



Update of the Feasibility Study. ESIA and update of the Detailed Design for the construction of the road N9 Prishtinë - Pejë (SEETO Route 6 B), section from Kijevë – Klinë to Zahaq (30KM)

Land Acquisition and Resettlement Framework (Draft)

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1. INTRODUCTION

The Ministry of Infrastructure (MI) of Kosovo* is planning to undertake a Project to improve part of the national road N9 by constructing an offline Motorway section Kijevë – Klinë - Zahaq (31km). The Project is in line with the overall plan for improving the national road network, outlined in the national Multi-Modal Strategy (2012-2021) and Action Plan (2012-2016)¹, The Project is part of SEETO² Route 6 B (Figure 1).



Figure 1 Location of the Project on SEETO Route 6 B

The European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD), in line with their policies³ and strategic Agreements with Kosovo⁴, are promoting and supporting regional transport integration and development of strategic connections with neighbouring countries. This includes the development of Route 6 B, which runs from Pejë to Pristina, connecting to Corridor VIII in FYR Macedonia in the south and to Corridor X in Serbia via Route 7 in the north; it

¹ http://www.seetoint.org/wp-content/uploads/downloads/2014/01/Kosovo_Multimodal-Transport-Strategy-2012-2021.pdf

² Core Transport Network and in the South-East Europe Transport Observatory (SEETO).

³ EIB Transport Lending Policy (<http://www.eib.org/infocentre/publications/all/eib-transport-lending-policy.htm>) and EBRD Strategy for Kosovo* (<http://www.ebrd.com/downloads/country/strategy/kosovo-strategy.pdf>)

⁴ EIB Framework Agreement with Kosovo*

(<http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20ratification%20of%20Agreement%20between%20Kosova%20and%20European%20Investment%20Bank.pdf>)

also links Pristina, via Pejë (an administrative and economic centre of Kosovo's western region), to route 4 in the Eastern part of Montenegro.

The land acquisition process for the Project is in its early stages. The Project will require acquisition of land, but it appears that there will be limited cases where physical resettlement will need to take place because residential buildings will be affected. There are no non-residential properties which will be affected, however, this will be confirmed during further land acquisition planning.

This Land Acquisition & Resettlement Framework (LARF) has been prepared by the Ministry of Infrastructure (MI)⁵. This document has been developed in accordance with the Kosovo* legal framework and in compliance with EBRD's Environmental & Social Policy 2014 (ESP 2014), and specifically Performance Requirement 5 (PR5) – Land Acquisition, Involuntary Resettlement & Economic Displacement. This Land Acquisition & Resettlement Framework presents the displacement impacts associated with the Project, and the compensation and resettlement principles and responsibilities to ensure no one affected by the Project's implementation is disadvantaged compared to current conditions.

The LARF includes a grievance mechanism for people affected by land acquisition as a way to raise concerns and provide a mechanism for problem solving. A detailed Resettlement Action Plan (RAP) will be developed in accordance with this LARF during the finalisation of the detailed planning for the exact route of the road. While the LARF sets out the Project's planned approach, processes, responsibilities and compensation entitlements to land acquisition and resettlement, the RAP will be providing full details of actual land ownership, the nature of the displacement impacts and identifying all persons affected by land acquisition. A Socio-economic survey will be undertaken during the next phase of Project development to better understand the scale and nature of the economic and physical displacement and these impacts on the Project Affected Persons (PAPs). The socio-economic survey will be used to inform the RAP.

2. THE PROJECT

The current N9 road between Kijevë – Klinë - Zahaq is a 2-lane single carriageway pavement over its full length (30km), with a width of between 6.5 m and 7.0 m.

The Project (planned motorway) will be a dual-lane carriageway designed to comply with national and international standards and specifications, with a design speed of 100-120 Km/hr. The Alignment of the Project is located at a distance of up to 1.5 km and runs to the north of the existing road N9. The existing road N9 will be used as a parallel and secondary road. No interventions to the existing road are planned within the scope of the Project.

The motorway crosses the territory of the municipalities Klina and Peje. The larger towns which are located along the wider Route are Pristinë and Pejë.

⁵ <http://www.mi-ks.net>

The Alignment starts near Kijevë (38 km west of Prishtinë) north to the village of Kijevë and ends at the village of Zahaq, 7 km east of the town of Pejë.

The local economy in the Project area is heavily dependent on agriculture, with some commercial activities and mining also taking place. A trend of economic migration out of the local area and towards urban centers and abroad is noted. Overall, the Project will improve connectivity, reduce journey times, and improve road safety, while simultaneously improving access to community services to settlements along the route. Some short-term local employment opportunities may arise during construction, and the improved connectivity will potentially contribute to stimulating growth and investment in the area in the long-term.

The Route crosses one regional (R 104) and several local roads. Six new grade-separated interchanges are planned in the Project Conceptual Design. In addition, several structures – one bridge (over Drini I Bardhe River), two viaducts, underpasses/overpasses, pipe / box culverts - are installed along the route.

A Right-of-Way (or 'road reserve') of 20 m on each side of the Project will be established, with restrictions on certain activities in place within a 60 m buffer.

The grade-separated interchanges will enable traffic flow to the existing N9 road and the regional road R-4. Local communities will thus be able to access local roads and by extension their properties and agricultural land plots. Overpasses / underpasses will ensure continuity of the traffic along the local roads.

The design of the Project structures will be detailed throughout the next stages, namely, the Preliminary and Detailed Design phases.

Figures 2 and 3 illustrate the proposed 31 km Motorway Project alignment and its key elements.

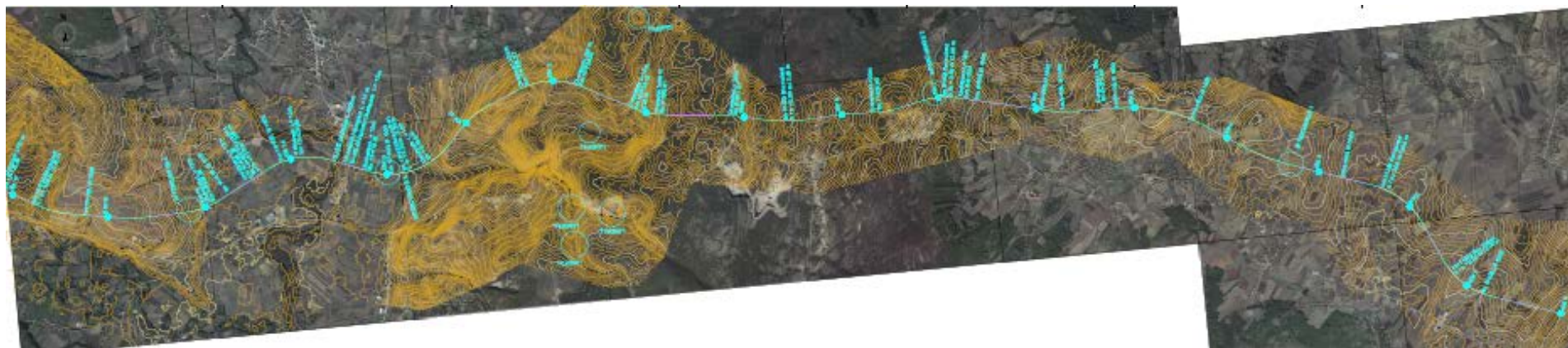


Figure 2 Outline of the Section Km 0+000-Km17+000



Figure 3 Outline of the Section km17+000-km 31+000

2.1. Project Area & Land Use Context

The Project will form part of the east-west route between Prishtine and the border with Montenegro. Pristinë and Pejë are the primary urban centres along the corridor. The motorway crosses the territory of the municipalities Klina and Peje.

The Motorway Alignment extends through two valleys: Fusha e Kosovës, formed by the Drenica creek, (a tributary of the Sitnica River) and Dukagjini Valley, shaped by the rivers Drini I Bardhe and Bistrica e Pejës. The initial section of the Alignment rests upon a flat plateau; the terrain then gradually descends towards the Drini I Bardhe riverbed and then ascends mildly to higher elevations towards Pejë. The difference between the lowest (370 m) and the highest (615m) elevations of the corridor is 245m. The typical land use pattern presents as agricultural and pasture land with some meadows and patches of forest.

Land use on flat and open terrain predominantly centres around agricultural plots and orchards. Pastures and scattered forests are the prevailing feature of hilly terrain. According to available information, most of the land is privately owned.

2.2. Local Communities Within the Project Area

13 settlements are located along the motorway Project: Dollc, Zajm and Drenoc (bisected) and Drsnik, Jabllanicë, Kličinë, Leshan, Lugagji, Gllaviqicë, Ramun and Zahaq. The Route also crosses the northern part of the villages Pjetërqi i Epërm, Pjetërqi i Poshtëm, leaving a number of properties disconnected from the rest of the settlement (Table 1).

Table 1 Settlements' Location, Position and Distance from the Alignment

Settlements	Position on alignment Km (RHS/LHS)	Density of residential area	Distance to the Alignment
Drsnik	11+300 (0,6km LHS/RHS)	Low density populated residential area with scattered properties; Some residential properties are present within the right-of- way of 20 meters	3-5
Dollc	12+900 (1,5km LHS)		70
Zajm	15+000 (RHS/LHS)	Medium density populated residential area with scattered properties	70
Drenoc	19+000 (RHS/LHS)		5-15
Pjetërqi i Poshtëm	21+300 (0,5km LHS/RHS)	Some residential properties are present within the right-of-way of 20 meters	60
Pjetërqi i Epërm	21+300 (1,6km LHS)	Medium density populated residential area with scattered properties	10
Jabllanicë	23+100 (1,1km LHS)	Low density populated residential area	100-150

Settlements	Position on alignment Km (RHS/LHS)	Density of residential area	Distance to the Alignment
		with scattered properties	
Kličinë	24+400 (0,9km LHS)	Medium density populated residential area with scattered properties	80
Leshan	25+400 (0,8km LHS)		80
Lugagji	26+350 (0,8km LHS)	Low density populated residential area with scattered properties	80
Gllaviqicë	27+700 (0,85km LHS)		100-150
Ramun	29+200 (1,1km LHS)		80
Zahaq	30+850 (RHS/LHS)	Medium density populated residential area with scattered housing objects. Some commercial properties also exist.	

