

**Bosnia and Herzegovina  
Federation of Bosnia and Herzegovina  
Federal Ministry of Transport and Communications**

**Public company Motorways in Federation of Bosnia  
and Herzegovina**

**Motorway on Corridor Vc**

**Resettlement Action Plan**

**Section: Bijača - Počitelj  
Subsection: Počitelj - Zvirovići**

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## KEY DEFINITIONS

**Note:** Several of the definitions below are sourced from the EIB “Environmental and Social Handbook” (2013) and the IFC’s “Handbook for Preparing a Resettlement Action Plan” (April 2002), with or without modifications as relevant to the Project.

**Compensation:** Compensation refers primarily to the cost of payment for expropriated land (including trees and crops that cannot be harvested), housing, structures, and other fixed assets, including assets acquired for temporary project use. It includes the costs incurred to help directly acquire substitute properties as well as the cost of acquiring resettlement sites. Compensation applies to vendors, enterprises, and other commercial operations, as well as residential units (households)<sup>1</sup>.

**Cut-Off Date:** Persons found to occupy the Project area after the Cut-Off Date are not eligible to Project compensation or other resettlement benefits. Similarly, fixed assets (such as built structures or crops) established after the Cut-Off Date will not be compensated. In practice, the Cut-Off Date is usually the date of completion of the census of people and inventory of assets in the Project-Affected Area, unless there are local legal provisions to another arrangement (which is often the case where expropriation is used for land acquisition).

**Displacement (Economic):** Loss of income streams or means of livelihood resulting from land acquisition or obstructed access to resources (land, water or forest) caused by the construction or operation of the Project or its associated facilities. Not all economically displaced people need to physically relocate due to the Project.

**Displacement (Physical):** Loss of shelter and assets resulting from the acquisition of land associated with the Project that requires the affected person(s) to move to another location.

**Expropriation:** Process whereby a public authority, usually in return for compensation, requires a person, household, or community to relinquish rights to land that this person, household, or community occupies or otherwise uses.

**Host Population:** People living in or around areas to which people physically displaced by a project will be resettled, and who may in turn be affected by the resettlement or even be displaced themselves.

**Project:** A project to build a highway within Corridor Vc in the Federation of Bosnia and Herzegovina.

**Project-Affected Area:** An area which is subject to a change in use as a result of the construction or operation of the Project.

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<sup>1</sup> As provided in the EIB Environmental and Social Handbook (2013) VOLUME I: EIB ENVIRONMENTAL AND SOCIAL STANDARDS 6. Involuntary Resettlement [http://www.eib.org/attachments/strategies/environmental\\_and\\_social\\_practices\\_handbook\\_en.pdf](http://www.eib.org/attachments/strategies/environmental_and_social_practices_handbook_en.pdf)

**Project-Affected Persons (PAPs):** Any person who, as a result of the implementation of the Project, loses the right to own, use, or otherwise benefit from a built structure, land (residential, agricultural, pasture or undeveloped/unused land), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily. Eligible PAPs may be in any of the following situations:

- have formal legal rights to the land/structure they occupy;
- do not have formal legal rights to land, but have a claim to land that is recognised or recognisable under the national laws (e.g. ancestral, traditional lands);
- are dependent on the impacted land for their livelihood by way of customary access to natural resources;
- have no recognisable legal right or claim to the land or structure they occupy; and/or
- economically displaced persons who face loss of assets or access to assets.

**Project-Affected Household (PAH):** A PAH is a household that includes one or several Project-Affected Persons as defined above. A PAH will usually include a head of household, his/her spouse and their children, but may also include other dependents living in the same dwelling or set of dwellings, like close relatives (e.g., parents, grandchildren).

**Replacement Value:** The rate of compensation for lost assets must be calculated at full replacement value, that is, the market value of the assets plus transaction costs (taxes, registration fees, cost of transport associated with registration of new land and land transfer, etc...). The replacement value must reflect the cost at the time the item must be replaced. With regard to land and structures, “replacement value” is defined as follows:

- Agricultural land: the market value of land of equal productive use or potential located in the vicinity of the affected land, plus the cost of preparation to levels similar to or better than those of the affected land, plus the cost of any registration and transfer taxes;
- Land in urban areas: the market value of land of equal size and use, with similar or improved public infrastructure facilities and services, preferably located in the vicinity of the affected land, plus the cost of any registration and transfer taxes;
- Household and public structures: the cost of purchasing or building a new structure, with an area and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labour and contractors’ fees and any registration and transfer taxes.

In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of the benefits to be derived from the Project deducted from the valuation of an affected asset.

**Resettlement (Involuntary):** refers to: (a) physical displacement (i.e. physical relocation of residence or loss of shelter), and/or (b) economic displacement (i.e. loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition or restriction of access to natural resources.

Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition resulting in displacement. Involuntary resettlement can be caused by environmental degradation, natural disasters, conflicts or development projects. Even if the resettlement is prompted by public safety concerns (such as natural hazard-induced displacement), it is still considered involuntary if the

resettled population has no choice to remain at their location. The involuntary resettlement is associated with loss of housing, shelter, income, land, livelihoods, assets, access to resources and services, among others.

**Resettlement Assistance:** Support provided to people who are physically displaced by the Project. Assistance may include transportation, and social or other services that are provided to affected people during their relocation. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of a transition to a new location, such as moving expenses and lost work days.

**Usufruct Rights:** Usufruct rights are usage and occupation rights over a property for a limited period of time. Usufruct rights can be held by an entity distinct from that which holds ownership rights. Typical usufruct rights include those resulting from tenancy or lease agreements, or customary occupation of public land.

**Vulnerable Groups:** People who by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status may be more adversely affected by resettlement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits.

Vulnerable people include, but are not limited to:

- Disabled persons, whether mentally or physically;
- Seriously ill people, particularly people living with HIV/AIDS and other chronic illnesses;
- The elderly, particularly when they live alone;
- Households whose heads are children;
- Households whose heads are female and who live with limited resources;
- Households who have no or very limited resources;
- Widows and orphans

## 1 PROJECT DESCRIPTION

### 1.1 OVERVIEW

At Conferences held in Crete and Helsinki in 1994 and 1996, ten trans-European transport corridors were identified as routes in Central and Eastern Europe that required priority investment. Corridor V (five) is an East West corridor of a total length of about 1,600 km linking Kiev in Ukraine to the Adriatic Sea via Lviv and Budapest (Hungary)<sup>2</sup>. From Budapest westwards, Corridor V has two different branches:

- Budapest to Venice (Italy) and Rijeka (Croatia) via Zagreb (branch “b”); and,
- Budapest to Ploče (Croatia) via Osijek (Croatia) and Sarajevo (branch “c”).

**Figure 1: Corridor V – Kiev (Ukraine) to Adriatic Sea and Connections to Other Trans-European Corridors**



<sup>2</sup> Corridor V also includes branch “a” that links Kiev to Bratislava in Slovakia.

Corridor Vc follows the European route E73. The concept of corridor is multimode, and includes highways as well as rail upgrades and airports. The longest part of Corridor Vc goes through Bosnia and Herzegovina. Corridor Vc, which also connects the eastern and southern parts of Croatia directly, includes in BiH the following components:

- The European highway E-73 from the Croatian border at Svilaj in the North of BiH, to the Croatian border in the South near the Croatian port of Ploče on the Adriatic Sea, via Doboj, Zenica, Sarajevo and Mostar;
- The railway that follows the same route (Šamac-Doboj-Sarajevo-Mostar-Čapljina-Metković;
- Sarajevo and Mostar Airports; and,
- Various port upgrades.

The Corridor Vc highway is considered as a priority for BiH, likely to entail major positive economic impacts for the country as a whole. Construction has already started and by now 92 km of motorway has been constructed and have been put in use. The constructed parts refer to subsections: Kakanj - Zenica south, North Sarajevo – Sarajevo, section of West Sarajevo - Tarčin as well as section Zvirovići - Bijača (from Medjugorje loop to the crossing border Bijača.)

## 1.2 PROJECT OBJECTIVE AND BENEFITS

The driving force behind the construction of the Corridor Vc motorway is to improve connectivity of Bosnia and Herzegovina with its neighbouring countries and to enhance its potential for economic development. The project has strong support from the government and is expected to enable Bosnia and Herzegovina to integrate better with the European economic and social structure. Other expected direct and indirect benefits include the following:

- increased efficiency in the transportation of goods;
- enhanced trade and economic competitiveness;
- increased opportunity for regional private sector investments;
- employment;
- increased tourism potential;
- reduce environmental impacts when compared to current traffic routes.

## 1.3 PROJECT COMPONENTS

Preliminary design for Corridor Vc motorway in Bosnia and Herzegovina includes four main sections (known in Government documents as “Lots”), as follows:

- Lot 1: Svilaj on The Sava River (connection Corridor X) - Doboj (South) - 64 km;



- Lot 2: Doboj (South) - Sarajevo South (Tarčin) - 150 km;
- Lot 3: Sarajevo South (Tarčin) - Mostar (North) - 58 km;
- Lot 4: Mostar (North) – Bijača on the southern border with Croatia - 68 km.

The total length of Corridor Vc is about 335 km in Bosnia and Herzegovina.

The potential environmental impacts of the proposed motorway have been assessed in four separate Environmental Impact Assessments (EIA) corresponding to each Lot. The Federal Ministry of Environment and Tourism issued an environmental permit for subsection Bijača – Zvirovići (Zvirovići – Kravice and Kravice – Bijača) in October 2010, as well as for subsection Počitelj – Zvirovići in April 2014.

Implementation of the construction is on entities levels (i.e. Federation of Bosnia and Herzegovina and Republika Srpska). The Government of Federation of BiH has already completed construction of 82 km section of highway in Lot 2 from Tarčin to Drivuša (Zenica South), including section between Sarajevo (Jošanica) and Vlakovo known as Sarajevo bypass and 10 km on the southern border with Croatia, subsection Zvirovići – Bijača.

The project has been financed by the loan funds of EIB, EBRD, KFAED, OPEC, the World Bank as well as the own funds of PC Motorways of FBiH.

