility criteria for compensation to each of the listed categories of displaced persons. The applied entitlement measures are based on requirements of Ukrainian legislation and supplemented with measures to bridge the gaps between such entitlements and the requirements of PR5 that have been identified in the course of the legal gap analysis (Chapter 5.2).

### 6.1 Entitlement measures

#### 6.1.1 Resettlement options

As defined in PR5, involuntary resettlement refers both to physical displacement and economic displacement as a result of project-related land acquisition and/or restrictions on land use. The Policy requires the client to offer all displaced persons and communities' compensation for loss of assets at full replacement cost and other assistance. The range of applicable resettlement options that will be offered



to an affected person is determined by the type of displacement (physical or economical) and the status of the person's ownership rights over the affected assets.

Where a project involves the loss of public amenities, the client will undertake meaningful consultation, in accordance with PR 10, with the locally affected community to identify and, where possible, agree upon a suitable alternative.

### 6.1.2 Resettlement options in the Project

As described in Chapter 1.5 the Project requires both acquisition of and imposition of restrictions on land plots that are currently owned and/or occupied by private households and business facilities. The acquisition of land plots within the Construction Zone and restrictions on housing at the Technical Zone trigger physical and economic displacement.

Since the Law of Ukraine "*On Acquisition of Private Land and Other Immovable Property Located at Them, for Public Needs or Social Necessity*" recognise the transport infrastructure as a subject of public necessity the City has a right to acquire the needed land plots through court decision if negotiations with the seller fail. Thus the Bank's requirements on involuntary resettlement are fully applicable to the Project.

According to PR 5 cash compensation can be offered instead of in-kind compensation if active markets for land, housing and labour exist, displaced persons use such markets, and there is sufficient supply of land and housing. Taking into account the City's population of 1.5 million people and the area of 350 km<sup>2</sup> the Consultant believes that the conditions for offering cash compensation to PAP with recognized or recognizable land ownership rights are justified.

The subsections below describe resettlement options that will be offered to PAP commensurate to the type of their losses caused by the Project.

### 6.1.3 People affected by loss of land

The land plots subject to acquisition are attributed to 13 private households who have formal legal rights to the land with houses and other immovable property located on them, and to 29 households having land in actual use without formal legal property rights to this land.

The owners of the households and the attached land plots will be affected by total or partial loss of land that they own, or by loss of opportunity to use land that does not belong to them but, is in their actual use.

- Owners of households who suffer the loss of the entire land plot or its major part with a house on it (type A) will be entitled to receive monetary compensation. For calculation of monetary compensation amount all features of a house with outbuildings and land that are in actual use of a house owner will take into account. At the owners' request, granting of in kind compensation (equal to or greater than the market value of the land plus transaction costs - *the replacement cost*) will be considered during the negotiation process. The compensation will cover the value of other immobile assets in case these assets are owned by the same owner.
- Owners of houses with attached land that is partially located within the construction zone (type B) will be offered monetary compensation for acquisition of the entire household's land plot, with the house and other immovable property located on it. At the owners' request, granting of in kind compensation or acquisition of the affected part of the land plot will be considered during the negotiation process. In case when house owners do not have formal legal rights to the land that is in their actual use, their interests and needs for compensation for loss of actual use of the affected part of the land will be considered.
- Owners of households whose land with residential building wholly or mainly falls within the Technical Zone (type C) are entitled to the same type of compensation as owners of houses that fall within the Construction Zone (type A).

- Owners of houses with attached land that is partially located within the Technical Zone (type D) will be offered monetary compensation for acquisition of the entire household's land plot, with the house and other immovable property located on it. At the owners' request, granting of in kind compensation, or monetary compensation for state registration of the use rights or acquisition of the affected part of the land plot will be considered during the negotiation process in case when the house owner has formal legal rights to the land. In case when house owners do not have formal legal rights to the land, its further use for non-residential purposes will be considered.

All groups will be provided relocation assistance suited to the needs of each group of displaced persons, with particular attention paid to the needs of the poor and the vulnerable.

#### **6.1.4 People affected by loss of housing**

The loss of housing is attributed to construction and operation of the Extension only.

The acquisition of 42 private houses and apartments in three apartment buildings within the Construction and Technical zones entails the resettlement of 246 persons registered there.

