

**GOVERNMENT OF KOSOVO**



**IBER LEPENC  
WATER ECONOMY PUBLIC COMPANY**

**FEASIBILITY STUDY FOR  
PROTECTION OF IBER LEPENC CANAL  
KOSOVO**

**VOLUME G1**

**RESETTLEMENT POLICY FRAMEWORK REPORT**

**DRAFT FOR PUBLIC  
CONSULTATION**

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## ABBREVIATIONS AND ACRONYMS

ESIAF	Environmental and Social Impact Assessment Framework
EU	European Union
ER	Emergency Reservoir
ILC	Iber-Lepenc Company – Water Economy Public Company
KCA	Kosovo Cadaster Agency
KPA	Kosovo Property Agency
KRPP	Kosovo Regional Power Plant
MAFRD	Ministry of Agriculture, Forestry and Rural Development
M&E	Monitoring and Evaluation
MED	Ministry of Economic Development
MF	Ministry of Finance
MESP	Ministry of Environment and Spatial Planning
PAP	Project Affected Person
PIU	Project Implementation Unit
RPF	Resettlement Policy Framework
RAP	Resettlement Action Plan
SCADA	Supervisory Control and Data Acquisition

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## Glossary

Specific terms used in this RPF are:

- **Affected People-households (AP):** People (households) affected by project-related changes in use of land. These include permanent and temporary loss of land, assets, and income due to project related land take. Affected persons entitled for compensation or at least rehabilitation provisions under the Project are: all persons losing land, or access to land, permanently or temporarily either covered by legal title/traditional land rights or without legal status; tenants and sharecroppers whether registered or not; owners of affected buildings, crops, plants, or other objects attached to the land; and affected persons losing business, income, and salaries
- **Compensation:** Cash payment or in-kind compensation in due to amount in return for the loss of assets (property), resources or income
- **Cut-off date**—Usually, date of beginning of the census and assets inventory of persons affected by project-related land take. Persons occupying the project area after the cutoff date are not eligible for compensation and/or resettlement assistance. Similarly, fixed assets (such as built structures, crops, fruit trees, and woodlots) established after the date of completion of the assets inventory, or an alternative mutually agreed on date, will not be compensated.
- **Entitlement:** Entitlement with respect to a particular eligibility category are the sum total of compensation and other forms of assistance provided to affected persons in respective eligibility category
- **Expropriation Authority:** This is the Department for Expropriation within Ministry of Environment and Spatial Planning.
- **Improvements:** Structures constructed (dwelling unit, fence, waiting sheds, animal pens, utilities, community facilities, stores, warehouses, etc.) and crops/plants planted by the person, household, institution, or organization.
- **Land Acquisition:** The process of acquiring land under negotiated agreements and/or the legally mandated procedures under eminent domain (a person is compelled by a government agency to alienate all or part of the land a person owns or possesses to the ownership and possession of the government agency for public purpose in return for compensation).
- **Rehabilitation:** Compensatory measures other than payment to compensate lost assets.
- **Relocation:** The physical relocation of an Affected Person/Affected Households from her/his pre-Project place of residence.
- **Replacement Cost:** The calculation of replacement costs of land and structures will be based on (i) fair market value at the time of dispossession, (ii) transaction/legalization costs, other taxes and fees (iii) transitional and restoration (land preparation and reconstruction) costs, and (v) other applicable payments. The value determined to be fair compensation for land based on its productive potential and location. The replacement cost of houses and structures (current fair market price of building materials and labor without depreciation or deductions for salvaged building material), and the market value of residential land, crops, trees, and other commodities.
- **Resettlement:** alienation of land parcels and/or physical relocation (moving to other place) of households being appeared within the project-affected area.
- **Resettlement Action Plan** A time bound action plan with the budget setting out resettlement strategy, objectives, entitlement, action, responsibilities, monitoring and evaluation. This

planning document describes what will be done to address the direct social and economic impacts associated with involuntary taking of land.

- **Vulnerable people**—People whom by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status may be more adversely affected by resettlement than others may and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits.
- **SCADA** – is Supervisory Control and Data acquisition system and it is used for remote control and command of gates and other equipment in the canal

# 1 INTRODUCTION

The ***Kosovo Water Security and Canal Protection Project- Recognizing*** the critical role of the Iber-Lepenc Canal to the overall economy of Kosovo, the Government of Kosovo has requested Bank support to improve the functioning of the canal. The project is an initiative by the Government of Kosovo through the Ministry of Environment and Spatial Planning (MESP) and the bulk water public company Iber-Lepenc Company (ILC). Technical Assistance funded by the Western Balkan Investment Fund (WBIF) supported preparation of the Technical Feasibility study which recommends types of interventions in the canal, Economic and Financial Assessments, Environmental and Social Impact Assessment (ESIA) and this Resettlement Policy Framework (RPF) for the Kosovo Water Security and Canal Protection Project.

## **1.1 Description of specific project activities that require land acquisition and rationale for the Resettlement Policy Framework**

### **Project Description and Location**

The development objective of the *Water Security and Canal Protection Project* is to improve the Iber-Lepenc Canal efficiency and strengthen the Iber Basin protection and management. This will be achieved through investing in ensuring the canal structural safety, improving the canal conveyance and operational efficiencies, protecting the canal water from the major pollution effluents, and developing the technical capacity of the service provider, the Iber-Lepenc Company (ILC)

This objective will be achieved by undertaking the investments needed to secure uninterrupted and good quality water supply from the Iber-Lepenc Canal, which is 49 km long with designed capacity of 10 m<sup>3</sup>/s. The feasibility study analyzes a list of potential investments and measures. The project has three components:

#### Component 1: Infrastructure Rehabilitation and Modernization

This component will focus on physical improvements to the deteriorated sections of the canal and its structures as well as improved hydraulic operations. Works under this component include:

Subcomponent 1(a) Small works for Gazivoda dam safety, canal repair and increased stability for protection against renewed physical damage from landslides and unstable soils (through lining, treatment of joints between concrete panels, abutments, foundations, cuttings, aqueducts, culverts, tile drains to control uplift pressure). Application of bituminous geo-membrane is another technical option.

Subcomponent 1(b) developing an emergency and balancing reservoir along the canal (for short-term storage along the canal to bridge peak water demand and to enable temporary outages for repair purposes). Structures will be defined based on benefit cost analysis to be undertaken on the first year.

#### Component 2: Water Resources Protection and Management

The project may also cover related water resources management options in the Iber-river basin (as related to the water balance of the Iber basin), including:

Subcomponent 2(a) Protection of the canal against renewed pollution, accidental pollution and other threats and man-made disruptions (through fencing, selective covers, or parallel interceptor drains with vegetative beds). This would help address the ambient water quality in the canal, particularly to meet the inflow quality requirements for the power plants and for the new Pristina Water Treatment Plant.

Subcomponent 2(b) Equipment for better management of gates and regulation of water flows, water monitoring (for the main Iber canal and for its secondary delivery system), including provisions for remote monitoring and controlling of related structures. A relatively advanced SCADA could be installed given the importance of the canal. The equipment may also include instrumentation for optimized operational schedule of the Gazivoda reservoir and its downstream balancing reservoir in Pridvorica, integrated with the proposed canal SCADA (to balance the releases for hydropower with the releases for the Iber canal).

