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**TECENTAL**



Technical Assistance to the Public Company  
Motorways of the FBIH  
**Land Acquisition Report**  
for the subsection Tarcin-Tunnel Ivan

November 2021

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## Abbreviations

BiH	Bosnia and Herzegovina
CS	Canton Sarajevo
EIB	European Investment Bank
ESS	Environmental and Social Standards
FBiH	Federation of Bosnia and Herzegovina
HH	Household
JPAC	Public Company Motorways of the Federation of Bosnia and Herzegovina
LAR	Land Acquisition Report (this document)
LARPIAR	Land Acquisition and Resettlement Plan and Impact Assessment Result
LC	Local Community
PAH	Project Affected Households
PAP	Project Affected Person/People

## 1 THE PROJECT

The Public Company Motorways of the Federation Bosnia and Herzegovina (JPAC) is working on the development of the motorway which is part of the Trans-European Corridor Vc, connecting Budapest (Hungary) and Port of Ploče (Croatia). The total length of the Corridor Vc in Bosnia and Herzegovina (BiH) is approximately 325 km. It is considered a priority project for BiH, likely to entail major positive economic impacts for the country as a whole. The driving force behind the construction of the Corridor Vc motorway is to improve the connectivity of BiH with the neighbouring countries and enhance its potential for economic development. It has strong support from the Government, and it expects to enable BiH to integrate better with the European economic and social structure.

The European Investment Bank (EIB) has provided a sovereign loan to the Federation of BiH ('FBiH') for the construction of Subsection Tarčin-Ivan (Tarčin-Entrance to Tunnel Ivan) and Section Tunnel Kvanj-Buna. FBiH (the Beneficiary) applied a part of the proceeds of this loan towards the costs of the Construction Works and Consulting Services of the Supervision, and Technical Assistance.

The agreement on motorway construction for Subsection Tarčin-Tunnel Ivan was signed on August 24, 2020. The Contractor is a consortium consisting of Euro-Asfalt d.o.o. Sarajevo (BiH) and Granit AD Skopje (Northern Macedonia). Construction is supervised by Institute IGH d.d. Zagreb (Croatia). The Subsection, in the length of 4.9 km, is entirely located within Canton Sarajevo (CS), Municipality Hadžići, Local Communities (LCs) of Tarčin and Raštelica (Figure 1).

Construction works on this Subsection began in September 2020, and is currently ongoing. The estimated construction duration is 20 months, i.e., completion is expected in March 2022.

MAP OF MUNICIPALITY OF HADŽIĆI



*Figure 1: Map of Municipality of Hadžići – LCs Tarčin and Raštelica*

## 2 ABOUT THIS LAND ACQUISITION REPORT

### 2.1 Purpose

This Land Acquisition Report (LAR) was prepared in November 2021 with the purpose of documenting the results of an assessment of the land acquisition process implemented by the JPAC construction of motorway on the Corridor Vc, section Tarčin-Konjic, subsection Tarčin-Tunnel Ivan, and obtaining an overall understanding of the process conducted to date.

Land acquisition activities on the subsection Tarčin-Tunnel Ivan, conducted by JPAC, started almost 10 years ago (in 2012). However, a resettlement planning document in line with EIB's Environmental and Social Standards (ESS) was not prepared prior to the start of the land acquisition process due to the fact that the financier was not yet known. In November 2020, a Land Acquisition and Resettlement Plan and Impact Assessment Result (LARPIAR) was prepared by JPAC.

Since land acquisition activities have already been completed at approx. 99%, this LAR is intended to demonstrate compliance of the process with EIB ESS (2018), specifically ESS 6 (Involuntary Resettlement) and ESS 7 (Rights and Interests of Vulnerable Groups), as well as to present the results of the land acquisition process in relation to the socio-economic impacts on the Project Affected Persons (PAP) and Project Affected Households (PAH). It also identifies gaps and recommends corrective actions to address such gaps.

### 2.2 Activities and Methodology

The tasks conducted during the development of this LAR included:

1. **Review of available documentation:**
  - LARPIAR<sup>1</sup> approved by EIB on November 26, 2020.
  - Set of documents delivered by JPAC:
    - decision on public interest,
    - public announcement to invite owners for negotiated settlements in daily newspapers,
    - expropriation data provided by JPAC's Legal Department,
    - proposals for expropriation,
    - examples of property valuation (by official court experts),
    - list of owners and land plots
2. **Analysis of legislation** governing land acquisition in FBiH
3. **Communication with JPAC** to obtain answers to a list of questions on the conducted process
4. **Review of the previously conducted survey of PAP and PAH** whose property had already been acquired (the survey was conducted by JPAC for the purpose of development of the LARPIAR in June 2020 to obtain basic socio-economic data and information on their level of satisfaction with the process).
5. **Supplementary survey** conducted by the Consultant for the purpose of development of this LAR in order to obtain basic socio-economic data and information related to the results of the conducted land acquisition process, as well as the PAP and PAH level of satisfaction with this process.