The type of applied entitlement measures to compensate the loss of housing depends on whether the displaced person is an owner, a tenant or a squatter:

- Owners of houses that fall within construction zone (type A) will be offered monetary compensation for acquisition of the entire household's land plot, with the house and other immovable property located on it. At the owners' request, granting of in kind compensation will be considered during the negotiation process;
- Owners of the houses with attached land plots that partly fall within the Construction zone (type B) will be offered monetary compensation for acquisition of the entire household's land plot, with the house and other immovable property located on it. At the owners' request, granting of in kind compensation or acquisition of the affected part of the land plot will be considered during the negotiation process;
- Owners of houses that fall within Technical zone (Type C) are eligible for the same type of compensation as the owners of the houses that fall within Construction zone (type A). At the owners' request, granting of in kind compensation will be considered during the negotiation process. Alternatively owners can choose to receive a monetary compensation for the loss of housing and keep the property rights for the land plot in order to use it for non-residential purposes;
- Owners of houses with attached land plots that partly fall within the Technical zone (type D) will be offered monetary compensation for acquisition of the entire land plot, house and other immovable assets located on it. At the owners' request, granting of in kind compensation or acquisition of the affected part of the land plot, will be considered during the negotiation process;
- Owners of apartments in apartment buildings that fall within the Construction (type A) or Technical (type C) zones will be offered monetary compensation. At the owners' request, granting of in kind compensation will be considered during the negotiation process;
- Tenants who are officially registered at the City-owned flats at the affected houses will be provided an alternative accommodation (a flat or its part). The parameters of the provided dwelling will be determined by the type of tenants' family relations. The minimum norm of living space in Ukraine set at 13.65 square meters per person;
- The squatters' interests and needs for housing will be considered.

Compensation for the entire or partial acquisition of households' land plots (type A, B, C, D) and for the state registration of the use rights for the affected parts of land plots (type D), will be offered to owners of households, in accordance with section 6.1.3.

All the groups will be provided the relocation assistance suited to the needs of each group of displaced persons, with particular attention paid to the needs of the poor and the vulnerable.

### **6.1.5 People affected by loss of businesses or commercial premises**

The majority of the official businesses affected by the Project lease the land plots from the City. The lease agreements contain a provision for early termination due to the start of the Project. According to the provision, businesses agree to remove their facilities at their own cost when the metro construction starts.

The City will involve the affected businesses to selection of alternative land plots that will be offered for lease and subsequent relocation of commercial assets and operations. However no further compensation (lost profits, transaction costs) will be offered.

Some of the (household-based) businesses may be informal and not entitled to any compensation as per current Ukrainian standards except the compensation of assets located on the acquired land plots.

Registered household-based businesses are subject to compensation of assets and lost profits.

## **6.2 Eligibility criteria**

All displaced persons (both legal title holders, formal and informal users) are eligible for their interests and housing needs being taken into account. If people living in the project area must move to another location, the client will:

- ensure the owners' right to receive monetary compensation, or, at their request, consider giving owners in kind compensation
- provide tenants who are officially registered at the City-owned flats at the affected houses with an alternative adequate accommodation (a flat or its part).
- provide relocation assistance suited to the needs of each group of displaced persons, with particular attention paid to the needs of the poor and the vulnerable.

The scope and details of compensation differs for various categories of displaced persons (as indicated in the PR5) based on their ownership status.

### **6.2.1 Legal title holders**

The owners of households that fall under category of PAP *who have formal legal rights to the land* (according to ESP PR5) are eligible for the choice between the replacement property of equal or higher value, or cash compensation at full replacement value.

If the owner of the land that is earmarked for acquisition owns of the house, other buildings, perennial crops located thereon, the requirement of land acquisition is considered jointly with the requirement for termination of the ownership for the specified assets. The purchase price includes the value of these assets.

In case of partial acquisition of a land plot when the rest of the area cannot be efficiently used for the intended purpose, the whole land plot will be acquired upon the request of the owner.

### **6.2.2 Formal users**

According to the Residential Code if the building with state/municipal-owned residential premises is subject to demolition due to the land acquisition for state or public needs, the displaced persons will be provided with alternative comfortable residential premises.

The City will provide tenants who are officially registered at the City-owned flats at the affected houses with an alternative adequate accommodation (a flat or its part).