The EIB and EBRD have been financing four sections within the four above mentioned “Lots” which are, from the side of Government of Federation BiH, marked as priority sections. These sections are as follows:

- ✓ **Section 1:** Drivuša - Kakanj, section within Lot 2 (15,20 km);
- ✓ **Section 2:** Vlakovo - Tarčin, section within Lot 2 (20,35 km);
- ✓ **Section 3:** Počitelj - Bijača (southern Border with Croatia) within Lot 4 (20,35 km);
- ✓ **Section 4:** Odžak - Svilaj (northern border with Croatia) Lot 1 (10,76 km).

The section Donja Gračanica-Drivuša, subsection Drivuša –Klopče has been financed by loan funds of Kuwait Fund for Arab Economic Development (KFAED).

The schedule for implementation including land acquisition and construction is as follows:

**Table 1: Indicative Schedule for Land Acquisition and Construction**

Section (subsection*)	Land Acquisition	Construction
Kakanj - Drivuša	2009 – Beginning 2010	2009 – 2013
Drivuša – Klopče*	2011 - 2015	2015 -
Klopče - Donja Gračanica – Pečuj tunnel*	Middle 2012 – Late 2016	2016 -
Vlakovo to Tarcin	Middle 2010 – Late 2012	2012 - 2014
Bijača – Zvirovići*	Middle 2010 – Late 2011	2011 – 2014
Počitelj to Zvirovići*	2015 – 2016	2016 -
Svilaj to Odžak	Late 2011 - Late 2012	2013 –

#### 1.4 SUBSECTION POČITELJ – ZVIROVIĆI – AN OVERVIEW

Subsection Počitelj – Zvirovići is the part of Corridor Vc on southern B&H border. It is entirely located in one Canton (Hercegovačko – Neretvanski) roughly traversing the northern and western part of the municipality Čapljina. It will improve the connection between B&H and southern Croatia.

Length of subsection is 11.075 km. It starts with interexchange Počitelj, approximately 1,8 km west of the Domanovići village. The route descends to the south, and near area of Gradina turns to the west, north of the Počitelj town. The route passing Neretva river with the bridge “Počitelj” (bridge 1), passing through a bridge 2, bridge 3, tunnel 1 and bridge 4. Then the route climbs the slopes of mountain Crne grede (north of River Trebižat), toward Zvirovići, where the route ends, just before interchange (Medjugorje) Zvirovići.

Length of the bridge Počitelj is 945m. Lengths of tunnel is approx. 1200 m, and length of the another bridges are:

- Bridge M2 L=110,5 m (right) / 157,5 m (left)
- Bridge M3 L= 42,0 m (right) / 69,0 m (left)
- Bridge M4 L= 100,0 m (right) / 122 m (left)

Also part of this project is connection to the state road - M17.

Due to the complex solutions, which are manifested by a geomorphologic difficult terrain, large number of viaducts and bridges, one large tunnel, junctions, toll passage, section Počitelj – Zvirovići in the length of 11.075 km, is divided into two LOT-s.

Transversal profile of the route

- Traffic lane 2 x (2x3,75) m



## 2 LEGAL FRAMEWORK

### 2.1 OVERVIEW

The following pieces of legislation / policies have been considered for this review:

- Legislation of BiH and FBiH:
  - o The Constitutions of BiH and FBiH,
  - o The Expropriation Law of FBiH (Official Gazette of FBiH No. 70/07, 36/10 and 25/12),
  - o The Law on Proprietary Rights of FBiH (Official Gazette of FBiH, No. 66/13, 100/13);
  - o The Law on Land Registries of FBiH (Official Gazette of FBiH No. 19/03 and 54/04)
  - o FBiH Law on Spatial Planning and Land Use (Official Gazette of FBiH 2/06, 72/07, 32/08)
  - o The Law on Construction Land of FBiH (Official Gazette of FBiH, No. 25/03, 16/04, 67/05),
  - o Law on Forests FBiH (Official Gazette of FBiH No. 20/02)
  - o FBiH Law on Social Protection, Protection of Civilian War Casualties and Protection of Families with Children (36/99, 54/04, 39/06)
- EIB's Environmental and Social Standards (2013): Standard 6 on Involuntary Resettlement

Other pieces of legislation of FBiH apply to resettlement and compensation, but none of their provisions are of relevance to the main issues in the gap analysis below.

### 2.2 GENERAL ORGANISATION OF THE COUNTRY – OVERVIEW

The current organisation of Bosnia and Herzegovina results from the 1995 Dayton Peace Agreement, and is generally quite complex with numerous levels of governance. Bosnia and Herzegovina as a state consisting of two Entities established by the Dayton Agreement, namely the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS). There is a government and parliament at the level of the state of BiH as a whole and other governments and parliaments at the level of each of the two entities. Technical ministries such as that in charge in transport and communication exist at both levels.

The Federation is divided into ten Cantons, each with a government and a council. In the Federation, Cantons are themselves divided into Municipalities, whereas the Republika Srpska has only one level of decentralisation, the Municipalities.

The third part of the state of Bosnia and Herzegovina is Brčko District in the north of the country. It officially belongs to both entities, but is self governed, with its own decentralised government and council.

### 2.3 THE CONSTITUTIONS OF BiH AND FBiH

#### 2.3.1 Constitution of BiH

The current Constitution of Bosnia and Herzegovina<sup>3</sup> was agreed between the parties to the General Framework Agreement for Peace in Bosnia and Herzegovina, also known as the Dayton Peace Accord or Dayton Peace Agreement, dated 1995, and forms Annex 4 thereof. While its main intent is to establish the respective prerogatives of the institutions of BiH and

<sup>3</sup> The full text of the Constitution of BiH is available at the following link:  
[http://www.ccbh.ba/public/down/USTAV\\_BOSNE\\_I\\_HERCEGOVINE\\_engl.pdf](http://www.ccbh.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_engl.pdf)

those of the entities, the Constitution also has a strong human rights component, sanctioned in its Article 2, which *inter alia* states that:

- Bosnia and Herzegovina and both Entities shall ensure the highest level of internationally recognized human rights and fundamental freedoms;
- The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other law;
- The right to property is listed as one of thirteen fundamental human rights protected under the Constitution.

Another important provision of the Constitution in relation with resettlement and compensation issues is its Article 2-5, which states:

#### Quote

*All refugees and displaced persons have the right freely to return to their homes of origin. They have the right, in accordance with Annex 7 to the General Framework Agreement, to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any such property that cannot be restored to them. Any commitments or statements relating to such property made under duress are null and void.*

*End of quote*

To implement this clause, a specific programme intended to facilitating the return of their properties to displaced and refugees (or “property repossession”) has been put in place under the auspices of the Organisation for Security and Cooperation in Europe (OSCE). This programme was closed in 2006, as most of its quantitative objectives of property return to lawful owners were reached. The following Box, an excerpt from the OSCE BiH website, presents the objective and results of this programme.

#### **Box 1 – The OSCE Led Property Repossession Programme**

*After nearly ten years of concerted international monitoring and tireless perseverance by claimants, the process known as the substantial completion of Property Law implementation has been successfully completed throughout Bosnia and Herzegovina (BiH). Essential to securing the right of return to refugees and displaced persons, this achievement marks an essential stage in realising the fundamental provisions of the Dayton Peace Agreement (DPA). At the end of 2006, the OSCE along with UNHCR and OHR, officially certified that all municipal authorities had completed their legal obligations under the Property Laws of BiH, including the resolution of claims for socially owned and private properties.*

*During the 1992-1995 conflict in BiH, approximately 2.3 million people were forcibly displaced from their homes. Existing wartime regimes then established complex legal and administrative barriers designed to prevent returns and make the large scale displacement of the population irreversible.*

*The right of all displaced BiH citizens to return to their pre-war private, or socially-owned property, is enshrined in Annex 7 of the DPA and protected by the European Convention of Human Rights. Facilitation of their return and respect for human rights through Property Law Implementation (PLI) has been one of the highest priorities of the International Community, including the OSCE, since the signing of the DPA.*

*Through PLI, those who fled their homes could claim for the return of their property and repossess it. Yet, despite all efforts invested in the process, the implementation of the Property Laws remained poor in both entities until 2000, when amendments to the Laws ruled that housing authorities had to provide alternative accommodation to temporary occupants.*

*Although the OSCE was substantively involved in the return process from the beginning, its role evolved throughout 2001 to include a more active lobbying role with the authorities at all levels of government. This resulted in an increased number of evictions and consequently reinstatements of right holders.*

*Municipalities began to complete their caseload of claims from 2003 onwards. By the end of 2006, completion of PLI was verified in 129 municipalities. Local authorities received over 200,000 claims for contested property of which nearly 95 per cent were resolved successfully. Nevertheless, there remain a number of property cases pending before second instance administrative bodies and courts, which local authorities have a continuing obligation to resolve.*

*From OSCE's Website: [http://www.oscebih.org/human\\_rights/propertyrepossession.asp?d=1](http://www.oscebih.org/human_rights/propertyrepossession.asp?d=1)*



### 2.3.2 Constitution of FBiH

The FBiH Constitution<sup>4</sup> generally follows that of BiH. Its article 2 also guarantees citizens of FBiH the “highest level of human rights protection”, and its article 4 addresses return of property of which citizens of the FBiH have been deprived in the course of ethnic cleansing and hostilities in terms similar to those of the Constitution of BiH.

## 2.4 APPLICABLE LAWS OF BiH AND FBiH

### 2.4.1 The FBiH Expropriation Law

#### 2.4.1.1 The Law

In Bosnia and Herzegovina (BiH), expropriation, i.e. acquisition of real property in the public interest, is regulated at the level of each of the country’s two constitutive entities, whereas the implementation of expropriation is mostly dealt with by municipal administrations. A new Expropriation Law of the Federation of Bosnia and Herzegovina (FBiH) has been in force since 2007 (Official Gazette of FBiH No. 70/07, 36/10 and 25/12) and it is to a certain extent based on the preceding Expropriation Law of the Socialist Republic of Bosnia and Herzegovina, which was applied in FBiH since its introduction in 1987 until early 2007.

The full text of the 2007 Expropriation Law is presented in Appendix 2.