#### Component 3: Project Management, Coordination, Monitoring and Evaluation

This component will cover overall project management as well as coordination among the different ministries/agencies involved in water management as related to the Iber-Lepenc Canal. The Project Implementation Unit (PIU) to be located within the ILC, will be responsible for day-to-day management of project activities and will work with relevant staff in other ministries such as the MESP on subcomponent 2(a), the safeguard aspects of the project (ESMF and RPF), and Monitoring and Evaluation (M&E).

First component - The Infrastructure Rehabilitation and Modernization component is the one that is more likely to generate impacts related to land acquisition, permanent or temporary for its implementation since it would focus on physical improvements to the deteriorated sections of the canal and its structures as well as improved hydraulic operations.

Specific designs and works related to canal rehabilitation, dam rehabilitation and potential built up of the ER (emergency and balance reservoirs) are not known. The technical feasibility study only proposes and recommends types and best practices for rehabilitation measures of open canals but concrete selection of the measures and technical designs will be developed during the implementation of the project. Concrete impact on land could not be determined during the preparation phase and thus a Resettlement Policy Framework is being prepared for the project.

### ***Land Requirements***

The exact location of the works to be financed is not yet known, but as mentioned before, some of the project activities may require the temporary occupation (during construction) or permanent acquisition on lands, particularly the development of emergency/balancing reservoirs if there is definite decision to build the reservoirs.

An alternative analysis based on economic, financial, and environmental and social criteria, whereby avoidance of land acquisition will be one of the criteria, will be conducted to decide if and how Subcomponent 1(b) will be implemented, between building one large reservoir or number of much smaller reservoirs. If the decision is to build the large reservoir one option would be a site at Mihaliq area (approximately 24 kms North-West from Pristina). This option is considered because of its large capacity (3.7 million cubic meters) and low social impact, given that there is no need for displacement of population. About half of the area is unused land and the other half is agriculture cultivated land. The site to be considered for the emergency reservoir (ER) lies near Mihaliq village of the Municipality of Vushtrri. The area is predominantly rural with mountainous settlements and scattered in small neighborhoods. Space which will be dedicated to ER lies in both sides of the valley of ravine near Mihaliq. Dominant agricultural crops within this area are cereals. The space that will be occupied by the construction of this reservoir is about 30 ha. This space is totally free of human settlements (housing or farm-buildings). Any other spaces for consideration for building of the ERs would be of much smaller scale, with about ten times less storage space. One of the criteria for selection for consideration will be avoiding or minimizing displacement.

Works on rehabilitation of the canal, subcomponent 1(a) and subcomponent 2(a) will most probably temporary impact land used by persons living along the canal. Permanent land take for the rehabilitation works will be marginal. All the land that could be potentially used for the Right of Way along the canal is described under Section 1.3.1 a below. The land is property of the ILC and some of the land under the Right of Way is used by some individuals from the neighboring community. During the rehabilitation works some of the land use will be temporary impacted and some land that is crucial for future maintenance of the canal will be fenced. However, there is no need to fence all the Right of Way of the canal. Until 1990', along the ILC and especially in the ILC property occurred activities dealing with the occupation and unauthorized use of ILC property manifested through construction of various facilities,



primarily residential and their supporting infrastructure, but also the opening of roads which serve to access either residential or business premises and also other agricultural parcels. No residential structure will be demolished and the access to the property that passes through the RoW of ILC or property of ILC will be secured

## 1.2 The objectives of the “Resettlement Policy Framework”

The objective of the RPF is to ensure the adequate management of land acquisition, and involuntary resettlement required, for the project in accordance to Kosovo legislation and World Bank’s OP 4.12 on Involuntary Resettlement. , and also to provide guidance for the preparation and implementation of Resettlement Action Plans for future works once they are defined (e.g. canal rehabilitation and potentially ERs). It identifies procedures and requirements to guide ILC as project implementer and MESP as expropriation authority in dealing with people who experience land and property losses due to the Project-related land requirements.

### RPF specific objectives are:

- Land acquisition and resettlement will be minimized or avoided where possible. Where resettlement is unavoidable, the procedures and requirements outlined in this Framework will be followed. Resettlement Action Plans (RAPs) will be designed to minimize adverse impacts.
- Affected persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to levels prevailing prior to the beginning of project implementation.
- All affected persons (PAPs) by project-related land acquisition will be meaningfully consulted and be active participants in the negotiated settlements and will have access to adequate and accessible grievance redress mechanisms. Consultations will consider gender issues and take into account the needs of stakeholders who may be considered vulnerable.

### Guiding principles:

- ILC will aim to achieve negotiated agreements on land acquisition with all PAPs based on the principles set out in this Framework. ILC will negotiate fairly and openly with all PAPs to reach mutually acceptable agreements on compensation. Expropriation imposition will only be undertaken as a last resort where negotiation fails.
- All land acquisition and resettlement activities will be managed through RAPs, particularly when there is physical displacement which means relocation or loss of shelter or structure and/or when there is loss of economic displacement which means loss of income or livelihood. Implementation results will be documented, monitored and, after completion, evaluated.
- Involuntary resettlement should be conceived as an opportunity for improving the livelihoods of the affected people and undertaken accordingly.
- Engagement and compensation will be carried out with equal consideration of women and men.
- Particular attention should be paid to households headed by women and other vulnerable groups, and appropriate assistance should be provided to help them improve their status.
- Land acquisition and RAPs should be conceived and executed as a part of the project, and the full costs of compensation should be included in project costs and benefits.
- Compensation and resettlement subsidies will be fully provided prior to clearance of right of way/ ground levelling, demolition and any start of works on the affected land.

- Upon completion of construction, restore land as best as possible to its original condition in the event of temporary disruption so as to enable landowners/users/lessees to resume their previous activity
- All PAPs, without regard to legal status of property, will receive support of various kinds, as per the principles set out in the Entitlement Matrix include in this RPF. Lack of legal title should not be a bar to compensation and/or rehabilitation under the terms of this RPF.

The details of land acquisition procedure will be spelled out in abbreviated RAP(s) (see section 4) and they will include at least following elements:

- Census and Socioeconomic Surveys
- Eligibility and Entitlement Matrix, with description of compensation and assistance to be provided
- Institutional Arrangements, including consultation and grievance redress arrangements, and Implementation Team
- Implementation Schedule
- Monitoring and Evaluation– M&E (including M&E Report template)
- Cost and Budget

The works for the rehabilitation of the canal and the ER sub-project is not expected to cause physical displacement nor will affect more than 200 people and thus abbreviated RAP be prepared to handle the land take impacts. However, during the implementation of the project if needs arise to finance works that will cause bigger magnitude of impact than respective RAP will be prepared.

### 1.3 Types of impacts

Screening and pre-assessment of project-related land take will be conducted as per the Environmental and Social Impact Assessment Framework (ESIAF, see volume F1).