In the case of residents exercise their right to privatize the premises they occupy (under the Law of Ukraine "On privatization of public housing"), these residents will be entitled to the same type of compensation as the owners of the premises.

The owners registered at their households will be given a choice between the options of:

- monetary compensation;
- in kind compensation (in the course of negotiation).

Due to poor technical conditions the compensation of housing can be more attractive compared to relatively small value of the owned assets.

### **6.2.3 Informal users**

Although the right of informal users is not recognised by the national legislation, this group is also eligible for its interests, housing and assistance needs being considered according to the PR5.

**6.3 Entitlements Matrix**

No	Category of PAP	Type of loss <sup>5</sup>	Compensation of losses (monetary/alternative)	Moving assistance	Other compensations, assistance measures	
<b>1. People affected by loss of land</b>						
1.1	<u>Legal title holders</u> • owners of households with attached land plots	A	Monetary	At the owners' request, granting of in kind compensation will be considered in the course of negotiation.	Yes	In case the owner of the land owns other immovable assets located at the affected land, the total compensation (for the land + assets) is negotiated.
1.2		B	Monetary	At the owners' request, granting of in kind compensation will be considered in the course of negotiation or acquisition (purchase) of a part of the land plot not occupied by a residential building	Yes	The owner can request acquisition of the entire land plot with the same compensation as 1.1
1.3		C	Monetary	At the owners' request, granting of in kind compensation will be considered in the course of negotiation.	Yes	None
1.4		D	Monetary	At the owners' request, granting of in kind compensation will be considered in the course of negotiation or acquisition (purchase) of a part of the land plot not occupied by a residential building or state registration of the land use rights.	Yes	None

<sup>5</sup> As indicated in Table 1:

1.5	<u>Formal users</u> • land leaseholders	Termination of leases of land under the terms of the lease agreement in case of acquisition of land for public use for reasons of social necessity				
<b>2. People affected by loss of housing</b>						
2.1	<u>Legal title holders</u> • owners of households and other immovable assets • owners of the flats in the block houses	A,B, C,D	Monetary	At the owners' request, granting of in kind compensation will be considered in the course of negotiation.	Yes	The total amount of compensation will include the cost of a residential house and other buildings, taking into account the damage caused to the owner due to property acquisition.
2.2	<u>Formal users</u> • Tenants registered in the municipally-owned flats	A, C		Will be provided with an alternative comfortable residential premises according to the norms	Yes	None
2.3	<u>Informal users</u> • Tenants not registered but having lease agreement with owner, • Squatters	A, C		Termination of the lease. The interests and needs for housing and assistance of people who have no recognized legal property right will be considered during the negotiation procedure.	Yes	None
<b>3. People affected by loss of businesses or commercial premises</b>						
3.1	<u>Legal title holders</u> • Owners of the official businesses located on the private land plots	A	Monetary	At the owners' request, granting of in kind compensation will be considered in the course of negotiation.	Yes	Compensation covers losses
3.2	<u>Formal users</u> • Owners of the official businesses located on the leased land plots owned by the City	A	Monetary	At the owners' request, granting of in kind compensation will be considered in the course of negotiation. Possible termination of the lease	No	Not eligible for other compensations due to provision in a lease agreement
3.3	<u>Informal users</u> • Owners of the unofficial businesses located on the private land plots	A	Monetary	Compensation is limited with purchase of real estate property that belongs to an owner of a business.	No	None

**Table 4: Entitlement matrix**

## **7. RESETTLEMENT SITES AND INCOME RESTORATION**

### **7.1 Process for identifying suitable sites**

Since the affected owners and tenants are not unified by any specific cultural or religious community there is no need for all the PAP to be resettled to the same site. Equivalent land plots and housing facilities will be provided to PAP throughout the City wherever the suitable assets are available. Therefore the requirement on consultation with receiving communities is not relevant for the Project.

#### **7.1.1 Owners**

The land owners have a choice between monetary and in-kind compensation. At the owners' request, granting of in kind compensation will be considered in the course of negotiation. If monetary compensation is chosen, the person takes full responsibility for selection of the suitable site for resettlement.

In case of in-kind compensation the City has to provide an alternative land plot and/or other assets of the same or higher value. The value of both acquired and offered assets is determined in the course of monetary expert valuation (as described in Chapter 5.3). The owners will be informed on the suggested in kind compensation and can accept it or request other options.