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<sup>1</sup> Full version of LARPIAR available at: <https://www.jpautoceste.ba/wp-content/uploads/2021/05/Land-Acquisition-and-Resettlement-Plan-and-Impact-Assessment-Result-LARPIAR-2020.pdf>

## 3 LEGAL REVIEW AND GAP ANALYSIS

### 3.1 Relevant Legislation

Since the 2020 LARPIAR contains a detailed description of the relevant legislation in BiH applied during land acquisition, only a summary of the key requirements of the *Law on Expropriation*<sup>2</sup> is given in this report.

The key provisions of the Law are as follows:

- **Types of expropriation:** Outright purchases of immovable property are defined as complete expropriation. Incomplete expropriation is the instigation of an easement over property or a lease of land. Temporary occupation of land is also possible when needed for construction works.
- **Public interest and expropriation proposal:** The expropriation proposal may be submitted to municipality only after public interest has been declared. It has to include: (i) information on affected properties, (ii) proof that public interest has been declared, and (iii) proof that the required funds have been secured and deposited with the bank in the assessed total sum for payment, or proof that other appropriate replacement properties are provided.
- **Negotiated settlements:** The Law allows for negotiated settlements on the amount and type of compensation with property owners, until the Decision on Expropriation becomes final. In such case the expropriation procedure is terminated and for processing consensual transaction.
- **Decision on Expropriation:** If a negotiated settlement has not been reached, the Municipality issues a Decision on Expropriation. Affected persons are entitled to lodge an appeal against it with the Federal Administration of Geodetic and Property Affairs. Any decisions of the Federal Administration may further be challenged by initiating an administrative dispute with the court.
- **Access to property:** The expropriation beneficiary may acquire possession of the affected property when the Decision on Expropriation becomes final and compensation has already been provided to the property owner. Exceptions are allowed for urgent cases<sup>3</sup>.
- **Right to request acquisition of entire assets:** Landowners affected by a partial loss of their property are entitled to request complete expropriation and the corresponding compensation, in case partial expropriation would deteriorate the economic situation of the actual property owner or make the remaining part of the property useless or difficult to use. Owners must be informed of such right by the municipal/ city authority. Such request may be submitted until the Decision on Expropriation is issued in the first instance, as well as during the appeal procedure if the affected owner was not informed of such right<sup>4</sup>.
- **Entitlements:** Persons who have formal legal rights on land and structures, as registered in the land registry, are entitled to compensation<sup>5</sup>.
- **Type of compensation:** As a rule, in case of complete expropriation, appropriate replacement property is preferred by the Law. It is defined as property in the same municipality or city which corresponds to the expropriated property in terms of the market value, and which offers approximately similar conditions of usage as they had had prior to expropriation. In case the property owner refuses such replacement property, or replacement property cannot be provided, compensation is paid in cash at market value of the property. The Law also defines the method of determining compensation for orchards, forests and agricultural plantations, etc.

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<sup>2</sup> Official Gazette of FBiH, No. 70/07, 36/10, 25/12, 34/16

<sup>3</sup> In case of urgency and to avoid major damage, FBiH Government makes Decision on granting authorization to the expropriation beneficiary for early entrance into possession of expropriated land even before the Decision on Expropriation becomes final and before compensation is paid.

<sup>4</sup> Proof that the owner is aware of the right to request acquisition of entire affected assets is provided by the minutes (during the individual hearing of the owner in the procedure before the Decision on Expropriation) in the manner prescribed by the Law on Administrative Procedure (Official Gazette of FBiH, Nr. 2/98 and 48/99).

<sup>5</sup> The exception from this rule is when an informally built residential building is the only residential building the owner and their closest family members (right to home) or their legal heirs possess, in which case they are entitled to the compensation at construction value.

### Compensation for incomplete expropriation<sup>6</sup>:

1. In the case of establishing usufruct rights on the private land and structures the compensation is paid in cash and is determined according to the reduced market value of property and also includes compensation for crops, trees orchards, forests agricultural plantations. This value is determined by a court expert on the basis of an assessment of the impact on the land plot as well as the type of work that will be undertaken<sup>7</sup>.
  2. In the case of establishing a lease, the compensation is paid in cash, in full payment or through instalment payment plan and determined in the amount of the rent, defined at median price of real property market sub-segment.
- **Increase in compensation (for Vulnerable Groups):** Financial and other personal/family circumstances of the previous owner must be taken into consideration if such circumstances are “of significance to the livelihood of the owner” (large number of household members, number of household members earning income, the health status of the household members, monthly income of the household, etc.).
  - **Valuation of property:** The amount of monetary compensation is determined by expert assigned by the Court and is based on the current market value of the property. The market value is based on the property prices in the area where the expropriated property is located, which can be achieved for the specific property in the market, and which depends on the demand and supply at the time of determining it.
  - **Grievances:** Affected owners may lodge administrative and judicial appeals against all decisions at many stages of the expropriation procedure.
  - **Information disclosure:** Affected owners must be informed throughout the expropriation process (e.g., Municipality has to invite PAP to a meeting before the Decision on Expropriation is passed to present any facts which may be relevant for expropriation).
  - **Public consultations:** Before filing proposal for expropriation, the expropriation beneficiary is required to invite owners of affected properties in a public call to negotiate property acquisition.

## 3.2 Analysis of Gaps

A brief analysis of gaps between ESS6 and ESS7<sup>8</sup> of EIB and the *Law on Expropriation* of FBiH is presented in the table below. Issues with identified gaps are marked in orange.

