EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

PROJECT COMPLAINT MECHANISM

COMPLIANCE REVIEW REPORT

COMPLAINT: EPS POWER II
Request No. 2013/02

July 2015

PUBLIC

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Acronyms and Abbreviations

AfDB	-	African Development Bank
ADB	-	Asian Development Bank
CEKOR	-	Center for Ecology and Sustainable Development (*Centar za ekologiju i održiv Razvoj*)
DAC	-	Development Assistance Committee
EBRD	-	European Bank for Reconstruction and Development
EPS	-	*Electroprivreda Srbje*
EU	-	European Union
OECD	-	Organisation for Economic Development and Cooperation
PCM RPs	-	Project Complaint Mechanism Rules of Procedure *This Complaint was registered in accordance with the PCM Rules of Procedure approved by the EBRD Board of Directors in May 2009. For the purpose of this Report, all references to the PCM RPs are to the PCM RPs 2009, unless specified otherwise.*
RP	-	Resettlement Plan

Note

This Compliance Review has been undertaken in compliance with Project Complaint Mechanism (PCM) Rules of Procedure (RPs) 35-44, and in accordance with the Terms of Reference set out in the Eligibility Assessment of the Complaint (Request No. 2013/02). The Compliance Review Report is not intended to present an analysis of the full range of issues associated with involuntary resettlement and compensation of households affected by the development and expansion of the Tamnava West Coal Mine project. The Report focuses strictly on the issues identified by the Eligibility Assessment, which the Report considers relevant to the Complaint submitted to EBRD, and assesses that Complaint in the light of available information and feedback from EBRD, Complainant, EPS, and public sources.

Executive Summary

The Compliance Review of the Complaint regarding EPS Power II was undertaken in response to Complaint No. 2013/02, registered with PCM on 2 August 2013. In accordance with PCM RP 32, the Terms of Reference for a Compliance Review were prepared as part of the Eligibility Assessment, and were followed in the conduct of the Compliance Review and the preparation of the Compliance Review Report.

On 16 August 2013 a Complaint was submitted to the Project Complaint Mechanism (PCM) by Nataša Dereg of the Serbian NGO CEKOR, representing Milan Simić (father) and Dragan Simić (son) of Radljevo, Serbia, and seeking a Problem Solving Initiative and a Compliance Review.

On 23 August 2013, a Complaint was registered pursuant to PCM Rules of Procedure (RP) 10. An independent PCM Expert was appointed as an Eligibility Assessor to conduct an Eligibility Assessment jointly with the PCM Officer in accordance with PCM RP 17.

The Eligibility Assessors determined that the Complaint satisfied the requirements of PCM RP 19, 20, 21 and 23, and that none of the provisions of the PCM RP 24 were applicable to the current Complaint. Therefore, the Complaint was found eligible for a Compliance Review. A Compliance Review Expert was selected on 16 March 2015 to conduct the Review.

The Compliance Review examined the two alleged grounds of non-compliance identified in the Eligibility Assessment Report:

1. ***Whether EBRD had failed to ensure the implementation of the requirements of the 1996 Environmental Policy on public consultation in respect to the Project.***
2. ***Whether EBRD had failed to ensure the implementation of the requirements of the 1996 Environmental Policy regarding establishment of a grievance mechanism.***

From a policy perspective, the two key documents (Relevant Policies) against which the compliance of EBRD has to be measured are: (i) *Environmental Policy*, 1996; and (ii) *Policy on Disclosure of Information* 1996. The supporting policy document is the World Bank's OP 4.12 (2001 version) on *Involuntary Resettlement*. From a procedural perspective, the main references are the Resettlement Plan prepared for the Project, and the *Environmental Procedures* of EBRD.

Given the legal provisions of the 1995 Serbian *Law on Expropriation*, and detailed procedures in place and followed by EPS under the Project, there appears to be no failing in compliance by EBRD with the Policy requirements of disclosure and public consultations for the Project. Equally, having specified a grievance mechanism in the Resettlement Plan that was available to affected persons and offered adequate resolution of issues in accordance with the laws of the land, and was generally consistent with international practices followed in the region, EBRD did comply with the provisions of the Environmental Policy.