#### **7.1.2 Tenants**

The alternative housing facilities for compensation of the loss of housing will be selected from suitable options located in Kharkiv available on the market.

#### **7.1.3 Business**

The businesses that lease the land plots will be involved in selection of alternative land plots for relocation of their activities.

### **7.2 Evaluation of income restoration**

The businesses that lease the land plots are not eligible for income restoration assistance. The provision on early termination of the lease due to the Project is included to the lease agreement and affects the lease price. Hence the risks of losses caused by early termination of the lease agreement are taken consciously.

Losses of the of official household-based businesses including losses suffered by the owner in connection with early termination of its obligations to third parties and specifically loss of profits will be compensated. Compensation size will be established on the basis of the monetary expert valuation conducted by independent experts.

Downtime of the informal businesses will not be compensated.

## 8. INSTITUTIONAL ARRANGEMENTS

The key institutions involved in the land acquisition are as follows:

- City Council Executive Committee
  - coordinates initial consultations and valuation;
  - selects the property for in-kind compensation
  - prepares the Draft of the Decision on “Purchase of Land for the Public Needs”;
  - informs the owners on the Decision
  - selects Valuators
  - approves the Valuation Report
  - conducts negotiations with properties owners
  - offers housing to tenants who do not own the affected households.
  - initiate litigations
  - signs the Purchase Agreement (for monetary compensation) and Exchange Agreement (for in-kind compensation)
  - initiates registration the property rights for the acquired land
- State Registrar.
  - Registers the property rights for the acquired land
- The City Council
  - Approves the Decision on “Purchase of Land and other immovable assets for the Public Needs”;
- The Street Committees
  - Conduct initial consultations with PAPs
  - Medium between the authorities and the PAP’s in the areas of dialog facilitation and spread of information.
- The District Administrations
  - Supports The Street Committees at initial consultations with PAPs
- The chartered Valuator
  - Conducts the valuation of the affected properties
  - Conducts valuation of the properties suggested for in-kind compensation
- The Administrative Court
  - decides if the acquisition match the criteria of the public necessity and if the involuntary acquisition/resettlement is applicable.
  - establishes form and size of compensation

The overview of the process in presented in Figure 4.