#### 2.4.1.2 Public Interest

Property can only be expropriated for projects of public interest to the Federation, its cantons or municipalities, i.e. where public interest has been established and in accordance with the physical plans of the area (article 5).

Public interest is defined by the Expropriation Law as situations where “it is assessed that using the real property for which expropriation is proposed shall produce a greater benefit than would be produced if the real property continued to be used in the previous manner” (article 3). Public interest is usually, but not exclusively, declared to the benefit of public entities of the Federation, Cantons, Municipalities, or other public agencies (article 6).

Typical public interest activities that can entail expropriation are the construction of roads, construction of commercial, municipal, or health services, educational, cultural, administration, defence or other structures of public interest (article 3).

Public interest is established either by law, or through a process defined by the Expropriation Law, whereby the beneficiary agency applies to the Government at federal, cantonal or municipal level and presents an expropriation study that must include “geodetic and land survey plan of the territory of expropriation, data on real properties for which establishment of public interest is proposed, the assessment of value of real property, the purpose of expropriation and other information for establishment of public interest”.

Such expropriation studies are undertaken by the Federal directorate for construction, management and maintenance of motorways with assistance from consultants. It has been completed at the beginning of the 2009.

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<sup>4</sup> The full text of the Constitution of FBiH is available at the following link: <http://www.ohr.int/ohr-dept/legal/oth-legist/doc/fbih-constitution.doc>

### 2.4.1.3 Expropriation Process and Related Procedures

The expropriation procedure comprises the following steps:

- Establishment and declaration of public interest. This is done by the Municipality Council based on a prior expropriation study and then a proposal on expropriation by the potential expropriation beneficiary (article 16), or, where more than one municipality is affected, by the Canton Government based on a prior formal opinion of the concerned municipal councils. In specific cases, the public interest may be established by a dedicated law or decree<sup>5</sup>;
- Within two years of the declaration of public interest, the potential expropriation beneficiary can submit an expropriation proposal to the municipality department in charge, but prior to this expropriation proposal, the potential expropriation beneficiary is obliged to try to reach an amicable sale-purchase agreement with the affected owner (article 23);
- Any disputes between the two parties at this stage are to be processed by the municipal court in charge (article 35);
- If the parties are unable to reach an amicable agreement, the municipality takes over, through its responsible department and notifies the expropriation proposal, interviews the affected owner, and makes a decision on expropriation (article 27).
- Appeal against an expropriation decision as such may be submitted to an unspecified “federal administration”. In the event that the land registry entry does not correspond to the actual ownership situation (often the case), the municipal department should sort out the title issues prior to proceeding with further steps (article 27);
- Once the expropriation decision is made by the Municipality, the municipal department in charge has then to make another attempt at brokering an agreement on compensation. If no agreement is possible, the municipal department forwards the case to the court that is competent over the interested territory. However, while at this stage the court can decide on the compensation level, it cannot make a decision on compensation eligibility which has been decided upon earlier in the process (article 64);
- Formal transfer of legal title over the affected property is possible only upon a formal decision on expropriation and once the compensation is paid (article 68).

The beneficiary agency can use the expropriated land only for the purpose in which it has been expropriated (article 10).

### 2.4.1.4 Temporary and Partial Expropriation

Expropriation can be temporary, with usufruct rights given to the beneficiary agency in the form of a lease. At the end of the lease, usufruct rights over land are returned to the previous owner. Temporary expropriation is subject to the possibility that the land can be fully restored (article 8) and the lease not being more than five years.

Complete expropriation allows the beneficiary agency to obtain legal title over the expropriated property, whereas a partial or incomplete expropriation provides the beneficiary with servitude rights such as a right of way. However, owners that are affected by a partial loss of their real properties are entitled to request complete expropriation and the corresponding compensation, in case partial expropriation would deteriorate the economic situation of the real property owner or make the remaining part of the real property useless or

<sup>5</sup> A partial declaration of public interest for the Vc motorway is enacted by the “Decree on the Establishment of Public Interest for the Construction of a Motorway in the Vc Corridor Sections Vlakovo – Tarcin, Svilaj - Odzak and Pocitelj – Bijaca” (Official Gazette of FBiH No. 19/10), which include Components 1 and 2 as defined above in Chapters 1 and 2.

difficult to use (article 11). Such landowners must be informed about this entitlement by the official managing the expropriation process.

#### 2.4.1.5 Compensation

Compensation costs are borne by the expropriation beneficiary. A general principle of the Expropriation Law is that compensation should be at market value (article 12). However, the law does not provide a clear definition of what market value is to be based upon. This value is to be established based on the buying and selling prices, i.e. offer and demand (article 46), yet the reference date to identify these usually fluctuating prices is not specified.

Compensation for land is based on the type of land (agricultural land, orchards, forests, etc.) and the related benefits that the owner would obtain if there were no expropriation.

A remarkable feature of the Expropriation Law is that, in contrast with most similar laws in Europe, it provides that replacing the affected property by another, equivalent property is the choice method for compensation (article 12), rather than compensation in cash. This paves the way for “land for land” and compensation in the form of resettlement, which is fully consistent with international requirements applied by the EBRD and contained in OD 4.30.

The Expropriation Law (article 45) specifies that expropriation of illegally erected structures entails no compensation, and that whoever constructed such structures may have to remove them within a timeframe agreed upon with the municipal department in charge, or otherwise this may be organized by the municipality, with the original erector to be charged for the costs incurred.

The personal and family circumstances of the owners whose real property is pending expropriation, as well as circumstances which may have adverse economic effects, should be considered when determining the compensation level<sup>6</sup> (article 47). This article addresses livelihood restoration (“material existence” – see footnote 6 below) beyond the sheer compensation of the lost asset by providing flexibility based on a case-by-case assessment of personal circumstances. Businesses are explicitly addressed by Article 47 of the Expropriation Law, and their specific livelihood restoration requirements.

In cases of expropriation requiring large scale<sup>7</sup> displacement of residents, compensation details may be established by a specific law<sup>8</sup> (article 59).

Article 31 provides that compensation arrangements must be settled prior to formal transfer of ownership of the expropriated property.

Article 38 specifies that processing of expropriation related to road construction has a priority over other expropriation procedures.

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<sup>6</sup> Article 47: “Personal and other family conditions of the previous owner of the expropriated real property shall be taken into consideration as a corrective for any increase in the amount of determined compensation if those conditions are of great importance for the material existence of the previous owner, and in particular if his/her material existence has been endangered due to the expropriation of a larger part or the entire land or business premises in which the previous owner legally performed a business activity, as well as in the case where due to the expropriation members of an agricultural household have to move from the territory where they had lived.”

<sup>7</sup> “Large scale displacement” is not defined in the Expropriation Law. Some international resettlement practitioners identify any displacement affecting more than 200 individuals as “large scale” (e.g. warranting a RAP type planning process), but this threshold is disputed.

<sup>8</sup> “If the expropriation of real property is of such proportion that a large number of population have to move from the area in which the expropriated real property is located”.



## 2.4.2 Other Legislation of FBiH

### 2.4.2.1 The Law on Proprietary Rights of FBiH

The Law on Proprietary Rights of FBiH (Official Gazette of FBiH, No. 66/13, 100/13) regulates the issues of acquiring using, disposing of, protecting and terminating ownership rights and other proprietary rights and possession rights, including the issues of restricting such rights, the right of servitude, co-ownership and joint ownership rights, the procedure for acquiring property rights over land and/or structures erected on someone else's land.

### 2.4.2.2 The Law on Land Registries of FBiH

This law regulates conduct, maintenance and establishment of land registry and registration of real estate and real property rights in the land registry of the Federation Bosnia and Herzegovina. Land Registry, in terms of this Act (Official Gazette of FBiH No. 19/03 and 54/04), is the public registry and the public register property rights on real property and other rights, which the law provides for the registration as well as other law provided the facts of importance for legal transactions.

Registered right in the land register is considered to be accurate. It is believed that the right deleted from the land register does not exist. For third parties, who in good faith in the existence of the property or the right in property, through the legal transaction to acquire such a right, the contents of the land register is considered to be exact, if regularity of the land registry is not disputed by registration of complaints or if third person known inaccuracy of the land register or because of gross negligence is not known. (Art. 9) For land register management jurisdiction is the court in whose area the property is located. (Art.12)

### 2.4.2.3 Law on Spatial Planning and Land Use in the FBiH (Official Gazette of FBiH 2/06, 72/07, 32/08)

This Law regulates: land use planning at the FBiH level through the development and adoption of planning documents and their implementation, type and content of planning documents, land use at the Federation level, supervise the implementation of the planning documents of importance to the Federation, supervision over the implementation of this law, as and penalties for legal entities and individuals.

Planning in the FBiH ensures the Parliament of the FBiH and the Government of the FBiH, the legislative and executive authorities of the Canton and administrative services of local governments adopting planning documents and other documents and regulations determined by this Law.

Planning documents determine an appropriate organization, use and land use, measures and Guidelines for protection of the area. Planning documents are:

- 1) Spatial plan<sup>9</sup>;
- 2) Urban development plan;
- 3) Detailed planning documents:

Spatial plan of the Federation determines the long-term goals and measures of spatial development in accordance with overall economic, social and historical development of significance for the Federation.

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<sup>9</sup> In accordance with the Law (Article 6.) Spatial Plan consists of: Spatial Plan of the FBiH, Spatial Plan of the Canton, Spatial plan of areas with specific characteristics and Spatial Plan of the municipality (except for the municipalities that are part of the cities of Sarajevo and Mostar)

#### 2.4.2.4 The Law on Construction Land of FBiH

*The Law on Construction Land of FBiH* (Official Gazette of FBiH, No. 25/03, 16/04, 67/05) allows for the legalisation of informally constructed structures on construction land in state ownership on which a structure has been built. This Law enables the subsequent issuing of a permit for construction, by the Municipal Council, in accordance with the Law on Spatial Planning. Legalization of informally constructed buildings is further regulated by decrees taken on cantonal level, and implemented at municipality level.