The Compliance Review concludes, pursuant to PCM RP 39, that on review of available information and with due regard to the issues relevant to the Complaint, EBRD was in compliance with its policies, practices and procedures at the time with respect to:

I. The conduct of public and individual household consultations, consistent with the requirements of the Environmental Policy 1996, Environmental Procedures 1996, the

provisions of the Environmental Impact Assessment prepared for the Project, and practices of the Client/power utility, EPS; and

II. Adherence to the provisions of the Environmental Policy 1996, which required that EBRD followed World Bank standards, that is, OP 4.12 Involuntary Resettlement, which in turn required that a grievance mechanism be identified, in this case the judicial and administrative system in Serbia.

In reaching its conclusion, the Compliance Review has drawn on documentation at EBRD, documentation submitted by the Complainant, publicly available materials, discussions with EBRD (at EBRD headquarters) and the Complainant (videoconference), and research into policies and practices prevailing at other multilateral financial institutions at the time.

I. Introduction

1. The *Serbia EPS: Power II Project* (the Project)[1] financed by the European Bank for Reconstruction and Development (EBRD) consisted of a sovereign-guaranteed €60 million loan to *Electroprivreda Srbje* (EPS),[2] the utility of the Republic of Serbia responsible for 95% of electricity generation in the Federation of Yugoslavia. The Project, which was part of an overall loan of €150 million involving co-financing by the European Investment Bank, European Agency for Reconstruction, and Swiss State Secretariat for Economic Affairs, was the second EBRD loan to EPS. The loan was intended to support the restructuring and modernization of EPS and its active membership in the South East Europe Regional Energy Market. The investment proceeds would finance power system control and communications upgrades required to restore links with the Western European transmission system as well as to increase efficiency of power supply and reduce losses, modernization and stabilization of fuel supply through restructuring of the EPS lignite mining organization, and provision of equipment to increase production.

2. As the Project involved a major extension of an existing operation run by MB Kolubara, the largest company within EPS and the leading coal producer in Serbia, with substantial environmental, occupational health and safety and potentially social implications, it required an Environmental Impact Assessment (EIA) and public consultations in accordance with EBRD's 1996 Environmental Policy, Environmental Procedures and 1996 Disclosure of Information Policy.

3. The Project's environmental and social impacts were the subject of detailed due diligence carried out by independent consultants and presented in an environmental impact assessment carried out in 2002. Major environmental issues were loss of land/biodiversity, impact of mining operations on surface and ground water, impact on soil and flora, loss of habitat and impact on fauna. Key social issues were resettlement, socio-economic development, public health and impacts on cultural heritage.

4. The EIA (which included an additional, independent study on the resettlement issue and the adequacy of the resettlement process) included mitigation measures (public consultation and disclosure plan; additional surveys and studies; environmental management; monitoring).

5. The Project is located in the Kolubara basin, one of three mining basins in the country (Kostolac and Kosovo-Metohija being the others). The Project impacts on populations and habitations in the Tamnava West Field involved the resettlement of Villages Kalenic and Radljevo in the administrative community of Ub, and Villages Mali Borak and Skobalj in the administrative community of Lajkovac. The expected relocation was 81 households (201 persons) in Kalenic, 43 households (130 persons) in Radljevo, 214 households (619 persons) in Mali Borak, and 128 households (393 persons) in Skobalj for a total of 466 households (1,343 persons).[3]

[1] *Serbia EPS: Power II Project*. EBRD. Approved 15 July 2003.

[2] Thus far, five investments have been approved since 2001. (i) Emergency Power Sector Reconstruction (2001), Category B; (ii) EPS Power II (2003), Category A; (iii) EPS Metering (2010), Category B; (iv) EPS Kolubara Environment Improvement (2011), Category A; and (v) EPS Hydropower Plants (2011), Category B. A sixth investment to construct a new lignite-fired power plant has been cancelled.