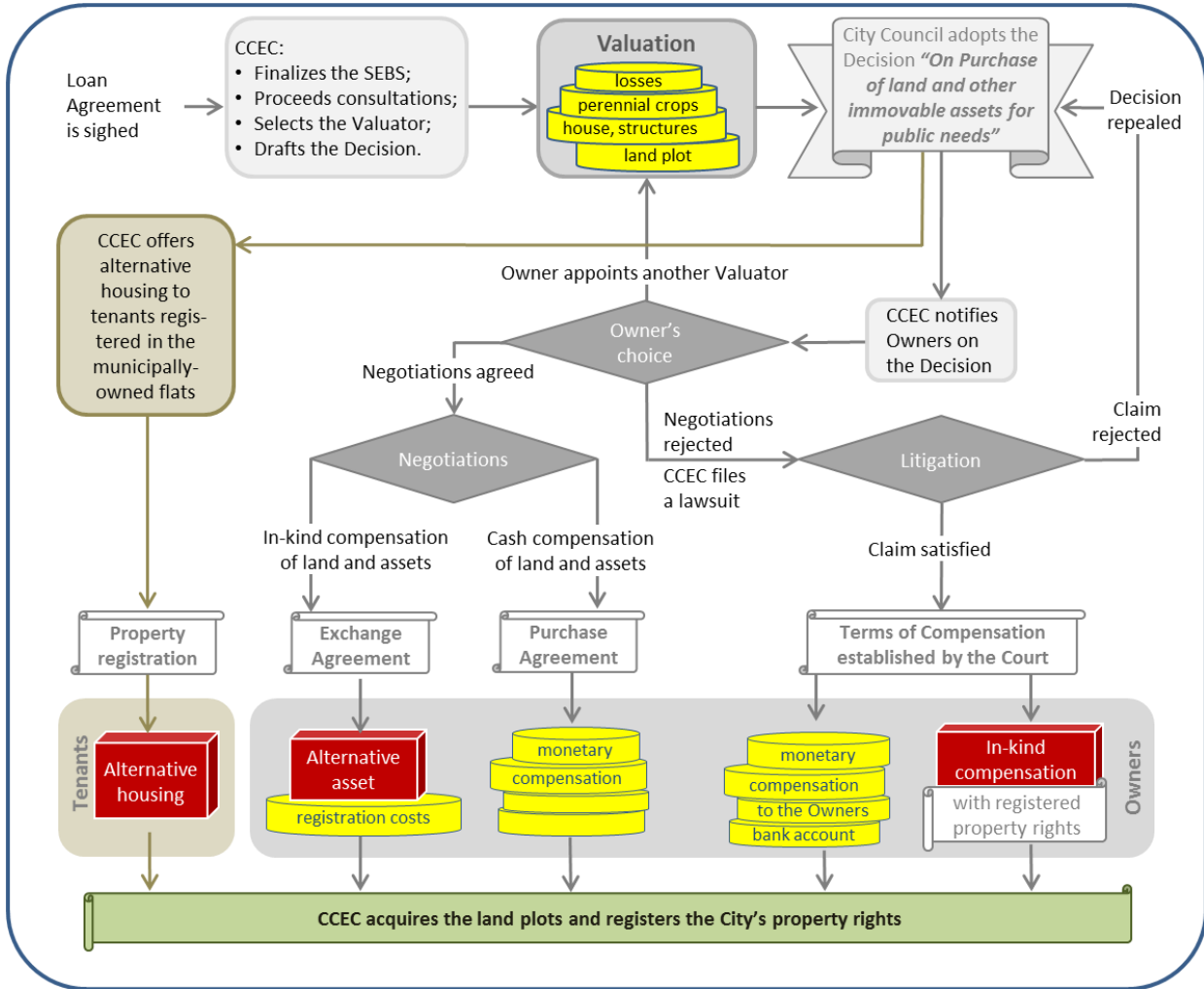


Figure 4: Overview of key institutional arrangements of Land and Assets Acquisition Process

## 9. PUBLIC CONSULTATION AND GRIEVANCE REDRESS

### 9.1 Required public consultation

Public consultations are required by the State Construction Standard (ДБН А.2.2-1-2003 С.2) for the types of activities with potential hazardous impacts an element of EIA documents. The requirement is applicable to the Project. Public consultations on environmental and social impacts of the Project were conducted in 2008. The MCC presented the minutes of two meetings with Osnoyanskyi (Chervonozavodskiy) and Slobidskyi (Kominternivskiy) districts:

- On 27.11.2008 30 persons participated. The list of participants is attached to the Minutes. MCC's director informed the audience about the plans for extension of the Green Line; questions on resettlement options, property valuation and post-construction landscaping were addressed.
- On 28.11.2008 107 persons participated. The list of participants is attached to the Minutes. MCC's director informed the audience about the plans for extension of the Green Line; questions on positioning of station, project budget and property valuation methods were addressed.

According to PR5 affected men and women will be involved from the earliest stages and through all resettlement activities. Affected persons will be given the opportunity to participate in the eligibility requirements, negotiation of the compensation packages, resettlement assistance, suitability of proposed resettlement sites and proposed timing. Consultation will continue during the implementation, monitoring and evaluation of compensation payment and resettlement so as to achieve outcomes that are consistent with the objectives of this PR.

Although the conducted consultations touched the issues of resettlement and compensations there is a need for the new round of consultations due to changes in both project design and demographical/socio-economic pattern of PAP. The measures to address the requirements on public consultations has been presented in the Stakeholders Engagement Plan (SEP), a separate document of the ESDD. The relevant extract of the SEP is shown below.

Stakeholder Group	Population	Communication Activity	Proposed Media	Timeframe
Residents of the Project area subject to resettlement or restrictions	246	<ul style="list-style-type: none"> <li>• Collect the information for socio-economic survey</li> <li>• Informing on the Project details; legal rights, eligibility for compensation, principles of defining and providing the compensation; grievance procedure; Define the preferable way of compensation</li> <li>• Present the RAP</li> </ul>	<ul style="list-style-type: none"> <li>• Personal dialog with the Heads of the Street Committees</li> <li>• Newspapers</li> <li>• KMC Websites</li> <li>• Announcements at the houses</li> <li>• Direct contact with residents</li> <li>• Kharkiv City Council website</li> <li>• Phone 'hot line'</li> </ul>	After the City Council adopts the Decision on acquisition
Owners of the land plots and properties subject to acquisition	154	<ul style="list-style-type: none"> <li>• Informing on the Project details; legal rights, eligibility for compensation, principles of defining and providing the compensation; grievance procedure; Define the preferable way of compensation</li> <li>• Submit the official notice on the Decision of the City</li> </ul>	<ul style="list-style-type: none"> <li>• Personal dialog with the Heads of the Street Committees</li> <li>• Phone 'hot line'</li> <li>• Official letter by Executive committee of the City Council</li> </ul>	After the City Council adopts the Decision on acquisition In 5 days after the decision is adopted. Within 3 months after the decision