#### 1.3.1 Canal rehabilitation sub-projects possible impacts

Table 1. includes an inventory of all land use pattern within the potential RoW along the canal. However, not all the RoW sectors will be used for the rehabilitation of the canal but only RoW sections of the canal that will be recommended and specified during the year one of the project implementation

*Table 1 : Land-use global overview in Row of canal sub-projects*

Land Use Classes	m2	Ha	
<b>Crops Land</b>	54707	5,47	33.89%
<b>Grass Land</b>	31828	3,18	19.70%
<b>Orchards</b>	546	0,55	3.41%
<b>Forest</b>	17086	1,71	10.59%
<b>Bushes and woody areas</b>	42064	4,21	26.08%

<b>Trees</b>	46 (number)		
<b>Garden (built Up Area)</b>	6452	0,65	4.03%
<b>Building</b>	226	0,02	0.12%
<b>Road</b>	3477	0,35	2.17%
<b>Sum</b>	161310	16,13	

This table shows that main land-uses in the Row of projected works are :

- Agriculture land (crops and grass land, orchards) : more than 50%
- Forest, bushes and woody areas : around 40%

The canal rehabilitation works could mainly impact an agriculture land. Forest, bushes and woody areas are not being used by the private persons. Only few buildings (8) could be present at the potential RoW. However, ILC Company decision is to avoid impacts on building, especially dwellings. **Thus design of the subprojects will consider measures to avoid any demolition or dislocation of a dwelling or supporting structure of the dwelling.**

Some of the types (nature) of potential impacts of sub-projects are listed below.

*Table 3 : Potential impacts of land take for the canal rehabilitation sub-projects*

<b>Issue</b>	<b>Impact</b>	<b>Magnitude</b>
Loss of land	<p>Farmers and land owners, mostly riparian to the canal, who have extended their land-use over ILC property, shall stop their occupation and land-use in the RoWs of the future canal rehabilitation works.</p> <p>This loss of land use will concern a strip of land of several meters wide along the canal , in any case this strip of land is only a fraction of the total land use by PAPs, less than 10%. Consequently, this loss of land-use will represent a small loss of land use for PAPs.</p>	Low

<p>Access to private properties through ILC property</p>	<p>In some cases, it may happen that main accesses to agriculture plots and other private properties are provided into ILC property by the maintenance road of the canal.</p> <p>Any restriction on the continuation of the use of ILC property as a way of access to the parcels may interrupt agriculture parcels accessibility and may create social problems with neighboring landowners.</p> <p>In the case of projected rehabilitation works of the canal, only temporary disturbances of road and tracks existing along the canal may occur during the periods of works. All the existing maintenance roads and tracks existing along the canal will be replaced into ILC property after works periods and will still be accessible to riparian land owners.</p> <p>Canal rehabilitations works program even includes an improvement and extension of the existing maintenance and access road along the canal. Riparian land owners, mostly farmers and neighbors will benefit from these improvements.</p>	<p>Low</p>
<p>Access to buildings and homes through ILC property</p>	<p>In some cases, it may happen that access to homes or other buildings, especially riparian to the canal, can be provided only through the ILC property. Any restrictions or change in the use of ILC property may affect the normal access to certain homes.</p> <p>As presented above, in the case of projected rehabilitation works of the canal, only temporary disturbances of road and tracks existing along the canal may occur during the periods of works.</p> <p>All the existing maintenance roads and tracks existing along the canal will be replaced into ILC property after works periods and will still be accessible to riparian owners.</p> <p>Hence, accessibility to housing existing along the canal could be only temporary affected during the works periods. During this period accesses to affected housings will be maintained through temporary access during works.</p> <p>Given that first year of the project implementation will be used to select works identified in the feasibility study, in addition to economic analysis it can not be determined whether there will be works that would temporary restrict access to building. However, if this is the case alternative access will be enabled before the disruption takes place.</p>	<p>Low</p>

### **1.3.2 ER – Emergency and Buffer reservoir sub-project**

It is still not decided whether the Project will finance Emergency Reservoirs. The recommendation of the consultants is to build reservoirs to support the future maintenance of the canal or for short term supply of users in case of major disaster. One alternative has been assessed and this is site near Mihalic village whereby the quantity of accumulated water is 3.7 Mil Cubic Water.

In this particular site, if chosen, no human settlements (buildings, housing or farms) will be located within it footprint. Around 30 ha of agriculture land (partly cereals and other parts abandoned-not in use) will be required and a Resettlement Action Plan will be required before works start. Second, the implementation of this ER alternative would imply the relocation of the access road used by few farms located uphill, on the edge of the future reservoir (village of Bequk, gathering around 10 families).

The project will also look for other alternatives to the large Mihalic ER reservoir. These would be a number of small reservoirs near the canal alignment. In determining the locations of these smaller ERs the criteria of minimizing environmental and social impacts will be taken into account.



## 2 THE LEGAL FRAMEWORK FOR LAND EXPROPRIATION IN KOSOVO AND THE WORLD BANK'S OPERATIONAL POLICY [OP 4.12]

### 2.1 Legal framework for land expropriation in Kosovo

The expropriation process of immovable property in Kosovo is governed by the Expropriation Law no. 03/L-205 approved by the Kosovo Assembly in 2001 amended through Law no. 03/L-139. These laws guarantee that the expropriation of private property occurs for public interest only and through a fair compensation process.

#### 2.1.1 Expropriating Authority and applicant of the procedure

If all applicable conditions specified in Article 4 of the Expropriation Law no. 03/L-205 are met<sup>1</sup>, the concerned Expropriating Authority may proceed to carry out the expropriation in accordance with the applicable procedures and requirements further established by the law.

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 or a Publicly Owned Enterprise such as ILC. If the Expropriating Authority is the Government<sup>2</sup>, 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.

In the frame of this project, the Expropriation Authority is the Government of Kosovo specifically the Department of Expropriation within Ministry of Environment and Spatial Planning and the Iber Lepenc Company (ILC), as the applicant, will apply for the Expropriation Procedure under the control of the Public Authority.

#### 2.1.2 Expropriation procedure

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

<sup>1</sup> 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 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.

<sup>2</sup> Expropriation authority can also be a Municipality. In this case applicant could not be PPP or party to an Infrastructure Contract

1.1. 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 ILC*).

1.2. 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;

1.3. 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;

1.4. 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.

1.5. a detailed description of the public purpose for which the expropriation is being requested;

1.6. 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);

1.7. information on whether, and to what extent, the requested expropriation includes fixtures, accessory parts and/or fruits of the immovable property; and

1.8. 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.

The 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 can not 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, preemption rights and any other rights in or to the property expropriated by the Expropriation decision shall be terminated.

### **2.1.3 Valuation of assets**

Valuation of real estate is managed through the Expropriation 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:

- 1) Comparative sales method;
- 2) The cost method, and
- 3) Method of income.

Property valuation is done by the Office of the Immovable Property Assessment at the Property Tax Department, exercising its responsibilities under law no. 03/L-139 on “Expropriation of Immovable Property”. The Office of Immovable Property Assessment evaluates the property and damages relating to expropriation, which requires information or data as requested at institutions such as Municipal Cadaster Offices, respective Courts, Kosovo Property Agency (KPA), Kosovo Cadaster 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 Immovable Property Assessment receive additional information from real estate agencies, lawyers, and construction companies.

The price of real estate, when 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 with 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 m<sup>2</sup> 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..

### **2.1.4 Consultation**

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

1. 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.
2. 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.
3. 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.

## **2.2 World Bank's Operational Policy [OP 4.12]**

Bank experience indicates that involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. This policy includes safeguards to address and mitigate these impoverishment risks.

Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. For these reasons, the several objectives of the Bank's policy on involuntary resettlement are the following:

- a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.
- b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.
- c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

World Bank policies on resettlement are outlined in Operational Policy (OP 4.12), and the overall objective of this safeguard is to avoid or minimize involuntary resettlement where feasible, exploring all viable alternative project designs. Further the policy encourages community participation in planning and implementing resettlement. The policy covers direct economic and social impacts that both result from Bank-assisted investment projects, and are caused by (a) the involuntary taking of land resulting in (i)

relocation or loss of shelter; (ii) lost of assets or access to assets; or (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or (b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons. More specifically, where involuntary taking of land is unavoidable, the policy stipulates criteria for eligibility to compensation, resettlement assistance and rehabilitation assistance measures to displaced persons on the following conditions:

- (a) Those who have formal legal rights to land, including customary and traditional rights recognized under the laws of Kosovo. This class of people includes those holding leasehold land, freehold land and land held within the family or passed through generations.
- (b) Those who have no formal legal rights to land at the time of census but have a claim to such land or assets provided that such claims are recognized under the laws of Kosovo..
- (c) Those who have no legal right or claim to the land they are occupying to the land they are occupying. This class of people includes squatters and those that settle at a place on semi-permanent basis, or those settling at a place without any formal grant or authority.

Displaced persons classified under paragraph (a) and (b) shall be provided compensation, resettlement assistance and rehabilitation assistance for the land, building or fixed assets on the land and buildings taken by the project in accordance with the provisions of this framework if they occupy the project area prior to the cut-off date (date of commencement of the census). Displaced persons classified under paragraph (c) shall be eligible for compensation for the assets but not land. In addition, the World Bank policy on resettlement stipulates those displaced persons who encroach on the project area after the cut-off date shall not be entitled to compensation, or any resettlement assistance or any other form of rehabilitation assistance.

This Safeguard Policy has been identified as applicable to the project because some of the sub-projects related to protection works along the open-air sections of the canal, and if the decision on ER is concluded, could involve land acquisition or restriction to access to land.

## **2.3 Comparison of the Kosovo Legal Framework on Expropriation and World Bank Operational Policies on Involuntary Resettlement**

### Eligibility and formality/informality

In the frame of Kosovo legislation, expropriation is only for immovable property and building structures that are found in private immovable property and not for property and facilities that were built illegally or encroached on public property. Under the Kosovo legislation the expropriation also is done only for facilities that are legalized or have been able to be legalized under applicable laws in Kosovo at the date of issuance of the final decision on expropriation. The law provides that the costs of the evaluation 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 from O.P 4.12. The World Bank's Operational Policy OP 4.12 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 on this principle are highlighted. The

practice is that immovable properties are being compensated regardless whether these are built in own land or illegally in a public land. For the Kosovo Water Security and Canal Protection Project the World Bank terminology and requirements will be applicable and prevail over Kosovo formal law.

#### Baseline and surveys

Kosovar legislation requires inventory of the loss assets. But does not necessary request socio – economic surveys in case where impacts are more serious such as impact on livelihood.

The World Bank policy requires a socio-economic assessment of the impacts from the land takes. This is done to determine the impact which helps to develop fair compensation for the negative impacts

#### Grievance

The Law on Expropriation enables grievance and complain on two stages of the expropriation process. First, on whether the property can be expropriated, thus the affected person can challenge the need for expropriation/ Second, the affected person can challenge the compensation package. Non formal mechanism is not institutionalized though in practice there is consultation parallel to the formal minimum consultation process established by the law

The World Bank Policy requires 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 the case the project will offer extra step of effort to solve a potential dispute in addition to existing formal mechanisms.

#### Public Consultation

Kosovar legislation organizes formal public consultation only with the affected persons. Other interested parties are not guaranteed participation. Which is not in full compliance with the Bank requirements for the consultation and transparency of the process. As per the Kosovar Framework, first the consultation is organized about the expropriation and defining the public interest and second time about the compensation that is determined by the Office of Immovable Property Assessment.

As per World Bank Operational Policy the consultation is a public event whereby broad community is informed meaningfully and in appropriate way. Apart from the affected persons anyone else is informed about the process and can participate. In addition the public consultation is not only one event but it is a dialogue between the project developer and the affected persons. The outcome of the process is disclosed in hard copy and online in local language, so it becomes available to broader community.

#### 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 on of the media.

In order to be defined as a Cut off Date by the Bank Operational Policy, the Cut off Date should be date of beginning of census of the affected persons.

#### Compensation and the possession

Kosovo Legislation specifies that the transfer of the property and the possession of the property can happen once the expropriation process is completed including transfer of the compensation to the affected persons. However there is another article that sets that compensation should be done within two years from the adoption of the Decision for Expropriation

World Bank Operation Procedures is firm that the project can only take possession of the property only after compensation and other assistance is provided to the affected persons.

#### Compensation

While the Kosovo Legislation provides detail methodology for valuation of the lost assets it is silent on cases where livelihood restoration is needed. In case of the land expropriation the methodology incorporates also improvement of the land such as crops and preparation of the land.

In the Kosovo Water Security and Canal Protection Project it is not expected any impacts on the livelihood of any person. In cases where acquired land is cultivated, then the compensation will include both value of land and compensation for crops and preparation of the land. Additional assistance will be provided as necessary.

### **2.3.1 Gap Analysis of Kosovo Legal Framework vs World Bank Operational Policy 4.12**

Under the Kosovo Water Security and Canal Protection Project, the proposal to bridge the discrepancy between Kosovo legislation and World Bank policy on expropriation is presented in the table below for the main cases encountered.

*Table 2 : Strategy proposed for the discrepancy management of expropriation due to the project*

<b>Type of land/assets acquisition</b>	<b>Kosovo Legal Framework</b>	<b>World Bank OP 4-12 on involuntary resettlement</b>	<b>Proposal of RPF and comments</b>
<b>Recuperation of ILC property</b> from illegal users	Person affected <b>not eligible</b> to compensatory measures in case of illegal use and occupation	Person affected <b>eligible</b> to compensation (except for land), resettlement assistance and rehabilitation assistance measures	Compensation for any improvements (but not for land) resettlement assistance and rehabilitation assistance measures. Displacement and dislocation of property will be avoided. A marginal amount of crops or trees are likely to be affected under the project. Additionally, when possible works should start only after crops are harvested.
<b>Land take for ER/ or other alternatives for the buffer reservoir concerning private properties</b> (mainly farm land)	Person affected <b>not eligible</b> to compensatory measures in case of illegal use and occupation (main case)	Person affected <b>eligible</b> to compensation, resettlement assistance and rehabilitation assistance measures	<b>World Bank's policy applied</b> : compensation of use of land, resettlement assistance and rehabilitation assistance measures through no resettlement is envisaged. Though, the agreement is to avoid resettlement so only land take from illegal users might be encountered. In this case if the land is used, crops will be harvested by the users. In case of multiannual plants than

			compensation for plants will be provided
<b>Public Consultation</b>	Formal consultation with affected persons only. Consultation upon formal administrative invitation	Affected persons should be meaningfully consulted and participate throughout the process	Affected persons and broader community will be informed and consulted during every phase of the process.
<b>Cut-Off-Date</b>	Once the Decision for acceptance of the application for the expropriation is made public.	Beginning of the census of the lost assets for all PAPs	Beginning of the census and all affected persons are informed.

