KOSOVO REGIONAL AND LOCAL ROADS Environmental and social assessment

Land Acquisition Framework



Republic of Kosovo Ministry of Infrastructure Final 09 December 2015

KOSOVO REGIONAL AND LOCAL ROADS ENVIRONMENTAL AND SOCIAL ASSESSMENT

Land Acquisition Framework

Project:Kosovo Regional and Local Roads – Environmental and Social AssessmentReport:Land Acquisition FrameworkPrepared by:Ministry of InfrastructureFinanced by:European Bank for Reconstruction and DevelopmentConsultant:Enova d.o.o. Sarajevo

Table of Contents

1	INTRODUCTION	
	1.1 PROJECT DESCRIPTION AND CONTEXT	
2	LEGAL AND INSTITUTIONAL FRAMEWORK FOR LAND ACQUISITION5	
	2.1 INSTITUTIONAL FRAMEWORK FOR LAND ACQUISITION IN KOSOVO	
3	PROJECT IMPACTS11	
	3.1 TYPES OF LOSSES EXPECTED DURING PROJECT IMPLEMENTATION	
4	KEY LAND ACQUISITION / COMPENSATION PRINCIPLES AND ISSUES13	
5	COMPENSATION ENTITLEMENTS15	
6	DISCLOSURE OF INFORMATION AND PUBLIC CONSULTATIONS	
7	IMPLEMENTATION OF LAF	
	7.1 IMPLEMENTATION RESPONSIBILITIES	
	7.2 COSTS	
8	7.2 COSTS	
-	7.2 COSTS	
A	7.2 COSTS	

1 INTRODUCTION

1.1 Project Description and Context

The European Bank for Reconstruction and Development (EBRD) is considering providing financing to the Ministry of Infrastructure of Kosovo (the Ministry) in support of national road improvement works within the "Kosovo – Regional and Local Roads Project" (the Project).

The Project involves widening to four lanes the entry/exit roads in the Municipalities of Gjilan, Ferizaj, and Prizren, and the rehabilitation of the Kllokot – Gjilan road section. These sections are considered priority projects under the *Multimodal Transport Strategy* (2012-2021) and *Action Plan* (2012-2016) of Kosovo.

The **N25-2 section Giljan access road** is the main entrance road to the Municipality of Gjilan from the direction of the country capital, Pristina and the fastest connection to the A1 motorway in Republic of Serbia. This section is a branch of the core national and regional network of Kosovo roads.

The **N2 section Ferizaj access road** is the fastest connection from the direction of the country capital, Pristina via the Municipality of Ferizaj to Skopje in Macedonia. This is to be a transit road for the future Pristina – Skopje motorway R6, currently under construction, with an expected completion by 2018.

The **R107 section Prizren access road** is a significant access road to Prizren Municipality from the direction of Gjakove, acting as an important link between the main cities in Kosovo.

The **N 25 - 3 section Kllokot – Gjilan** reconstruction of the pavement to single carriageway starting at intersection from Kllokot to National Road N 25 - 3 and ending at Gjiljan bypass. It has a significant importance connecting Gjilan, Partesh, Kllokot and Ferizaj municipalities.

More detailed information on the Project scope and benefits, the anticipated environmental and social impacts, and planned mitigation and monitoring measures is available in the Non-technical Summary publicly disclosed in the framework of the Project as part of the disclosure package.

1.2 Scope of the Document

The Ministry of Infrastructure of Kosovo (the Ministry), as the Project implementation agency, has prepared this Land Acquisition Framework (LAF) with the aim of outlining the general principles, procedures and entitlement framework with regard to the potential impacts of land acquisition required for the Project, in conformance with the laws in force in Kosovo and EBRD requirements, in particular EBRD's Performance Requirement (PR) 5 of EBRD's Environmental and Social Policy (2014)¹: Land Acquisition, Involuntary Resettlement and Economic Displacement.

This LAF serves as a basis for the development of detailed Land Acquisition Plans (LAPs) for the Project, which will be developed once the exact nature and magnitude of the land acquisition or restrictions on land use related to the Project are known. i.e. after the development the expropriations studies required by local legislation (by April 2016, according to current estimates). The Plans will provide more precise details on the Project Affected People, the eligibility criteria and the procedures to be applied for the Project in line with this LAF and in compliance with EBRD PR5.

A sample annotated outline for LAP is provided in Appendix 1 of this document.

¹ The full text of the Policy is available at: <u>http://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html</u>

2 Legal and Institutional Framework for Land Acquisition

2.1 Institutional Framework for Land Acquisition in Kosovo

Land expropriation and resettlement in Kosovo may be undertaken by administrative bodies ("the expropriating authority") at two levels:

- Municipalities (in cases when the affected property lies wholly within a municipality's borders): the municipal mayors or any designated municipal body act as the expropriating authority on behalf of the municipality,
- 2. Kosovo Government (in cases when the affected property falls within the territory of two or more municipalities): the Ministry of Environment and Spatial Planning acts as the expropriating authority on behalf of all central level authorities.