Table 1: Analysis of gaps

Issue	Comment
Avoiding involuntary resettlement	The Law allows the expropriation beneficiary to reach a negotiated settlement on the amount and type of compensation with property owners, until the Decision on Expropriation becomes final. In that case, the expropriation procedure is terminated.
Resettlement planning and implementation	The expropriation proposal prepared by the expropriation beneficiary has to include information on affected properties, but there are no explicit requirements in the Law related to socio-economic surveys or development of resettlement plans.
Cut-off date	There are no differences with respect to determining the cut-off date or communicating it to PAP between ESS6 and the national legislation.
Timing of compensation	In general, the Law requires that compensation must be paid before the expropriation beneficiary gains access to the affected property, but it does allow early access (before compensation) in exceptional cases.

<sup>6</sup> Incomplete expropriation provides the beneficiary with usufruct rights on the land and structures, as well as the lease of the land for a definite period of time. At the end of the lease, usufruct rights the property is returned to the previous owner.

<sup>7</sup> In this case, the owner remains in possession of the affected land plot, and the amount of compensation determined in this way is a compensation to the owner due to restrictions on the use of the land plot (prohibition on construction of any kind of facilities on such land).

<sup>8</sup> Full version of European Investment Bank Environmental and Social Standards available at: [https://www.eib.org/attachments/strategies/environmental\\_and\\_social\\_practices\\_handbook\\_en.pdf](https://www.eib.org/attachments/strategies/environmental_and_social_practices_handbook_en.pdf)

Issue	Comment
Types of compensation	The Law foresees both compensation in cash and in kind. The compensation requirement of the Law is not compliant with the ESS6 requirement of compensation at replacement cost – compensation in cash is determined in the amount of the market value of similar properties in the area, not increased by relocation costs. In addition, in Canton Sarajevo, PAPs are not exempt from paying taxes when purchasing new property.
Eligibility for compensation (categorisation)	A major gap between ESS6 and the Law is that the Law refers only to formal owners of property, with exceptions as the category of persons who are entitled to compensation for informally built residential building. The exception from this rule is when an informally built residential building is the only residential building the owner and their closest family members (right to home) or their legal heirs possess, in which case they are entitled to the compensation at construction value. All other owners of informally built structures, like business structure, are not entitled to receive the compensation; however, the owners of informal structures may demolish the structure and take away the materials.
Economic displacement	The former owners are entitled to the lost profit they would have earned if they had continued using the expropriated property. Lost profits are calculated from the date the owner lost possession of the property until the date he/she received compensation. It also stipulates that the financial and other personal/family circumstances of the previous owner must be taken into consideration if such circumstances are “of significance to the livelihood of the owner” (large number of household members, number of household members earning income, health status of the household members, monthly income of the household, etc.).
Vulnerable groups	There are no specific provisions in the Law which require consultations with and providing assistance to vulnerable groups in the expropriation process.
Grievance mechanism	While the Law does foresee the rights of affected owners to appeal at many stages of the expropriation procedure, there is no requirement for establishment of an independent grievance mechanism to process complaints related to specific projects <sup>9</sup> .
Disclosure of information and consultations	Several articles of the Law stipulate notifying of/consultation with property owners.
Monitoring, evaluation and reporting	There are no legal requirements in FBiH legislation to monitor, evaluate or report on land acquisition.

<sup>9</sup> A formal grievance mechanism has been established by JPAC for the purposes of this project, and is available to the PAP.



## 4 DESCRIPTION OF THE LAND ACQUISITION PROCESS

### 4.1 Responsibility for Land Acquisition Activities

Land acquisition activities regarding the construction of motorway on the Corridor Vc, section Tarčin-Konjic, subsection Tarčin-Tunnel Ivan were carried out by the JPAC Department for Legal and Property Affairs as the expropriation beneficiary.

The expropriation authority is Municipality Hadžići – responsible for conducting the expropriation procedure for all the affected land plots, real estate appraisal and registration of rights in the land register.

### 4.2 Land Acquisition Procedure and Timeline

The land acquisition process was conducted in accordance with the *Law on Expropriation*.

Key steps undertaken during the process are described below.

Declaration of public interest. The project was declared to be of public interest in February 2012 by the Government of FBiH<sup>10</sup>.

Preparation of Expropriation Study. JPAC developed an Expropriation Study for the road section Tarčin-Konjic, subsection Tarčin-Zukići, cadastral municipalities Tarčin and Raštelica (Municipality of Hadžići)<sup>11</sup>.

Proposals for expropriation. The proposals for expropriation were submitted by JPAC to Municipality Hadžići (the expropriation authority) first in June 2012 and again in January and October 2021 (due to the subsequent need for relocating the electric transmission line in the settlement of Zukići and expanding the landfill for the disposal of excavated material). The proposals contained data on affected property, the property owners and the purpose for which expropriation was proposed. They also contained land registry data, the decision on declaration of public interest and evidence that the required funds had been secured and deposited in Raiffeisen Bank.

Negotiated settlements. The *Law on Expropriation* allows the signing of negotiated settlements after the expropriation proposal has been submitted – the expropriation beneficiary and the property owner can agree on the form and amount of compensation, as well as the transfer of possession of real estate. Such an agreement may be signed until the Decision on Expropriation becomes final, in which case the expropriation procedure is suspended. JPAC published a public announcement<sup>12</sup> inviting the owners of affected properties to conclude these agreements. However, no negotiated agreements (contracts) on compensation were concluded, because none of the PAP responded to this announcement.

