



**GOVERNMENT OF KOSOVO**  
RWC Hidromorava



European Investment Bank



European Bank for Reconstruction and Development

**Gjilan & Mitrovica Wastewater Infrastructure**

**Gjilan, Technical Addendum including  
Environmental and Social Due Diligence**

**Land Acquisition and Livelihood  
Restoration Framework**

Date: 09 November 2018

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Revision:	00
Path and Filename:	T:\2695\17 XK Gjilan+Mitrovica WWTP\Reports\E+S Reports Gjilan\Draft LALRF submitted 20181109\LALRF Gjilan Report 20181109.docx
Last edited:	09 November 2018

## ABBREVIATIONS

EBRD	European Bank for Reconstruction and Development
EIB	European Investment Bank
ES	Environmental and Social
LALRF	Land Acquisition and Livelihood Restoration Framework
LRP	Livelihood Restoration Plan
MoESP	Ministry of Environment and Spatial Planning
MoF	Ministry of Finance
PIP	Priority Investment Programme
PR	Performance Requirement
RWCH	Regional Water Company Hidromorava
SEP	Stakeholder Engagement Plan
WWTP	Wastewater Treatment Plant

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## 1 INTRODUCTION

This Land Acquisition and Livelihood Restoration Framework (LALRF) is part of the Environmental and Social Assessment for the planned Gjilan Wastewater Project, which is planned by the Regional Water Company Hidromorava (RWCH) and financed by the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB).

The purpose of the LALRF is describing the objectives, principles and approaches to compensate for economic displacement and livelihood restoration. No physical resettlement is anticipated and it is not covered in this framework. Should any unforeseen future physical resettlement be required then a Resettlement Action Plan will have to be prepared.

The LALRF has been prepared to comply with Kosovar legislation and EBRD's Environmental and Social Policy (2014), more specifically Performance Requirement 5 on Land Acquisition, Involuntary Resettlement and Economic Displacement and the EIB Environmental and Social Standards (2010).

### 1.1 OBJECTIVES

The objectives of the livelihood restoration process are to:

- Set out a framework to minimise economic displacement and where displacement is unavoidable to improve, or at a minimum restore, the livelihoods and standards of living of displaced persons following project implementation to pre-project levels.
- Ensure that displaced persons without title to land or any recognizable legal rights to land are eligible for compensation for loss of non-land assets and livelihood restoration. In accordance with EBRD's requirements, displaced persons may include owners or non-owner, and people using land without formal, or recognisable usage rights.
- Determine requirements for the disclosure of information, consultation, and the informed participation of affected persons. Special provisions that must be made for individuals belonging to vulnerable groups, to make sure that these persons are included in the process.
- Monitor and assess livelihood restoration outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the livelihood restoration plan have been achieved.
- Outline specific Grievance Redress Mechanism or Procedure that must be developed in order to receive and facilitate the resolution of affected person's concerns.

A more detailed Livelihood Restoration Plan (referred to as LRP in this document) will be developed during the design period by MoESP and Gjilan Municipality, and incorporated into the final project design. The development of the LRP is described in chapter 3 below.

### 1.2 DESCRIPTION AND CONTEXT OF THE PROJECT

The Government of Kosovo requested the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB) to support the implementation of wastewater treatment plants (WWTPs) and related sewage infrastructure of Gjilan. An update of the existing Feasibility Study was carried out in 2018 and has resulted in a Priority Investment Programme (PIP).

This LALRF relates to the design and construction activities in connection with the proposed EBRD and EIB supported PIP, which will be implemented from 2019 to 2022, and the subsequent operations.

The following project for Priority Investment have been proposed:

- Construction of a wastewater treatment plant;
- Collect and treat wastewater from Gjilan urban area and Velekince, and the villages of Malisheva, Koretishte, Shillove and Pasjak.

### 1.3 SUMMARY OF PROJECT RELATED LAND ACQUISITION AND LIVELIHOOD IMPACTS

The project involves permanent land acquisition for the purpose of construction of the WWTP and the access road on the site near the village Uglara at the Morava river.