[3] European Agency for Reconstruction. *Environmental Impact Assessment of a Development Project to Improve Operations and Productions in Serbian Coalmines: Environmental Impact Assessment Study*. Harress Pickel Consult GmbH and LDK Consultants SA. Page 21. See also, *Environment Impact Assessment Study of The Project: Supplementary Mining Design Tamnava West Field*. 2010. Pages 30, 51, 109-110.

6. A Resettlement Plan (RP)[4] for the Project was undertaken as an additional study. The RP noted that the expropriation plan until 2010 would affect 217 households, half of whom had already been relocated at the time of the RP. Of the 150 households at Kalenic that needed relocation, 117 had been compensated and most had moved out. The rest had been divided into two expropriation zones, the first of which would respond to the southward expansion of mining operations and would involve the relocation of 37 households until 2005, and the second toward the southeast that would relocate 63 households by 2010.[5] The RP noted the need for more effective communication with the communities.[6]

II. Eligibility Assessment and Basis for the Compliance Review

7. On 16 August 2013 a Complaint was submitted to the Project Complaint Mechanism (PCM) by Nataša Dereg of the Serbian NGO CEKOR, representing Milan Simić (father) and Dragan Simić (son) of Radljevo, Serbia, and seeking a Problem Solving Initiative and a Compliance Review.

8. On 23 August 2013, a Complaint was registered pursuant to PCM Rules of Procedure (RP) 10, and was subsequently posted on the PCM website, pursuant to PCM RP 13. An independent PCM Expert was appointed as an Eligibility Assessor to conduct an Eligibility Assessment jointly with the PCM Officer in accordance with PCM RP 17. As the Expert's contract with the PCM had expired during the course of the Eligibility Assessment,[7] the report was finalized by the PCM Officer in accordance with the requirements of PCM RP 48.

9. In determining the eligibility of the present Complaint, the Eligibility Assessors examined the requirements of PCM RP 18 and 21 to determine if the Complaint would be eligible for a Problem-solving Initiative, and the requirements of PCM RP 19 and 23 to determine if the Complaint would be eligible for a Compliance Review. The Complaint was also assessed against the requirements of PCM RP 24, which sets out general criteria that disqualify a Complaint for a review by the PCM.

10. PCM RP 18b(ii) requires that for a Complaint to be held eligible for a Problem-solving Initiative it must relate to a project where EBRD maintains a financial interest, in which case, the Complaint must be filed within twelve (12) months following the last date of disbursement of ERBD funds. The Eligibility Assessors established that the last disbursement of funds for the Project was made in April 2011, two years and four months before the Complaint was filed with the PCM on 16 August 2013. Therefore, the Complaint did not satisfy the requirement of the PCM RP 18 and was not eligible for a Problem-solving Initiative.

11. The Eligibility Assessors determined that the Complaint satisfied the requirements of PCM RP 19, 20, 21 and 23, and that none of the provisions of the PCM RP 24 were applicable to the current Complaint. Therefore, the Complaint was found eligible for a Compliance Review.

12. The Complainants identified three interlinked elements of alleged non-compliance: (i) allegation of failure to develop a Resettlement Action Plan; (ii) allegation of failure to establish a visible grievance mechanism; and (iii) allegation of failure to conduct public consultation. During the Eligibility Assessment, it was established that a Resettlement Plan had been developed and was available to affected

[4] *Tamnava West Coal Mine Project: Proposal for Additional Work to Complete Resettlement Plan*. Draft Report. European Agency for Reconstruction. Harress Pickel Consult and GmbH and LDK Consultants SA. June 2002.
[5] *Ibid*. Page 5.
[6] *Ibid*. Page 14.
[7] The full text of the Eligibility Assessment is available at:
www.ebrd.com/cs/Satellite?c=Content&cid=1395241360073&d=&pagename=EBRD%2FContent%2FDownloadDocument

persons. Therefore, the two remaining grounds of the alleged non-compliance that could be subject to a Compliance Review were:

I. Whether EBRD had failed to ensure the implementation of the requirements of the 1996 Environmental Policy on public consultation in respect to the Project.

II. Whether EBRD had failed to ensure the implementation of the requirements of the 1996 Environmental Policy regarding establishment of a grievance mechanism.