Decision on Expropriation. Upon receiving the expropriation proposal, Municipality Hadžići held individual hearings with PAP to determine the status of ownership and consult with PAP regarding the initiated expropriation procedure. The hearings were held on site, i.e., at or near the location of the affected properties, and in the presence of JPAC representatives. The Municipality then issued the Decisions on Expropriation for all of the land plots. Each Decision contains instructions on available legal remedy and gives owners the possibility to appeal against the Decision to the Federal Administration for Geodetic and Property Affairs.

Valuation of property. According to the Law on Expropriation and the Law on Administrative Procedure, valuation of property is performed by court experts. Court experts are appointed ex officio by the Municipality and all must be court experts of appropriate professions (construction, agriculture, architecture, economy).

Compensation must be based on market value of property, calculated as the market price based on recent market transactions in the affected area (or in a relevant nearby area). Replacement cost of land must correspond

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<sup>10</sup>Decision on declaration of public interest, no. 138/2012, adopted by the Government of FBiH

<sup>11</sup> The Study was updated during 2021, given that there was a subsequent need to relocate the electric transmission line and expand the landfill for the disposal of excavated material.

<sup>12</sup> Published on 15 May 2012 in the media and on the JPAC website.

to the market value of land with similar characteristics in the vicinity of affected land. Appraisal of plants and trees takes into account features such as their age or the resources and amount of time that would be needed to grow a new tree/plant.

Valuation of properties included (i) compensation for land including all crops and trees, (ii) compensation for residential and commercial structures, (iii) compensation for auxiliary structures, (iv) compensation for establishment of easement.

Payment of compensation. Compensation costs were borne entirely by JPAC and were based on valuations of the above-mentioned court experts. Land acquisition costs were paid in the amount of approx. BAM 9.000.000.

Early entrance into possession. JPAC used the legal possibility of early entrance into possession of expropriated land before the payment of compensation was made only in two particular cases (when the owners filed legal remedies and prevented the planned construction). This was necessary for the contractor to start the construction works on land where the expropriation proceedings had not yet been completed. None of the land plots had any residential or commercial structures and compensation was fully paid to owners subsequently.

Communication with PAP. Since 2012 till present the JPAC conducted numerous individual meetings with PAPs to increase access to information about the project, and to improve communication and information sharing with project-affected people throughout the course of the project. The purpose of these meetings was to ensure that PAPs are appropriately consulted and informed about planned expropriation process, which include acquisition of project affected land and assets and issuance of cash compensation.

Assistance to vulnerable persons. According to information provided by JPAC, even though the *Law on Expropriation* does not require any special measures for vulnerable groups, JPAC representatives undertook additional efforts to provide assistance to vulnerable PAP by, e.g., providing legal advice, organising home visits, etc. Specific vulnerable groups (such as Roma families) were not registered during the land acquisition process.

## 5 SCOPE OF LAND ACQUISITION

### 5.1 Extent of Impacts

The total number of affected land plots is 420 of which:

- 335 privately owned land plots (owned by 203 PAPs in total – owners and co-owners);
- 85 state-owned land plots.

Land acquisition activities for these 335 privately owned land plots have been ongoing since 2012, and have already been completed in 99% of cases.

With regard to the affected state-owned land plots, it was determined that these plots were not used formally or informally by any private persons, as confirmed by JPAC during the development of this LAR. Ownership of all state-owned land plots (85 in total) was granted to JPAC as the expropriation beneficiary.

The land acquisition process was carried out in two phases:

#### *Phase 1 - Land acquisition process until LARPIAR development*

As stated in the LARPIAR, a Resettlement Action Plan was not prepared before starting the land acquisition process. Until the development of LARPIAR in November 2020, it was planned to acquire a total of 340 land plots:

- 272 privately owned (by a total of 146 PAPs);
- 68 state-owned land plots.

For all of these 272 private plots, compensation has by now been paid to the owners fully or in the most part<sup>13</sup>. 8 of these belonged to a business but no relocation of any commercial facilities was required.

In 84 cases, owners requested the expropriation of remaining (orphaned) land and all requests were granted.

A total of seven residential buildings were expropriated, of which three were uninhabited. Therefore, four households (HH) were physically resettled. 11 auxiliary structures were affected by land acquisition (barn, garage, and other construction facilities). JPAC has confirmed that all these facilities were compensated.

#### *Phase 2 - Land acquisition process after LARPIAR development*

In January 2021 the JPAC subsequently initiated the procedure of land acquisition for an additional 80 land plots (63 privately owned and 17 state-owned land plots) for the needs of relocating the electric transmission line as well as for the needs of and expanding the landfill for the disposal of excavated material. This phase included incomplete expropriation of three plots owned by a business which did not use the land for any business purposes.

The land acquisition process for all of these land plots has been completed as follows:

- 5 land plots in the procedure of complete expropriation
- 20 land plots in the procedure of both complete and incomplete expropriation
- 55 land plots in the procedure of incomplete expropriation.