#### 2.4.2.5 Law on Forests FBiH (Official Gazette of FBiH No. 20/02)

In order to remove trees from any designated forest area a permit for deforestation must be issued by the Federal Ministry of Agriculture, Water and Forestry in agreement with the cantonal ministries responsible for forestry. In accordance with the law, deforestation is allowed on forest land only in cases where it affects a public interest and if there are no adverse impacts on the environment. If land is not used for the purpose for which clearing was carried out within two years, the owner of the deforested land is required to re-plant the forest.

#### 2.4.2.6 FBiH Law on Social Protection, Protection of Civilian War Casualties and Protection of Families with Children (Official Gazette of FBiH, No. 36/99, 54/04, 39/06)

Social welfare, in terms of this law, is an organized activity in the Federation, aimed at ensuring the social security of its citizens and their families in need.

The persons or families in need due to a forced migration (among others<sup>10</sup>) are entitled to a temporary, one-off and other financial assistance or natural assistance if they meet two conditions:

- they do not have enough income to support themselves,
- they do not have family members who are legally obligated to support them, or if they have, that these persons are not able to support them.

The right to the assistance shall be exercised by the competent authority of the municipality where the persons and the family are resident.

### 3 AFFECTED ASSETS, AFFECTED PEOPLE AND ENTITLEMENTS

#### 3.1 METHODOLOGY OF THE FIELD INVESTIGATIONS

##### 3.1.1 Approach

Announcement of public notice was 07.01.2015. in two main newspapers in FBiH ("Dnevni Avaz" and "Večernj list") in which property owners in the affected area were informed about a start of expropriation. After Announcement of public notice, Project Affected persons could inform about land expropriation. Before submitting the proposal for expropriation, expropriation beneficiary is obliged to try, by mutual agreement, resolve with the property owner acquiring the right of ownership of certain property.

<sup>10</sup> A person or family in need, which is due to special circumstances require an appropriate form of social welfare, in terms of Article 12, paragraph 1, item 9) of this Law, is a person or family who finds himself in a state of social needs due to a forced migration, repatriation, natural disaster, the death of one or more family members, return from medical treatment, release from prison or execution of the educational measure (Article 18.)

### 3.1.1.1 Overview

Main characteristic for surveyed area is mostly unresolved land registry condition so that in only few cases also reflects the actual state of property. The field investigations have started 03.02.2015. in the cadastral municipality of Šurmanci and have included two components:

- An initial physical census, intended at inventorying affected properties in the Project footprint;
- A socio-economic survey, to characterise the affected population from a social and economic perspective, with focus on livelihoods;

There was no need for further field investigation because there were no physically-displaced households in survey area.

### 3.1.1.2 Census

The census intends at getting an adequate picture of affected properties and enterprises in the Project footprint. Different forms were developed:

- A household form, including the following information:
  - o A summary identification of the affected assets (residential structures or other structures, agricultural plots or other plots, businesses),
  - o The composition of the potentially affected household (identification of all household members),
  - o The identification of any potentially vulnerable individual in the household,
- A plot form, including:
  - o Information on ownership regime (whether titled or not, the type of tenure regime, the reference of ownership documents where such exist and were actually displayed to the enumerator),
  - o A sketch of the affected plot with relevant GPS coordinates,
  - o For agricultural plots, information on crops farmed at the time of the survey;
- A structure form, including:
  - o Information on ownership regime,
  - o Information on the actual current usage of the structure (residential or other types of usage),
  - o A summary physical description of the structure (constitutive materials, surface area, number of rooms),
  - o Information on any ancillary building attached to the main structure and their purpose,
  - o Information on utilities and heating,
  - o A sketch, with main dimensions as relevant and GPS coordinates,
  - o Information on any recent changes in occupation and ownership, particularly in relation with potential informal occupation during, or as a result of the hostilities;
- A business form, including:
  - o A description of the business (categorisation of the business according to its main line of activity, size, employees, description of any immovables associated with the business),
  - o Information on the legal form of the enterprise,
  - o An attempt at quantifying the sales and income generated by the business.

In addition, photographs were taken of the household head and of any potentially affected structure. GPS coordinates were measured for the main angles of the affected plots as well as for affected structures.

### 3.1.1.3 Socio-Economic Survey

There are 254 files in surveyed area, 240 from which are private ownership files. In this investigation we've interviewed persons who claimed to be real owners of the properties and are divided into 240 private ownership files. Although, the target area has a greater number of co-ownership of land, for the purpose of research we have taken one person, for one file.

The socio-economic survey involved gathering information from the household heads on the following topics:

- Educational status;
- The date and circumstances of the household's settlement in the affected area (particularly in connection with potential displacement during the hostilities);
- Information on cash income, as well as on the main sources from which the household derives its livelihood;
- Ranking of main sources of household expenses;
- Information on the extent to which the household produces its own food;
- Information on potential hardship to which the household is exposed (period, reasons); and,
- Information on compensation preferences (resettlement as opposed to cash, preferred location).

## 3.2 AFFECTED ASSETS AND PEOPLE- RESULTS OF CENSUS AND SOCIOECONOMIC SURVEY

### 3.2.1 Overview

Section Počitelj – Bijača, subsection Počitelj - Zvirovići intervention area of Herzegovina-Neretva Canton and municipality Čapljina.

**Čapljina** is a town in the southern part of Bosnia and Herzegovina, on the border with Croatia a mere 20 kilometres (12 mi) from the Adriatic Sea.

The river Neretva flows through the municipality and flows into the Adriatic just over the border.

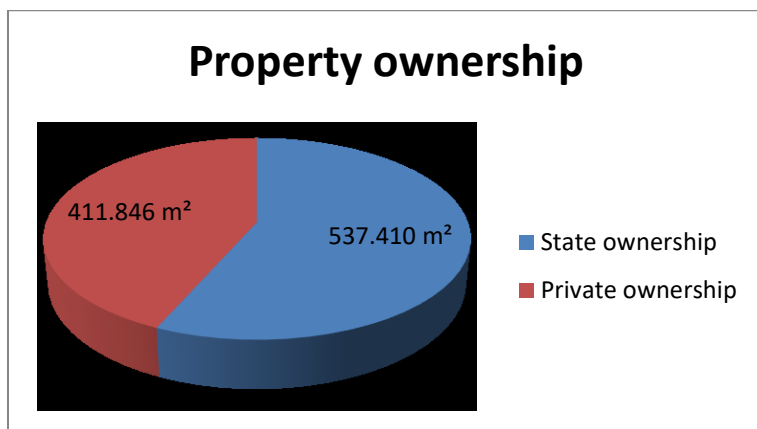
Čapljina is in the Herzegovina-Neretva Canton of the Federation of Bosnia and Herzegovina. The municipality has a rich archaeological history and untouched wilderness and is starting to develop agricultural tourism. It is also home to Hutovo Blato Park, which contains one of the most diverse bird populations in all Europe. Residents of the area are predominantly Croats with numbers of Bosniacs and small numbers of Serbs although there is no reliable estimates on the population exists since a census has not been conducted since 1991.

The main sources of population employment are several private companies and municipality. Given the large area of arable land, part of population engaged in agriculture, while most of the prevailing agricultural crops are fruits and vegetables.

There are 741 land plots in a affected area, part of them in state ownership (118 land plots), and part of them in the private ownership (623 land plots). Land plots are divided into **240 private ownership files** and **14 state ownership files**. For the all seven cadastral municipalities main characteristic is mostly unresolved land registry condition so that in a few cases also reflects the actual state of the property. In our survey we can only investigate people who we find on the field claiming to be real owners of the land plots.

There is one **(1) affected house** (vacation house under construction just before start of expropriation) in cadastral municipality of Bivolje Brdo belonging to the municipality of Čapljina and there were no affected businesses.

*In the table below is the relationship between the state owned and privately owned land affected by expropriation.*

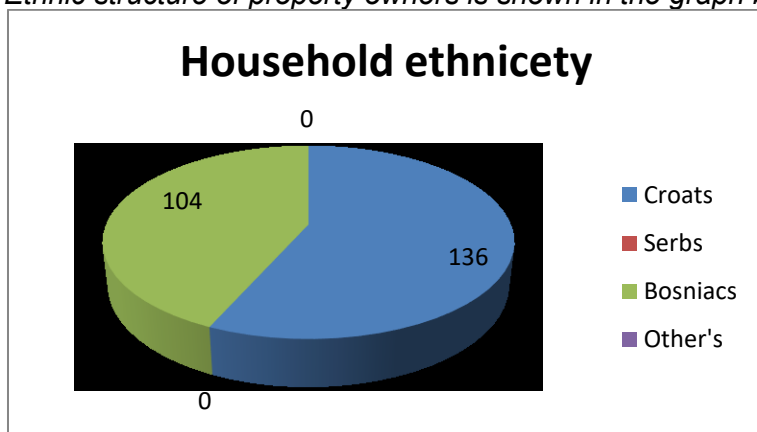


*Section Počitelj – Zvirovići mostly goes through state ownership land (56.60 %)*

### 3.2.2 Summary Socio-Economic Profile of the Affected Population

#### 3.2.2.1 Ethnicity affected by expropriation

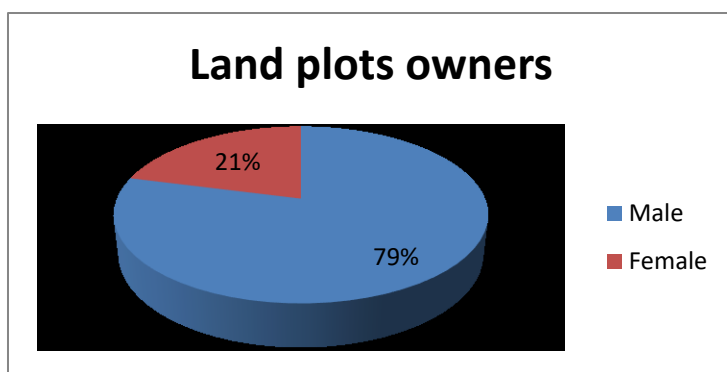
*Ethnic structure of property owners is shown in the graph below.*



CROATS 136, BOSNIACS 104, SERBS 0, OTHER'S 0

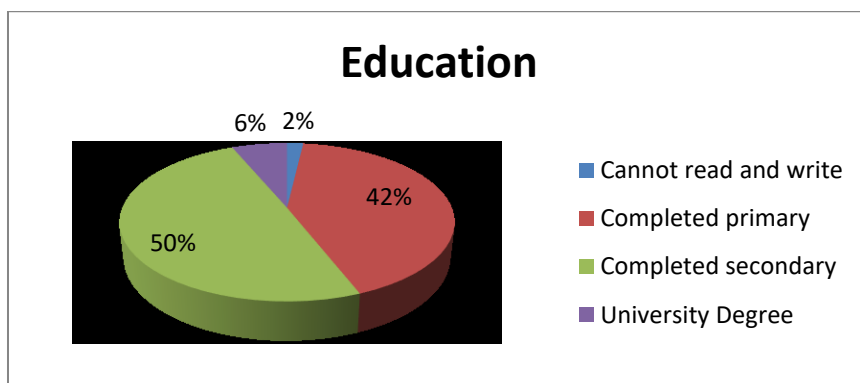
#### 3.2.2.2 Land plots owners Composition and Demography

79% of land plots owners are male and 21% are female. We haven't encountered with the joint ownership of land between spouses. The average age of land plots owners is 52 years and joint ownership of land between spouses among this targeted population is rarely seen.