13. The Eligibility Assessors undertook a general examination of the Complaint to determine whether it satisfied the applicable eligibility criteria as set down in the PCM Rules of Procedure (RP). They also took account of the response to the Complaint received from EBRD Management, information received from the Client (EPS) and the Complainant, as well as all previous correspondence between the Complainant and the EBRD Management on the matter. The Eligibility Assessment Expert visited Serbia for meetings with the Simić family and representatives from CEKOR Radjlevo, EPS Management and EBRD staff.

14. Along with the original Complaint, the Eligibility Assessors also considered further clarifications on the case provided in a communication from CEKOR dated 4th November 2013. In particular, that communication provided clarification regarding Complainants' request for a Compliance Review, taking into consideration that the project in question had been approved under the EBRD Environmental Policy 1996, not the Environmental and Social Policy 2008, as the initial Complaint had erroneously stated.

15. While the PCM did not have a written document outlining Client's position, the PCM Eligibility Assessment Expert had an extensive meeting with representatives of EPS during a visit to Serbia as part of the Eligibility Assessment, during which they set out the company's position regarding the Simić case.

16. The Client believed that the Simić family had had adequate chances to address their grievances through the legal process, which they believed objectively examined all facts of the case and made a fair finding that was partially in favor of the Simić family. The Client believed that by accepting the compensation established by the Municipal Court of Ub, which was reportedly upheld by the Supreme Court, the Simić family accepted the court decision and that reopening of the case would not be productive.[8]

17. The Client maintained that public consultations had been held according to the requirements of EBRD's policy in force at the time and that addressing grievances, as provided in the agreed RP, was the responsibility of local authorities.

18. In response to the findings of the Eligibility Assessment, an Expert was appointed by EBRD to conduct a Compliance Review.[9]

III. Management Response to the Eligibility Assessment

19. EBRD Management responded to the issues raised in the Eligibility Assessment,[10] and made the following points:

[8] Generally, in civil and common law, the principle of *res judicata* establishes claim preclusion for a "matter already judged."
[9] Albab Akanda. 16 March 2015.

1. *The relevant policy with regard to the Project was the 1996 Environmental Policy.*
2. *At the time that this Project was appraised, the Bank did due diligence on the adequacy of the resettlement plan with an independent expert to international standards.*
3. *As per the EIA requirements there was public consultation although it attracted little response and the company committed to a program of engagement.*
4. *The Resettlement Action Plan articulated that processing grievances was the responsibility of the government and outlined the process.*
5. *Although EBRD was not a party to the court case, and had not taken formal legal advice with regard to the outcome, it would appear that the Simić family had had an opportunity for legal redress through the Serbian court system. The court documents stated that the required valuation of the orchards was done by an independent specialist assessor. It appeared that the court found partially in the Simić family's favor with regard to compensation of existing orchards, but not with regard to the new planting done prior to expropriation which was the subject of the PCM grievance. The Simić family did not appeal the court's decision in 2007.*
6. *In correspondence with CEKOR, EBRD staff had remained open minded on the details of the Simić case and prior to the initiation of the PCM compliant, were intending to discuss the issue in a meeting with the Complainant.*

20. In sum, in its response to the Eligibility Assessment, EBRD Management believed that the Project met the requirements of the 1996 Environmental Policy and was therefore in compliance with the policy requirements in force at that time.

IV. Simić Family: Judicial Redress and Court Decision

21. The Simić family believed that the amount of compensation they had received from EPS as a result of expropriation of their properties and assets had not been adequate because EPS had not included the price of some of the plants on their plots of land that were expropriated as a result of the expansion of Tamnava West mine. After failing to reach agreement on the additional amounts claimed, Milan Simić and Dragan Simić had instituted legal proceedings against the company, requesting a review of the amount of compensation paid to them. On 13 March 2007, the Municipal Court of Ub[11] determined that while EPS was liable for the buildings and related property, meadow and established trees to the value of RSD811,148.13, the Company was not liable for the additional RSD517,530 claimed by Simić family for new rose and fruit trees.[12] The Court established that those new seedlings had been planted not for the purposes of developing the orchard, but simply with the intention of increasing the amount of compensation due to the Simić family. The court decision was based largely on the assessment of an independent agricultural assessor appointed by the Court. The Eligibility Assessment Report notes that in a submission to the PCM,[13] it is reported that the Complainants appealed to the Supreme Court, which upheld the decision of the Municipal Court.