Stakeholder Group	Population	Communication Activity	Proposed Media	Timeframe
		Council “On purchase of the land and properties” <ul style="list-style-type: none"> <li>Negotiations on the form and amount of compensation</li> </ul>	<ul style="list-style-type: none"> <li>Personal dialog with the City Council Executive Committee task force on acquisition</li> </ul>	
Owners of formal and informal businesses that occupy land plots subject to acquisition	To be determined	<ul style="list-style-type: none"> <li>Consultation with the owners. Discussion on alternative sites for business.</li> <li>Written notice on termination of the rent agreement (for the rented land plots)</li> </ul>	<ul style="list-style-type: none"> <li>Personal meeting of the City Council Executive Committee Legal department, Osnovyanskyi District Administration, Slobidskyi District Administration, and MCC representatives with the business owners</li> <li>Official letter from MCC</li> </ul>	After the City Council adopts the Decision on acquisition
Unofficial gardeners at the Depot connector line site.	To be determined	<ul style="list-style-type: none"> <li>Advance informing on commencement of construction works and borders of the land plot required for the construction</li> </ul>	<ul style="list-style-type: none"> <li>Info board with all the necessary information on the Project and contacts for the inquiry or grievance</li> </ul>	After the City Council adopts the Decision on acquisition
Community-based organisations (Street Committees) operating in the Project area	3	<ul style="list-style-type: none"> <li>To provide all the information needed for holding preliminary consultations with owners and residents of the houses and land plots subject to resettlement</li> </ul>	<ul style="list-style-type: none"> <li>The RAP roll-out presentation by specialists of the City Council Executive committee legal department and MCC</li> <li>A hardcopy of the RAP</li> <li>A hardcopy of NTS</li> </ul>	After the City Council adopts the Decision on acquisition

**Table 5 Extract of Table 1 of the SEP**

Since the affected owners and tenants are not unified by any specific cultural or religious community there is no need for all the PAP to be resettled to the same site. Equivalent land plots and housing facilities will be provided to PAP throughout the City wherever the suitable assets are available. Therefore the requirement on consultation with receiving communities is not relevant for the Project.

## 9.2 Recommendations and plans for grievance redress procedures

The Working Group on clearing of the construction zone of the Green Line (the Working Group or the task force) has been created by the Decree of Kharkiv City Mayor No 29 as of 03.03.2017. The Working Group is in charge for processing of all complaints and suggestions relating to acquisition of privately owned land and other immovable property that fall within construction zone of the Extension.

Issues that cannot be resolved in the negotiations will be resolved in accordance with the applicable law in an administrative court.

To ensure that all comments and complaints from PAP or any project stakeholder, are considered and addressed in an appropriate, consistent and timely manner, the Working Group to applies the grievance procedure described in Chapter 8 of the SEP.

### **9.3 Project-specific social aspects to be addressed at design stage**

The Project-specific social aspects to be addressed at design stage are restricted to alternative routes, which are discussed in Chapter 2.

### **9.4 Institutional responsibilities**

According to National Construction Standard ДБН А.2.2-1-2003 (11) MCC as the Project developer or (on its behalf) the designer of the EIA informs the public (via local authorities) about the planned activities, determines the location and procedure of public hearings, public meetings, and collects and considers stakeholders' comments and suggestions. Although the requirement is relevant for the whole range of environmental and social impacts the consultations cover resettlement issues (as it's seen from the minutes of the meeting held in 2008).

The process of resettlement-specific initial consultations will be carried jointly by the heads of Street committees, representatives of the CCEC and district administrations.

CCEC is in charge for negotiations of the compensation details with the owners of the affected property.