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<sup>13</sup> In some cases, JPAC as the expropriation beneficiary used the legal possibility to conclude partial agreements for affected properties with the owners who were dissatisfied with the expert assessments and to pay compensation in the amount estimated by these experts. In these cases, the proceedings continued before the Municipal Court to determine the merits of the owners' claims for the remaining part of compensation. In practice, such court cases can take several years. According to JPAC, the remaining compensation is expected to be finally determined and paid in the first quarter of 2022.

## 5.2 Results of the Socio-Economic Survey

A total of two socio-economic surveys were conducted to assess the land acquisition impacts of the Project:

### *2020 survey*

The first survey was carried out by JPAC in June 2020, after the completion of the expropriation procedure of seven residential buildings (of which four were inhabited and thus resettled), to obtain information and solicit the opinions of the relocated HH about the process. The survey covered three of four resettled HH. The key results are summarised below:

- HHs confirmed that they received monetary compensation and purchased other properties;
- All respondents stated that they were the formal owners of land;
- The socio-economic situation of the surveyed HH remained at the same level after land acquisition;
- Salaries or pensions were the main sources of income for all respondents;
- All HHs used the land for commercial agricultural activities as a secondary source of income. They stated that they were compensated for all assets on land (including auxiliary facilities and trees/crops);
- HHs were engaged in fruit and vegetable growing (mostly orchards – 85%) and raising livestock to sell milk, both for their own needs and for sale as a secondary source of income.

### *2021 survey*

The second survey was conducted by the Consultant for the purpose of development of this LAR. Three types of questionnaires prepared by land acquisition experts were used: (i) questionnaire for resettled HH (one HH not covered by the 2020 survey); (ii) questionnaire for land owners or users not living on affected land; and (iii) questionnaire for businesses (formal or informal).

44 PAP and businesses were contacted for the purpose of conducting the survey<sup>14</sup>. 28 were successfully surveyed (1 resettled HH, 26 land owners and 1 business), whereas others either refused to participate in the survey or did not respond to the calls.

The key results are summarised below, while the full results are available in separate Excel files which contain confidential data and information.

#### Results for 26 surveyed land owners or users not living on affected land:

- All compensation was monetary
- 54% stated that they were fully satisfied with the compensation received, while others expressed some dissatisfaction (one person could not answer the question given that the court proceedings for determining compensation are ongoing)
- 92% respondents stated that they used the affected land for agricultural purposes. 62.5% of these stated that they performed agricultural activities for their own needs, while the rest stated that they used the land for both their own needs and to sell fruits
- Salaries and pensions are the main source of household income for the majority (92%)

#### Results for the relocated HH<sup>15</sup>:

- The HH stated that the paid compensation had a positive impact on HH income
- Agricultural activities were carried out on the affected land solely for HH needs (no commercial activities)
- The main source of income for the HH is pension

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<sup>14</sup> Given the situation caused by the corona virus (COVID-19) and respecting the measures defined by competent institutions to prevent the spread of the virus, telephone surveys were conducted based on available telephone numbers of PAP provided by JPAC.

<sup>15</sup> During the first survey conducted by JPAC three of four resettled HH were surveyed, so this survey refers to the remaining relocated HH that was not covered by the first survey.

Results for one surveyed business are summarised below:

- The surveyed business did not perform any business activities on the affected land plots
- The main activity of the business is organising meetings

## 6 GRIEVANCES AND DISPUTES

### **Disputes in line with local legislation**

PAP were informed of their right to appeal at many stages of the process, as defined by the *Law on Expropriation*, including administrative and judicial appeals against the decision on public interest, the decision on expropriation and regarding compensation.

A total of 12 disputes were registered against expropriation decisions, which were referred to the Federal Administration for Geodetic and Property Affairs. In further proceedings, a lawsuit was filed against the decisions of the Federal Administration in two cases. The Cantonal Court dismissed the lawsuits in these two cases, after which compensation proceedings continued before the Municipality Hadžići and the Municipal Court of Sarajevo.

### **Grievances received under the Project's grievance mechanism**

JPAC has established a grievance mechanism for receiving and reviewing Project-related complaints. The grievance form is published on the JPAC website, which provides contact information and explains the procedures for filing grievance. As part of the grievance mechanism, a register of grievances has been established to record all complaints and comments submitted by the PAP via an official form, email, telephone or in person at the JPAC premises. In addition to the listed options, it is also possible to file a complaint to the contractor, who is obliged to forward it to JPAC for further action.

Through the grievance mechanism, the PAP filed 21 complaints on various grounds, most of which were related to disturbance of property and temporary occupation of land plots during the execution of construction works. According to the available data provided by JPAC, all grievances were registered and resolved in favour of the applicant within the given deadlines.

## 7 DISCLOSURE OF INFORMATION AND CONSULTATIONS

Various types of notifications and consultations were published/organised for this motorway section before and throughout the land acquisition process:

- The Decision on Public Interest was published in the Official Gazette of FBiH;
- Notices and documents relevant to the implementation of the Project are continuously published on JPAC's website ([www.jpautoceste.ba](http://www.jpautoceste.ba));
- A public announcement inviting all owners for conclusion of negotiated settlement for affected properties was published on May 15, 2012 in the local daily newspapers "Oslobodjenje" and "Avaz", as well as on the JPAC website;
- PAP living in the Project area were individually visited by the representatives of JPAC and the experts for valuation of property;
- For PAP for which the Decisions on Expropriation became final, Municipality Hadžići organised hearings to determine the compensation amounts;
- PAP were informed of their right to request expropriation of the entire plot in cases where only part of the plot was initially planned to be expropriated.