The Municipality of Gjilan provided provisional data on the estimated scope of land acquisition, the type of land to be acquired and the number of land owners, based on cadastral information. However, precise information on the exact scope of land acquisition will be available only after the development of the expropriation study as required by the *Law on Expropriation of Immovable Property*.

According to the initial estimates, a total of 37 privately owned land plots will be affected by permanent land acquisition. These plots are categorised as agricultural land. The total land to be acquired is approx. 8 ha.

Loss of crops grown on the land, mainly maize, is expected.

No physical displacement is expected as there are no structures on the land to be acquired.

No land acquisition is needed for the collectors from Gjilan and Velekince, which will be laid along the rivers of Mirusha (4,682 m) and Morava (2,269 m).

The right of way should be obtained for the laying of the collectors near the WWTP. Measures should be taken to avoid loss of crops. In case this cannot be avoided, then these need to be compensated. The land will be available for agriculture after the sewers are installed and trenches are backfilled.

Detailed information on affected people and properties will be provided in the LRP after the detailed census and socio-economic survey is carried out.

## 2 LEGAL AND REGULATORY FRAMEWORK

The project will meet the requirements of national legislation and EBRD/EIB policies, notably EBRD's Performance Requirement 5 on Land Acquisition, Involuntary Resettlement and Economic Displacement. Where disparities exist between national law and EBRD/EIB's requirements, MoESP/Gjilan Municipality undertakes to follow EBRD/EIB requirements when these are more beneficial for the economically displaced citizens.

### 2.1 KOSOVAR REGULATORY FRAMEWORK

The legal framework for land acquisition in Kosovo is governed by the following legislation.

#### **Constitution of Republic of Kosovo**

The Constitution prohibits arbitrary deprivation of property (Art. 46). The authorities may expropriate property only if such expropriation is authorized by law, is necessary or appropriate to the achievement of a public purpose or the promotion of public interest, and is followed by the provision of immediate and adequate compensation to the person(s) whose property is expropriated.

#### **Law on Expropriation of Immovable Property**

The procedure of land expropriation and resettlement in Kosovo is primarily regulated by the Law on Expropriation of Immovable Property No 03/L-205. The Law outlines the procedure, including remedies to safeguard individuals from disproportionate interferences with the right to immovable property.

Compensation is regulated both by the Law on Expropriation of Immovable Property and the Administrative Instruction on Approval of Technical Valuation Methods and Criteria for Calculation of Compensation Amounts for Expropriated Immovable Property and Damages Relating to Expropriation, No. 02/2015. According to the Law, compensation is paid on the basis of the market value of the property, including its accessory parts and fruits, plus any demonstrable direct damages incurred due to expropriation. Compensation paid shall include the amount determined in the Final Decision plus interest on such amounts that has accrued between the effective date of the Final Decision and the date of payment. Compensation in kind by the means of land-for-land (or a 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.

No changes in the ownership or other rights of affected persons are effected or implemented until the Final Decision becomes effective, and the compensation required by the Final Decision has been paid. Only after the mentioned conditions have been fulfilled, the property is registered in the name of the Municipality.

### 2.2 EBRD REQUIREMENTS

The EBRD PR 5 Land Acquisition, Involuntary Resettlement and Economic Displacement states that 'involuntary resettlement refers both to physical displacement and to economic displacement which result from project-related land acquisition or restricted access to livelihoods and natural resources'.

'Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition which results in displacement.'

'Displaced persons may be classified as persons i) who have formal legal rights to the land, ii) who do not have formal legal rights to the land at the time of the census, but who have a claim to land that is recognised or recognisable under the national law; or iii) who have no recognisable legal right or claim to the land they occupy'.