## 10. TIMETABLE AND BUDGET

### 10.1 Timetable

The timetable for land acquisition with key milestones processes and its duration is presented in Table 6: Timetable for land acquisition and visualised in Figure 5.

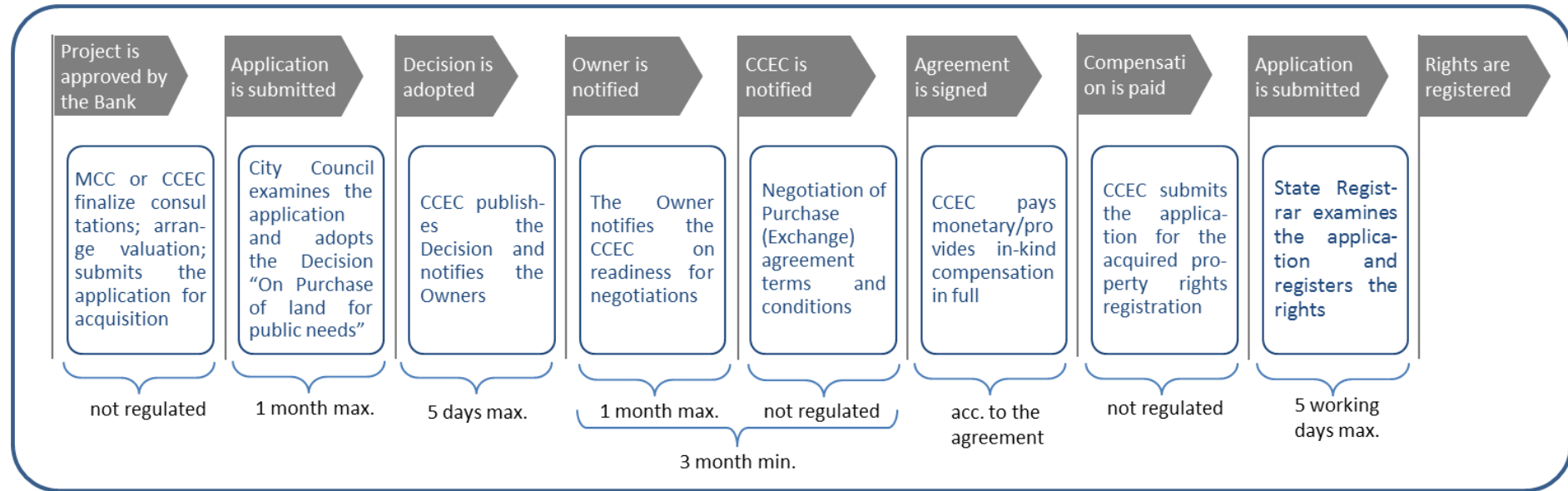
No.	Milestone	Responsible	Signoff	Timeframe
1.	Approval of the Decision "On Purchase of land and other immovable assets for public needs"	The City Council	The Decision "On Purchase of land and other immovable assets for public needs"	During City Council the session
2.	Disclosure and notification of the owners of the affected assets	CCEC	The publication in the regional newspaper Formal written notices are delivered to the owners	Within 5 days after Milestone No.1
3.	Owner's response	Owner	Written responses are delivered to the CECC	Within 1 months after Milestone No.2
4.	Valuator selection	CCEC	Request for proposals is published	Not regulated
5.	Valuator appointment	CCEC	Contract with the winner	Not earlier than 10 days after the bid announcement Within 20 days from selection of the bid winner.
6.	Valuation of the assets	Valuator	Valuation report	Not regulated
7.	Review (State Expertise) of the Valuation Report	Expert	State Expertise Conclusion	Within 20 days after the application for review
8.	Selection of the in-kind compensation options	CCEC	The list of alternative in-kind options	Not regulated
9.	Negotiation of Purchase (Exchange) agreement terms and conditions	Owner and CCEC	Notarized Purchase (Exchange) agreement signed by the parties	Within 1 year after Milestone No.1
10.	Provision of compensation in full	CCEC	The payment order (processed by a bank) for monetary compensation	Before the works start, according to the agreement
11.	Application for registration of the acquired property rights	Owner	Application for the acquired property rights submitted to the State Registrar	Not later than 1 year after Milestone No.1
12.	Registration of the acquired property rights	State Registrar	The certificate of the property rights for the acquired land plots	Within 5 working days after Milestone No.11

**Table 6: Timetable for land acquisition**

Should the owner reject the negotiations, the CECC has a right to file a lawsuit. If the lawsuit is not filed within one year from the date of the Decision “On Purchase of land and other immovable assets for public needs”, the Decision becomes repealed. If a lawsuit is filed, litigation starts. The timeframes of the litigation process vary significantly.