The strategy proposed in the present RPF is the application of both Kosovo legislation and WB's OP 4-12, in the way:

1. **In the case of ER or any alternative solution:** private owners and users of the land, mainly farmers, are affected (apart of public property). The land of these PAPs (Project-Affected People) will be acquired according to Kosovo legislation extra steps required to organize public consultation, setting cut off dates in compliance with the Bank OP 4.12. Full procedure stipulated by the Kosovar Law on expropriation of immovable property will be led in the respect of principles incorporated in the resettlement policies of the World Bank. The compensation offered will be in compliance with the principle of replacement value. The combined procedures (Kosovo legislation and OP 4.12) will be specified in each Abbreviated Resettlement Action Plan.
2. **In the case of canal rehabilitation works :** The total RoWs of projected works are likely to be included into the ILC property. These RoWs are partly occupied by riparian owners and farmers. The land intakes due to future works are commonly concerning narrow strip of land along the canal. The losses due to the project are minor (much less than 10%) of land use of concerned PAP. For these cases, according to OP 4-12 principles, ILC will provide assistance for loss of land-use suffered by PAPs. Considering the small scale of land takes and losses involved in canal rehabilitation sub-project-level Abbreviated Resettlement Action Plan will be prepared .

## **2.4 Eligibility of affected persons by ILC canal rehabilitation sub-projects and ILC project**

In order to reconcile the provisions of the Kosovo legal framework and the World Bank policy on involuntary resettlement, an entitlement and compensation matrix was prepared and is presented below (Table 4).

Table 3 : Matrix of the entitlement and eligibility of affected persons

Acquired property	Type of impact	Entitlement to ownership	Entitlement to compensation
<b>Permanent Loss</b>			
Agricultural land	<p><i>Canal Rehabilitation works in ILC property :</i></p> <ul style="list-style-type: none"> <li>• Currently, minor part of agricultural plots is included in the ILC property and concerned by project land take</li> <li>• The rest land remains economically viable</li> </ul>	Encroachers and informal users	<p>ILC assistance and information in order to minimize loss of incomes and agricultural use disturbances</p> <p>Compensation for lost of harvest and land improvements</p>
	<p><i>ER component</i></p> <ul style="list-style-type: none"> <li>• Expropriation of Complete parcel</li> <li>• The rest land remains economically viable</li> </ul>	Owner	<p>Cash compensation for affected land equivalent to replacement value, including multiannual harvests</p> <p>Ensuring access to agricultural plots riparian to ER land intakes</p>
Residential land	<p><i>Canal Rehabilitation works into ILC property :</i></p> <p>Houses will be avoided by project expropriation</p> <p>4-6 residential units could be affected by physical displacement</p>	Encroachers and informal users	Compensation for materials for any assets affected (e.g. boundary wall demolished, trees removed) This applied only for walls or any non housing structure. House/dwelling will be avoided
Building structure/ access roads	<p><i>Canal Rehabilitation works in ILC property :</i></p> <p>10-15 local roads may be affected by the restriction of the use of road</p>	Encroachers and informal users	Providing accessibility to property or residential units. Temporary access will be provided during canal rehabilitation works. After the completion, original access will be restored.
	<p><i>ER reservoir component:</i></p> <p>A local road will be closed while building ER in Mihaliq (if this alternative is selected), and some homes lose current access to the road</p>	Any resident living nearby	Providing accessibility to property or residential units



<p>Trees/fruits</p>	<p><i>Canal Rehabilitation works into ILC property :</i> Loss of trees/fruits</p>	<p>Encroachers and informal users</p>	<p>Cash compensation based on type, age and productive value of affected trees.</p>
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Acquired property	Type of impact	Entitlement to ownership	Entitlement to compensation
<b>Temporary loss</b>			
Land used for construction activities	<p><i>Temporary land intakes outside ILC property in case of canal Rehabilitation works and ER component implementation</i></p> <p>Subject to negotiation between owner and contractor</p>	<p>PAP (whether owner, tenant, or squatter), founded at cut-off date</p>	<p>Contractor pays cash compensation at local commercial rental rates for duration of use</p> <p>Land restored to original status at end of rental. Measures on restoration will be included in compensation agreements between contractors and affected people.</p> <p>Environmental safeguard requirements apply. In this situation there is option/choice for temporary land take for the works. Contractor can seek other location. Involuntary land take does not apply.</p>

## 3. PROCEDURES

The Applicant of the procedures will be the ILC in both ER component, if it will be implemented, and canal rehabilitations sub-projects. The procedures will be led by ILC under the control of the Expropriation Authority, represented by the Ministry of Environment and Spatial Planning (MESP), Department of Expropriation, defined by this RPF and Kosovo Law which will be

### **3.1 Simplified procedure for land availability and compensation in case of canal rehabilitation sub-projects**

Before implementing any sub-project of canal rehabilitation implying land intakes over private land-use, ILC legal department should conduct the following procedure :

1. As soon as the sub-project is planned, designed and supposed to imply PAPs compensation, inform properly the affected communities, inform representatives of Expropriation authorities and potential PAPs, mainly farmers before the planting/seeding season,
  - Cut off date is established by organizing proper information of the community and the beginning of the Census of the PAPs
2. Census of PAPs and assets concerned by sub-project intakes, at cut-off date together with representatives of Expropriation authorities,
3. Prepare an abbreviated resettlement plan (see chapter 4) including valuation of assets concerned and proposal of assistance and compensatory measures for each PAP concerned.

The department of Property Tax at the Ministry of Finance deals with:

- Reviews the request sent by expropriating bodies, valuation of immovable subject to expropriation procedure;
- It reviews requests received during the valuation process of immovable property subject to expropriation procedure, by the owners, interest holders, stakeholders (or persons acting on their behalf) who are affected by the expropriation process;
- Inspects immovable property which is subject to expropriation proceedings;
- It cooperates and collects data on the property subject to expropriation proceedings by public or private authorities.

The assessment Unit of Real Estate will be in charge of reviews and decisions in case of requests. The department of Expropriation at MESP will be the Expropriation Authority for non-objection and approval of the definitive abbreviated resettlement plan

4. Carry out public consultation again with the PAPs, now having the compensation package
5. Submit the abbreviated Plan to approval of the Expropriation Authority during a period of 15 calendar days
6. Publish the abbreviated Plan on ILC website and in a newspaper enjoying wide circulation in Kosovo in local language
7. Organize and conduct public hearing and public consultations in the conditions stipulated in article 9 of the Law on expropriation (see § 2.1.4.);

8. Request for approval by Expropriation Authority of the definitive abbreviated resettlement plan taking account results of consultations of persons affected by expropriation,
- 9.

The department of expropriation at MESP will be Expropriation Authority for non-objection and approval of report of application of abbreviated resettlement plan.

10. Carry out assistance and compensatory measures planned in abbreviated resettlement plan, including possible cash compensation, before and during sub-project implementation,
11. Carry out a report of application of abbreviated resettlement plan,
12. Request for approval by Expropriation Authority of report of application of abbreviated resettlement plan.

The department of expropriation at MESP deals with executing the final stage of expropriation which include application for compensation.

### **3.2 Expropriation procedure in case of expropriation of land conducted for the ER sub-project in case this alternative is selected**

Exposed in articles 8 to 10 of the Law, the expropriation procedure that will be conducted by the legal department of ILC (Applicant), under the control of Expropriation Authority (MESP, department of expropriation) is resumed below.