22. Subsequently, the Complainants asserted that pursuing the case through an appeal to the Constitutional Court of Serbia would have been not only expensive and time-consuming, but also not possible owing to the illness of Milan Simić.[14]

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[10] The full text of the Management Response is at Annex 2 of the Eligibility Assessment Report: www.ebrd.com/cs/Satellite?c=Content&cid=1395241360073&d=&pagename=EBRD%2FContent%2FDownloadDocument

[11] Decision 1R.br.55/06.

[12] Based on the "*final and irrevocable*" Expropriation Decision No. 465-253/06-04 of the Municipal Administration of Ub, 8 August 2006. It was noted by the Court that the Simić family had already accepted 63% of the amount claimed (Page 10 of Decision 1R.br.55/06).

[13] Letter from CEKOR to PCM dated 4 November 2013.

[14] This was also asserted by the Complainants during the videoconference held between the Compliance Review Expert and the Complainant on 7 May 2015.

23. The recourse by the Complainants to the judicial system was related only to the compensation levels offered for the rose and fruit trees, and a ruling was handed down by the Municipal Court of Ub in accordance with the laws of the land that was upheld by the Supreme Court of Serbia. Hence, this Compliance Review will not address any issues arising from that ruling.

V. The Project: Role of the Stakeholders

24. There were three key stakeholders in the Project: EBRD, the Client (EPS), and persons affected by the Project. Generally, EBRD was obliged to conform to its policies in ensuring that there was proper due diligence in assessing the impacts of the project and ensuring that that information was conveyed to the affected persons, and appropriate mitigative measures and/or compensation packages set in place. The Client was responsible for applying relevant national laws, regulations, and procedures to the Project, and in equal measure, ensuring that project-related information was available to affected persons. For their part, the affected persons, once aware and officially informed of the Project, would engage with the Client to ensure that their rights, needs and entitlements were agreed and established formally in documentation; those who disagreed would work with the Client to reach agreement, failing which recourse would be made to the redress mechanism established for the Project.

25. In a very large and highly visible coalmining activity, stakeholder relations are complex and likely to be volatile when households are being relocated, cultural heritage and kinship ties disrupted, new livelihoods sought, and there is pollution to contend with, among other issues. While mitigative measures are designed and implemented by the developers with the expectation that the overall benefits will outweigh immediate disruption, not all measures can be fully effective and some households may be more badly affected than others, both in the move and in subsequent years. With the need for energy a priority for economic development in a fast-growing country, it has been argued by some that national interest has taken precedence over individual citizen welfare. Over the years, the Project has generated considerable discussion in the media owing to allegations by NGOs and development watchers that the development and expansion of the mine is being conducted without adequate regard for affected persons, from inadequate compensation to poorly scheduled relocations to undue influence by powerful interest groups and reportedly flawed state systems. However, those issues are beyond the scope of this inquiry and are not the subject of either the Complaint or the Compliance Review.

VI. EBRD Policies Relevant to Resettlement

26. As part of the Compliance Review, an assessment is requirement of the role of EBRD in the Project with respect to public consultations and grievance mechanisms. The basic principle applied by EBRD in developing the Project for Board consideration was that it followed EBRD policies in force at the time. As pointed out in the Eligibility Assessment, the relevant policies in place were: (i) *Environmental Policy*, 1996; and (ii) *Policy on Disclosure of Information*, 1996.

27. At the time the Project was being processed, safeguards were defined by the EBRD *Environmental Policy* of 1996.[15] There was no explicit reference to involuntary resettlement, and EBRD made reference to applicable World Bank and EU standards as EBRD did not have any policies and procedures specific to that theme. The EBRD Policy read:

[15] The evolution of EBRD environmental and social safeguards is reflected in its series of policy refinements: *Environmental Policy*, June 1992; *Environmental Policy*, September 1996; *Environmental and Social Policy*, May 2008; *Environmental and Social Policy*, May 2014.