## **10.2 Budget**

The budget of the land acquisition, resettlement and livelihood restoration stated in the Project design documents amounts to UAH 106.5 million. The figure will be adjusted after the consultation and valuation processes are completed by the City. The total amount assigned in the City budget 2017 for the development of the Extension is UAH 250 million.



**Figure 5: Timetable for land acquisition**

## 11. MONITORING

According to PR 5 the monitoring of the resettlement and livelihood restoration process will be planned and carried out with involvement of key stakeholders such as affected communities. The City will define clear roles, responsibilities and authority as well as designate specific personnel to be responsible for the monitoring activities.

The key components of the monitoring plan are as follows:

- **Performance monitoring** is an internal management function allowing the City to measure physical progress against milestones established in the RAP. Performance monitoring of the RAP will be integrated into the overall project and E&S management to ensure that RAP activities are synchronized with all project implementation activities.
- **Impact monitoring** gauges the effectiveness of the RAP and its implementation in meeting the needs of the affected population. Considering the scale of the Project, the Impact monitoring activities and reporting will be combined with performance monitoring.
- **Completion Audit** is an evaluation by an independent third party whether the outcome of the RAP complies with the EBRD ESP and statutory requirements.

The monitoring plan commensurate with the scale and complexity of this RAP is summarised in Table 7: Monitoring plan

Monitoring Component	Objectives	Source of information	Responsible agency	Timeframes/frequency
Performance and impact monitoring	<ul style="list-style-type: none"> <li>• To measure physical progress against milestones established in Table 6 and consultations as per Table 5.</li> <li>• Assessment of impacts and PAP satisfaction</li> </ul>	<ul style="list-style-type: none"> <li>• Records of the activities conducted under the RAP/RLP.</li> <li>• Review of the grievance mechanism outputs</li> <li>• Interviews with PAP</li> </ul>	The Land Acquisition Task Force jointly with representatives of PAP (heads of the street committees)	Quarterly, within the whole duration of activities conducted under the RAP/RLP
Completion audit	<ul style="list-style-type: none"> <li>• To determine that RAP/RLP provisions have been met</li> <li>• Measure of the final impact of the resettlement against the SEBS</li> <li>• Identification of further (corrective) actions to be completed by the client</li> <li>• Verification of the completion of corrective actions</li> </ul>	<ul style="list-style-type: none"> <li>• Review of the Performance and Impact Monitoring Reports.</li> <li>• Interviews with PAP</li> </ul>	Contracted external auditing agency	Once, on completion of the activities conducted under the RAP/RLP. For registered household based businesses, the impact will be measured annually within 2 years after the relocation of the business.

**Table 7: Monitoring plan**

The scope of the monitoring plan includes, but is not limited to:

1. Verification of internal RAP implementation reports by a field check of the following:
  - Payment of compensation including amounts and timing



- 
- Settlement of land/resource access claims
  - Preparation and adequacy of resettlement sites
  - Provision/availability of employment, its adequacy and income levels
  - Rehabilitation of vulnerable groups
  - Infrastructure repair, relocation or replacement
  - Enterprise relocation, compensation and its adequacy
  - Transition allowances
2. Interviews with a random sample of affected people in open-ended discussion. Assessment of their knowledge and concerns regarding the resettlement process, their entitlements and rehabilitation measures.
  3. Verification of relevant stakeholder engagement activities and public consultations with affected people.
  4. Assessment of the effectiveness and compliance with the RAP of the resettlement operation at all levels.
  5. Verification of grievance issues and the functioning of grievance redress mechanisms by reviewing the processing of appeals at all levels and interviewing aggrieved affected people.
  6. Survey of living standards of the affected people before and after implementation of resettlement to assess whether the standards of living of the affected people have improved or been maintained.
  7. Recommendations to project management regarding necessary improvements in the implementation of the RAP, if any.