Other key institutions involved in the expropriation process are:

- Office for Valuation of Immovable Property (within the Department of Property Tax) within the Ministry of Finance, the only public authority competent for valuation of any immovable property that is subject to expropriation by any expropriating authority (municipality or Government).
- Kosovo Cadastral Agency (KCA), the highest authority of cadaster, geodesy and cartography in Kosovo, responsible for the overall administration of the computerised Kosovo Immovable Property Rights Register.
- Municipal Cadastral Offices, required to register (in the *Immovable Property Rights Register*) the final decisions on expropriation of immovable property (submitted by the expropriating authority), in order to prevent owners or interest holders from transferring or granting to any third person any ownership or other rights or interests in or to the concerned property, and undertaking any construction work on the concerned property.

2.1 Legal Framework for Land Acquisition in Kosovo

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 the 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-139* adopted in 2009, and amended 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.²

² According to the Law, immovable property includes: (i) land, (ii) buildings or specific parts of a building constructed on, above or under the land surface (iii) any fixtures and accessory parts that have been permanently attached to land or a building and that cannot, without unreasonable or uneconomic effort, be removed, and (iv) any unsevered fruits attached to such land.

The **key provisions of this Law relevant to the Project** may be summarized as follows:

- Public interest: Expropriation may be undertaken only when all of the following conditions are satisfied:
 - (i) expropriation is directly related to the accomplishment of a legitimate public purpose;
 - (ii) the legitimate public purpose cannot practically be achieved without expropriation;
 - (iii) the public benefits to be derived from expropriation outweigh the interests that will be negatively affected thereby;
 - (iv) the choice of the property to be expropriated has not been made for, or in the furtherance of, any discriminatory purpose or objective; and,
 - (v) the expropriating authority has complied with all applicable provisions of the Law.
- Initiation of expropriation procedure application for expropriation: The procedure may be initiated by the expropriating authority itself or through an application for expropriation submitted to the expropriating authority. The application contains the necessary information on the property right holders and affected properties, accompanied by certain documents such as the property records, cadastral, spatial or urban plans, and evidence that sufficient financial means are or will be available for the timely payment of compensation.

After receiving the application, the expropriating authority reviews the application and may approve or reject the application, in whole or in part.

In case of approval, 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. The decision on approval is published in the Official Gazette, and in a daily newspaper in Kosovo, which publication is repeated again after 7 to 10 days, followed with a 10-day period during which interested parties are entitled to submit written comments to the expropriating authority. Following the publication, the expropriating authority is required to hold a public hearing within 15 days in each Municipality where the properties subject to expropriation are located.

- Preliminary Decision on the Legitimacy of Proposed Expropriation: After the review of written comments and the concerns expressed at the hearings, the expropriating authority adopts a Preliminary Decision within 30 days. The authority may reject the expropriation based on such comments and concerns, or in case it determines that the proposed expropriation does not meet the legal requirements. The Preliminary Decision is published in the Official Gazette of Kosovo and in daily newspapers.
- Final Decision on Expropriation: The expropriating authority adopts the Final Decision approving or rejecting the application during a 12-month period after the Preliminary Decision becomes effective. The Final Decision is published in the Official Gazette of Kosovo and in daily newspapers. The Final Decision may not be adopted in case any complaints against the Preliminary Decision regarding affected properties are still pending before the court.
- Compensation: 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, adopted in 2015 by the Ministry of Finance on the basis of the Law. According to the Law, compensation is paid on the basis of the market value of the property³, including its accessory parts and fruits, plus any demonstrable direct damages incurred due to

³ The market value is defined as: "the price that the buyer is willing to pay and the seller to sell the immovable property in an official transaction, where neither is obliged to act by force and there is no relationship between parties based on blood, marriage, joint ownership or business connection."

expropriation. Compensation is paid in cash⁴, and includes the amount determined in the Final Decision plus interest on such amount that has accrued between the effective date of the Final Decision and the date of payment.

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.

Valuation of property: The Office of Immovable Property Valuation is responsible for valuating
property in the expropriation process, on the basis of the abovementioned Administrative Instruction
which regulates the detailed methodology for calculating the compensation to be paid for
expropriated property and expropriation-related damages.

During the valuation process, owners and interest holders are entitled to submit their written views concerning such valuation to the Office, and to challenge the final valuation decisions of the Office before the courts.

- **Cut-off date:** The *Law* specifically provides that the following will be excluded from the amount of compensation:
 - the cost or value of any improvements to the property, facilities constructed or enlarged on the property, or trees and crops planted on the property after the date on which the decision on accepting the application for further processing of expropriation (issued prior to the Preliminary Decision) is published in the Official Gazette,
 - any changes in the market value of the property occurring after either the date of adoption of the decision authorizing preparatory activities on such property, or the date of the initial submission of the application for expropriation, whichever comes earlier,
 - any other changes in the market value of the property prior to the initiation of the expropriation procedure, if such changes can be demonstrated to be attributable to price or market manipulation or speculation by persons (or their relatives or associates) who were in possession of information about the impending or potential expropriation of property in question.
- Grievance management: Grievances set out by the Law include: (i) complaints challenging the Preliminary Decision on the Legitimacy of Proposed Expropriation, (ii) complaints challenging the adequacy of compensation, (iii) complaints for compensation of damages arising from partial expropriation; (iv) complaints challenging the legitimacy of the Decision on temporary use of property.