## 8 KEY FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

### 8.1 Process Gaps

The main elements of the land acquisition process conducted by JPAC in comparison with EIB's Environmental and Social Standards (ESS) (2018), specifically ESS 6 (Involuntary Resettlement) and ESS 7 (Rights and Interests of Vulnerable Groups) are presented in the table below.

Table 2: Key findings regarding the land acquisition process

Issue	Activities undertaken	EIB ESS 6 requirements	Gaps/comments
Census/ socioeconomic survey and Resettlement Action Plan	The Expropriation Study was prepared as the baseline census (with data on affected owners or users, data on property and estimates of the value of property). There is no legal requirement regarding surveys or resettlement plans.	A socio-economic baseline assessment and a detailed census must be developed at early stages of project preparation.	The Expropriation Study (which contain census data) prepared by JPAC is broadly compliant with ESS6 census/survey requirements. In addition, JPAC organised the process of consultations with PAP through individual hearings and meetings to collect information on the socio-economic status of PAP. Including identifying vulnerable PAHs and their needs to be addressed accordingly. No significant gaps identified in the process.
Cut-off date for eligibility	The cut-off date was the date when the Municipality Hadžići informed the PAP that a proposal for expropriation had been submitted.	A cut-off date for eligibility must be determined and communicated throughout the project area.	No gaps identified in the process. The cut-off date was determined in line with the <i>Law on Expropriation and due information was provided to PAPs</i> .
Eligibility for compensation (categorisation)	No PAP without any recognisable legal right or claim to the land they use were affected by the project.	ESS 6 defines that people who occupy the land but have no formal or informal claim to it, shall be provided with resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, if they occupy the project area prior to a cut-off date established by the promoter and acceptable to the EIB. Such affected persons shall not be compensated for land but for their land improvements or structures.	No gaps identified in the process. No informal users (i.e. those who have no recognisable legal right or claim to the land they occupy) were affected by the Project.
Timing of compensation	Compensation was in all completed cases paid prior to formal transfer of ownership of expropriated property.  JPAC did apply the provisions of the <i>Law on Expropriation</i> which allow early access to land plots before compensation was paid in two cases but these land plots had no residential or commercial facilities and compensation was subsequently paid in all cases.	Compensation must be provided before displacement or imposition of access restrictions.	No gaps identified.
Types and levels of compensation	Compensation arrangements were based on market value, and included	All displaced persons must receive compensation for loss of	The <i>Law on Expropriation</i> defines two types of compensation for acquired property – monetary compensation or replacement property. It also



Issue	Activities undertaken	EIB ESS 6 requirements	Gaps/comments
	all land, structures, and any crops/trees/improvements on land.	assets at full replacement cost and other assistance in order to restore, and potentially improve, their standards of living and/or livelihoods to pre-displacement levels.	prescribes that PAP have the right to receive compensation for lost profits, as well as an increase in compensation in case they are in an unfavourable socio-economic situation. Therefore, it can be concluded that there are no essential differences with regard to ESS6 requirements.
Livelihood restoration	PAP were provided with compensation for residential, business and auxiliary structures, as well as loss of income.	ESS 6 requires the restoration or, where possible, improvement of the livelihoods and standards of living of displaced persons to pre-displacement levels.	No gaps identified in the process.
Assistance to vulnerable persons /households	JPAC as the expropriation beneficiary undertook activities to assist vulnerable people as needed.	Particular attention must be paid to vulnerable groups and individuals.	No gaps identified in the process. Even though no formal process for identifying and assisting vulnerable groups was in place (as the <i>Law on Expropriation</i> does not stipulate any such measures), vulnerable groups were de facto identified and provided with assistance during the expropriation process by, e.g., providing legal advice, organising home visits <sup>16</sup> , etc.
Disclosure of information and consultations	PAP living in the Project area were individually informed by Municipality Hadžići and JPAC about land acquisition activities, and rights and responsibilities of PAPs. In addition, JPAC has published a public announcement inviting the owners of affected properties to conclude negotiated settlements for affected properties.	Appropriate disclosure of information and involvement of all affected population must be ensured from the earliest phase.	The disclosure and consultation activities undertaken by JPAC are compliant with ESS6. No significant gaps identified in the process.
Grievance redress	Affected owners were informed of their right to appeal at many stages of the process, as defined by the Law. In addition, the LARPIAR (section 6.2) provides for the establishment of an appeal mechanism by which all PAP can lodge grievances to JPAC. A grievance form for this road section with contact information (address, e-mail, telephone number and contact person) has been published on JPAC website.	A project-specific grievance mechanism must be established.	JPAC has established an available grievance mechanism. No gaps identified in the process.
Monitoring, evaluation and reporting	JPAC keeps internal records of land acquisition and overall spending. However, those records are not completely updated. The main reason for this is length of the expropriation process itself, which began in 2012.	Monitoring of the resettlement and livelihood restoration process must be carried out in accordance with EIB requirements and should involve the participation of key stakeholders such as affected communities.	A gap in monitoring, evaluation and reporting procedure has not been identified. As part of the monitoring and evaluation process, two socio-economic surveys were conducted in order to collect data on relocated households and monitor livelihood restoration in accordance with ESS requirements. Also, JPAC regularly holds

<sup>16</sup> The purpose of the home visits is to ensure that vulnerable categories of people (elderly and disabled people, etc.) are well informed on project objectives, expropriation process, compensation entitlements, eligibility to compensation, essence of cut-off date and project implementation schedule without the necessity to visit the official premises of JPAC or Municipality.