The objectives of PR 5 include:

- ➔ Avoid or, when unavoidable, minimise, involuntary resettlement by exploring alternative project designs;
- ➔ Mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons' use of and access to assets and land by: i) providing compensation for loss of assets at full replacement cost; and ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected;
- ➔ Restore or, where possible, improve livelihoods and standard of living of displaced persons to pre-displacement levels.
- ➔ Implement, in line with the strategy set out in the Stakeholder Engagement Plan (SEP), a grievance mechanism for the affected households and private entities.

## 2.3 GAP ANALYSIS

A comparison of national legislation and EBRD/EIB requirements is provided below. The LALRF is designed to meet national legislation and EBRD/EIB requirements, however, where gaps exist the LALRF process will follow the standards most beneficial to the affected persons and entities. The table below summarises these gaps where EBRD/EIB requirements shall be followed as they are more beneficial for the affected.

**Table 2-1: Summary of gaps between Kosovo legislation and EBRD/EIB requirements**

Issue	EBRD/EIB requirement	Provision of Kosovo Law	Measures to bridge gap
Planning process	The EBRD Client must prepare a Livelihood Restoration Plan, including a census and detailed socio-economic baseline. Affected persons are to be informed and consulted during the planning process. Special provision must be made in respect of consultation with vulnerable groups.	Requires only an Expropriation Study as the baseline census, no explicit requirement related to socio-economic surveys or development of land acquisition and livelihood restoration plans.	Detailed LRP will be developed for the Project once the exact nature and magnitude of the of the land acquisition are known, i.e. after the development of the expropriations studies required by national legislation, and a detailed census and socio-economic survey will be carried out.
Negotiated settlements	Encourage negotiated settlements to help avoid expropriation.	Does not require or encourage negotiated settlements.	Negotiated settlements will be carried out where possible, before the expropriation process is initiated.
Compensation value and timing	Compensation for lost assets to be provided at replacement cost, usually calculated as the market value of the assets plus transaction costs related to restoring such assets.  Compensation must be provided prior to the affected person/persons experiencing a loss.	Compensation is paid on the basis of the market value of the property.	People affected by permanent loss of land will receive compensation at full replacement value.



Issue	EBRD/EIB requirement	Provision of Kosovo Law	Measures to bridge gap
Eligibility for compensation	<p>PR5 distinguishes three main categories of affected people:</p> <ul style="list-style-type: none"> <li>a) those who have formal legal rights to affected assets are eligible to full compensation at replacement cost for land and structures as applicable.</li> <li>b) those who have no formal rights to affected assets at the time of the census, but who have a claim to land that is recognized or recognizable under national laws, are eligible to similar compensation.</li> <li>c) those who have no recognisable legal right or claim to the land they occupy are not necessarily eligible to compensation for land but should receive: i) compensation for structures that they own and occupy and for any other improvements to land at full replacement cost; and ii) in case of physical displacement, a choice of options for adequate housing with security of tenure and resettlement assistance.</li> </ul>	<p>Only persons with recognisable rights and claims are entitled to compensation.</p>	<p>Eligibility for compensation and livelihood restoration will be extended to affected persons who have no recognisable legal rights or claim to the land they use for their livelihood.</p>

Issue	EBRD/EIB requirement	Provision of Kosovo Law	Measures to bridge gap
Grievance mechanism	<p>A grievance mechanism should be set up as early as possible in the process, to receive and address in a timely manner specific concerns about compensation and relocation that are raised by displaced persons.</p> <p>The grievance mechanism process 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.</p>	<p>Owners or interest holders are entitled to file complains in various stages of the process and submit written comments to the expropriating authority during the consultation process, but no requirement for Project-specific grievance mechanism.</p>	<p>A grievance procedure will be set as part of the implementation of the Stakeholder Engagement Plan (SEP) and will include aspects of land acquisition.</p>
Information disclosure and public information	<p>The client should summarise the information contained in the LRF for public disclosure and ensure that affected people understand the compensation procedures and know what to expect at the various stages of the project.</p> <p>Consultation will continue during the implementation, monitoring and evaluation of compensation payment and resettlement.</p>	<p>The expropriating authority has to consult affected people with formal legal rights and legally recognised claims before the decision on expropriation is passed.</p>	<p>Consultation will be extended to affected people who have no recognisable legal rights or claim to the land they use for their livelihood.</p>
Monitoring of LRP implementation	<p>Arrangements for livelihood monitoring must be defined by the LRP.</p>	<p>No provision</p>	<p>Monitoring will be carried out by the MoESP/Municipality.</p>