### 3.2.2.3 Education

The educational status of interviewed owners is presented in the graph below. Most of the people have finished primary school. Some people can't read and write and they are mostly elderly people.



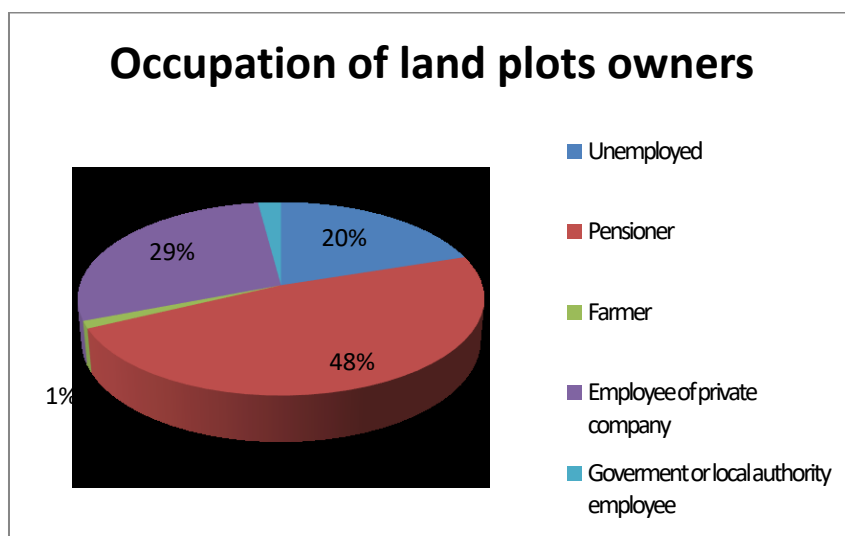
### 3.2.2.4 Livelihood

Most of the affected populations are pensioners and the elderly in the amount of 48%. People with regular source of cash income are mostly wage-earning workers or pensioners while one of fifth of affected population is unemployed.

Although this affected area is traditionally agricultural and most of interviewed people are producing food for their own needs but only three (3) of the interviewed household heads have declared themselves as farmers and their farming land is not affected by expropriation. 48% of affected people are elderly people but only few of them need any kind of special assistance.

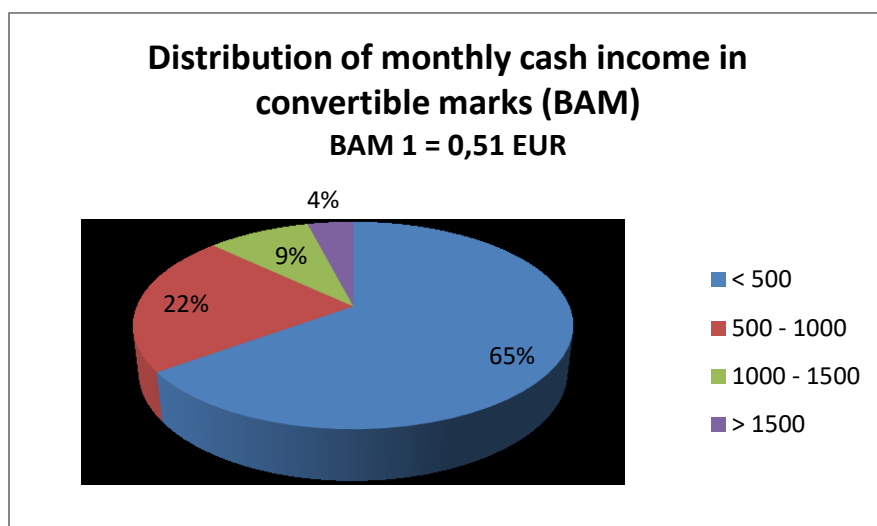
There are no affected businesses.

Occupation of land plots owners is shown in the graph below.



The vast majority of affected heads of land plots (65%) declare a cash income of less than 500 convertible marks per month. Primary sources of cash income are salaries and pensions. The vast majority of landowners has only one source of income, with only 30% declaring that they have a secondary source.

For those latter, agricultural production is mentioned as a secondary source of income for 40% of households, which confirms significant place of agriculture in the economics of the area.



### 3.2.2.5 Vulnerability

A total of few potentially vulnerable land plots owners were identified out of a total of 240 individuals surveyed. Their distribution is as follows:

- Physical handicap: 2 persons,
- Mental handicap: 1,
- Chronic disease: 3 persons,
- Other: 0

### 3.2.3 Characteristics of Affected Assets

#### 3.2.3.1 Residential Structures

There is one **(1) affected house** in cadastral municipality of Bivolje Brdo belonging to the municipality of Čapljina. The size of land plot is 2.490 square metres and this land plot is declared as fully titled. There is no Agricultural usage on this land plot. The building is not residential house named owner, then vacation house under construction and there are no vulnerable persons identified.

Appendix 6 provides a summary and photo of the house affected by expropriation.

#### 3.2.3.2 Land Plots Structures

A total of 741 affected land plots were surveyed in this area, all in the Municipality of Čapljina.

**Table 3: Number of Potentially Affected Land plots in Component 1**

Locality	Čapljina
Zvirovići	151
Trebižat	2
Dretelj	73
Šurmanci	54
Počitelj	20
Ševaš Njive	76
Bivolje brdo	365
<b>Total</b>	<b>741</b>

The average size of privately owned land plot is 661 square metres. 65% of these land plots are declared as fully titled. There are 35% co-owned land plots in investigated area and the average number of co-owners has been around 2 (from 2 to 3)

The major part of the land affected by expropriation is not arable land, especially in Trebižat, Dretelj and Ševaš Njive where almost all the ground is covered with karst underbrush and woods. This land can only be cultivated at great expense.

#### 3.2.4 Relocation Preferences

Although there is a vacation house on the motorway, there is no need for resettlement because the specified object is under construction and not occupied by residents. Owner of the house prefers Government cash compensation rather than relocation.



## 4 RESETTLEMENT AND COMPENSATION

### 4.1 KEY PRINCIPLES

The key principles committed upon by the Government of FBiH in respect of compensation and resettlement associated with the Corridor Vc Project as follows:

1. Resettlement and compensation of Project-Affected Persons shall be carried out in compliance with (a) applicable BiH/FBiH legislation, particularly Expropriation Law, (b) applicable EIB requirements (*EIB's Environmental and Social Standards (2013): Standard 6 on Involuntary Resettlement*) and (c) internationally accepted good practice.
2. Owners and users residing in or using Project affected land at the time of the cut-off date are eligible to compensation or assistance, as long as they have been granted the right to compensation in the Decision on Expropriation<sup>11</sup> as follows:
  - Registered properties shall be compensated according to the Expropriation Law
  - Non registered properties, for which the legalisation process has been successfully completed before the Decision of Expropriation, shall undergo expropriation in accordance with the Expropriation Law<sup>12</sup>.
  - An exception Article above, the illegal building along the route of the Corridor Vc and the motorway routes Tuzla - Brcko - Orasje and Tuzla - Zepce, which are built up to 31.12.2010. , the builder is entitled to compensation in the amount of the construction value of the facility. The right to compensation referred to builder who illegally built residential house on 31/12/2010 and had registered permanent or temporary residence, as evidenced by a certificate of the relevant authority.
  - Occupants of illegally constructed weekend houses and illegally constructed non-residential structures are subject to the provisions of the Expropriation Law and such cases shall not be submitted to the FBiH Government for consideration.
3. Temporary impacts related to temporary occupation of land, for instance for construction purposes, shall be compensated,
4. Any compensation shall be at replacement value, either through replacement by a similar property (the preferred option) or through cash compensation,
5. Affected livelihoods shall be restored, as a minimum, or improved where possible,
6. Monitoring and evaluation of compensation and resettlement activities shall involve independent parties,
7. PAPs and host communities shall be engaged, informed and consulted during the whole course of RAP development, implementation and evaluation,
8. The "cut-off" date for eligibility is the date when the Decision on Expropriation is made by the relevant authority as defined in the Expropriation Law,
9. The borrower is to fund compensation for expropriation real property as well as expenses related to the implementation of moving and resettlement activities.

### 4.2 ELIGIBILITY AND ENTITLEMENTS

Compensation entitlements for different categories of eligible households and properties covered by the current applicable legislation of FBiH are described in summary in Table 1 below. Table 2 identifies those compensation entitlements that are not defined by the

<sup>11</sup> In accordance with the Law on Expropriation Article 45 and 46

<sup>12</sup> The issue of legalization of illegal construction In Bosnia and Herzegovina hasn't been resolved on the state level in BiH yet. It is left to the cantons, that the decision to legalize bring on every four years, in average. Members of the Assembly of HNC on 10.11.2015. supported the decision on the procedure and conditions for establishing the status of buildings within the competence of the county, built without a valid Construction permit which would allow the legalization of buildings under certain conditions.

current valid legislation in the Federation. Appendix 1 provides further details on entitlements and compensation for all categories of affected assets.