Issue	Activities undertaken	EIB ESS 6 requirements	Gaps/comments
			<p>meetings at least once a month with representatives of the LC to discuss possible problems that arise during Project implementation.</p> <p>However, JPAC should update its records for the land acquisition process starting from 2012 to date.</p> <p>LARPIAR envisions drafting of reports on implementation of LARP over a two-year period.</p> <p>Under the approved LARPIAR, the JPAC is in charge to produce biannual reports on the progress achieved with the implementation of the LARP. These reports will consolidate information on compensation and livelihood restoration measures, consultations, information on negotiations and results, provision of assistance to vulnerable groups, grievance management, etc.</p>

## 8.2 Conclusions and Recommendations

After the analysis of all available data and information related to land acquisition, it was concluded that no major problems were reported in the land acquisition process. The conducted analysis indicates that land acquisition activities have been carried out adequately by JPAC. Compliance with both national legislation and ESS in some key issues was achieved through the following:

- when assessing the affected properties, compensation was increased by the amount of relocation costs in accordance with the requirements of ESS6;
- applying the principles set out in LARPIAR during additional expropriation proceedings (after LARPIAR development) resulted in avoiding any potential gaps between the national procedure and EIB ESS requirements;
- JPAC attempted to conclude negotiated settlements as encouraged both by national legislation and ESS6 whenever possible to avoid expropriation proceedings by publicly announcing an invitation to PAP for negotiated settlements in May 2012, which provided the possibility of concluding a compensation agreement<sup>17</sup> between the owner and JPAC outside the expropriation procedure. However, none of the PAP responded to this announcement.

However, some minor gaps in terms of EIB requirements have been identified. It is recommended to perform the following activities to achieve full compliance with EIB ESS6 i ESS7:

1. When resolving PAP's complaints in the grievance procedure, negotiations and conclusions of agreements should be the priority in order to avoid court proceedings.
2. JPAC should update its records for the land acquisition process starting from 2012 to date.

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<sup>17</sup> Such an agreement can be concluded before a notary public as a contract of sale that contains all the essential elements of ESS 6 and the Law on Expropriation.

## ANNEXES

### Questionnaires Used for Primary Data Collection

#### #1 - Questionnaire for land owners or users not living on affected land

Date of survey:	
Survey start time:	_____ h, _____ min
Name of interviewer:	
Number and location of the expropriated plot:	
Name of respondent:	
Contact number:	

	Question	Answer
1.	Was the whole plot expropriated or only a part of it?	
2.	What is the area of your expropriated part in m <sup>2</sup> ?	
3.	Did you receive the compensation in full? <i>If YES</i> , was it monetary compensation or replacement property?	
4.	<i>(if the compensation was monetary)</i> Are you satisfied with the monetary compensation you received? <i>If NO</i> , why not?  Did you buy other land with that money? <i>If YES:</i> - What is the area of the new plot in m <sup>2</sup> ? - Where is it located? - Did you have additional costs when buying other land (e.g. taxes) that were not compensated for?	
5.	<i>(if the compensation was replacement land)</i> Are you satisfied with the replacement plot you received?  Is the new plot exactly the same standard/content as your expropriated plot?  What is the area of the plot in m <sup>2</sup> ?  Were you able to negotiate a different location?	
6.	Did you request the expropriation of other land plots you own, which are located in the immediate vicinity of your expropriated land plot?  <i>If NO, skip the next questions.</i>  - Was your request granted?  - What is the area of the land plot / plots for which you requested to be additionally expropriated?  - Are you satisfied with the outcome?	
7.	Did you use the expropriated plot for agricultural purposes? <i>If NO, skip to the next question.</i>  <i>If YES:</i> - What did you have on the plot? (crops...)  - Did you use the land for your own needs and/or as a source of income (for selling crops, etc.)? If the answer is yes, are you registered as an agricultural producer?  - Did you receive compensation for crops and trees?  - Have you continued your agricultural activities elsewhere? (If not, what is the main reason?)	
8.	Was the expropriated plot used by anyone other than the owner?  <i>If YES</i> , please briefly state who used the plot, for what purpose, for how long, and whether the user received any compensation?	
9.	How many members does your household have?	
10.	Were there any vulnerable categories (disabled, children, etc.) in the household of the user of expropriated plot? <i>If YES</i> , were their needs taken into account during the expropriation process – e.g. special help for the elderly?	
11.	Are you satisfied with the information provided to you during the expropriation process?  <i>If the answer is 1 – skip to the next question.</i> <i>If the answer is 2 or 3 – why are you dissatisfied and what could have been done differently?</i>	1-completely satisfied 2-partially satisfied 3-dissatisfied
12.	What is your main source of income (employment, pension, etc.)?	
13.	Has expropriation affected your household income?	1- No 2- Yes, positively 3- Yes, negatively

Interviewer comments and observations (difficulties encountered, additional observations, etc.)