### 3 LIVELIHOOD RESTORATION PROCESS

The livelihood restoration measures will be undertaken in accordance with Kosovar national legislation and EIB/EBRD PR5 requirements. This section describes the planned process of LRP implementation involving the steps detailed below.

#### 3.1 OVERVIEW OF THE PROCESS

This LALRF is a framework outlining the principles of land acquisition/occupation and livelihood restoration. Based on the legal guidelines summarized in Table 2-1, MoESP/Gjilan Municipality will develop a Livelihood Restoration Plan (LRP) following the detailed steps below. It is important that this process is implemented simultaneous with the preparation of the detailed designs for WWTP:

The Livelihood Restoration Plan is carried out by the following steps:

1. Identification of project impacts and affected people involving:
  - a. Mapping of the project area and affected households/land plots including the class of land, owners, leasers and land use patterns.
  - b. Census of affected plots, assets and persons to establish a list of people with formal and informal land rights and livelihood and to identify those who will be eligible for compensation and/or assistance.
  - c. Socio-economic survey to complement the census data and gather detailed information on the socio-economic background of affected people and evaluate the impacts on their livelihoods in order to establish fair compensation and livelihood restoration measures.
  - d. Public consultation meetings to provide information on the project, scheduling temporary land acquisition/occupation, people's rights and the process for establishing entitlements, compensation and livelihood restoration measures. Affected persons will be provided with opportunities to discuss the approach to compensation and livelihood restoration and ask any questions they may have regarding the processes.
2. Development of an Entitlements Matrix and Compensation Framework based on the information from the above steps and in line with the national legislation and EBRD/EIB requirements.
  - a. The Entitlement Matrix will clarify the groups of affected persons and the assistance, compensation and livelihood restorations they are entitled to receive.
  - b. Public consultation meetings shall inform the affected persons categories and entitlement measures.
  - c. A cut-off date will be established for eligibility according to EBRD / EIB requirements and national legislation. Information regarding the cut-off date will be widely published throughout the project affected area.
3. Valuation of all assets that are subject for compensation, including buildings, crops, interrupted economic activities and list access to natural resources and compensation offers will be made.
4. The procedure of valuation shall be undertaken in line with legislation of the Republic of Kosovo and with EBRD/EIB requirements.
5. Payment of compensation made by MoF prior to land acquisition/occupation or lost access to economic activities and natural resources.

## 3.2 ELIGIBILITY AND ENTITLEMENTS

A preliminary entitlement matrix is presented below to set out the principles of compensation for the different groups of affected people depending on the assets, properties and livelihood loss as a result of the project. This matrix will need to be updated and tailored to the identified land acquisition and economic affected persons as part of the LRP. In accordance with EIB (2010) and EBRD Environmental and Social Policy (2014) economic activities and livelihoods will be assessed to identify appropriate compensation and mitigation measures. The eligibility is determined based on the census of affected households/land plots and the date of the census will serve as a cut-off data for compensation for persons with no formal claims.