#### **Preparation of Application**

Step 1 - As the Applicant of the procedure, ILC will be in charge of the preparation of the Application of the procedure. This application will contain all the information needed in the document (see § 2.1.2). The following documents shall be attached to the application for expropriation :

- for each concerned parcel: a copy of the possession list and other immovable property records relating thereto;
- the concerned cadastral plans and maps covering the concerned parcel(s);
- if more than one parcel is subject to the application, maps showing all such parcels and the surrounding area;
- an extract of the current spatial or urban plan covering such parcels, if such a plan exists.

Step 2 - ILC will organize a public consultation with affected communities and the potential affected persons.

Step 3 - Once the detail designs are ready and the initial public consultation/information is done organize the census and establish a cut of date

#### **Step 4 – prepare Abbreviated Resettlement Action Plan**

**Step 5 - Organize a consultation with affected persons about the entitlements.**

**As of this step LAP will be amended permanently as the expropriation process will advance.**

**ILC applies for preliminary decision parallel to this process.**

**Application until preliminary decision**

- Within fifteen (15) days after receiving the application, the Expropriating Authority shall make a prima facie review of the application to determine whether it appears to satisfy the legal requirements set out in the Law.
- When the Expropriating Authority determines that the application appears to satisfy the referenced requirements, it shall adopt a written decision formally accepting the application for further processing.
- Within five (5) Business Days after adopting a decision accepting an application for further processing, the Expropriating Authority shall send a copy of the application and all documents attached thereto to the Office of Immovable Property and to the mayor of each municipality where each parcel of the concerned property is located.
- Within ten (10) Business Days after adopting a decision accepting the application for further processing, the Expropriating Authority shall notify the Persons identified in the application (PAPs). Though ILC until now would had organized at least twice consultations
- Within ten (10) Business Days after adopting a decision accepting an application for further processing, the Expropriating Authority shall publish in the Official Gazette and in a newspaper enjoying wide circulation in Kosovo:
  - such decision; and
  - a notice that:
    - sets forth the information provided in the application pursuant to the requirements of items 1.1 through 1.4 of this Article;
    - sets forth the information and statements required by item 7.3 of this Article (see appendix1); and
    - contains an additional statement that any Person not named in the notice who claims to hold an ownership or other lawful interest in any parcel of the property described in the notice is required to immediately provide the Expropriating Authority with a written description of such claim and the legal basis therefor together with certified copies of any and all documents relating to such claim.
- Within seven-to-ten (7-10) calendar days after first publishing the notice required by paragraph 8 of this Article (see above), the Expropriating Authority shall again publish such notice in the same newspaper enjoying wide circulation in Kosovo.

### **Public Comment Period; Public Hearing**

#### **Preliminary Decision on the Legitimacy of a Proposed Expropriation**

- Within thirty (30) days after the requirements of Article 9 (Public Comment Period; Public Hearing) of the present law have been satisfied, the Expropriating Authority shall consider the written comments submitted and the views expressed at the hearing(s) and shall:
  - adopt a written decision, herein referred to as the "Preliminary Decision", specifying whether - and to what extent - the expropriation requested in the application has been determined by the Expropriating Authority to satisfy each of the conditions specified in items 1.1 through 1.4 of Article 4 of the present law;
  - include in such Preliminary Decision a notice advising the Applicant and any Person who is an Owner or Interest Holder with respect to property that is affected by such decision of their right to file a complaint with the competent court challenging such decision, or any aspect thereof, pursuant to Article 35 of the present law, within the thirty (30) day period specified in that Article; and

- include a notice that such Preliminary Decision shall become effective on the on the date such decision has been published in accordance with the requirements of paragraph 4 of Article 10 and Article 43 of the present law.
- Within five (5) Business Days after adopting a Preliminary Decision, the Expropriating Authority shall send such decision to the Applicant (unless the Expropriating Authority is the Applicant) and to the Persons identified in the application pursuant to item 1.2 of Article 8 of the present law (PAPs).
- Within ten (10) Business Days after adopting a Preliminary Decision, the Expropriating Authority shall publish such decision in the Official Gazette of Kosovo and in a newspaper enjoying wide circulation in Kosovo.
- A Preliminary Decision shall become effective on the date such decision has been published in accordance with all requirements of paragraph 4 of this Article and Article 43 of the present law.

**Before Final Decision the abbreviated RAP (LAP) is amended with the compensation amounts.**

### **Final Decision on Expropriation**

- The Expropriating Authority shall adopt a Final Decision approving or rejecting the application only during the six-month period that begins on the date occurring forty-five (45) days after the effective date of the Preliminary Decision. This six-month period shall be referred to as the "Final Decision Period", and such period shall be extended as provided for in paragraph 2 of this Article.
- The Expropriating Authority shall not adopt a Final Decision affecting any property or rights that are the subject of complaint while such complaint is pending before such court (*see below grievance procedure*).
- The Final approval decision on expropriation shall contain:
  - the names and addresses of the Applicant, the Persons identified in the application (PAPs);
  - the location and number of each and every parcel of immovable property that is to be expropriated;
  - if less than 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 subject to the decision; and
  - the amount of compensation that the Office of Immovable Property Valuation has determined - in accordance with the present law - is to be paid to such Persons for the expropriated property, rights to property and/or direct damages caused by the expropriation;
  - the valuation determination prepared by such office as required by Article 22 of the present law; and a description of any conditions that the expropriation is subject to;
  - statement that the Final Decision shall become effective on the date such decision has been published in both the Official Gazette of Kosovo and in a newspaper enjoying wide circulation in Kosovo
- Within five (5) Business Days after adopting a Final Decision, the Expropriating Authority shall send such decision to the Applicant (unless the Expropriating Authority is the Applicant) and to the other Persons, who are required to be identified in the Final Decision by item 4.3.1 of this Article.
- Within ten (10) Business Days after adopting a Final Decision, the Expropriating Authority shall publish such decision in the Official Gazette of Kosovo and in a newspaper enjoying wide circulation in Kosovo.

### **Effectiveness of the application**

- A Final Decision shall become effective on the date such decision has been published in accordance with all requirements of paragraph 6 of this Article and Article 43 of the present law.
- If a Final Decision authorizes an Expropriation, no change in the ownership or other rights of Persons in or to the concerned property shall be effected or implemented until the compensation required by the Final Decision has been paid in accordance with Article 16 of the present law. Upon the payment of such compensation, the concerned property shall be registered in the name of the concerned Municipality (if the Expropriating Authority is a Municipal Public Authority) or the Republic of Kosovo (if the Expropriating Authority is the Government).
- Persons owning or possessing the concerned property shall not be required to vacate or surrender such property until thirty (30) calendar days have passed from the date on which the compensation specified in the Final Decision has been paid in accordance with Article 16 of the Law on expropriation.