6 settlements belong to the municipality of Klinë and 7 are situated in the municipality of Pejë. In total 8,743 inhabitants reside in the affected settlements. The number of people directly affected by the Project is unknown at this early design stage.

The local economy in the Project area is heavily dependent on agriculture and commercial activities, with some commercial activities and mining also taking place in the area. The source of income for households in the affected areas primarily derives from private employment, family-run agricultural production and seasonal work, to a lesser extent. Households do not commercially exploit wood-harvesting, however it drives down total living costs by providing cheap access to heating. Unemployment in the affected municipalities amounts to 47%. Of the total number of able-bodied females, 14.23% are actively employed, whereas among males that proportion is 38.85% of the total number. The unemployment rate in the area significantly outstrips the national average which stands at 24.7%. In the last 5-year period, migration of younger inhabitants in villages found along the Alignment section nearer to Pristina has been especially acute. Villages situated near Pejë have not undergone a similar trend.

According to available information, there are no active commercial and industrial facilities within the immediate Project corridor. The presence / absence of active businesses in the Project footprint will be validated at the Preliminary Design stage, for the refined Route.

The settlements traversed by the Alignment are presented in the figure below.

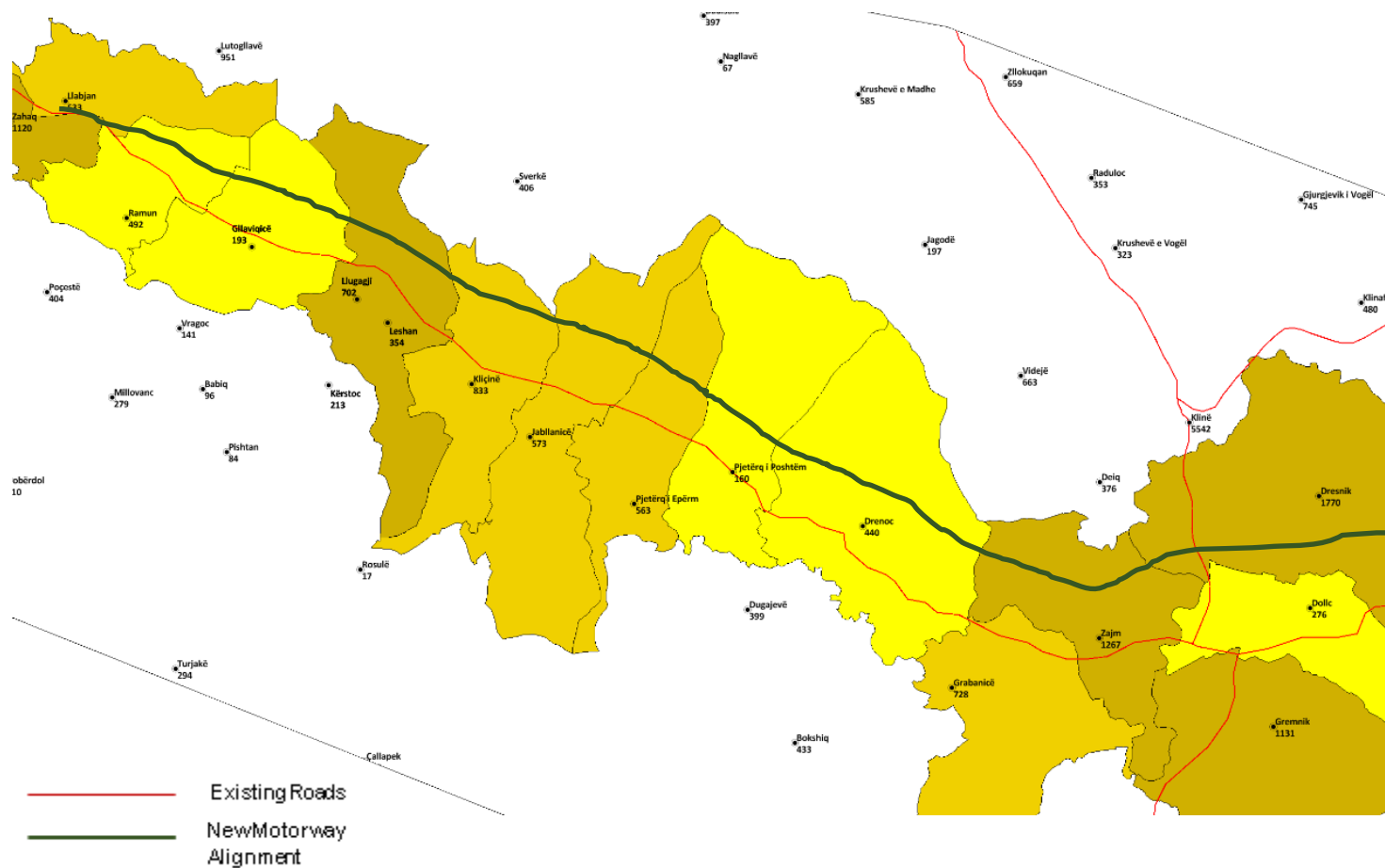


Figure 4: Settlements Affected by the Project

2.3. Summary of Project Impacts

Project Land Requirements

Permanent Land Take: Permanent land acquisition will be required for the construction of the Motorway, including junctions and other associated structures (which fall within the remit of the Project scope), etc. The permanent land area to be acquired still needs to be confirmed in future studies. The Motorway will comprise of four traffic lanes (15.00m'), Stopping lanes (5.00m'), Edge lanes (1.40m'), Gutter/berm (1.75m'), Shoulder (2.00m') and Median (4.00m'), making an approximate total pavement width 27.40m

Land take will also be required for constructing verges and undertaking the necessary earthworks. An area for the disposal of soil (i.e. excess excavated fill material) should be identified along the route.

In accordance with the **Law on Roads** a 20 m Right-of-way (road reserve) on each side of the Motorway will be established; within this buffer the construction of any residential or non-residential buildings will be prohibited for the entire operational life of the Motorway. Land-owners will be required to obtain permission from the MI for the erection of any new structure, as well as for existing structures to remain standing if situated within the boundaries of the road reserve. Existing structures within the safety zone road reserve will be potentially cleared, if it is proven that no noise abatement measures can feasibly be undertaken to protect structures found within that belt.

Temporary Land Take: The Project will also require some temporary land take for haulage/construction routes, construction laydown areas and camps, temporary storage of excavated materials/soil, cut trees etc. However, information and details regarding temporary land take were not known at the time of developing the LARF and will be included in the updated LARF and RAP. Agreements for additional temporary land take required by the Contractor will, to the greatest possible extent, be agreed upon through negotiation and amicable agreement by land owners.

Summary of Economic & Physical Displacement Impacts

During the route planning and design of the Project, land acquisition requirements were a key consideration. Physical displacement of households has generally been avoided with a certain risk of physical displacement remaining. The avoidance of physical displacement should be taken as a premise in the next design stages, so as to prevent displacing existing buildings found within the 20-meter buffer to the greatest possible extent.

The Project land take requirements predominantly affect plots of privately owned land and assets. According to preliminary investigations a summary of the potential impacts from economic and physical

displacement is presented below. The precise list of impacts and refinement and detailed planning of entitlements to compensation and assistance for these impacts will be informed by the results of the socio-economic survey and included in the Project RAP:

Table 2 Summary of Physical & Economic Displacement Impacts Table 3

Phase/Type of Loss	Summary of Losses/Impacts
PRE-CONSTRUCTION - Prior to Construction⁶	
Permanent Land Take	<ul style="list-style-type: none"> • Loss of land (mainly agricultural, forest and/or pasture land – may be small amount of vineyards, orchards & construction land): The Project will result in the loss of land, predominantly agricultural (in-use and abandoned) and pasture/grassland areas with some forestry areas and pockets of small-scale cropping (e.g. tobacco etc.) and vineyards and orchards also being affected. The potential for occurrence of construction land is low but could be present. The land is mostly in private ownership. The land take involves a strip of land along the Motorway. • Loss of Residential Buildings (physical displacement): The risk of physical displacement of properties used for residential purposes has been largely avoided/minimised by the route alignment. The ongoing land process needs to confirm the number of residential buildings affected and any physical displacement of people. The proposed socio-economic survey combined with the land & asset inventory undertaken for the land acquisition process should enable any physical displacement to be confirmed. • Loss of sources of income and/or livelihoods associated with any of the above losses and particularly 'Agricultural' Livelihoods: Some of the households in the local villages are dependent on land-based livelihood activities which could be affected by loss of land or access to land they use (e.g. customary use with potentially no legal rights – which needs to be confirmed during the future land acquisition process). • Orphan Land: (i.e. part of an affected land plot which remains after expropriation and for which the owner has no more economic interest in using and/or is an economically unviable plot).
DURING CONSTRUCTION:	
Temporary Effects:	<ul style="list-style-type: none"> • Temporary loss of land (mainly agricultural, forest and/or pasture land – may be small orchards & construction land) - required during the construction period. • Loss/damage to annual/perennial crops and trees, including trees within orchard. • Damage/temporary disruptions to certain agricultural infrastructure (e.g. irrigation). • Temporary loss of and/or more difficult access to land for farming or other livelihood related land uses and disturbance to agricultural vehicles/livestock etc. using existing N9 and other existing routes to land etc.: <ul style="list-style-type: none"> ○ The Works for the new Motorway during construction will result in localised access effects and could, if not properly managed, result in severance of communities from areas of their productive land. Retaining access to agricultural land and for agricultural vehicles & livestock movements etc. for the local villages is considered essential. ○ The Contractor will be required to have a good Traffic Management Plan supported with effective engagement with the local community and the careful sequencing of the works

⁶ As payment of compensation for losses and resettlement has to occur prior to access to land being taken the effect of permanent loss of land and assets generally occurs in the Pre-Construction phase.