**Table 3-1: Entitlement Matrix**

Category of affected persons	Type of Project affected right/property/loss	Entitlement
Land owners	Loss of land as consequence of land acquisition for the WWTP and the access road.	Cash compensation for lost assets resulting from land acquisition at full replacement cost or through replacement land equal in value and productivity to the plot lost, and at locations acceptable to the affected people where feasible.  Cash compensation for actual crop loss at full market rate.  If more than 10% of the productive land loss additional cash compensation equal to one year crop harvest and agricultural subsidies.
	Loss of crops due to laying of the collectors near the WWTP	Cash compensation for actual crop loss at full market rate.
Lease holders with long-term leases	Loss of land as consequence of land acquisition for the WWTP and the access road.	Cash compensation of potential profit loss equal to market value of one-year crop harvest (based on 3-year average).  Cash compensation for activities related to land plot development, maintenance, protective measures.  Cash compensation for pre-termination of lease or renewed lease for an alternative plot.  If more than 10% of productive land loss additional cash compensation equal to one-year crop harvest and agricultural subsidies.
	Loss of crops due to laying of the collectors near the WWTP	Cash compensation for actual crop loss at full market rate.

### 3.3 CENSUS AND SOCIO-ECONOMIC SURVEY

A detailed census of all affected people, households, plots, properties and other assets is necessary to identify the number of affected people and plots. The census should be undertaken by MoESP/Gjilan Municipality or a third party with experience in census and survey activities. The census will collect information on cadastre identification and coordinates of land plots, assets, category of land, size of the plot and any cultivated crops, trees and structures that will be affected by the Project. The Census shall utilise cadastral information to identify formal land owners and users. Further investigations may be needed to identify any informal owners and users of the affected land plots.

The socio-economic survey will provide detailed information on formal and informal livelihoods, assets, activities and structures. All affected people regardless of having formal title who are recorded during the census will be eligible for compensation in accordance with national legislation and EBRD/EIB's requirements as set out in this LALRF.

The socio-economic survey should identify:

- Patterns of land use, crops cultivated and use of natural resources.
- Livelihood and income levels of affected persons, especially income from temporarily lost land and income for both formal and informal land users.
- Seasonal resources users who might be affected by the project.

Vulnerable people who require additional attention in order to be equally compensated as entitled.

### 3.4 VALUATION AND PAYMENT OF COMPENSATION

The valuation of land etc. is based on the current market value and is defined in the legal transaction contract.

Payments of compensation to the owners or land users according to national legislation should take place no later than 30 days after the date of signing the land use agreement or from the date a decision of the court is entering into force. As this LALRF is aligned with EBRD/EIB requirements, all compensation for lost livelihood, settling of accounts will take place prior to restricting access to livelihood or natural resources.

Stakeholder meetings will inform the preferred channels for compensation payments. Channels preferred according to international good practice include bank transfers, smaller instalments of cash and land-for-land compensation to avoid mismanagement of compensation payment.

### 3.5 LIVELIHOOD RESTORATION

Under EBRD's PR5 people whose livelihoods are affected by the project are entitled to livelihood restoration measures aimed at improving or at least restoring their standards of living or livelihood to pre-project levels.

MoESP/Gjilan Municipality will design appropriate livelihood restoration support, based on the findings of the socio-economic surveys undertaken to measure and quantify livelihood and income that is likely to be impacted by the project.

### 3.6 DEVELOPMENT OF DETAILED LRP

Once all the necessary information is collected, MoESP/Gjilan Municipality will prepare a detailed Livelihood Restoration Plan. This plan will be based on this LALRF and will use the details of affected land plots and land users and their socio-economic status to determine

appropriate mitigation and compensation measures. The detailed LRP will contain a tailored Entitlements Matrix, consultation activities, implementation arrangements, list of affected plots and land users, and plans for monitoring and evaluation of livelihood restoration activities. The detailed LRP will be developed simultaneous with the detailed designs of the WWTP. It will be shared with all relevant stakeholders and approved by the appropriate authorities. The LRP will be finalised before any land negotiation, land acquisition/occupation or economic displacement starts.