## **3.3 Institutional arrangements**

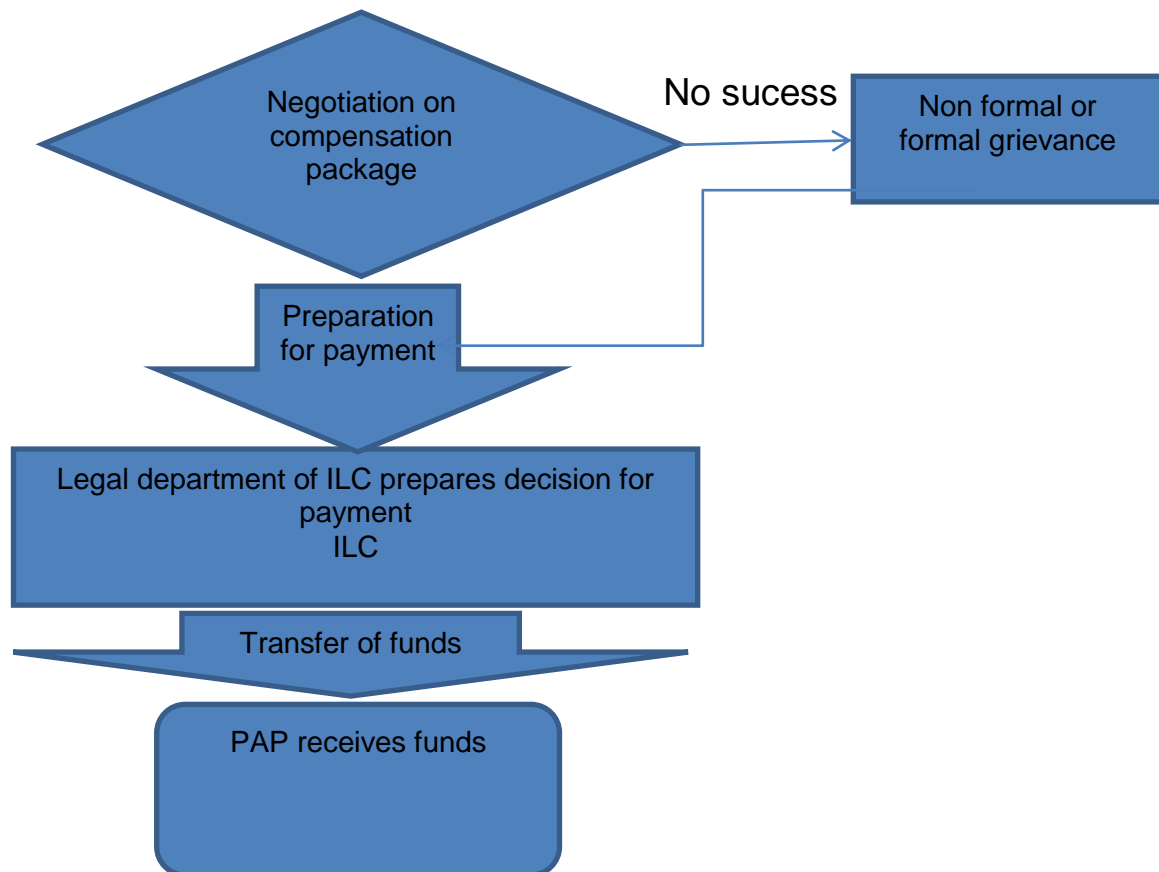
Regarding The Kosovo Water Security and Canal Protection Project, institutions and agencies responsible for coordinating all activities, policies and compensation rights, and the execution of compensation are as follows:

- RAPs will be prepared by the Project Implementing Unit which will be based in the Iber Lepenc Company. The Project Implementing Unit within ILC will have responsible person to address social issues in compliance with social safeguards. The PIU will prepare and implement RAP in conjunction with Legal Unit of the ILC, Entitlements will be given through bank transfer by the ILC.
- Ministry of Finance - Department of Property Tax - Assessment Unit of Real Estate;  
This department formally assesses the losses and prepares the compensation package.
- Ministry of Environment and Spatial Planning - Department of Expropriation;  
This department in Government Expropriation Authority. The department assess the application for expropriation by ILC (Iber Lepenc Company). The department approves the preliminary application. Prepares the Final Decision, requests Assessment Unit to assess the losses and proposes compensation. Organizes formal public hearings. This department also oversees implementation of the RAP. In addition to the role of the Bank to object or no object preparation and implementation of RAP
- Iber Lepenc Regional Company (ILC) as the Applicant of the procedure;  
ILC applies for the expropriation and is the beneficiary of the expropriation. Thus will finance the process.
- Relevant municipalities where the project takes place.  
Municipalities host the formal consultations

## **3.4 Funding – Flow of funds**

Although the beneficiary of the expropriation is the Iber Lepenc Public Company, the preparation and review for compensation to be offered is done by the Ministry of Finance, Department of Property Tax. Department uses costs or income or comparison method for the estimate of the compensation. However, during the preparation of the RAP or more precisely during the preparation of the census costs are estimated and the estimate is done for summary of estimate compensation and other related costs such as consultation, transaction costs etc. The costs are prepared by the social expert of the ILC PIU who

prepares the RAP in conjunction with the legal department of the ILC. Once formal procedures for the expropriation are completed actual payment is done by the Iber Lepenc Company to the Project Affected People.



### 3.5 Grievance procedure

#### Formal mechanism related to expropriation

Effective grievance procedures significantly reduce the anxiety people generally experience when they involuntarily lose assets. During the land acquisition process, complaints regarding valuation, payment, support and follow-up are inevitable, and if well managed, need not pose a significant obstacle to Project implementation.

Since the Expropriation Authority is in charge with the expropriation process, it has an obligation to develop a fair expropriation process in several stages. During the expropriation process can be two types of complaints, which relate to the assessment of assets and expropriated property.

The Law on expropriation in Kosovo describes in Article 35 and following articles complaints procedures. The procedure concerning the Preliminary Decision on the Legitimacy of a Proposed Expropriation (article 35) can be briefly described:

- If a Person is an Owner or an Interest Holder with respect to immovable property that is the subject of the expropriation procedure, and such Person reasonably believes that the concerned



Preliminary Decision - or any aspect thereof - is contrary to one or more of the conditions established in paragraph 1 of Article 4 of the present law, such Person shall have the right to file a complaint with a court of competent jurisdiction challenging such Preliminary Decision, in whole or in part.

- If the Expropriating Authority is the Government (*present case*), the complaint shall be filed with the Supreme Court of Kosovo.
- Any such complaint must be filed within thirty (30) calendar days after the effective date of the concerned Preliminary Decision as specified in paragraph 5 of Article 10 of the present law. If such a complaint is filed after the expiration of such thirty (30) calendar day period it shall be rejected by the court.
- Within five (5) calendar days after filing such a complaint, the complainant shall ensure that five (5) accurate and complete copies of such complaint (including any attachments or documents filed therewith) are delivered by hand to the legal office of the concerned Expropriating Authority. If the complainant fails to comply with this requirement, the court shall reject the complaint.

From that stage, a procedural justice is engaged and any decision on concerned expropriation is pending the court final judgment.

- Article 36 of the law concerns Complaints Challenging the Adequacy of Compensation,
- Article 37 concerns Complaints for Compensation for Damages Arising from a Partial Expropriation,
- Article 38 concerns Complaints Challenging the Legitimacy of a Decision Authorizing the Temporary Use of Property
- Article 39 concerns Other Disputes

#### Grievance Mechanism not limited to expropriation

Apart from the formal grievance mechanism ILC will establish a grievance mechanism related to the process of the expropriation. The commission will be available to discuss grievance with affected person. Three members commission will be formed. Respective Local Government (depending of location of works be it along the canal or buffer reservoir location), the Public Company ILC will second a member to the commission. Third member will be resident of the nearest village to the respective sub-project (works). The role for the commission will not be only to facilitate issues that might be raised by the land acquisition process. The commission will be formed much earlier to intermediate during the design process and channelize views from the communities around the future reservoir. Most probably the commission will facilitate discussions between ILC and the communities about developing of the access roads to the reservoir and ideas to take advantage of the reservoir. Given that this will be parallel to formal grievance mechanism to the land expropriation the access will be easier.