Phase/Type of Loss	Summary of Losses/Impacts
	<p>to ensure either the existing road is accessible or the local new parallel roads are available to ensure access is retained at all times. Assuming these measures are implemented no significant residual effects are anticipated during construction withstanding there may be a slight increase in journey length for some of the local communities.</p> <ul style="list-style-type: none"> • Loss of sources of income and/or livelihoods associated with any of the above losses and particularly 'Agricultural' Livelihoods and disruption to businesses
DURING OPERATION:	
Permanent Access Effects	<ul style="list-style-type: none"> • Loss of and/or more difficult access to land, commercial facilities and/or the road network: <ul style="list-style-type: none"> ○ Permanent changes in local access arrangements associated with the implementation of the Motorway could increase journey times etc. In the design of the Project there is sufficient provisions to ensure access to local communities is retained by the inclusion of underpasses, overpasses. As the agricultural vehicles will not be able to use the Motorway this is essential. ○ Potentially a very small number of households may own or use land for agricultural livelihood activities on the opposite side of the Motorway to where they live. MI will during the socio-economic survey, if they identify this issue, discuss with the affected parties the increase in journey time to their land and assistance options which will consider the vulnerability and dependency of the affected parties on land-based activities. This is covered in the entitlements matrix (see Section 8.1 below).

3. SUMMARY OF AFFECTED LAND, PEOPLE & ASSETS

The information on the affected land area, plots, owners and structures presented in this LARF is based on data available at the time of preparing the document. These figures do not contain temporary land take required for the Works and/or by the Contractor – temporary land access will be agreed through negotiation.

Table 4 Summary of Type of Land Affected

Land use types	Buffer (ha)
Forested land	38.28
Semi natural grasslands	3.70
Agricultural land	75.16
Land Owned by Households and Businesses	6.34

Some residential buildings have been identified to-date as affected and requiring demolition. During the following design stages reasonable efforts will be made to avoid any demolishing through refinement of

the Route. Future land acquisition planning will confirm the number of properties affected (*permitted and those without valid permits*) along the Motorway.

There may be land being used (e.g. for agricultural purposes) in the area informally (i.e. users may have no legal rights), and on a customary basis. This will be reviewed during the socio-economic survey and land & asset inventory. It is possible that a number of buildings comprising informal settlements situated near Peje lack valid permits.

It should be noted the Cadastre information may have information gaps and will need to be: i) verified in the field (during the socio-economic survey and land & asset inventory); ii) through valuation of properties; and iii) the consultation process with affected land owners & users. Some of the possible gaps may include:

- Unregistered users of land and properties;
- Deceased owners, with legal heirs who are unregistered and/or have not completed the inheritance process;
- Unregistered changes in property ownership;
- Unregistered right of use (i.e. rented land – could be on a customary basis)
- Unregistered residential and non-residential buildings;
- Unregistered building extensions exceeding the registered size of existing buildings;
- Unrecorded buildings (e.g. buildings without permits).

4. LEGAL & POLICY FRAMEWORK FOR LAND ACQUISITION & RESETTLEMENT

The expropriation process of immovable property in Kosovo is governed by the Law on amending and supplementing the Law no. 03/L-139 for the expropriation of immovable property, namely the Law no. 03/L-205 approved by the Kosovo Assembly in 2001. The law guarantees that the expropriation of private property occurs for public interest only and within a fair compensation process.

4.1. Expropriating Authority and applicant of the procedure

If all applicable conditions specified in Article 4 of the Law no. 03/L-205, Law on Expropriation, are present⁷, the concerned Expropriating Authority (may proceed to carry out the concerned expropriation in accordance with the applicable procedures and requirements further established by the law).

⁷ An Expropriation Authority shall have the authority to expropriate immovable property only when all of the following conditions are satisfied:
1.1. the Expropriation is directly related to the accomplishment of a legitimate public purpose within its competence as specified in paragraph 2

An expropriation procedure may be initiated by the responsible Expropriating Authority (as specified in the glossary it is Department for the Expropriation within Ministry of Environment and Spatial Planning), as determined in accordance with Article 4 of the present law, on its own initiative or pursuant to an application submitted to the Expropriating Authority.

Applications may be submitted by a Public Authority (government agency) or a Publicly Owned Enterprise. If the Expropriating Authority is the Government⁸, an application may also be submitted by:

- a Public-Private Partnership;
- a party to an Infrastructure Contract awarded by a Tendering Body; or
- any lawful heir, successor, assignee or transferee of such a Partnership or party.

If the Expropriating Authority is acting on its own initiative, it shall cause one or more of its members or officials to prepare and submit the application.

The Expropriation Authority is the Government of Kosovo, specifically the Department of Expropriation within Ministry of Environment and Spatial Planning. The Ministry of Infrastructure is the applicant. It will apply for the Expropriation Procedure under the control of the Public Authority

4.1.1. Expropriation Procedure

According to article 8 of expropriation law the application for expropriation contains the following information:

- The name and address of the Expropriating Authority and, if the Expropriating Authority (Expropriation Department at the ESP) is not acting on its own initiative, the name and address of the Applicant (here, the Applicant will be Ministry of Infrastructure – Implementing Agency).
- The name and address of each person who is, or who claims to be, an Owner or Interest Holder with respect to each and every concerned parcel of immovable property in so far as this information may be readily ascertained from the available cadastral and other official immovable property records in Kosovo, including the records of the Kosovo Property Agency and the most recent property tax records;

or 3 of this Article; 1.2. the legitimate public purpose cannot practically be achieved without the Expropriation; 1.3. the public benefits to be derived from the Expropriation outweigh the interests that will be negatively affected thereby; 1.4. the choice of the property to be expropriated has not been made for, or in the furtherance of, any discriminatory purpose or objective; and 1.5. the Expropriating Authority has complied with all applicable provisions of this law.

⁸Expropriation authority can also be a Municipality. In this case applicant could not be PPP or party to an Infrastructure Contract

- The location and number of each and every concerned parcel of immovable property, and - if less than the entire area of any such parcel is to be expropriated and/or if less than all rights relating to any such parcel are to be expropriated - a specific description of the part and/or rights that are the subject of the application;
- For each such parcel, a description of any and all rights (whether confirmed or claimed) relating to such parcel that the Applicant is requesting to be expropriated.
- A detailed description of the public purpose for which the expropriation is being requested;
- Any significant documents demonstrating the legitimacy of the public purpose and/or the necessity of the applied for expropriation (or, if any such document is publicly available electronically, a clear indication of where such document may be obtained);
- Information on whether, and to what extent, the requested expropriation includes fixtures, accessory parts and/or fruits of the immovable property; and
- Detailed information, to the extent this is ascertainable from the records specified in item 1.2 of this paragraph, on any limitations on or disputes regarding the ownership or other rights or interests held or claimed to be held by Persons identified under item 1.2 of this paragraph.

The Expropriation Authority takes the final decision for approval or denial, in whole or in part of the application for expropriation. As long as a complaint is not resolved at the competent court, the Expropriation Authority does not approve the Final Decision on any concerned property or entitlement.

Expropriation Authority should carry out the Valuation of real estate (see § “valuation of assets” below). The law provides that the amount of compensation for expropriation specified in the final decision is paid in full within two (2) years from the date of entry into force of the decision.

An Expropriation procedure, or the relevant aspect thereof, shall be concluded or terminated when:

- Transfer of ownership cannot be passed without completion of the procedure and the payment of the compensation. The ownership right over the expropriated property is lawfully registered in the name of the Municipality (if the Expropriation was conducted by the Expropriating Authority of such Municipality) or the Republic of Kosovo (if the Government is the Expropriating Authority) after the conduct of the procedure and the payment of the compensation required by the present law;
- If the Expropriating Authority issues a decision that rejects, in whole or in part, the application for Expropriation:
 - upon the expiration of the time period during which the Applicant may file a complaint with the competent court challenging such decision, if the Applicant has not timely filed such a complaint, or

- if the Applicant has timely filed such a complaint, the date on which a final non-appealable judgment has been issued by that court, or if applicable, an appellate court;
- Prior to the adoption of an Expropriation decision, the Applicant withdraws its application, in whole or in part; or
- A final non-appealable judgment of a competent court requires such conclusion or termination.

From the day the Expropriation becomes effective: all pre-existing ownership and possessory rights, security interests, servitudes, construction rights, pre-emption rights and any other rights in or to the property expropriated by the Expropriation decision shall be terminated.

4.1.2. Valuation of the assets

Valuation of real estate is managed through the Law no. 03/L-205 and Administrative Instruction (no.13 / 2011) for approval of technical evaluation methods and criteria that is used to calculate the amount of compensation for expropriated immovable property and damages relating to expropriation. Assessment of the value of real estate is based on three methods specified on the abovementioned administrative instruction.

One of the following methods or combined methods of property evaluation can be selected during the assessment of immovable property. There are known three different evaluation methods under administrative instruction in question, such as:

- Comparative sales method;
- The cost method, and
- Method of income.

Property valuation is done by the Office of the Immoveable Property Assessment at the Property Tax Department, exercising its responsibilities under law no. 03/L-139 on “Expropriation of Immoveable Property”. Office of Immoveable Property Assessment evaluates the property and damages relating to expropriation, which requires information or data as requested at institutions such as Municipal Cadastre Offices, respective Courts, Kosovo Property Agency (KPA), Kosovo Cadastre Agency (KCA), Property Tax Department (PTD) within Ministry of Finance (MF), and in any other state institution which administers property or can give information about it. Officials of the Office of the Immoveable Property Assessment receive additional information from real estate agencies, lawyers, and construction companies.

The price of real estate, which is agricultural land, considers the qualities of land, proximity to residence, access to infrastructure, the size and shape of the parcel, the irrigation system or the potential of

irrigation, as well as other environmental conditions related to the altitude and slope of the terrain. The value of forestland and forests are determined based on soil quality, the environmental value of land, geographical location, number of trees (biomass), the value of wood material and other fruits, level of investment and access to infrastructure, transportation conditions, and environmental conditions. On the other hand, regarding the assessment of the value of buildings, the law and its provisions stipulate to consider some criteria such as: type of building, construction material, the area in m² for residential and non-residential facility, year of construction, access to roads, access to public services, heating system, the condition of the building, the renting and rent conditions, cost of operation and maintenance, etc.