The LRP should include the following content:

1. Introduction and project description
2. Baseline socioeconomic studies
3. Legal and institutional framework
4. Compensation and livelihood restoration
5. Public consultation and grievance procedures
6. Schedule and responsibilities for implementation of the LRP
7. Costs
8. Monitoring and evaluation

## **4 PUBLIC CONSULTATION AND GRIEVANCE MECHANISM**

### **4.1 PUBLIC CONSULTATION**

Public meetings, consultation with land users and representatives of local communities will need to be organised in line with the Stakeholder Engagement Plan (SEP) for this project. MoESP/Gjilan Municipality will commit to providing the public and affected persons with all relevant information to enable their informed participation in all phases of the project. This LALRF, and the later LRP, will be made available on MoESP and Gjilan Municipality website and the bulletin boards of the municipal buildings, while hard copies in Albanian and Serbian will be available at the municipal offices.

The schedule for consultation and stakeholder meetings will be distributed in the district and affected persons will be notified in a timely manner about dates and venues for the meetings. It is important to ensure meaningful stakeholder engagement and informed participation of affected persons and interested stakeholders throughout the project. Additional meetings with users of affected land will be organised separately to provide information on the land acquisition process.

### **4.2 GRIEVANCE MECHANISM**

A grievance mechanism set up under the SEP will be used to collect feedback, questions and comments regarding this LALRF. It will be put in place early in the process to receive and address stakeholder comments and questions in a timely manner and provide further information on compensation and livelihood restoration measures to the people affected by physical or economic displacement. Grievance will be addressed in a timely manner according to the grievance mechanism presented in the SEP.

Grievances will be recorded in a grievance log with details of the issue, acknowledgement of receipt, action taken and data of resolution.

## 5 LALRF/LRP IMPLEMENTATION AND MONITORING

MoESP/Gjilan Municipality will be responsible for the implementation of all aspects of the LALRF/LRP. Parties involved in the different aspects of project implementation will be required to comply with the requirements set out in this LALRF.

The implementation of the LALRF/LRP shall start prior to construction activities. In general, the LRP implementation will have three key stages:

- ➔ Public meetings, census and socio-economic survey conducted and the negotiation process related to temporary land acquisition/occupation.
- ➔ Provision of land rights, payment of compensation, livelihood restoration.
- ➔ Monitoring and reporting process of the LRP.

On-going monitoring, evaluation and periodic reporting on LRP implementation will be undertaken by MoESP/Gjilan Municipality and will involve participation of key stakeholders including affected persons. A completion audit will be required to evaluate the success of activities under the LRP.

MoESP/Gjilan Municipality will include monitoring data and progress reporting on LRP activities in its quarterly reporting during the temporary land acquisition/occupation process and summarise relevant information in their bi-annual reports to EBRD/EIB. MoESP/Gjilan Municipality will also make monitoring data on livelihood restoration available to the public.



## 6 LRP BUDGET

The budget needed for the implementation of the LRP will be established after the completion of the census and survey activities, once the actual number of affected land users are identified. The budget will cover compensation, livelihood restoration, monitoring and evaluation as well as contingencies and administrative expenses.

### 6.1 ESTIMATED COSTS

The costs related to land acquisition have been evaluated based on the market price for land and the estimated compensation for crops.

According to the Directorate of Cadastre, after the expropriation procedures the registration in the cadastral records is carried out without an administrative fee for registration.

The Directorate of Cadastre of Gjilan has provided information for an estimation of costs related to land expropriation.

The value of land in the WWTP location is based on property transactions in the zone of Uglare, and depending on location, quality, proximity to populated zones and access to infrastructures, the market price of the land subject to expropriation ranges from 4.0 to 5.0 €/m<sup>2</sup>.

A value of 4.5 €/m<sup>2</sup> is considered for cost estimation purposes. The land extension according to the WWTP proposed technology is estimated as 8 ha. It leaves margin for later Phase II upgrading, a new access road and for flood protection. There is no need to apply contingencies to this estimation.

Compensation is calculated based on the market price of 8 ha of maize during three years (for the loss of current crop plus the loss of income in the next years). According to the *Agriculture and Forestry Directorate of Gjilan*, and based on 2018 yields and market prices, the financial yield of 1 ha of land is 2,740 €.

The total costs are estimated to **440,000 €**.