⁴ Compensation in kind by 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.

2.2 Other Related Legislation of Kosovo

Other laws relevant to the land acquisition requirements of the Project are summarized in Table 1 below.

Table 1. Overview of Laws Relevant to the Project

LAW	SUMMARY AND KEY POINTS	
Law on Property and Other Real Rights No. 03/L-154 dated 15 July 2009	 Governs the creation, content, transfer, protection, and termination of real rights such as ownership, limited real rights, possession, real security rights and real rights of use Stipulates that ownership and other real rights can only be limited or taken away against the will of lawful holders in accordance with conditions and procedures as defined by the applicable laws 	
Law No. 04/L-020 on Amending the Law on Protection and Promotion of Rights of Communities and their Members in Kosovo	 Defines Kosovo communities and their special rights with regard to their identity, religion, education, use of languages, culture, health, media, economic and social opportunities, and their political representation in all state mechanisms 	
No. 03/L-047 dated 21 December 2011	 Provides measures for protecting cultural and religious heritage, public employment programs especially for Roma, Ashkali and Egyptian communities, education in their own language, etc. 	
Law on the Use of Languages No. 02/L-37 dated 21 October 2006	 Regulates the use of official languages, as well as languages of communities whose mother tongue is not an official language, in Kosovo institutions and other public organizations and enterprises 	
aatea 21 October 2006	 Grants equal status to Albanian and Serbian as the official languages of Kosovo 	
	 Provides the right of all communities in Kosovo to preserve, maintain and promote their linguistic identity 	
Law on Anti-Discrimination No. 2004/3	 Aims to prevent and combat all forms of discrimination in the public and private sectors, and promote effective equality of treatment 	
dated 20 August 2004	 Authorizes administrative bodies and courts to decide on cases of alleged discrimination, including the right of Ombudsperson Institution in Kosovo to receive and investigate complaints based on discrimination 	
Law on Gender Equality No. 2004/2 dated 7 June 2004	 Aims to create conditions and opportunities for gender equality as a fundamental value, through policies and programs that support the overall equal development and participation of both men and women in political, economic, cultural and social life 	
Law on Spatial Planning No. 04/L-174 dated 19 August 2013	 Sets out the basic principles of spatial planning, methodology of spatial development and regulations, as well as the responsibilities of administrative bodies at central and local level for drafting and enforcement of spatial planning documents 	
Law on Construction No. 04/L-110 dated 19 June 2012	 Regulates the procedure of issuing construction permits, compliance with the construction permit requirements, issuing of occupancy certificates, design, construction, reconstruction, demolition, professional supervision, building inspection 	

2.3 Applicable EBRD Policy

EBRD applies its Environmental and Social Policy (2014) to this Project. Land acquisition, involuntary resettlement and economic displacement are covered by Performance Requirement (PR) 5 of the Policy. Application of this PR supports and is consistent with the universal respect for, and observance of, human

rights and freedoms and specifically the right to adequate housing and the continuous improvement of living conditions. The **main requirements of PR 5** are as follows:

- Negotiated settlements are encouraged to help avoid expropriation and eliminate the need to use governmental authority to remove people forcibly;
- All feasible alternative project designs should be considered to avoid or at least minimise physical and/or economic displacement, while balancing environmental, social, and economic costs and benefits;
- Affected persons must be consulted and involved from the earliest stages and through all
 resettlement activities to facilitate their early and informed participation in decision-making
 processes related to resettlement;
- A socio-economic baseline assessment on people affected by the project, including impacts related to land acquisition and restrictions on land use, and a detailed census must be carried out for each project;
- All displaced persons and communities will be offered compensation for loss of assets at full replacement cost and other assistance intended to restore, and potentially improve, their standards of living and/or livelihoods to pre-displacement levels;
- An effective grievance mechanism must be established as early as possible in the process in order 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;
- The resettlement and livelihood restoration process will be monitored with the participation of key stakeholders such as affected communities.

2.4 Gaps and Solutions

The gaps and solutions relevant to the Project which have been addressed through this LAF are summarized in Table 2 below.