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Survey completion time:	_____ h, _____ min
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Questionnaire checked by:	(signature)
Date of verification:	
Coordinator's comments:	

#2 - Questionnaire for businesses (formal or informal)

Date of survey:	
Survey start time:	_____ h, _____ min
Name of interviewer:	

Number and location of the expropriated plot:	
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Name of respondent:	
Contact number:	

Question		Answer
1.	What is your core business?	
2.	Do you still do business at the location where the part of the plot was expropriated?	
3.	What is the area of your expropriated part in m <sup>2</sup> ?	
4.	For what purpose did you use the expropriated part of the plot? What was in that part?	
5.	Did you receive compensation in full? <i>If YES</i> , was it monetary compensation or replacement land?	
6.	<i>(if the compensation was monetary)</i> Are you satisfied with the monetary compensation you received? <i>If NO</i> , why not?  Did you buy other land with that money? <i>If YES:</i> - What is the area of the new plot in m <sup>2</sup> ? - Where is it located? - Did you have additional costs when buying other land (e.g. taxes) that were not compensated for?	
7.	<i>(if the compensation was replacement land)</i> Are you satisfied with the replacement plot you received?  Is the new plot exactly the same standard/content as your expropriated plot?  What is the area of the plot in m <sup>2</sup> ?  Were you able to negotiate a different location?	
8.	Did you have to stop your business activities due to expropriation? <i>If YES</i> , how did this affect your business (loss of income, loss of employees, etc.)?	
9.	How many employees did you hire before expropriation? How many do you employ now – if there is a difference in the number of employees, please indicate whether it has anything to do with expropriation.	
10.	Has the expropriation affected your business revenues?	1- No 2- Yes, positively 3- Yes, negatively
11.	Are you satisfied with the information provided to you during the expropriation process?  <i>If the answer is 1 – skip to the next question.</i> <i>If the answer is 2 or 3 – why are you dissatisfied and what could have been done differently?</i>	1-completely satisfied 2-partially satisfied 3-dissatisfied

Interviewer's comments and observations (difficulties encountered, additional observations, etc.)

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Survey completion time:	_____ h, _____ min
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Questionnaire checked by:	(signature)
Date of verification:	
Coordinator's comments:	

### #3 - Questionnaire for relocated households

Date of survey:	
Survey start time:	_____ h, _____ min
Name of interviewer:	
Number and location of the expropriated plot:	
Name of respondent:	
Contact number:	

Question	Answer
1. What is the area of your expropriated part in m <sup>2</sup> ?	
2. In addition to your house, did you lose any other property (auxiliary structures, garden, etc.)?	
3. Did you receive the compensation in full? <i>If YES, was it monetary compensation or replacement property?</i>	
4. <i>(if the compensation was monetary)</i> Are you satisfied with the monetary compensation you received? <i>If NO, why not?</i>  Did you buy another house with that money? <i>If YES:</i> - What is the area of the new house in m <sup>2</sup> ? - Where is it located? - Did you have additional costs when buying other land (e.g. taxes) that were not compensated for?	
5. <i>(if the compensation was replacement land)</i> Are you satisfied with the replacement house you received?  Is the new house exactly the same standard/content as your expropriated house?  What is the area in m <sup>2</sup> ?  Were you able to negotiate a different house or location?	
6. Did you request the expropriation of other land plots you own, which are located in the immediate vicinity of your expropriated land plot?  <i>If NO, skip the next questions.</i>  - Was your request granted? - What is the area of the land plot / plots for which you requested to be additionally expropriated? - Are you satisfied with the outcome?	
7. Did you use the expropriated plot for agricultural purposes? <i>If NO, skip to the next question.</i>  <i>If YES:</i> - What did you have on the plot? (crops...)  - Did you use the land for your own needs and/or as a source of income (for selling crops, etc.)? If the answer is yes, are you registered as an agricultural producer?  - Did you receive compensation for crops and trees?  - Have you continued your agricultural activities elsewhere? (If not, what is the main reason?)	
8. Was the expropriated plot used by anyone other than the owner?  <i>If YES, please briefly state who used the plot, for what purpose, for how long, and whether the user received any compensation?</i>	
9. How many members does your household have?	
10. Were there any vulnerable categories (disabled, children, etc.) in the household of the user of expropriated plot? <i>If YES, were their needs taken into account during the expropriation process – e.g. special help for the elderly?</i>	
11. Are you satisfied with the information provided to you during the expropriation process?  <i>If the answer is 1 – skip to the next question.</i> <i>If the answer is 2 or 3 – why are you dissatisfied and what could have been done differently?</i>	1-completely satisfied 2-partially satisfied 3-dissatisfied
12. What is your main source of income (employment, pension, etc.)?	
13. Has expropriation affected your household income?	1- No 2- Yes, positively 3- Yes, negatively

Interviewer comments and observations (difficulties encountered, additional observations, etc.)

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Survey completion time:	_____ h, _____ min
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Questionnaire checked by:	(signature)
Date of verification:	
Coordinator's comments:	