4.1.3. Consultation with persons affected with expropriation

The Kosovar Law no. 03/L-139 for the expropriation of immovable property stipulates, notably in its article 9, conditions in which public hearing and public consultations shall be conducted. Main steps of these legal consultations are resumed below.

- Within ten (10) Business Days after adopting an application for expropriation a Decision accepting an application for further processing is made. The Expropriating Authority shall publish this Decision in the Official Gazette and in a newspaper enjoying wide circulation in Kosovo. Within same period the Expropriation Authority informs affected persons for the decision and convenes public hearing with the affected persons in each municipality where expropriation is needed.
- Beginning on the date of that publication requirement, there shall be a thirty (30) calendar day period during which any interested Person shall have the right to submit to the Expropriating Authority written comments on the requested Expropriation.
- Immediately following the conclusion of the written comment period specified above, there shall be a fifteen (15) calendar day period during which the Expropriating Authority shall hold a public hearing on the requested expropriation in each Municipality where concerned property is located. Any Person who is a public official of the Municipality where such a hearing is being held, or an Owner or Interest Holder with respect to concerned property lying within the Municipality where the hearing is being held, or the lawful attorney or representative of any such Person, shall have the right to attend such hearing. Each such Person shall be given a reasonable opportunity to orally provide his/her views on the applied for expropriation.

EBRD requirements pertaining to land acquisition and displacement, relevant for this Project can be summarised as follows:

- to avoid or, at least minimise permanent or temporary project induced physical or economic displacement whenever feasible by exploring alternative project designs; where displacement is

unavoidable, appropriate compensation, resettlement and livelihood restoration action plans shall be developed;

- to mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons' use of and access to land, physical assets or natural resources by:
 - providing compensation for loss of assets at replacement cost⁹, prior to taking possession of acquired assets; and
 - ensuring that compensation, resettlement and livelihood restoration activities are planned and implemented with appropriate disclosure of information, consultation, and the informed participation of those affected. Wherever possible existing social and cultural institutions of the affected people should be used to the greatest possible extent;
- to improve or, at a minimum, restore the livelihoods, income earning capacity and standards of living of displaced persons, including those who have no legally recognisable rights or claims to the land (present in the project affected area at the time of the cut-off date), to pre-project levels and support them during the transition period;
- to make special provisions for assisting disadvantaged or vulnerable individuals or groups (present in the project affected area at the time of the cut-off date) that may be more adversely affected by displacement than others and who may be limited in their ability to claim or take advantage of livelihood assistance and related development benefits;
- to establish a grievance mechanism to receive and address in a timely fashion specific concerns about compensation and relocation that are raised by displaced persons, including a recourse mechanism designed to resolve disputes in an impartial manner.

The above list is only a summary of the main EBRD PR 5 requirements and is qualified by reference to the full text of the applicable policy¹⁰

4.2. Gaps Between Kosovo Legislation and EBRD Standards

4.2.1. Eligibility and formality/informality

In the legislative framework of Kosovo, expropriation is undertaken only for immovable property and building structures on private immovable property and not for property and facilities built illegally or encroaching on public property. Under Kosovo legislation the expropriation process applies only to facilities that are legalized or have been able to be legalized under applicable laws in Kosovo on the date of issuance of the final decision on expropriation. The law provides that the costs of the evaluation

⁹ This is usually calculated as the market value of the assets plus the transaction costs related to restoring such assets.

¹⁰ <http://www.ebrd.com/who-we-are/our-values/environmental-and-social-policy/performance-requirements.html%20>

procedure shall be paid by the Expropriation Authority. If a facility or other building structure illegally constructed is able to be legalized, but is not legalized, compensation for the loss of this facility or the building structure will be limited only to the documented costs for its construction. The law also provides compensation in case of termination of the tenancy contract and temporary housing.

This is not in accordance with the principles of suggested value of expropriation in Performance Standards for Land Acquisition, Involuntary Resettlement and Economic Displacement further mentioned as Performance Standard 5. The EBRD Performance Standards includes principles that the lack of documentation of ownership does not disqualify from the eligibility for assistance any contender or pretender holders of property, while under the legislation of Kosovo, discrepancies with this principle are highlighted. The practice is that immovable properties are to be compensated regardless of their location on private or public land.

4.2.2. Baseline and surveys

Kosovar legislation requires inventory of lost assets. It does not necessarily require socio – economic surveys for identifying all the impacts, including lost livelihood.

EBRD policy requires a socio-economic assessment of the impacts from the land takes. The socio-economic survey will help to understand the nature of impacts, thus enabling the development of appropriate compensation measures, including any special assistance required. The baseline survey will also provide information for the subsequent monitoring of land acquisition and resettlement to assure the affected people are not left worse off as a result of the project.

4.2.3. Grievance

The Law on Expropriation enables grievance during two stages of the expropriation process. During the first stage owners can dispute the need for expropriation and the legality of the process. During the second stage, the affected persons can challenge the size of the compensation package. Existing law does not recognize any informal consultation processes outside the above-described two-stage grievance mechanism, however in practice such informal consultation takes place as a means of dispute resolution.

As per EBRD PR5, it is required to establish affordable and accessible procedures for third-party settlement of disputes arising from resettlement; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms. In such cases the project will offer an additional step of effort to solve a potential dispute in addition to existing formal judiciary mechanisms.

4.2.4. Public Consultation

Kosovar legislation requires formal public consultation with the affected persons. As per the Kosovar Framework, the first consultation centers around the expropriation process and the delineation of areas of public interest, while the second consultation concerns the compensation determined by the Office of Immovable Property Assessment.

As per Performance Requirements 5 and 10 the consultation is an on-going process. In addition to the project affected people, also the broader community is informed about the project and the related impacts, and consulted with meaningfully and in an appropriate way. Within the land acquisition and resettlement context, it is required that the affected people are consulted with regarding entitlements, compensation and mitigation measures, and fully informed about the resettlement and land acquisition processes, including their rights and redress mechanisms.

4.2.5. Cut-off Date

The Cut-Off Date is the date after which persons found to settle in the Project area are not eligible to Project compensation or other resettlement benefits, while similarly immoveable assets or crops established after the Cut-Off Date are not to be compensated.

The Kosovo Law on Expropriation provides that compensation will not be paid for the cost or value for any improvements to the property after the date on which the decision accepting an application for further processing of expropriation is published in the Official Gazette, or for any changes in the market value of the property, after either the date of adoption of the decision authorizing preparatory activities or the date of the initial submission of the application for expropriation, whichever comes first. The cut-off date applies to formal or recognizable legal rights to property (category 1 and 2 of eligibility).

As per EBRD policy requirements the date of completion of the census and assets inventory represents the cut-off date for eligibility. Individuals who move into the project affected area after the cut-off date will not be eligible for compensation and other types of assistance. Information regarding the cut-off date will be well-documented and disseminated throughout the project area.

4.2.6. Compensation and transfer of property rights

Kosovo Legislation specifies that the transfer of property ownership can take place only upon completion of the expropriation process and the payment of the compensation.. The compensation should be completed within two years from the adoption of the Decision for Expropriation.

Similarly, per EBRD performance requirements the project can take possession of the property after compensation and other assistance is provided to the affected persons.

4.2.7. Compensation

While the Kosovo Legislation provides a detailed methodology for the valuation of lost assets, it does not provide any specific guidelines in such cases where livelihood restoration is needed. The framework developed to address land expropriation does include land improvements such as crops and land preparation.

In the Route N9 Kijeve – Zahac section Project it is expected that there will be impacts on the livelihoods of inhabitants. The project will impact livelihoods through the acquisition of agriculturally cultivated land. In cases where the acquired land is cultivated, the compensation will include both value of the land and compensation for crops and preparation of the land. Additional assistance will be provided as necessary.

5. ELIGIBILITY AND ENTITLEMENTS

5.1. Key principles of compensation, resettlement and livelihood restoration

The key principles committed upon by Ministry of Infrastructure in respect of compensation and resettlement, associated with the Project are:

- Alternative project designs have been considered to avoid or at least minimise physical and economic displacement, i.e. through alignment of the road, construction of over and underpasses to account for people's traditional movement patterns between areas below and above the future road, through ensuring that none of the settlements are left without access after the construction of the road, etc.
- A detailed socio economic survey of affected people/households shall be implemented, to assess all individual impacts, provide baseline information and design appropriate resettlement / livelihood restoration measures which will be described in the RAP.
- The socio economic survey will serve as a census of persons who have no recognisable legal right or claim to the land they occupy; the date of the census shall be the cut-off date for eligibility for this category.
- Consultations will be organised and information provided to affected people throughout the development and implementation of the RAP.
- Compensation for all affected assets will be provided at full replacement cost.

- Specific assistance shall be provided to vulnerable groups identified through the socio economic survey;
- All compensation and livelihood restoration assistance will be provided equally to men and women;
- Compensation will be provided prior to taking possession of acquired assets where possible, and as a rule prior to the occurrence of physical and economic displacement;
- A grievance mechanism will be implemented through which all affected people can submit their complaints and grievances in relation to compensation and resettlement and expect a timely answer;
- Monitoring of all compensation, resettlement and livelihood restoration activities will be regularly carried out.

5.2. Implementation of census, assets survey and socioeconomic survey

Once the Project Detailed Design has been completed, the Project will outsource the development of study, which will contain a final list of all affected land plots, registered assets (i.e. structures) and their owners, as recorded in the Cadastre. This list will comprise a part of the census document, based on which eligibility will be determined. In the expropriation procedure, the Expropriation Authority will invite owners, users and all other third parties who have a claim to the affected land or some other interest in it and issues of eligibility for compensation will be resolved if possible. For cases, which cannot be resolved before the Expropriation Authority, affected parties will turn to the courts.

Recording of persons who have no recognisable legal right or claim to the land they occupy in the project affected area, will be done through the implementation of the census/socio economic survey. The date of this activity will be the cut off date for eligibility, meaning that persons who occupy land in the affected area after this date, will not be eligible for compensation and/or assistance.