Issue	Provisions of Kosovo Law on Expropriation of Immovable Property	EBRD requirement	Measure undertaken to bridge gap
avoiding or minimising displacement	no provisions on avoiding or minimizing displacement	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	The Project will enable the consideration of micro realignments in order to avoid land acquisition where possible, in line with the Key Land Acquisition / Compensation Principles set out in this LAF.
resettlement planning and implementation	requires only an Expropriation Study as the baseline census, no explicit requirement related to socio- economic surveys or development of resettlement plans	a census and a socio- economic baseline assessment must be carried out to identify the persons who will be displaced and determine who will be eligible for compensation and assistance, and a resettlement action plan must be prepared and implemented	Detailed Land Acquisition Plans (LAPs) will be developed for the Project once the exact nature and magnitude of the land acquisition or restrictions on land use related to the Project are known, i.e. after the development the expropriations studies required by local legislation (by April 2016, according to current estimates, and a detailed census and socio- economic survey will be carried out.
negotiated settlements	does not require or encourage negotiated	encourage negotiated settlements to help avoid	Negotiated settlements will be carried out where possible, even
	settlements	expropriation and eliminate	before the expropriation process

Table 2. Summary of Gaps and Solutions Relevant to the Project

Kosovo Regional and Local Roads – Environmental and Social Assessment Land Acquisition Framework

Land Acquisition Framework

lssue	Provisions of Kosovo Law on Expropriation of Immovable Property	EBRD requirement	Measure undertaken to bridge gap
		the need to use governmental authority to remove people forcibly	is initiated, in line with the Key Land Acquisition / Compensation Principles set out in this LAF.
provision of compensation at replacement value	compensation is paid on the basis of the market value of the property	compensation to be provided at full replacement cost, usually calculated as the market value of the assets plus the transaction costs related to restoring such assets (registration and transfer taxes)	People affected by permanent loss of land plots will receive compensation at full replacement value.
Cut-off date	sets out provisions on cut-off date but does not require such date to be well- documented and disseminated throughout the project area	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 cut-off-date will be disclosed and disseminated publicly in the media and public meetings in the concerned affected communities, in line with the Key Land Acquisition / Compensation Principles set out in this LAF.
vulnerable individuals and groups	no special measures relating to vulnerable groups	particular attention to be paid to vulnerable groups	Vulnerable persons will be identified and appropriate measures incorporated in the LAPs. Access to information and assistance for vulnerable persons will be facilitated by the Ministry according to their specific needs, with support from the Municipal services in charge of social care, displaced persons and refugees.
grievance mechanism	owners or interest holders are entitled to file complaints 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	a project-specific grievance mechanism must be established 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	A grievance procedure has been set up by the Stakeholder Engagement Plan (SEP) and included in this LAF, and will be implemented by the Ministry.
monitoring of resettlement implementation	no provisions	arrangements for resettlement monitoring must be defined by the resettlement plan	Monitoring will be carried out by the Ministry as defined in this LAF.

3 Project Impacts

3.1 Types of Losses Expected During Project Implementation

The Project is expected to involve permanent land acquisition for the purpose of construction of the access roads, roundabouts and overpasses only in the Municipality of Gjilan.

During the development of this LAF, the Municipality of Gjilan provided provisional data on the estimated scope of land acquisition, type of land to be acquired and a list of owners. 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 initial estimates, **11** privately owned land plots will be affected by permanent land acquisition (owned by a total of 10 people⁵). These land plots are categorised as construction land according to the new Urban Regulatory Plan for the area which also covers the Gjilan access road. The total surface to be acquired is 4142 m².

Land acquisition will mostly affect a portion of these land plots (out of 11 land plots, only 3 will be expropriated as a whole, whereas the remaining 8 will be partially expropriated), as the existing national road belt provides sufficient area for widening. The land plots to be acquired are mostly part of larger land plots used for both residential and commercial purposes (structures built on the remaining parts of the plots - which will not be expropriated - mainly represent combined residential and commercial structures with lower floors such as basement and ground floor used for business purposes, and upper floors such as first or second floors for residential purposes). However, no economic displacement or loss of income or any other form of losses are expected, as none of the identified owners will be left with no land.

No physical displacement is expected as there are no (legal or illegal) structures on the land to be acquired.

The **land plots are not used for any agricultural purposes**, and no crops, trees or agricultural infrastructure will be affected.

It is likely that **it will be necessary to temporarily occupy private land plots for purpose of construction of access roads and placement of staff, machines and material** during the construction works. Such plots will be identified after the completion of the main Project design, which are in the process of revision by the Ministry departments and an external design company.

No particular vulnerable groups or persons were identified during the field visits to the Project area.

Detailed information on affected people and properties will be provided in LAPs after a detailed census and socio-economic survey are carried out.

3.2 Present Status of the Project and the Planned Expropriation Process

The expropriation activities for Ferizaj and Prizren access roads, as well as section Kllokot – Gjilan have been completed, as indicated below in Table 3. The majority of expropriation was conducted during the Yugoslav era and a small part of expropriation in the Municipality of Prizren was conducted in 2012 in full compliance with the *Law on Expropriation of Immovable Property*. Land acquisition activities in the Municipality of Gjilan have not been initiated yet.

⁵ Some land plots are owned by multiple owners, and some owners own multiple plots.