**Table 6: Compensation Entitlements As Provided by Existing Legislation of FBiH**

Type of Affected Right or Property	Legal Framework	Entitlement	Process and Specific Conditions
Registered plot of land with residential structure with building permit	Expropriation Law	OPTION 1: RESETTLEMENT Replacement property including a residential plot of similar size and characteristics and a residential structure of similar size and characteristics (resettlement) OR OPTION 2: CASH COMPENSATION Cash compensation of both land plot and structure at replacement value and Moving allowance	Transfer of property right through amicable agreement or expropriation
Non residential structure with building permit on registered land	Expropriation Law	Cash compensation at replacement value of the structure to the structure owner AND Cash compensation at replacement value of the land	Transfer of property right through amicable agreement or expropriation
Registered agricultural land plot	Expropriation Law	Provision of a replacement agricultural plot of similar size and characteristics OR Cash compensation at replacement value	Transfer of property right through amicable agreement or expropriation. If the affected part accounts for 10% or less of the total surface area of the agricultural plot option will not be available. Only cash compensation will be available. If the remainder after expropriation of the affected part is assessed as unusable, the owner will be entitled to expropriation of the whole plot and compensation accordingly.
Agricultural land plot registered in the name of a individual distinct from the user	Expropriation Law and Law on Legal Ownership Relations	Cash compensation at replacement value of the plot to the land owner or his/her successors AND Cash compensation of any developments on the land to the owner of these developments (may apply to irrigation or drainage structures, perennial plantations, structures, etc...)	Transfer of property right through amicable agreements or expropriation.
Annual crop	Expropriation Law	Cash compensation at market value to the owner of the crop if he has evidence of lease of land plot from the landowner. Cash compensation to landowner at market value.	Cash compensation of the crop will be delivered only if the annual crop cannot be harvested within the period of notice
Perennial crop	Expropriation Law	Cash compensation at market value to the owner of the crop if he has evidence of lease of land plot from the landowner. Cash compensation to landowner at market value.	
Business	Expropriation Law	Real property will be compensated according to expropriation process: Replacement property will be given as compensation to the previous owner of the expropriated premises that were used for business purposes by the expropriation beneficiary before the expropriated property is demolished.	

**Table 7: Entitlements Which May Not be Covered by Existing Legislation**

Type of Affected Right or Property	Entitlement	Process	Specific Aspects Which May Not be Covered By Existing Legislation
Residential structure without building permit erected by the owner of the land plot, and attached plot of residential land	Subject to successful legalisation: OPTION 1: RESETTLEMENT Replacement property including a residential structure of similar size and characteristics (resettlement) and attached plot of residential land and Moving allowance OR OPTION 2: CASH COMPENSATION Cash compensation of both land plot and structure at replacement value and Moving allowance	Expropriation can be implemented when the legalisation process was completed successfully before the decision on expropriation was brought	Moving allowance
Residential structure erected illegally on a land plot titled in someone else's name	Subject to successful legalisation: Cash compensation at replacement value of the structure to the structure owner and Moving allowance to the structure owner and Cash compensation at replacement value of the land to the landowner or his/her successors	Expropriation can be implemented when the legalisation process was completed successfully before the decision on expropriation was brought	Moving allowance
Residential structure erected illegally on state and	Subject to successful legalisation: Cash compensation at replacement value of the structure to the structure owner and Moving allowance to the structure owner	Expropriation can be implemented when the legalisation process was completed successfully before the decision on expropriation was brought	Moving allowance
Non residential structure without building permit on registered land	Subject to successful legalisation: Cash compensation at replacement value of the structure to the structure owner and Cash compensation at replacement value of the land	Expropriation can be implemented when the legalisation process was completed successfully before the decision on expropriation was brought	
Non residential structure erected informally on a land plot titled in someone else's name	Subject to successful legalisation: Cash compensation at replacement value of the structure to the structure owner and Cash compensation at replacement value of the land to the landowner or his/her successors	Expropriation can be implemented when the legalisation process was completed successfully before the decision on expropriation was brought	
Non residential structure erected illegally on state land	Subject to successful legalisation: Cash compensation at replacement value of the structure to the structure owner	Expropriation can be implemented when the legalisation process was completed successfully before the decision on expropriation was brought	

## 5 GRIEVANCE MANAGEMENT AND REDRESS

### 5.1 ANTICIPATED CATEGORIES OF GRIEVANCES

In practice, grievances and disputes anticipated for the Corridor Vc resettlement and compensation programme are the following:

- Census and planning stage:
  - o Misidentification of properties (allocation of a property to the wrong owner due to deliberately misleading statements or mistakes by the census team),
  - o Disputes over plot limits, between affected person and Project or between two neighbours,
  - o Dispute over the ownership of a given property (two or more individuals claim to be the owner of this property),
  - o Disagreement over the valuation (either unit rate applied or count) of a plot, crop or house;
  - o Post cut-off establishment of a structure or other asset, whether deliberate (opportunistic occupation in anticipation of compensation) or not,
  - o Multiplication of households (where one household used to live, several suddenly appear),
  - o Confusion between legal occupants and informal occupants,
  - o Forged documents (identification, ownership or others);
- Implementation stage:
  - o Successions, divorces, and other family issues, resulting in disputes between heirs or shareholders in the disputed property,
  - o Disagreement over resettlement measures, for instance the location of the resettlement site, the type, size or standing of proposed tenements,
  - o Disagreement over compensation for businesses (disputed valuation, resettlement package deemed inappropriate – location, tenement, or other issues),
  - o Disputed ownership or shared ownership of a business (for instance where the owner and the operator are different legal or physical persons),
  - o Disputes amongst occupants themselves or between occupants and the implementing agency over salvaging of materials in the displaced site;
- Post-resettlement stage:
  - o Maintenance and guarantee issues in the new housing.

### 5.2 GRIEVANCE MANAGEMENT AND REDRESS

PC Motorways of FBiH have a grievance redress mechanism at the project level so complainants can first discuss and possibly resolve their issues with the beneficiary of expropriation prior to file their complaint to administrative authorities.

Team coordinator appointed by company can initiate changes to the study of expropriation in the event that a given modification:

- Procure financially favorable solution
- Reduce unnecessary work due to errors in the design documents
- It reduces the workload on the expropriation and meeting all the requirements of the project
- Changes the existing design solution
- It avoids the potential problem during usage of the motorway

The complaints are resolved in a way that involved parties address to the company in relation to a particular problem (modification of project, the relocation route or access road)

and the company will meet their requirements in order to be satisfactory for both involved parties.

The company is obliged to provide the access road to each land plot in which is deprived due to land expropriation and If unable, the company is obligated to carry out the expropriation of that plot

For those complaints that cannot be resolved in cooperation with the company there is the possibility of addressing to an administrative body.

The following principles will be adhered to:

- Complaints against the decision on expropriation shall be decided upon by the Federal Administration for Geodesy and Property-Legal Affairs;
- Grievances are submitted to the first level administrative body that brought the decision on expropriation (municipality);
- Deadline for submission of grievance is 15 days;
- Any grievance shall be responded to and processed within 30 days;
- Against the decision of the second level administrative body, administrative litigation can be initiated before the cantonal court within 30 days from the date when the decision was received;
- Information on legal recourse represents an integral part of every decision;
- If no agreement on the compensation is reached within two months from the date when no decision on expropriation entered into force, the municipal administrative body shall promptly submit the valid expropriation decision together with other relevant documents to the competent Court, at whose territory the expropriated real property is located, for the purpose of determining the compensation.
- If the municipal administrative body fails to act in line with the above provision, the previous owner and the expropriation beneficiary may approach the Court directly for the purpose of determining the compensation.
- The Law on administrative procedure prevails over the Law on Expropriation so that the grievance procedure shall be conducted in accordance with the Law on Administrative Procedure.
- For resolution of any disputes that could not be readily solved by direct interaction between the parties, mediation will be used as a voluntary procedure for extrajudicial settlement of disputes. A third party independent and impartial mediator will be hired by the Federation's Public Company Motorways and shall receive the information on all disputes.
- The competent court shall *ex officio* decide in out-of-court proceedings on the amount of compensation for the expropriated real property.
- Proceedings for determining the compensation for expropriated real property are urgent. The proceedings should be completed as soon as possible and not later than 30 days from the date of initiating court proceedings; it is possible to file a separate appeal against the court decision on the compensation.

## 6 MONITORING AND EVALUATION

Monitoring and Evaluation shall be based on the following principles:

- An internal monitoring programme shall be established, including:
  - Input Monitoring, which measures whether inputs are delivered on schedule and as defined in the Resettlement Action Plans or the Resettlement Framework,
  - Output monitoring, which measures the direct measurable results of the inputs, for example the number of people receiving compensation or completing livelihood restoration training course,
- Independent third party compliance monitoring, which checks whether the implementation of resettlement and compensation complies with lenders' policies. Compliance monitoring will take place on a six-monthly basis during the active

phase of resettlement, and will include a completion audit to be implemented two to three years after the active phase of resettlement is complete. Compliance monitoring will be sanctioned by reports prepared independently for the FBiH Public Company Motorways. The Consultant selected by the EIB for consultancy services for the implementation of the project shall perform the evaluation, monitoring and auditing of the procedures and send reports to the EIB.

## **7 IMPLEMENTATION**

### **7.1 RESETTLEMENT ACTION PLANS**

Resettlement Action Plans (RAPs) has been prepared ahead of the actual implementation of resettlement and compensation activities.

### **7.2 ORGANISATIONAL ARRANGEMENTS FOR IMPLEMENTATION**

In accordance with the Expropriation Law as well as for practical reasons, responsibilities will be shared between a Project Implementation Unit within the FBiH Public Company Motorways and Municipalities. Appendix 4 describes the share of the responsibilities based on a list of tasks required to implement the Resettlement Framework.

### **7.3 RESOURCES REQUIRED FOR IMPLEMENTATION AT PIU LEVEL**

Project Coordinator and twelve other members of Project Implementation Unit (PIU) have been appointed by Decision of appointment of the Project Implementation Unit<sup>13</sup>, four of whom are responsible for the expropriation, including Compensation and Resettlement Coordinator, who report to the overall Project Coordinator and who will make sure that tasks identified above are timely implemented.