> *EBRD operations will be structured to meet national and existing EU environmental standards, or where EU standards do not exist, national and World Bank standards. If these standards cannot be met at the time of Board approval, operations will include a programme for achieving compliance with national and EU or national and World Bank standards. In addition, the Bank will make recommendations and encourage sponsors to bring their existing operations at the project site into compliance with good international practice and standards within a reasonable timeframe.*[16]

28. While there were no directly-related EU standards,[17] the OECD-DAC guidelines on involuntary resettlement[18] were available and set out the elements to be considered in preparing an RP and how local communities could be involved. However, those Guidelines did not address grievance redress mechanisms; on consultations, the Guidelines commented that:

> *… To obtain effective participation, the affected hosts and resettlers need to be informed about their entitlements and systematically consulted during preparation of the resettlement plan about their options and preferences … particular attention must be given to ensure that women and vulnerable groups, such as indigenous people, and ethnic minorities and the landless, are represented and actively involved in such arrangements.*[19]

29. The clear procedural reference for EBRD, then, was set out in the World Bank's Operational Policy 4.12 (OP 4.12), which is discussed in Section X below.

VII. EBRD Policies Relevant to Public Consultations and Access to Information

30. There are two aspects to consider in assessing whether there was adequate information available to project-affected persons. First, the availability of project-related information, and second, the availability of specific environmental information. While interlinked, the former is covered primarily by the provisions of the applicable information policy, and the latter, the provisions of the applicable environmental policy.

31. At the time of approval of the Project, there had just been a revision of the *Public Information Policy*.[20] However, as the Policy had been approved in April 2003, and EBRD Board approval was in June 2003, the provisions of the previous *Policy on Disclosure of Information*[21] applied to the Project.

32. The EBRD 1996 *Policy on Disclosure of Information* emphasized that:

> *… as a publicly-funded institution, the Bank has a responsibility to disclose the nature, methods and results of its operations in pursuing its objectives.*[22]
>
> *The EBRD's Environmental Policy requires that project sponsors provide governments and the general*

[16] *Environmental Policy*. 1996. Page 4.
[17] The Aarhus Convention could have been a benchmark for the consultative process, but Serbia did not become a Party until 2009.
[18] OECD-Development Assistance Committee. *Guidelines on Aid and Development No. 3: Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects.* 1992
[19] *Ibid*. Annex: Elements of the Resettlement Plan. Page 10.
[20] EBRD. *Public Information Policy*. July 2003. See also E. Smith and A. Schin. "An Evolution of Public Consultation Requirements within the Environmental Impact Assessment Process at the European Bank for Reconstruction and Development." *Impact Assessment and Project Appraisal*. June 2004.
[21] EBRD. *Policy on Disclosure of Information*. 1996.
[22] *Ibid*. Page 3.

> *public, especially potentially affected parties, with information on any significant environmental impact associated with their proposed operations.*[23]

and noted,

> *"A" Level Operations have potentially diverse and significant environmental impacts which cannot be readily identified and quantified, and for which remedial measures cannot easily be prescribed. An Environmental Impact Assessment (EIA) must be prepared by the project sponsor for any "A" level operations. The project sponsor must ensure through a thorough appraisal that all key issues, and the role of the public in the appraisal, have been identified. The public requires adequate information on the environmental aspects of an operation in order to comment.*[24]

33. The EBRD *Environmental Policy* of 1996 stated the following:

> *The EBRD will foster the principles of public consultations within its region of operations. It will implement procedures to ensure that information is provided to interested parties concerning the Bank's environmental activities and that views expressed are taken into account in the preparation of projects.*[25]

> *The EBRD believes that effective public consultation is a way of improving the quality of operations. The Bank will foster the principles of public consultation within its region of operations. In the case of significant "greenfield", major expansion or transformation-conversion operations which have been classified as requiring an Environmental Impact Assessment, those potentially affected will have the opportunity to express their concerns and views about issues such as operation design, including location, technological choice and timing, before a financing decision is made. At a minimum, sponsors must ensure that national requirements for public consultation are met. In addition, sponsors will have to follow the EBRD's own public consultation procedures as described in the Bank's Disclosure of Information Policy and Environmental Procedures.*[26]