The responsible authority for conducting the expropriation process will be the Municipality of Gjilan, whereas the expropriation beneficiary will be the Ministry as the key institution responsible for the implementation of the Project. As explained in the previous sections of this LAF, Municipalities act as the expropriating authority in cases when the affected property lies wholly within a Municipality's borders.

The Municipality will initiate the expropriation proceedings and coordinate with the Office for Valuation of Immovable Property (within the Department of Property Tax) within the Ministry of Finance, as the only public authority competent for valuation of any immovable property that is subject to expropriation. The Office may engage other experts and establish committees to inspect and assist in property valuation, on the basis of a lawful procurement procedure.

The acquired land will be registered in the name of the Municipality, and the Ministry will be granted with usage rights over the acquired land parcels.

The information provided below for each section represents estimates based on the preliminary data provided by the involved Municipalities on potential expropriation areas, affected owners, etc., detailed project designs for the roads and observations from field visits conducted during the development of this LAF.

Municipality's	Status of expropriation activities	Description
Municipality of Gjilan	Not initiated yet; commencement expected in the first quarter of 2016	The process of expropriation has not been initiated yet, and the expropriation study has not been developed. According to initial assessments, 11 land plots will be affected. No physical or economic displacement is expected. The exact number of land plots to be expropriated will be known after the development of the expropriation study.
Municipality of Ferizaj	Expropriation completed	The process of expropriation was completed during the Yugoslav era, and there is no need for additional land acquisition.
Municipality of Prizren	Expropriation completed	The process of expropriation was completed partly during the Yugoslav era and partly in 2012 by the Kosovo Government.
Kllokot – Gjilan	Expropriation completed	The process of expropriation was completed during the Yugoslav era, and there is no need for additional land acquisition.

Table 3. Status of Expropriation Activities per Each Section

4 Key Land Acquisition / Compensation Principles and Issues

The following principles of land acquisition and compensation have been committed upon by the Ministry of Infrastructure of Kosovo, and shall be adhered to during Project implementation:

- 1. Land acquisition will be carried out in compliance with the Law on Expropriation of Immovable Property in Kosovo, the EBRD Environmental and Social Policy 2014 and its Performance Requirement 5 (Land Acquisition, Involuntary Resettlement and Economic Displacement), this LAF and good international practice. The Project will enable the consideration of micro realignments in order to avoid land acquisition where possible.
- 2. All affected persons will be informed and consulted during Project preparation and implementation. All owners, occupants and users shall be visited and explained the land acquisition process and the specific impacts on their land, so as to give an opportunity for micro re-alignments to be made in order to reduce potential impacts and inconveniences.
- 3. **Negotiated settlements will be carried out** where possible to help avoid expropriation and eliminate the need to use governmental authority to remove people forcibly.
- 4. Detailed Land Acquisition Plans (LAPs) in compliance with PR 5 will be developed for each section of the Project that requires the expropriation of land, physical displacement of population, or loss of income due to changes in land use or access to resources. Each LAP shall be subject to public consultation. Any information/data on affected properties and persons contained in LAPs shall be treated as confidential information and will not be publicly disclosed by the Ministry, any Municipality and/or EBRD.⁶ The LAPs will be based on reliable up-to-date information and will include basic information about the Project, Project impacts, affected people and assets, entitlements for all categories of affected people as well as any legal issues relating to resettlement or any gaps between the Kosovo legislation and PR 5. Each LAP shall also include a detailed budget and timetable. The baseline socio-economic survey and census for each LAP will identify both formal and informal land/property users, including vulnerable persons/households, such as single mothers, widows and widowers, disabled people, or those living in extreme poverty.
- 5. The **cut-off date** for the establishment of eligibility (for both formal and informal land owners/users) **will be the date on which the decision on accepting the application for further processing of expropriation (issued prior to the Preliminary Decision) is published in the Official Gazette**. Persons who have settled in the Project area after the cut-off date will not be eligible for any compensation. The cut-off-date will be disclosed and disseminated publicly in the media and public meetings in the concerned affected communities.

In accordance with the *Law on Expropriation on Immovable Property*, the following will be excluded from the amount of compensation:

- the cost or value of any improvements to the property, facilities constructed or enlarged on the property, or trees and crops planted on the property after the date on which the decision on accepting the application for further processing of expropriation (issued prior to the Preliminary Decision) is published in the Official Gazette,

⁶ The LAPs containing confidential information/data will be named "for internal use only", and a second version of LAPs named "public version" will be developed without such information/data.

- any changes in the market value of the property occurring after either the date of adoption of the decision authorizing preparatory activities on such property, or the date of the initial submission of the application for expropriation, whichever comes earlier,

- and any other changes in the market value of property prior to the initiation of the expropriation procedure, if such changes can be demonstrated to be attributable to price or market manipulation or speculation by persons (or their relatives or associates) who were in possession of information about the impending or potential expropriation.