In accordance with Article II of the Decision, PIU is obliged to fully follow and respect all provisions of the Loan Agreement, No. 83.975 (BA) between BIH and EIB as well as all other Procedures applied by the EIB, during the construction of Počitelj – Zvirovići motorway subsection

### **7.4 FUNDING ARRANGEMENTS**

The borrower is to fund compensations for expropriation as well as expenses related with implementation of moving and resettlement activities so the borrower provided Confirmation (Certificate) of Raiffeisen Bank Plc. No 4-1-4-39974/2014 from 31.10.2014 as evidence that required funds have been secured and deposited.

A specific line shall be identified in the budget of the FBiH Public Company Motorways to take care of compensation and resettlement activities associated with the Vc Corridor Project. Eligible expenses under this line shall include the following:

- Expropriation of affected properties (per Article 24 of the Expropriation Law, it is an obligation of the FBiH Public Company Motorways to submit evidence that required funds have been secured and deposited),
- Judicial proceedings associated with expropriation,
- Moving allowance for those affected households eligible thereto,

<sup>13</sup> *FBiH Public Company Motorways made Decision of appointment of the Project Implementation Unit for the construction of Motorway on the corridor Vc, Section Počitelj – Bijača, Subsection Počitelj – Zvirovići NO: 01-5236/15 from 02.11.2015. which repealed the Decision number 01-01-158/15 from 19.12.2014.*

- Assistance to Project- affected vulnerable people,
- Annual crop compensation,
- Perennial crop compensation,
- Expenses related with coordination, implementation, monitoring and evaluation of the compensation and resettlement activities.

Table in **Appendix 5** presents the estimated RAP budget for subsection Počitelj - Zvirovići.

## **APPENDIX 1 - COMPENSATION**

### **ELIGIBILITY**

Eligibility shall be based on the following:

- The 2008 Expropriation Study carried out in application on the Expropriation Law for those properties that fall under expropriation, which itself is based on land registries,
- The 2008 Census carried out for the development of this Resettlement Framework,
- Further investigations by Municipalities, particularly in situations where the property is titled but where title information does not correspond to the current observed ownership situation.

If there is a discrepancy between the land registry and the actual situation ownership observed in the field, it belongs in the Municipalities to resolve such discrepancies, according to Article 27 of the Expropriation Law. This would particularly be the case where the land registry has not been updated following the decease of the registered owner(s).

Regulations on legalisation of illegally built buildings without permits and buildings of temporary character are a competence of the Cantons. These regulations or decisions provide the conditions and procedure applicable to the legalisation of illegally built or temporary structures. The legalisation process includes the following steps:

- A legalisation application by the owner within a certain time period established by the Cantonal regulations (usually one year),
- A review by Municipal and Cantonal bodies in charge of spatial and construction planning,
- A decision on supplemental urban permit,
- A decision on building permit and usage permit in accordance with the Law on spatial planning.

### **COMPENSATION FOR LAND**

#### **Replacement Land**

As provided under the Expropriation Law, compensation for land will wherever feasible be offered in the form of replacement property *"enabling the owner....approximately the same conditions of use"*. "Same conditions of use" will be understood as meeting the following criteria:

- Being acceptable to the affected owner/farmer,
- Being approximately the same size (plus or minus 10%),
- Having a similar or better agricultural potential ( fertility, slope, plot layout, exposition),
- Being located at reasonable distance (" reasonable distance" will vary according to the farmer's equipment and the respective size and location of both the

expropriated parcel and the farmer's remaining land holdings- as general guidance, reasonable distance should usually be less than 5 km).

In situations where only 10 % or less of the total surface area of the affected agricultural plot is actually expropriated, a replacement property will not be proposed and only cash compensation will be offered.

Subject to eligibility conditions described in the Entitlement Matrix ( Tables 1 and 2), crops will be compensated separately from the land itself according to arrangements described below in the section related with crops.

Where it is found that replacement properties cannot be offered to the affected landowner because suitable agricultural land is not available at reasonable distance or is not acceptable to the landowner, cash compensation is determined in accordance with the market value.

### ***Cash compensation***

In the event where cash compensation is the preferred option, the replacement value of land shall be assessed by an expert based on the following:

- Identification of three recent (less than 6 months) transactions in the area interesting plots of similar characteristics,
- Calculation of the average price per square metre for these three transactions, to be used as the proposed replacement value for the expropriated plot.

In the event where only a smaller plot of lesser potential can be identified and offered as compensation, the difference between the value of the affected plot and that of the replacement plot shall be evaluated and paid. This will require both the affected plot and the replacement plot to be valued so that the difference in value can be calculated. Valuation at replacement value will comply with details above. If the difference in value is less than 10 %, no cash compensation will be paid to offset the difference.

### ***Expropriation of Unaffected Parts of Properties***

In situations of partial expropriation of agricultural or residential land where the remainder of the plot is unsuitable for further agricultural or other use, he/she will be able to apply for expropriation of the whole plot according to provisions of Article 11 of the FBiH Expropriation Law. Such situations will be assessed on a case-by-case basis by the Municipality, and the following criteria will be used to assess suitability for further agricultural use:

- Whether there is any business/commercial interest to use the remainder of the property;
- Whether his previous livelihood was blocked or seriously deteriorated;
- Whether normal usage of the remainder of the property is possible or not;

## ***COMPENSATION FOR STRUCTURES***

### ***Residential Structures- Resettlement***

Per the Expropriation Law, the expropriation beneficiary has an obligation to propose the provision of a replacement property of similar characteristics ("resettlement") as a first option.



Resettlement includes the replacement of both the plot of residential land and the residential structure by a property of similar characteristics in the same area. Resettlement for the Project will be "in-fill" resettlement: replacement properties will be identified amongst existing ones in the vicinity. Replacement properties will meet the following criteria, to the extent possible:

- Plot with same surface area,
- House with similar size and standards, including access to utilities,
- Reasonable distance from affected property, with a similar potential from a livelihood perspective (access to employment or agriculture).

If replacement properties of lesser size or less favourable characteristics are proposed to the owners of real property that is being expropriated, the difference in value will be paid to the affected household according to a calculation similar to that described in the section above related to land compensation. Where a physically displaced household cannot be proposed an adequate resettlement property because none is available cash compensation will be determined in accordance with the market value of the real property.

### ***Cash Compensation***

Where the affected households chooses cash compensation rather resettlement, or if no suitable resettlement property can be ensured, residential structures shall be compensated in cash. Principles applicable to the determination of replacement value are the same as those described above for land: at least three transactions interesting comparable properties in the same area will be identified to be used as a reference for calculation of prices, with both value of land and value of buildings taken into consideration. This process will be documented. Non residential structures will be compensated in cash at replacement value.

## **COMPENSATION FOR CROPS AND FOREST**

### ***Annual Crops***

Expropriation and land entry will generally be phased in such a manner that any standing annual crop, regardless of its development stage, can be harvested before land is taken from the land owner or land user. Annual crops that are harvested before land occupation by the beneficiary agency shall not be compensated.

For those annual crops that cannot be harvested prior to land entry or that are damaged by construction works, they shall be compensated at full market value. Recent records of agricultural produce prices at cantonal or municipal level shall be used where they exist and are not older than six months. Where such records are not available, a specific price survey shall be undertaken as part of the preparation of the detailed Resettlement Action Plan to identify the market value of major crops to be compensated, and a table of rates will be generated for all major crops in a given area. These will be updated on a six-monthly basis.

### ***Perennial Crops***

The calculation of the full replacement value requires consideration not only of the product of the crop over one year, but also of the cost of re-establishing the plantation ( seedlings, soil preparation, fertilizers, others), as well as of the lost income during the period needed to re-establish the crop.

Compensation rates will be calculated in compliance with the full replacement value principle, base on the following:

If:

V: \_\_\_\_\_ Average market value of the produce of one tree for one year

D: \_\_\_\_\_ Average period of time required to re-establish the tree to an adult production level, in years

CP: \_\_\_\_\_ Cost of planting (seedling, soil preparation, initial fertilization)

CL \_\_\_\_\_ Cost of the labour required to maintain the crop during the period of time needed to re-establish it to its previous production level

The compensation rate C for one tree is determined by application of the following formula:

$$C = V \times D + CP + CL$$

The unit rate C per tree shall then be applied to the whole plot taking consideration either of an average density or of the full count of standing trees.

Market values of the produce for each of the common fruit trees in the area will be investigated and reflected in rate tables for every Resettlement Action Plan (RAP). Compensation rates will be generated in the RAPs for the following four stages of tree development:

- Seedling,
- Young, not productive,
- Young productive,
- Mature.

### **Forest**

The replacement value is the market value of the logged timber. If any affected commercial forest cannot be logged before entry into land, it will therefore be compensated based on a similar principle as that presented above for annual crops, taking consideration of the market value of the lost timber.

### **DEADLINES FOR PROVIDING COMPENSATION**

Compensation shall, as a rule, always be effected prior to land entry or taking of possession. As a general rule, the compensation recipients will be given a minimum of three months notice to vacate the property unless otherwise provided in the agreement between the owner and the expropriation beneficiary. Exceptionally, upon request of the expropriation beneficiary who has produced valid reasons for urgent need to take possession of the expropriated real property, FBH Government can decide that the real property is turned over to the expropriation beneficiary before the effectiveness of the decision on expropriation, if it establishes that this is necessary due to the urgency of the situation or in order to avoid larger damage.

### **SALVAGING**

Salvaging of materials from expropriated properties shall not be permitted.

## APPENDIX 2 – ASSISTANCE TO VULNERABLE PEOPLE

Vulnerable people are those affected people who by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status, may be more adversely affected by resettlement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits.

Vulnerable people include, but are not limited to:

- Disabled persons, whether mentally or physically;
- Seriously ill people, particularly people living with HIV/AIDS and other chronic illnesses;
- The elderly, particularly when they live alone;
- Households whose heads are children;
- Households whose heads are female and who live with limited resources;
- Households who have no or very limited resources;
- Widows and orphans,

Refugees and displaced persons are covered by the Law on Displaced Persons of the FBiH, which at federal level is implemented by the Ministry for Displaced Persons and Refugees and by relevant institutions.