- A person, or a settlement (through their representative) having a concern will approach to one of the members of the committee and request a meeting . The approach will be either by telephone contact or contact in person. Given that two members of the committee will come from the (1) nearest village, where the works are being performed , and (2) person from the respective local government , the assumption is that the concerned communities will know these two persons in
- The committee member will convene a meeting within one week
- The content of the meeting will be to find a mutually satisfactory solution
- Minutes of the meeting will be signed including the agreement and the actions to be taken
- Minutes of the meeting will be part of the project file. A copy of the minutes will be kept in the respective local government as well.

- Contacts of the committee members will be available in the ILC project website , in the bulletin boards of the respective local governments as well as at the nearest shop/coffee or any public/commercial venue of the sub-project-site

### 3.6 Monitoring Land Acquisition Activities

For the ER sub-project, the ILC Legal Department, as representative of the Applicant of the expropriation procedure, will be responsible for land acquisition and assist with preparation of specific land acquisition plan to ensure compliance with the Law and timely management of land acquisition issues before construction. In that way, the ILC Legal Department specialist will submit progress reports on land acquisition to be incorporated into Project reports as needed. Expenditures for this internal monitoring shall be incorporated into the project budget. The monitoring data should be of sufficient quality to facilitate external audits, if needed. A general system of monitoring indicators is shown in the following Table 5.

*Table 4 : Monitoring and evaluation matrix of*

<b>Purpose</b>	<b>Activities</b>	<b>Monitoring Indicators</b>
Identification of compensation recipients	Checking the list of compensation recipients against eligibility criteria for compensations.	Number of persons in the list of compensation recipients, who do not meet eligibility criteria (mistaken inclusion)
	Identification of persons, who may claim eligibility to compensation, but are not included in the lists of compensation recipients. Separate check should be performed on each type of compensation	Number of persons, who meet the criteria, but are not included in the list of compensation recipients (mistaken exclusion)
Controlling types of compensation	Confirmation of temporarily or permanently affected areas against the final LAP	Area of land subjected to temporary acquisition, for which compensations have been paid
		Area of land subjected to permanent acquisition, for which compensations have been paid
Controlling compensation	Examination of financial documents	Number of persons, who received compensation in time and in full amount, disaggregated by compensation types
	Identification and analysis of reasons for compensations not being paid in full amount and in time	Number of persons, who did not receive compensation in time and in full amount, disaggregated by compensation types
		Number of persons, who received compensation in time, disaggregated by compensation types
		Amount of funding allocated for payment of compensations

	Identification of reasons, for which funds for compensations have been under/overspent	Rate of spending of funds allocated for compensations, % of envisaged by the final LAP
Additional compensation	Monitoring time limits of temporary land acquisition	Number of persons, on whose plots temporary acquisition needs to be extended
		Area, on which construction works will be continued after the established deadline
Consultations and participation	Determining the level of involvement, and identification of reasons of inadequate participation	Number of compensation recipients, who participated in consultations and coordination meetings at each stage of land acquisition
		Number of complaints
	Analysis of disputes' and complaints' content. Resolution of conflicts	Number of complaints granted

#### 4. ABBREVIATED RESETTLEMENT PLAN TEMPLATE

**An abbreviated resettlement plan shall be carried out for every sub-project implying land-take for works or restricting current use of ILC lands.**

ARAPs should cover the following minimum elements:

a) Description of subproject and land-related impacts

b) Census survey of displaced persons and valuation of assets;

Census of affected persons in this project will be database of the lost assets and its impact to the affected persons. The impact will be determined by collecting all the data that describes socio-economic status of the PAP and comparing the lost of assets to overall wealth of the PAP and how and if the loss of assets have impact on the livelihood of the PAP or not.

c) Description of compensation and other resettlement assistance to be provided (entitlement matrix);

Description of the compensation package and how does it determine the replacement value.

d) Consultations with displaced people about acceptable alternatives and grievance mechanism;

There will be couple of rounds of consultation, or iteration of the consultation. It is important to note that PAPs will be timely informed about the consultation. Consultations will be organized in places and time suitable for the PAPs whenever is needed. After each consultation minutes of meeting will be attached to draft RAP as amendment to the document.

e) Institutional responsibility for implementation and procedures for grievance redress;

Flow charts and description of the process of the preparation of the abbreviated RAPs and endorsement process. Combination of the aRAP preparation and endorsement with the procedures set in Kosovo Legal Framework.

f) Arrangements for monitoring and implementation; and

Responsible persons within ILC who are going to organize the process. Persons who are going to report and prepare reports.

g) Timetable and budget.

Gant-chart and time for each step. Budget for the process of expropriation. Budget will specify all the costs i.e. compensaton and the costs to organize public hearing, costs for informal grievance mechanism.

**Appendix 1 : list of documents sent to the Person Affected by the Project (PAPs) in the case of expropriation**

- A copy of the Expropriating Authority's decision accepting the application for further processing;
- A copy of the application and all documents attached thereto;
- A notice that:
  - describes the public purpose for which the Expropriation has been requested;
  - specifies the time period, in accordance with paragraph 1 of Article 10 of the present law, within which the Expropriating Authority is required to approve or reject the application;
  - states that any interested Person may submit written comments on the proposed Expropriation to the Expropriating Authority by a specified date, which shall be determined in accordance with paragraph 1 of Article 9 of the present law;
  - states that:
    - the Expropriating Authority will hold a public hearing on the concerned expropriation in each Municipality where concerned property is located (*here Vushtri*);
    - any Person who is a public official of the Municipality where the 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;
    - any such Person shall be given a reasonable opportunity to orally provide his/her views on the applied for Expropriation at such hearing in accordance with paragraphs 2 through 4 of Article 9 of the present law; and
    - any Person who desires to attend and provide his/her views at such hearing must bring with them reasonable documentary evidence demonstrating that he/she is such a public official, Owner or Interest Holder, or the lawful attorney or representative of such a public official, Owner or Interest Holder.
- provides a schedule, in accordance with the requirements of paragraph 2 of Article 9 of the present law, specifying the date, time and place of each public hearing; and
- contains the following statements:
  - In the event that property covered by the application is expropriated at the conclusion of the expropriation procedure initiated pursuant to that application, no compensation will be owed or paid for the cost or value of any improvements made to such property, any facilities constructed or enlarged on the property, or any trees or crops planted on such property after the date the relevant publication requirements of paragraph 8 of Article 8 of the Republic of Kosovo's "Law on the Expropriation of Immovable Property" of 2009 have been fulfilled.
  - Any person who claims to hold an ownership or other lawful interest in the concerned property is advised to review such law and to consider seeking professional legal advice to assist them in understanding their rights and obligations under that law.
- a copy of present law on expropriation; and
- a copy of the valuation standards referred to in paragraph 6 of Article 15 of the law on expropriation.