- 6. **All owners, occupants and users** of affected land at the time of the cut-off date, whether with or without fully recognized ownership rights, **are eligible for compensation and/or assistance**, as outlined in the Entitlements Matrix (Table 4 of this document).
- 7. **Temporary occupation of land for construction purposes will be compensated** in accordance with the *Law on Expropriation of Immovable Property*, as stipulated in the Entitlements Matrix (Table 4 of this document).
- 8. Standards of living and/or livelihoods of affected persons will be restored and potentially improved, in as short a period as possible.
- 9. Official valuation of properties/improvements to land will be carried out by designated certified valuators from the Office for Valuation of Immovable Property (Department of Property Tax within the Ministry of Finance) or by selected certified valuators on the basis of a public procurement procedure.
- 10. Compensation will be provided before land acquisition. Issues related to **payment of cash compensation will be discussed and agreed with owners and all affected members** of households. Cash compensation will be paid in full to the bank accounts specified by the owners, with agreement of all affected members of the household. In cases where there is more than one owner of property (i.e. co-ownership of married couples), compensation amounts will be divided and paid to the bank accounts they specify.
- 11. **Project Affected People and communities will be provided with information and consulted** in order to facilitate their early and informed participation in the decision making process related to land acquisition. **Access to information and assistance for vulnerable persons/households will be facilitated by the Municipality** according to their specific needs, on the basis of case-by-case screening to be carried out with support from the Office for Valuation of Immovable Property (within the Ministry of Finance) and relevant Municipal social departments.⁷
- 12. An effective grievance mechanism will be in place for receiving and addressing in a timely fashion specific concerns about compensation and relocation raised by displaced persons.
- 13. The Ministry will **monitor the implementation of the land acquisition process**, both through internal, official institutional arrangements, as well as through an independent, external monitor. The Ministry will encourage also other institutions, international organisations, and local NGOs to be involved in monitoring the process.

⁷ An indicative list of activities includes: individual meetings to explain eligibility criteria and entitlements, payment process (i.e. making sure that compensation documents and payment process are well understood), assistance in the post payment period to secure the compensation money and reduce risks of misuse or robbery.

5 Compensation Entitlements

Compensation entitlements for different categories of eligible persons and assets are summarized below in Table 4.

Type of Project affected right or property or loss	Applicable legal / policy framework	Entitlement	Process and specific conditions
Permanent loss of construction land plot	Law on Expropriation of Immovable Property EBRD Policy	Compensation in cash at replacement value of the land plot	Provision of compensation at replacement cost to be provided in accordance with EBRD Policy
Temporary land occupation and damages	Law on Expropriation of Immovable Property	Affected land and infrastructure will be restored to pre-project conditions + Cash compensation for temporary land occupation in the amount of average lease rates for immovable property of identical or similar characteristics in the neighbourhood + Compensation for any damages to property	Temporary land occupation and any damages to assets compensated in accordance with the Law on Expropriation of Immovable Property

6 Disclosure of Information and Public Consultations

The requirements for disclosure of Project relevant information and public consultations have been set out in the Stakeholder Engagement Plan (SEP) prepared by the Ministry for the purpose of enhancing stakeholder engagement throughout the life cycle of the Project, and carrying out stakeholder engagement in line with local legislation and EBRD's requirements.

The Ministry's **Project Implementation Unit (PIU) will be responsible for** communicating with the Municipalities, the affected local communities and PAP. The **PIU**, **together with the involved Municipalities**, **will carry out public consultations and information dissemination** that will reflect main issues of relevance to the Project. All interested stakeholders will be timely informed about the Project's scope and contacts for further information inquiries, as well as the availability of Project documents, through the websites of the Ministry and the involved Municipalities, as well as through announcements in the local daily media (newspapers, TV or radio). **Special attention will be given to the adequate use of official languages in Kosovo.**

Households and businesses directly affected by land acquisition and temporary occupation of land will be individually visited and informed about the impacts of the Project on their property, particularly the precise road route with regards to each land plot. Access to information for vulnerable groups will be facilitated by the PIU, as appropriate for each person/household according to their specific needs and/or situation, in cooperation with Municipal departments for social affairs.

The Ministry, together with the relevant Municipalities, will schedule and hold regular meetings with the representatives of different stakeholder groups, as follows:

public consultative meetings are foreseen to take place at least once prior to the commencement of the construction works, and at least once during the construction works. Such meetings are aimed at providing regular gatherings of all stakeholders and are open for all interested parties. During these meetings, the Ministry will present the Project footprint, the expected impacts and the planned mitigation measures.

The participants will be able to present their opinions and remarks with regards to the Project, as well as to suggest possible solutions of the issues raised, which will be documented and addressed appropriately in monitoring reports for grievances received and follow up action taken to be prepared by the Ministry. If necessary, separate meetings will be held to ensure that stakeholder engagement is gender responsive.

- Local community consultative meetings are aimed at engaging individuals, households and businesses
 affected by the construction activities into the consultation process, and will be organized on a needs
 basis in local communities.
- Individual consultative meetings are aimed at engaging individual stakeholder groups regarding specific issues, and will be organized on a needs basis. This type of meetings can be initiated by the Ministry, or by any identified stakeholder groups.
- Public hearings will be held as required by the local legislation to consult the public with regards to the contents of the EIA and land acquisition and other documents, as described in earlier sections of this document.