After the Expropriation Study, has been prepared, an assets inventory will be completed. The assets inventory will provide basic information on the affected land plot (total area and area to be acquired, land use, land category) and all assets located on it (crops, trees, orchards, structures, businesses, etc.), both those registered in the Cadastre and those that are not.

In parallel to the assets inventory, a detailed socio-economic survey will be carried out by trained surveyors, covering **all affected people / households**. This survey will serve as a tool for establishing a baseline for affected individuals / households that will assist in identifying the significance of impacts and developing and implementing effective and suitable ways to resettle people and restore or improve their livelihoods.

The following information will be recorded through socio economic surveys, for each affected land plot:

- the number of the affected land plot, so that it can be connected to the appropriate valuation report
- the name of the owner/user/resident and his/her status
- the contact details of the affected owner/user/resident

The survey will also include questions on the basic household information (names, ages, sex, educational status of household members and any vulnerabilities), as well as questions in relation to existing standard of living and sources of income/livelihoods, with preferred choices for compensation and assistance.

5.3. Eligibility for cash compensation, resettlement and assistance

All individuals / households occupying project affected land, recorded in the census (owners and users, both formal and informal) are entitled to compensation and/or livelihood restoration or other assistance as outlined in the Entitlements Matrix in section 6.4 and Annex1.

Persons with formal legal rights and with rights which are recognisable under national law:

Persons with formal legal rights are recorded in the Cadastre and this information will be updated in accordance with national legislation when the expropriation process is initiated by the Expropriation Authority. Persons with a claim that is recognised or recognisable under national legislation are also invited to a hearing and the Cadastre is appropriately updated. In cases of disputes, affected people can turn to the courts for their resolution, which has to be processed prior to the passing of the expropriation decision. Examples of persons with a claim that is recognised or recognisable under national legislation include heirs of deceased owners, persons who purchased properties with a valid sale purchase contract, however did not transfer property rights to their name in the Cadastre and similar.

Persons with no formal legal rights to the land they occupy, at the time of the census: Persons with no legal rights or claims to the land they occupy (informal users) will be recorded in the census at the time when the socio economic survey is carried out. The date of the completion of the census will be the cut off date, meaning that any individuals / households that use/occupy Project affected land (without legal rights or claims) after this date will not be entitled to compensation and/or livelihood restoration assistance. Examples of persons with no legal rights or claims include persons who have constructed barns or any other structure on public land or those that are farming public land or even private land, without the knowledge and/or approval of the owner. Such persons will not be entitled to compensation for land, as they do not own it, however they will be entitled to compensation of assets which they own for example, the construction value of structures, crops, trees, etc.

Vulnerable groups: Some individuals or groups will be considered more vulnerable than the majority of the affected population and, if affected by the Project, will require the implementation of special livelihood restoration and/or assistance measures. Such groups might include:

- informal users of affected land who have no sources of income or assets of their own;
- owners of informal residential structures (built without construction permits), with no other property or place of residence;
- persons who depend on the affected land for incomes/livelihoods and it is the only land they own or use;
- elderly single headed households, single parent households, households with multiple members, etc. who have to be physically re-located;
- persons who will be affected by physical and/or economic displacement, whose socio economic status is low, for example beneficiaries of social welfare;
- illiterate persons who may have difficulties accessing information about the Project and land acquisition or understanding contracts and other important documents, etc.

Vulnerability will be assessed based on the results of socio economic survey and defined more precisely in the RAP/LRP.

Cut-off date : As per the Kosovar legislation the Cut-off Date is established with the Decision of Acceptance of the application for the expropriation and the disclosure of the decision in public media, whereby daily newspaper is in the media. All investments into properties made after this date will not be considered for compensation in the valuation process. For persons who have no legal rights or claims to the land they occupy, the cut off date for the value of affected properties will be the date of the valuation of their affected assets.

6. DISCLOSURE OF INFORMATION AND CONSULTATION

The final LARPF will be disclosed on the official website of the implementing agency, the Ministry of Infrastructure. In the process of developing the RAP, implementing agency will organise meetings with land owners and users in the affected local communities, to present the detailed maps with affected land plots and announce how the census and survey will be organised, alongside the valuation of affected assets. The main principles of compensation, including submission and resolution of compensation claims for temporary economic displacement and the grievance mechanism will also be presented and open for discussion and feedback.

When the final RAP is prepared, it will be publically disclosed through the Ministry website and provided in hard copy in the municipality of Klina and Peja and the offices of the local communities. The privacy of affected people will be respected and no private information will be publically released. Implementing team will organise the census/socio economic survey interviews by contacting owners of each affected land plot individually, through contact details provided in the Cadastre. Where the details are outdated or missing, project will enquire about the owners and users of an affected land plot with presidents of local communities and/or owners and users of neighbouring or nearby plots of land and with any other community members who may be able to provide this information.

Following the results of the socio economic survey, it may be necessary to organise individual meetings or focus groups with any particularly vulnerable people, to identify their needs for assistance and develop appropriate mitigation measures which will be documented in the RAP. When implementation of the RAP begins, project will continue to regularly inform and consult affected people. All meetings and consultations will be documented by providing the date when the meeting/ consultation was held, list of attendees, and a summary of the discussions. The minutes will be included in reports provided to project management and EBRD.

7. GRIEVANCE MECHANISM

In the process of developing and implementing the RAP, all affected people will be able to submit their grievances and suggestions to the project at the Ministry of Infrastructure, in their offices, by post or by phone.

Designated employees will be assigned within the Legal Department or any other department to be decided, to receive and record grievances in a grievance form and maintain a grievance log. The RAP will include the name and contact details of the selected employee(s). The affected people will be informed about the ways in which they can submit grievances – when, where and how. They will receive this information during consultations process described above and prior to the finalisation of the RAP.

The Legal Department will ensure grievances are forwarded to and responded by appropriate Ministry departments or the contractors within a period of 15 working days, in writing. If necessary, the Legal Department or other department will explain the written response to the affected person by phone or in person. At all times, complainants will be able to seek legal remedies in accordance with the laws and regulations of the Republic of Kosovo.

8. MONITORING, REPORTING AND BUDGET

8.1. Monitoring

Once the RAP/LRP is developed and adopted, the Project will monitor implementation until all displacement impacts have been mitigated, as determined based on a Completion Audit, which will be carried out as agreed with EBRD.

An internal monitoring system shall be established in the Project at the ministry, consisting of:

- Progress monitoring of inputs and outputs which measures whether inputs are delivered on schedule and as defined in the LARF and the RAP/LRP
- Periodic measurement of outcome indicators against baseline conditions, obtained through the socio-economic survey

Independent social or resettlement specialists are also expected to undertake periodic supervision and monitoring of LARF/RAP implementation and report back to the EBRD.

Table below provides an indicative list of indicators which will be used for monitoring. A final list of indicators, developed based on the results of the socio economic survey will be included in the RAP.

Table 5 Indicative monitoring indicators

Indicator	Source of Information	Frequency of Measurement
Input indicators		
Number of consultation meetings, focus group meetings, results of consultation activities	Meeting minutes	Biannually
Number of affected people/households, by category (formal or informal, owners or users, vulnerable groups) and types of impacts (physical displacement, temporary or permanent economic displacement, other)	Project resettlement database and grievance management records	Biannually
Number and type of affected assets (land, houses, non residential structures, crops, trees, etc.)	Project resettlement database	Biannually
Overall spending on compensation, resettlement and livelihood restoration	Project financial records	Biannually
Number of staff dedicated to resettlement and compensation, with distribution in-house / outsourced (if applicable)	Project Legal Department (HR officer), Other departments as necessary	Annually
Reinstatement of land – number of plots complete	Construction contractors' reports and grievance management records	Annually

Indicator	Source of Information	Frequency of Measurement
Timing of implemented activities in comparison to the RAP implementation schedule	Compare status of implementation to RAP schedule	Biannually
Output indicators		
Number of compensation contracts signed; Number and % of compensation payments completed	Project resettlement data base and financial records	Biannually
Physical Displacement – number of people/households resettled, type of resettlement assistance provided	Project resettlement database	Annually
Livelihood restoration measures – types of measures implemented, implementation progress, number of beneficiaries	Project resettlement database	Annually
Outcome indicators		
Number and type of outstanding or unresolved grievances and trends	Grievance management records	Biannually
Average time for payment of compensation	Measure time between compensation agreement and payment	Annually
Does compensation represent full replacement cost?	Investigate whether recipients of cash compensation were able to purchase a similar property	Annually
Use of compensation	Project resettlement database	Annually
Physical displacement - satisfaction with new homes / assets	Individual meetings with people/households Project resettlement database	Annually
Income / livelihoods: <ul style="list-style-type: none"> Changes in income level (maintained, increased, decreased) Reinvestment in livelihood activities (purchase of land, equipment, skill training, etc.) 	Individual meetings with people/households Project resettlement database	Annually

8.2. Reporting

The assignment implementer will maintain a database of the individuals / households whose properties have been affected by the Project, compensation, resettlement and livelihood restoration measures that have been implemented. The Legal Department or any other department mandated will be responsible for regularly updating the database. All information on individuals / families, their holdings and their compensation payments will be kept confidential.

Using the monitoring framework described in previous section of this document, Project implementing team will produce annual reports on the progress achieved with the implementation of the LARF/RAP. These reports will consolidate the information on compensation and resettlement/livelihood restoration

measures, consultations, information on negotiations and results, provision of assistance to vulnerable groups, grievance management, etc. Project implementing team will document all meetings and consultations with minutes and photographs, and will submit these to EBRD, together with progress reports.

Information from these reports will be summarised and included in the Project annual Environmental and Social Management Reports, distributed to relevant stakeholders, including EBRD.

8.3. Implementation costs

The costs of land acquisition and resettlement could not be calculated at the time of developing this framework, as the final land acquisition requirements are not available as well as the detailed valuations of affected properties. A detailed resettlement budget will be included in the RAP/LRP and apart from costs of compensation, it will include supporting expenses, i.e. costs of implementing resettlement and livelihood restoration measures, providing moving allowance for affected households, management and administration costs, etc., if required.