Assistance to vulnerable people shall include the following activities, depending on a case-by-case screening to be carried out with support from the Municipalities Social Welfare Bureau:

- Assistance during the compensation and resettlement process:
  - o During the census
  - o Individual meetings to explain eligibility criteria and entitlements,
  - o Specific resettlement packages
  - o Payment process (making sure that compensation documents are well understood, that the vulnerable individual will be able to cash in cheques, etc...).
  - o In the post payment period to secure the compensation money and reduce risks of misuse or robbery:
- Assistance to moving:
  - o Removal of belongings,
  - o Salvaging of material in the old dwelling and transport or sale thereof,
  - o Transportation of the household themselves, with medical assistance if required,
  - o Taking of possession of the new tenement,
- Assistance during the post-resettlement period,
  - o Counselling in matters such as family, health, money management, and livelihood restoration,
  - o Check that the solidarity networks that the vulnerable person was relying on have been re-established or take measures if they have not: food support, health monitoring etc.,
  - o Health care if required at critical periods or enrolling vulnerable households in a health insurance scheme,
  - o Prioritization for training courses to enhance employability and prioritization for employment where possible.

### APPENDIX 3 - MONITORING& EVALUATION INDICATORS

A number of indicators to monitor, either internally or externally, are identified in details in the full Compensation and Resettlement Framework. Specifically, the following Key Performance Indicators shall be monitored:

Indicator	Source of Information	Frequency of Measurement
<b>Input indicators</b>		
Overall spending on compensation and resettlement	Financial records	Quarterly
Number of full time staff dedicated to resettlement & compensation, with distribution in-house / outsourced if applicable, and distribution by skill type	HR Department	Quarterly
Number of PAPs by categories	Census and grievance management	Quarterly
<b>Output indicators</b>		
Number of dwellings commenced to construct in the period	Construction	Monthly
Number of dwellings delivered in the period	Construction	Monthly
Number of PAPs having moved into their new dwelling in the period	Data management system	Monthly
<b>Outcome indicators</b>		
Number of open grievances and trend in time	Data Management System	Quarterly
Average time for payment of compensation	Measure time between compensation agreement and payment	Quarterly
Has compensation been paid at full replacement cost? Is compensation updated to take account of increases in real estate value?	Compare results of real estate market survey for similar properties with compensation paid. Investigate whether recipients of cash compensation were able to purchase a similar property	Yearly
Use of compensation	What has compensation been used for? Survey of compensated households	Yearly
Satisfaction with allocated dwellings	Satisfaction survey of all resettled households	Yearly
Income	Are incomes restored? Survey of occupations and income over a stratified sample of PAPs and comparison with baseline	Yearly and at Completion Audit

Group of Tasks	PIU's Responsibilities	Municipalities Responsibilities
<b>Develop RAPs and Expropriation Studies</b>	<ul style="list-style-type: none"> <li>- Amend as appropriate and approve this Resettlement Framework</li> <li>-Hire and contract consultant to prepare RAPs and Expropriation Studies for each component</li> <li>-Supervise consultant and monitor their progress</li> <li>-Review draft RAPs and provide comments to consultants</li> <li>-Develop Municipalities awareness of Resettlement Framework and RAP requirements</li> <li>-Organise disclosure of Resettlement Framework and RAPs</li> <li>-Hire compliance auditor acceptable to the EIB</li> </ul>	<ul style="list-style-type: none"> <li>-Participate in census and Expropriation Study by providing consultants with cadastral documentation and with support in identifying owners</li> <li>-Participate in consultants efforts to identify "legalisable" informal properties and help to identify legal steps required to legalise them</li> <li>-Participate in consultation meetings held within the RAP preparation process</li> <li>-Participate in identification of vulnerable people</li> <li>-Support consultants effort in identifying resettlement sites and/or replacement properties</li> <li>-Put in place a grievance desk and assign responsibility of logging and processing grievance to a designated officer</li> <li>-Disclose to PAPs avenues for lodging grievance</li> </ul>
<b>Prepare for RAP implementation</b>	<ul style="list-style-type: none"> <li>-Hire a Compensation &amp; Resettlement Coordinator accountable to the Project Coordinator</li> <li>-Staff the PIU's RAP implementation unit per description in section</li> <li>-Make sure monies are earmarked in the FBiH budget per provisions in section</li> </ul>	<ul style="list-style-type: none"> <li>-Disclose expropriation study within the territory of the Municipality</li> <li>-Prepare and approve Declaration of Public Interest at Municipality level</li> <li>-Launch and implement legalisation process for those properties that are "legalisable"</li> <li>-Ensure personnel, material and technical conditions for efficient work of cadastral department to legalise properties as a priority and update the cadastre data accordingly</li> <li>-Inform owners</li> </ul>
<b>Implement expropriation process</b>	<ul style="list-style-type: none"> <li>-Make sure applicable legal framework is passed in due time by Municipalities and/or Cantons (Declaration of Public Interest)</li> <li>-Provide Municipalities with relevant expropriation documentation, including lists of properties to expropriate and relevant details derived from the Expropriation Study and census</li> <li>-Prepare and implement the first stage of the expropriation process and embark into amicable negotiations</li> <li>-Document situations where no amicable agreement can be reached</li> <li>-Support and coordinate Municipalities effort in implementing expropriation</li> <li>-Pay compensation or provide replacement properties per provisions of the Expropriation Law and this document</li> </ul>	<ul style="list-style-type: none"> <li>-Check that land records are consistent with actual ownership and that legalisation has been completed where applicable</li> <li>-Trigger the second stage of expropriation process per Expropriation Law where no amicable agreement can be reached by the Expropriating Agency</li> <li>-Notify the expropriation proposal and hold a second round of amicable negotiations</li> <li>-Take the expropriation decision according to Article 27 of the Expropriation Law</li> <li>-In situations where no agreement can be reached, hand over related files with all necessary documentation to competent Court immediately after failure of negotiations</li> </ul>

**APPENDIX 4 - IMPLEMENTATION RESPONSIBILITIES**

During the implementation of the Compensation and Resettlement Framework, the responsibilities of the municipalities, which are listed in the above table, shall be harmonised with the relevant legal regulations that stipulate the obligations and responsibilities of municipalities during the expropriation process.

**APPENDIX 5 – ESTIMATED RAP BUDGET**

Table below presents the estimated RAP budget.

N°	Item	Unit	Unit Cost (BAM)	Quantity	Total Cost (BAM)
<b>1</b>	<b>RESETTLEMENT HOUSING (buildings and land)</b>				
1.1	Residential plot and structure (poor condition)	unit	-	-	-
1.2	Residential plot and structure (good condition)	unit	-	-	-
1.3	Residential plot and structure (under construction)	unit	28000	1	28.000
	<b>Sub-total 1</b>				<b>28.000</b>
<b>2</b>	<b>REPLACEMENT AGRICULTURAL LAND</b>				
2.1	Agricultural land	m <sup>2</sup>	-	-	-
	<b>Sub-total 2</b>				<b>-</b>
<b>3</b>	<b>CASH COMPENSATION</b>				
<b>3.1</b>	<b>Agricultural land</b>	m <sup>2</sup>	10,91	411.846	<b>4.490.120</b>
<b>3.2</b>	<b>Crops</b>				
3.21	Standing annual crops (agricultural and residential plots)	m <sup>2</sup>	-	-	-
3.22	Perennial crops - average value per parcel	m <sup>2</sup>	503	280	141.000
3.23	Woods	m <sup>3</sup>	30	7.300	219.000
	<b>Sub-total 3.2</b>				<b>360.000</b>
<b>3.3</b>	<b>Resettlement</b>				
3.31	Legalisation fees	unit	-	-	-
3.32	Moving fees	unit	-	-	-
	<b>Sub-total 3.3</b>				<b>-</b>
<b>3.4</b>	<b>Structures</b>				
3.41	Non-residential structures (dry stone walls)	m <sup>3</sup>	25,25	-	260.000
	<b>Sub-total 3.4</b>				<b>260.000</b>
<b>3.5</b>	<b>Vulnerable people</b>				
3.51	Assistance to vulnerable people	unit	3000	5	15.000
	<b>Sub-total 3.5</b>				<b>-</b>
<b>3.6</b>	<b>Businesses</b>				
3.61	Assistance with relocation	unit	-	-	-

N°	Item	Unit	Unit Cost (BAM)	Quantity	Total Cost (BAM)
	Sub-total 3.6				-
	<b>Sub-total 3</b>				<b>5.153.120</b>
<b>4</b>	<b>IMPLEMENTATION</b>				
<b>4.1</b>	<b>Implementation</b>				
4.11	Professional staff (3 staff / 1 years)	person month	1,500	36	54.000
4.12	Support staff (2 staff / 2 years)	person month	-	-	-
4.13	Vehicle	month	500	12	6.000
	Sub-total 4.1				<b>60,000</b>
<b>4.2</b>	<b>Monitoring</b>				
4.21	Participation of an independent observer in the grievance mechanism	month	1,500	12	18,000
4.22	Six monthly monitoring missions	unit	6,000	2	12,000
4.23	Yearly monitoring missions after completion of physical resettlement	unit	6,000	2	12,000
	Sub-total 4.2				<b>42,000</b>
	<b>Sub-total 4</b>				<b>102.000</b>
	<b>GRAND TOTAL (BAM)</b>				<b>5.255.120</b>
	<b>GRAND TOTAL (EUR)</b>				<b>2.686.913</b>

## APPENDIX 6 – RESIDENTAL STRUCTURE

### RESIDENTIAL STRUCTURES – Bivolje brdo (Čapljina)



#### MAIN CHARACTERISTICS

- Location – Bivolje brdo (Čapljina)
- GPS points – unknown
- Name of Head of Household – N.M.
- Vulnerability – No
- Ownership – Yes
- Building Permit – Yes
- External condition – object under construction
- Resettlement Preference – Cash only