The first public consultative meeting will be organized during the tender stage and following the contracting of the Technical Cooperation Consultant to support the PIU. The timetable and the venue designated for public consultative meetings will be precisely defined by the Ministry after the Project's start date is determined. The first public meeting will be organized within one month after the official Project start

date. All stakeholders will be informed about the exact date, time and venue where a consultative meeting will be held, at least 7 days in advance, through disclosure through the websites of the Ministry and the involved Municipalities, as well as daily newspapers/radio/television stations.

All information on the Project that will be made available to the public, and set out in SEP, will be disclosed to the public prior to the first public meeting.

The Ministry will disclose the following documentation and information regarding the Project:

- This Land Acquisition Framework (LAF);
- Project description and updates regarding the implementation progress of the Project;
- Information on community health and safety risks and impacts (including any expected road access restrictions and construction works) and proposed mitigation measures;
- Stakeholder Engagement Plan (SEP);
- Non-technical Summary (NTS) of the Project;
- Summary of conclusions from the consultative meetings and public discussions held;
- Grievance form and information request form.

The documents will be available in Albanian and Serbian (as well as English where available) immediately upon the commencement of the Project on the websites of the Ministry and the involved Municipalities, as well as in printed copies in the Ministry's premises at the address:

MINISTRY OF INFRASTRUCTURE

Address: Ex-Germia Building,

10000, Prishtina,

Republic of Kosovo

These documents and information will remain in the public domain for the entire duration of the Project.

7 Implementation of LAF

7.1 Implementation Responsibilities

All parties involved in the Project, including the Ministry of Infrastructure, Ministry of Finance (namely, its Office of Valuation of Property⁸), the relevant Municipalities and the Contractor to be engaged by the Ministry of Infrastructure to work on Project sites, are required to implement the requirements of this LAF.

Responsibilities will be shared between the Ministry of Infrastructure, Ministry of Finance, the Municipalities, the Contractor and other agencies, according to Table 5 below:

Task	Responsible Entity
Information disclosure to all Project Affected People and	Ministry of Infrastructure / Municipalities
communities	
Valuation of property	Ministry of Finance (Office of Valuation of Property)
Direct communication with and visits to owners /	The Ministry as the expropriation beneficiary and the
occupants	involved Municipalities as the expropriation authorities
Negotiations and expropriation activities, prior to	Ministry of Infrastructure / Municipalities
construction commencement	
Provision of assistance to vulnerable persons / households	Ministry of Infrastructure in cooperation with the Municipal
	departments responsible for social care, displaced persons
	and refugees, and other ministries
Payment / provision of compensation packages	Ministry of Infrastructure
Monitoring and reporting with respect to expropriation	Ministry of Infrastructure
Monitoring and reporting in respect of temporary land	Contractor
occupation carried out after construction commencement	
Grievance management	Ministry of Infrastructure/Contractor

Table 5. Organizational Responsibilities and Arrangements

7.2 Costs

The costs of the land acquisition will be borne by the Ministry of Infrastructure as the expropriation beneficiary. The land acquisition budget will be prepared after the expropriation study is developed in line with the *Law on Expropriation of Immovable Property* and approximate costs are defined.

7.3 Monitoring and Reporting

The Ministry's Project Implementation Unit will be responsible for monitoring, maintaining and regularly updating a land acquisition database on the owners/users of affected properties.

The Ministry will prepare and submit to EBRD Annual Environmental and Social Reports including the progress achieved in the implementation of this LAF. Summaries of these reports will be published on the website of the Ministry. In addition, the Ministry will facilitate the development of a Completion Audit at the end of the land acquisition process by an independent expert.

The indicators to be used for monitoring will include, in particular, the following:

⁸ The Office for Valuation of Immovable Property (within the Department of Property Tax) within the Ministry of Finance is the only public authority competent for valuation of any immovable property that is subject to expropriation

- Overall spending on expropriation and compensation
- Number of Project Affected People by categories
- Number of meetings and consultations with affected people
- Number and percentage of individual compensation agreements signed before the beginning of construction activities
- Number of persons requesting special assistance and types of assistance provided to vulnerable individuals/households in a timely manner
- Number of people having received cash compensation in the period with distribution by compensation type and by classes of amounts
- Number and amount of payments that restore loss of income (if any)
- Number and type of grievances, including any court cases, related to land acquisition (submitted and resolved and how long it took for them to be resolved)

8 Grievance Mechanism

The Ministry will establish a registry of grievances. Any comments or concerns can be brought to the attention of the Ministry or the Contractor verbally or in writing (by post or e-mail) or by filling in a grievance form (see Appendix 3), without any costs incurred to the complainant. All grievances will be recorded in the registry and assigned a number, and acknowledged within 7 calendar days. Each grievance will be recorded in the registry with the following information:

- description of grievance,
- date of receipt acknowledgement returned to the complainant,
- description of actions taken (investigation, corrective measures), and
- date of resolution and closure / provision of feedback to the complainant.