The most significant expenses which are expected to occur are those in relation to compensation for affected land and costs to bring other land to productivity stage. It is not expected that many structures of any of significant value will be affected and therefore the costs associated with this, as well as costs of other affected assets (trees, plants, fences, etc.) are expected to be far below the cost of land.

8.1. Entitlement Matrix

Annex 1 shows the categories of people / assets potentially affected by the project, as well as the losses and impacts which could occur and the nature of entitlements. The final RAP/LRP entitlement matrix will be further refined to reflect the findings of the socio-economic survey and will contain more precise categories, with exact numbers of affected persons/households.

Table 6 Entitlement Matrix

Type of loss / impact	Category of PAP	Entitlements
<i>PERMANENT LOSSES/IMPACTS PRIOR TO CONSTRUCTION</i>		
Permanent loss of structures, agricultural, forest land and/or pastures. For users of land (formal and informal), this refers to access to privately owned land or public land / resources	Owner of land	Cash compensation at full replacement cost OR Replacement construction, agricultural, residential, forest land and/or pastures
	Formal user (i.e. tenant) of land	Information about the acquisition of the land at least three months in advance of land entry, to enable the tenant to find other land for lease
	Informal user of land	Assistance to identify replacement land / resources for use, prior to land entry
Orphan land (a part of a plot of land that is to be left over after expropriation, for which the owner has no economic interest in continuing to use)	Owner of land	If a request of the affected owner of land has been made and has been declared as being justified based on the expert valuation report: Cash compensation at full replacement cost
Loss of annual / perennial crops and trees	Owner of crops and trees	Cash compensation for lost annual / perennial crops / plants at full replacement cost
Loss of non-residential structures (fences, barns, sheds, etc.) and infrastructure (irrigation)	Owner of non-residential structure and infrastructure	Cash compensation at full replacement cost AND Moving allowance for movable assets or assistance to move them (if required)
Loss of business structures (shops, office space, workshops or similar)	Owner of business structure	Moving allowance for movable assets or assistance to move them AND, either Cash compensation at full replacement cost OR Replacement business structure

Type of loss / impact	Category of PAP	Entitlements
Loss of residential houses (physical displacement)	Owner of house	<p>Resettlement assistance, including moving allowance or assistance to move AND, either</p> <p>Replacement residential structure of equal or higher value (with equivalent of better characteristics and advantages of location) OR</p> <p>Cash compensation at full replacement cost</p> <p>If the owner has no other place of residence and the value of the house is so low that the affected person and his/her household cannot resettle to adequate housing as required by EBRD, the affected household shall be entitled to:</p> <p>A choice of options for adequate housing with security of tenure (e.g. social housing)</p>
	Formal user (i.e. tenant) of house	<p>Information about the acquisition of the house at least six months in advance of demolition, to enable the tenant to find other accommodation AND</p> <p>Moving allowance or assistance to move</p>
	Informal user of house	<p>Resettlement assistance, including moving allowance or assistance to move AND</p> <p>If the user has no other place of residence:</p> <p>A choice of options for adequate housing with security of tenure (e.g. social housing)</p>
Loss of business income and/or sources of livelihood associated with loss of land (economic displacement)	Owner (formal or informal business or economic activity)	<p>Cash compensation for lost net income during the period of transition (until the re-establishment of business/economic activities in another location) AND</p> <p>Livelihood restoration assistance</p>
TEMPORARY LOSSES/IMPACTS DURING CONSTRUCTION		

Type of loss / impact	Category of PAP	Entitlements
<p>Temporary loss of construction, agricultural, forest land and/or pastures.</p> <p>For users of land, this refers to access to privately owned land or public land / resources</p> <p><i>Note: for loss of crops / plants / trees, see permanent losses</i></p>	Owner	<p>Cash compensation at full replacement cost for the right to use land under contract, for the land use period</p> <p>AND</p> <p>Reinstatement of land after use</p>
	Formal user (i.e. tenant)	Information about the acquisition of the land at least three months in advance of land entry, to enable the tenant to find other land for lease
	Informal user	Assistance to identify replacement land / resources for use, prior to land entry
<p>Temporary loss of business income and/or sources of livelihood (economic displacement) associated with:</p> <ul style="list-style-type: none"> • Loss of and/or more difficult access to land above the proposed road for farming or other land use, for example, animal grazing, mushroom picking, tea or herb collection and similar • Impacts of construction related nuisances (noise, dust) on tourism or other activities • Damage / temporary disruptions to infrastructure (for example, irrigation systems) • Any other project activities 	Owner (formal or informal business or economic / livelihood generation activity)	<p>Cash compensation for lost net income (or estimated informal income and / or loss of livelihood) during the disruption period</p> <p>AND</p> <p>Livelihood restoration assistance</p>
LOSSES/IMPACTS ON VULNERABLE GROUPS		
Any other specific losses / impacts on vulnerable groups, associated with land acquisition for the Project, identified during the development of the RAP	Vulnerable groups / individuals	Special measures for effective participation, compensation, resettlement and livelihood restoration, to be defined in the RAP/LRP.

Annex A Legislative Gap Analyses` Matrix

Gap ¹¹ / Issue	EBRD policy requirements	Provisions of Kosovo Law	Gap / Comment	Proposed response
Involuntary resettlement	The term involuntary resettlement refers to physical displacement and economic displacement. Displacement can be full, partial, permanent or temporary.	The Law on Expropriation regulates the issues of land expropriation and resettlement. The Law distinguishes between full, partial, permanent or temporary expropriation.	The Law on Expropriation refers explicitly to physical displacement, and does not recognize economic displacement. In addition, the Law focuses on compensation, not livelihood loss, restoration or improvement.	Gaps regarding physical and economic displacement are discussed further in the table.
Land acquisition/ restrictions of access	Involuntary resettlement occurs as a result of: 1. Land acquisition, which includes: <ul style="list-style-type: none"> outright purchases of property purchases of property rights (i.e. rights of way) 2. Imposition of restrictions that result in people experiencing loss of access to physical assets or natural resources.	The Law on Expropriation regulates land expropriation (both outright purchases of property and purchases of property rights against set compensation).	Restrictions that result in people experiencing loss of access to physical assets or natural resources are not covered by the Law on Expropriation.	Solutions for overcoming restrictions that result in loss of access to physical assets or natural resources (access to land, forest products, fish stock, fresh water, etc.) have to be considered and defined, on a case-by-case basis, for each particular project. The project design documentation and RAPs must: <ul style="list-style-type: none"> include such losses in the evaluation of impacts on the project affected people and communities, as a component of livelihood loss and a direct impact of property acquisition and/or resettlement take into consideration such losses in assessing the suitability of replacement land Solutions may include (i) in-kind alternatives that can ensure comparable functions of the previously non-

¹¹ Source of information: Gosovo Gap Analysis Report, Gap Analysis of EBRD Performance Requirement 5 -2014-Environmental and Social Policy, EBRD. Enova, Consultants and Engineers. Page 15.

Gap ¹¹ / Issue	EBRD policy requirements	Provisions of Kosovo Law	Gap / Comment	Proposed response
				restricted asset, through providing or facilitating access to similar resources elsewhere, hence maintaining previous economic or functional use, or (ii) providing monetary compensation for the loss of productive or functional values due to the lack of access.
Scope of impact (project design)	Consideration of feasible alternative project designs to avoid or at least minimize physical and/or economic displacement, while balancing environmental, social, and financial costs and benefits.	According to the Law on Expropriation, private property may be expropriated solely in case certain conditions have been met, including the condition that “public benefits to be derived from expropriation outweigh the interests that will be negatively affected thereby”.	The Law on Expropriation does not contain any provisions regarding avoiding or minimizing displacement. However, consideration of financial costs leads, in practice, to avoidance or minimization of resettlement and expropriation.	Ensure that minimization of physical and /or economic displacement is investigated during project design to the extent practically possible, with the aim of reducing risks and increasing environmental and social benefits.
Planning process	Implementation of a census and a socio-economic baseline assessment within a defined affected area, to identify the persons who will be displaced and determine who will be eligible for compensation and assistance. Preparation of the Resettlement Action Plan or Livelihood Restoration Framework. During the development of the RAP/LRF, affected persons (including host communities) should be informed	According to the Law on expropriation, the expropriation and resettlement process starts after adoption of a decision on public interest. Prior to initiating an expropriation procedure, the expropriating authority may authorize the conduct of preparatory activities. As specified in the Law, the application for expropriation must contain the necessary information on the	While local legislation requires a considerable amount of effort to be put in collecting and presenting information on affected properties, there is no requirement for development of specific resettlement / livelihood restoration plans, or the preparation of a socio-economic survey. In addition, the required expropriation documentation does not contain information on: <ul style="list-style-type: none"> • Identification and status of 	The implementation of a (full) census / survey to determine the scope of livelihood loss and who and what is at risk, and the development of a RAP/LRF for each project which requires and acquisition (physical or economic displacement) is necessary. This process needs to ensure all categories of affected people (not only those with formal legal rights) are informed and consulted in a meaningful way. If vulnerable groups are identified during the survey, it may be necessary to make special provisions to include them in the consultation process.

Gap ¹¹ / Issue	EBRD policy requirements	Provisions of Kosovo Law	Gap / Comment	Proposed response
	and consulted on the development of compensation packages, eligibility requirements, resettlement assistance, suitability of proposed resettlement sites and the proposed timing. Special provisions should be made for consultations with vulnerable groups.	identity of the property right holder; information on the land plots or immovable property affected; the location and number of each and every concerned parcel of immovable property, the area and rights which are affected or which will be expropriated; a detailed description of the public purpose for which the expropriation is being requested; information on whether, and to what extent, the requested expropriation includes fixtures, accessory parts and/or fruits of the immovable property, etc. The expropriating authority sends a copy of the application and all documents attached thereto to the Office for Valuation of Immovable Property, and notifies the identified property right holders.	vulnerable groups and their specific needs. <ul style="list-style-type: none">Any informal land users.Socio economic characteristics of affected population, incl. livelihoods Affected persons are informed on the upcoming expropriation by receiving a copy of the submitted application for expropriation (which is also published publicly), and subsequent consultations. There are no special provisions for informing / consulting vulnerable groups.	
Negotiated settlements	Negotiated settlements are encouraged to help avoid expropriation and eliminate the need to use governmental authority to remove people forcibly	The Law on Expropriation sets out the procedure for expropriation, initiated by the expropriating authority itself or on the basis of an application for	The Law on Expropriation does not require or encourage negotiated settlements.	Negotiated settlements, even before the expropriation process is initiated (before the application for expropriation is made public), should be explicitly encouraged in the RAP/LRF.

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		expropriation submitted to this authority, and ending with the adoption of a Final Decision on expropriation. There are no provisions on negotiated settlements.		
Compensation at replacement cost	Compensation for lost assets will be provided at replacement cost, usually calculated as the market value of the assets plus the transaction costs related to restoring such assets (registration and transfer taxes). Depreciation of structures and assets should not be taken into account.	According to the Law on Expropriation, compensation is paid on the basis of the market value of the property, and includes any demonstrable direct damages incurred due to the expropriation plus the value of the immovable property expropriated, including its accessory parts and fruits.	The Law on Expropriation does not specifically mention compensation for the costs of registration and transfer taxes.	The RAP/LRF must describe the valuation method in detail and specify that compensation will be provided as compensation at replacement cost, including any registration and transfer taxes. Depreciation of structures and assets should not be taken into account during valuations.
Compensation in kind/cash	Compensation in kind will be offered in lieu of cash compensation where feasible.	The Law on Expropriation stipulates that compensation is paid in cash, with one exception: compensation in kind (or combination of in kind and in cash) is provided exclusively in cases where the Government is the expropriating authority, and more than 20 parcels of immovable property are expropriated, if the owners of such property agree.	The criteria set out in the Law on Expropriation for in-kind compensation are not technically feasible in practice, as there is not sufficient state owned land to be offered, and also due to the fact that private owners rarely own more than 20 parcels of land. Until today, no such cases have been recorded.	Project planning must include not only the compensation aspect but also focus on development and livelihood restoration. Thus, RAPs should include land-based compensation options for affected people with land-supported livelihoods, taking into account that the provided replacement land is suitable for food production or other agricultural uses. Replacement land does not need to be limited to state owned land, but may be purchased land.

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Provision of adequate housing / shelter with security of tenure	<p>Adequate housing is measured by quality, safety, affordability, habitability, cultural appropriateness, accessibility and locational characteristics. Should offer access to infrastructure and services.</p> <p>Security of tenure exists if resettled persons are protected from forced evictions, to the greatest extent possible.</p> <p>New resettlement sites built for displaced persons will offer improved living conditions with security of tenure.</p>	<p>The Law on Financing Specific Housing Programs regulates the provision of suitable and affordable housing for families and individuals who cannot afford the free market prices of houses, and require state assistance. Article 4 of the Law sets the categories of families which can benefit from the specific housing programs, as those who: (i) do not own an apartment or house; (ii) are homeless as a result of house destruction during the last conflict in Kosovo; and (iii) possess a housing surface not in conformity with the housing standards defined for social and economic category. Provision of social housing is the responsibility of Municipalities, while MESP is responsible for supervising the proper implementation of this Law¹².</p> <p>The Law on Expropriation stipulates that in the</p>	<p>The Law on Expropriation does not foresee in-kind compensation, and therefore the provision of adequate housing with security of tenure, and does not include any provisions on resettlement sites.</p> <p>However, state assistance to vulnerable households is provided through the Law on Financing Specific Housing Programs.</p>	<p>The RAPs should identify, based on the conducted census, the households entitled to special assistance in the form of housing / shelter pursuant to the local legislation, and define housing security as the fundamental standard.</p>

¹² A total of 14 housing projects in eight Kosovo Municipalities were implemented in the period from 2010 (since the promulgation of the Law on Financing Specific Housing Programs) to Aug 2013, with 304 social housing units allocated to families in need. Other projects are being implemented all over Kosovo, although there is still a considerable need for further social housing projects. Source: Assessment of the Provision of Social Housing by Municipalities in Kosovo, December 2013, OSCE, Mission in Kosovo, <http://www.osce.org/kosovo/108196?download=true>

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		event of an expropriation of a building or of a specific part of a building that has been lawfully constructed and used as a dwelling, the expropriating authority is required to provide the inhabitants with temporary accommodations for a period of 4 months. There are no provisions on security of tenure.		
Other resettlement assistance	Relocation costs (moving allowances). Specific resettlement assistance for vulnerable groups.	Specific assistance to vulnerable groups is provided under a number of different social welfare laws, such as the Law on Social Assistance Scheme in Kosovo, the Law on Social and Family Services and the Law on Material Support for Families of Children with Permanent Disability, which provide various forms of social welfare services or a range of community based services.	The Law on Expropriation does not foresee provision of relocation costs and specific resettlement assistance for vulnerable groups.	Relocation costs need to be compensated according to EBRD requirements, and specified in RAP entitlements. Vulnerable households need to be consulted on the type of assistance they need for resettlement, in cooperation with social service departments. Specific assistance has to be defined on a case by case basis or a particular project.
Eligibility for compensation / resettlement and entitlements in case of physical displacement	Category 1 - those who have formal legal rights to the land Category 2 - those 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	Category 1: The Law on Expropriation foresees compensation to be paid to those who have titled rights to property, for the value of expropriated property plus any direct damages	The Law on Expropriation contains more restrictive definitions of who is eligible for compensation/benefits than the EBRD requirements. Specifically, the provision of compensation to those	Kosovo legislation, the EBRD requirements regarding informal owners and users must be met. Eligibility of informal owners and related compensation measures need to be addressed in detail in RAPs. In case of physical displacement, at a minimum, some form of social housing must be provided

Gap ¹¹ / Issue	EBRD policy requirements	Provisions of Kosovo Law	Gap / Comment	Proposed response
	<p>the national laws should receive:</p> <ul style="list-style-type: none"> -Compensation for land at full replacement cost; -in the case of physical displacement, replacement property of equal or higher value, with equivalent or better characteristics and advantages of location or cash compensation at full replacement value and relocation assistance. <p>Category 3 - those who have no recognisable legal right or claim to the land they occupy should receive:</p> <ul style="list-style-type: none"> -Compensation for structures that they own and occupy and for any other improvements to land at full replacement cost; -in case of physical displacement, a choice of options for adequate housing with security of tenure and resettlement assistance 	<p>incurred due to expropriation.</p> <p>Category 2: The Law differentiates between two cases:</p> <ul style="list-style-type: none"> (i) compensation in the amount of (documented) construction value is provided for the loss of structures if the owner was able to legalize the structure but failed to do so; (ii) compensation is provided to property owners in cases when, on the date actual construction activity commenced, it was impossible for the owner to obtain the necessary construction permit from the municipality because, as of such date no urban or spatial plan covering such property had yet been issued, provided that in all other respects neither the building nor its construction were in violation of any other law or regulation then applicable. <p>Category 3: Compensation is not foreseen for structures constructed in violation of any applicable law or regulation, and if the owner was not able to legalize the structure under the</p>	<p>who have no recognisable legal right or claim to the land (category 3) is not in compliance with the EBRD requirement.</p> <p>The provisions of the Law on Financing Specific Housing Programs should be used as a basis for ensuring that those who are adversely affected by resettlement (usually belonging to category 3) receive appropriate accommodation, as described in more detail under the category "Provision of adequate housing" above.</p>	<p>with security of tenure.</p>

Gap ¹¹ / Issue	EBRD policy requirements	Provisions of Kosovo Law	Gap / Comment	Proposed response
		law of Kosovo applicable on the date of the Final Decision authorizing expropriation. Adequate housing is regulated by the Law on Financing Specific Housing Programs as described above.		
Cut-off date	In the absence of national government procedures, the date of completion of the census and assets inventory represents the cut-off date for eligibility. Individuals who move into the project affected area after the cut-off date will not be eligible for compensation and other types of assistance. Information regarding the cut-off date will be well-documented and disseminated throughout the project area	The Law on Expropriation provides that compensation will not be paid for the cost or value for any improvements to the property after the date on which the decision accepting an application for further processing of expropriation is published in the Official Gazette, or for any changes in the market value of the property, after either the date of adoption of the decision authorizing preparatory activities or the date of the initial submission of the application for expropriation, whichever comes first. The cut-off date applies to formal or recognizable legal rights to property (category 1 and 2 of eligibility).	As category 3 of eligibility is not recognized by the Law on Expropriation, there is no cut-off date for such persons.	The cut-off dates set out in the local legislation should be used (and specified in RAP/LRF), in combination with the date of the census and assets inventory as the cut-off date for persons without any recognizable rights to structures (category 3 of eligibility). Affected people must be informed about the cut-off date.
Vulnerable groups	The RAP should specifically take into account any	Assistance and protection of 'at-risk' groups are provided,	The Law on Expropriation does not contain any provisions	Vulnerable groups should be identified through the census and survey.