The Ministry will make all reasonable efforts to address the complaint upon the acknowledgement of grievance. If the Ministry is not able to address the issues raised by immediate corrective action, a long-term corrective action will be identified. The complainant will be informed about the proposed corrective action and follow-up of corrective action within 30 calendar days upon the acknowledgement of grievance.

If the Ministry is not able to address the particular issue raised through the grievance mechanism or if action is not required, it will provide a detailed explanation/ justification on why the issue was not addressed. The response will also contain an explanation on how the person/ organization that raised the complaint can proceed with the grievance in case the outcome is not satisfactory.

At all times, complainants may seek other legal remedies in accordance with the legal framework of Kosovo.

A separate grievance mechanism is available for workers.

Contact information for enquiries and grievances:

Attention: Head of PIU – Mr. Rame Qupeva, Ministry of Infrastructure Address: Ex-Germia Building, 10000, Prishtina, Republic of Kosovo E-mail: mi.info@rks-gov.net Tel/fax: +381 (0)38 211 494 Tel.: +381 (0)38 200 28 ext. 505

Contact information for enquiries:

Public Information Office within the Ministry of Infrastructure Tel/fax.: +381 (0)38 200 28 ext. 507 Tel/fax.: +381 (0)38 200 28 ext. 041 Tel/fax.: +381 (0)38 200 28 ext. 048

Appendix 1: Sample Outline for LAP

INTRODUCTION AND PROJECT DESCRIPTION

Provide a description and context of the **project**, describe project components requiring land acquisition and resettlement; define the **objectives and scope of LAP**; provide information on the **present status of the Project** and the **planned land acquisition process**.

LEGAL AND INSTITUTIONAL FRAMEWORK / GAP ANALYSIS

Describe all **relevant local laws and regulations** that apply to resettlement; describe **EBRD requirements**; identify **gaps** between local legislation and EBRD policies, and describe Project-specific **mechanisms to address such gaps**.

PROJECT IMPACTS

Identify all categories of impacts and people affected; provide the results of the census and socioeconomic surveys.

COMPENSATION AND ENTITLEMENTS

Define the **entitlements of all categories of affected persons** (including host communities), with particular attention paid to the needs of the vulnerable; provide an **entitlements matrix** proposing compensation and assistance for various impact categories including assistance and support to non-title holders and special assistance to vulnerable men and women as appropriate; incorporate measures to provide displaced people with legal assistance to enable them to complete administrative requirements prior to land acquisition and, if needed, to seek redress from the courts; describe the **organisational procedures for delivery of entitlements**.

DISCLOSURE OF INFORMATION AND PUBLIC CONSULTATIONS

Describe the **mechanisms for consultations** with project affected people, and participation of male and female displaced persons in planning, implementation and monitoring; describe both disclosure of information and consultations held to date and planned disclosure of information and consultations.

IMPLEMENTATION OF LAP – SCHEDULE, COSTS AND RESPONSIBILITIES

Define **implementation responsibilities** including identification of agencies responsible for each activity and with a brief explanation of each activity and the planned schedule; define **costs and budgets** (sources of funds for resettlement, resettlement costs and estimated budget by cost and item); set out requirements for **monitoring and reporting** with regards to land acquisition and resettlement and taking corrective action as necessary (the monitoring and evaluation procedures, key monitoring indicators, frequency of reporting).

GRIEVANCE MANAGEMENT

Describe the step-by-step **process for registering and addressing grievances** and provide specific details regarding a cost-free process for registering complaints, response time, and communication modes; describe the mechanism for appeal.

ANNEXES

Annexes may include:

- Lists of affected land plots, maps, etc.
- Copies of census and survey instruments and other research tools
- Information on all public consultation including announcements and schedules of public meetings, meeting minutes, and lists of attendees

Appendix 2: Flowchart for Processing Grievances



Appendix 3: Public Grievance Form

Reference number:		
Full name (optional)		
Contact information	By Post: Please	provide mailing address:
contact momation	by rost. ricuse	
Please mark how you wish to		
be contacted (mail,		
telephone, e-mail).		
	 By E-mail 	
Preferred language of	 Albanian 	
communication	 Serbian 	
	 English (if possil 	ble)
Description of Incident for Grie	evance	What happened? Where did it happen? Who did it happen to? What is the result of the problem?
Date of Incident / Grievance		
	One-time	e incident/grievance (date)
		ed more than once (how many times?)
		g (currently experiencing problem)
What would you like to see hap	open?	
······	- F	

Please return this form to: PROJECT IMPLEMENTATION UNIT - MINISTRY OF INFRASTRUCTURE

Mr. Rame Qupeva Address: Ex-Germia Building, 10000, Prishtina, Republic of Kosovo E-mail: mi.info@rks-gov.net Tel./ Fax: +381 (0) 38 211 494, Tel.: +381 (0) 38 200 28 ext. 505