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	<p>individuals or groups that may be disadvantaged or vulnerable – consultation and relocation assistance. Vulnerable or ‘at-risk’ groups include people who, by virtue of gender identity, ethnicity, age, disability, economic disadvantage or social status may be more adversely affected by displacement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits. Special measures in terms of consultation and development assistance may be needed to allow such groups to participate in resettlement planning meaningfully and to benefit from development opportunities.</p>	<p>to some extent, on the basis of special laws governing human rights including property rights: the above described Law on Financing Specific Housing Programs which provides housing options for vulnerable groups, and the Law on Protection and Promotion of Rights of Communities and their Members in Kosovo which defines measures for protection of persons belonging to certain recognized communities in Kosovo.</p>	<p>or measures aimed at supporting greater consultation or relocation assistance to individuals or groups that may be disadvantaged or vulnerable and affected by expropriation.</p>	<p>In case vulnerable groups and ethnic minorities are identified, the RAP should clearly define the modality and required level of consultations and relocation assistance for such groups.</p> <p>Responsible authorities for ensuring social welfare should be consulted and included in the implementation of RAP.</p> <p>All communication and documentation delivered to ethnic minorities, as part of the consultations, should be carried out in an appropriate language, recognized as an official or regional language in Kosovo.</p>
Joint property	<p>Ensure that the documentation for ownership or occupancy and compensation is issued in the names of both spouses or women single head of households, as relevant to each situation, and that other resettlement assistance, such as skills training, access to credit and job opportunities are</p>	<p>The Law on Gender Equality is the general legal basis for creating conditions and opportunities for gender equality as a fundamental value, through policies and programmes that support the overall equal development and participation of both men and women in political, economic, cultural</p>	<p>Even though the Kosovo legal system and applicable legislation stipulates equal rights of genders, there is no particular system in place to fully protect the needs of both genders in cases of property rights and land acquisition and in the spirit of this EBRD requirement.</p>	<p>Through RAP/LRFs, all projects should take into account the specific needs of both genders, and particularly women for assigning titles, resettlement assistance and equal opportunities to access to job, resources, education opportunities, and consultation.</p>

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	equally available to women and adapted to their needs.	and social life.		
Legal assistance	Displaced people should be provided with legal assistance to enable them to complete administrative requirements prior to land acquisition and, if needed, to seek redress from the courts.	The Law on Expropriation does not contain provisions on legal assistance; however, the Law on Free Legal Aid No. 04/L-017 is the basis for providing free legal assistance in the whole territory of Kosovo in civil, administrative, minor offences and criminal proceedings for citizens who do not have sufficient financial means. The Kosovo Agency for Free Legal Aid has been established on the basis of this Law ¹³	No gap	The RAP/LRF should incorporate the procedure of providing free legal assistance to project affected people.
Timing of compensation	Compensation (alternative housing and/or cash compensation) has to be provided prior to relocation.	According to the Law on Expropriation, no change in the ownership or other rights of persons in or to the expropriated property are effected or implemented until the compensation required by the Final Decision has been paid.	No gap. Access to land and property by the expropriating authority is not allowed until and unless the affected owners receive compensation.	The RAP should specify that compensation is provided prior to relocation of affected people.
Loss of public amenities	Where a project involves the loss of public amenities, the client shall undertake	No provisions in local legislation.	There is no specific requirement to consult affected communities regarding loss of	Loss of public amenities should be identified in the scoping phase of the project,

¹³ In addition to the establishment of the Agency for Free Legal Aid with headquarters in Pristina and 13 regional offices throughout Kosovo, there have been projects in Kosovo focused on free legal aid related to minority issues (personal documents, property rights etc.), which were led by CRPK (UNHCR funded), Centre for Legal Aid and Regional Development – CLARD (EU funded), Movement for Peace – MPDL, etc.

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	meaningful consultation with the locally affected community to identify and agree upon a suitable alternative where possible.		public amenities, outside the requirement for general public consultation as part of the expropriation process.	and treated in RAP.
Eligibility for compensation / livelihood restoration and entitlements in case of economic displacement	<p>If land acquisition causes loss of income or livelihood Category 1 and Category 2, should receive:</p> <ul style="list-style-type: none"> • Compensation for loss of assets or access to assets, at full replacement cost • Replacement property of equal or greater value, or cash compensation at full replacement cost. <p>Category 3, should receive:</p> <ul style="list-style-type: none"> • Loss of assets, other than land, at full replacement cost <p>All three categories should receive:</p> <ul style="list-style-type: none"> • Compensation for the cost of re-establishing commercial activities elsewhere • Compensation for lost net income during the period of transition • Compensation for the costs of the transfer and reinstallation of 	No provisions in local legislation.	The Law on Expropriation does not regulate loss of income or livelihood in case of economic displacement.	<p>Entitlements for all three categories need to be specified in the LRF/RAP in line with EBRD requirements and based on findings from the census and socio-economic survey.</p> <p>Loss of assets or access to assets leading to loss of income sources or means of livelihood (including restriction of access to natural resources) must be compensated, depending on the type of loss, through:</p> <ul style="list-style-type: none"> • - Assistance for restoring land based livelihoods (providing replacement land for categories 1 and 2; providing access to land and compensation for lost assets other than land for category 3; providing compensation for preparation of farm land or agricultural inputs to all categories) • Assistance to (formal or informal) businesses (providing replacement properties for categories 1 and 2; providing access to adequate commercial space with security of tenure for category 3; compensation for lost income and costs of re-establishing the business, and additional support such as training for all categories)

Gap ¹¹ / Issue	EBRD policy requirements	Provisions of Kosovo Law	Gap / Comment	Proposed response
	<p>the plant, machinery or other equipment.</p> <ul style="list-style-type: none"> Transitional support based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living Additional targeted assistance (credit facilities, training, or job opportunities) and opportunities to affected persons whose livelihoods or income levels are adversely affected (owners of businesses and employees are eligible) 			<ul style="list-style-type: none"> Assistance for restoring age based livelihoods (providing skills training which may be done in the framework of existing projects in Kosovo¹⁶ or in cooperation with the Employment Agency of Kosovo¹⁴; providing compensation for loss of income) <p>All categories must be promptly compensated prior to loss of access to assets/properties in order to minimize or avoid loss of net income and need for transitional support.</p> <p>Relocation costs must be compensated in cash or transport of equipment and other assets organized by expropriating authority.</p>
Grievance procedure	The grievance mechanism will be set up as early as possible in the process, to receive and address in a timely fashion specific concerns about compensation and relocation that are raised by displaced persons and/or members of host communities, including a recourse mechanism designed	According to the Law on Expropriation owners or interest holders are entitled to file complaints in various stages of the process (complaints in relation to compensation for the preparatory works complaints against preliminary and final decisions on expropriation; complaints against	Even though the Law on Expropriation stipulates that affected people have the right to file complaints before the competent courts in the planning phase of the expropriation process (and, in practice, the responsible authorities strive to reach an amicable agreement with the owners or interest holders in order to avoid delays	<p>All projects will set up a grievance mechanism as part their respective RAP/LRFs.</p> <p>To the extent possible, the projects should build capacities of institutions responsible for expropriation on the modalities and benefits of setting up the grievance mechanism, as a tool to address the concerns of project affected persons early in the process, and hence reduce the risks of delaying expropriation.</p>

¹⁴ The Employment Agency of Kosovo will be functional as of January 2015 and will provide services in the labour market and work on the implementation of employment and vocational training policies

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	to resolve disputes in an impartial manner. The grievance mechanism, process, or procedure should address concerns promptly and effectively, using an understandable and transparent process that is culturally appropriate and readily accessible to all segments of the affected communities, at no cost and without retribution.	final decisions). In addition, interested parties are entitled to submit written comments to the expropriating authority during the consultation process.	in expropriation), there are no provisions on a project-specific grievance mechanism that would allow for dispute resolution prior to seeking legal redress in courts.	
Information disclosure and public consultation	The client should summarize the information contained in the RAP and/or the LRF for public disclosure to ensure that affected people understand the compensation procedures and know what to expect at the various stages of the project (e.g., when an offer will be made to them, how long they will have to respond, grievance procedures, legal procedures to be followed if negotiations fail). Consultations will continue during the implementation, monitoring and evaluation of compensation payment and resettlement.	The Law on Expropriation tasks the expropriating authority with the following duties in terms of information disclosure and public consultations: <ul style="list-style-type: none"> to notify the identified property right holders on the submitted application for expropriation; to publish the decision on approving the application in the Official Gazette, and in a daily newspaper, and re-publish it again after 7-10 days; to receive written comments from interested parties during a 	The Law on Expropriation does not consider the needs of ethnic minorities and IDPs, and affected persons who are not otherwise included the consultations to ensure adequate and timely information sharing. Furthermore, the Law on Expropriation does not regulate the procedure for dealing with absent property owners, and does not contain any measures for ensuring the rights of such owners to be timely and properly informed of any administrative action taken against their property and to effective legal remedies.	<ul style="list-style-type: none"> In addition to information disclosure and consultation requirements prescribed by local legislation, the RAPs/LRFs should include special considerations of the needs of ethnic minorities and IDPs, and affected persons who are not otherwise included the consultations (as may be the case with informal owners/users) to ensure adequate and timely information sharing through RAPs. Special attention should be given to adequate use of official languages when disclosing relevant information, and efforts in reaching the right holders, e.g. IDPs. With regard to any absent property owners, the project implementing agency in Kosovo must clearly commit in the RAP/LRF to utilize all

Gap ¹¹ / Issue	EBRD policy requirements	Provisions of Kosovo Law	Gap / Comment	Proposed response
		<p>10-day period following publication;</p> <ul style="list-style-type: none"> to hold a public hearing within 15 days in each Municipality where the properties are located; to review the written comments and the concerns expressed at the hearings, and adopt the Preliminary Decision within 30 days - including a notice advising the affected owners/ interest holders of their right to file a complaint with the competent court challenging the decision; to undertake actions to notify persons identified in the application, and to publish the Preliminary Decision in the Official Gazette of Kosovo and in a daily newspaper; to publish the Final Decision approving or rejecting the application within 10 days 		<p>reasonable efforts to:</p> <ul style="list-style-type: none"> properly identify and locate any absent property owners to engage the assistance of minority community offices and/or non-governmental organizations in Kosovo dealing with refugees, minorities and returnees in locating the absent owners (such as the Civil Rights Program Kosovo, the International Organization for Migration in Kosovo and similar NGOs to deposit the compensation amount in a separate account at the Central Bank of Kosovo

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		after adoption in the Official Gazette of Kosovo and in a newspaper.		
Monitoring	Monitoring of the RAP / LRF will be carried out in accordance with PR 1	No provisions	There are no requirements for monitoring the expropriation / resettlement / livelihoods restoration process under Kosovo legislation.	All projects dealing with resettlement, land acquisition and economic displacement should have a monitoring mechanism in place and defined in RAP/LRFs.