34. Annex 1 of EBRD's *Environmental Procedures*[27] cover the issue of public consultations, in particular noting that:

> *In addition to the involvement of government agencies and elected officials, those potentially affected by a significant new, extended, or transformation-conversion operation, which has been classified as "A" level, should be consulted, together with non-governmental organizations, so that they have the opportunity to express their concerns and views before a financial decision is made.*[28]

35. As required by EBRD procedures, environmental information related to the Project would be set out in the project EIA, which was made publicly available in June 2002, and through the EPS public awareness campaign.[29]

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[23] *Ibid*. Page 8.
[24] *Ibid.*
[25] *Environmental Policy*. 1996. Page 2.
[26] *Ibid.* Page 6.
[27] EBRD. *Environmental Procedures*. 1996.
[28] *Ibid*. Page 18.
[29] The Serbian *Law on Environmental Protection* 2004 provides the right to access to environmental information. In particular, Article 8 grants the public the right of access to environmental quality data. The public must also be informed about real or potential threats to the environment. However, the 2004 Law came into effect after the period covered by the Complaint.

VIII. Resettlement Processes Established for the Project

36. Given that there would be expropriation[30] of lands and that populations in the Kolubara Mine area would be displaced, a Resettlement Plan (RP) was prepared in June 2002 to conform to the provisions of World Bank OP 4.12, the benchmark for EBRD operations.

37. Following the provisions of the Serbian Expropriation Law of 1995,[31] and after establishing eligibility criteria,[32] the RP set out the following steps for expropriation and compensation:[33]

1. Characterization of land for proposed expropriation as being of "general interest."[34]
2. Assessment of property and assets for compensation.[35]
3. Valuation of properties and assets for compensation.[36]
4. Provisions for vulnerable groups during valuation.[37]
5. Citizens' right to appeal.
6. Transitional arrangements.

38. The RP noted that while EPS had managed the expropriation procedure well, the affected populations had been dissatisfied with the lack of communications and slowness of the new infrastructure for resettlers, apparently due to shortage of funds at EPS.

39. The RP, a fairly simple document, does not quite follow the customary format of RPs being developed at the time by other multilaterals,[38] but does provide several recommendations for the implementation of the RP, especially in having more effective consultative processes that it had observed were weak and needed perceptible improvement. It specifically identified the need for a small information unit ("Information Office for the Public") to be established to conduct a more effective public awareness campaign. The RP also recommended a reliable database of affected families, and an annual report on the progress of implementation of the RP. It is not clear that those recommendations were followed by EPS.

40. The RP notes that after the valuation was done, those households that had agreed to the compensation offered by EPS, signed an "agreement on compensation," with EPS then paying out the monies within 10 days, and taking possession of the properties in 15 days of the agreement.

41. Appendix B of the RP provides several lists of households: (i) households compensated and resettled until 2002; (ii) households to be resettled in 2002; (iii) households to be resettled 2003-2005; (iv) households to be resettled in 2004; and (iv) households to be resettled in 2005; and (vi) households to

[30] Expropriation is the term used in Serbian law, taken to be equivalent to involuntary resettlement as understood by the multilateral financing institutions.

[31] Republic of Serbia. *Expropriation Law*. Official Gazette of the Republic of Serbia No. 53/1995. Passed in 1995 and enacted on January 1, 1996, amended in March 2001, amended again on March 19, 2009). Reproduced in the *Draft Resettlement Plan*, 2002. Annex A.

[32] As of April 2002, all building activity in the area was prohibited by law unless for mining purposes.

[33] RP. Pages 9-12.

[34] *Expropriation Law*. Article 20.

[35] After the assessment, which would have required the owner to have allowed assessors to have entered the properties, the list of properties and assets proposed for expropriation was submitted to the local municipality (Ub) responsible for issuing the Certificate of Expropriation.

[36] The expropriator (EPS) used an independent statutory body, City Office Agency (*Graddski zavod za vestacenje*), to value buildings, while agricultural lands and land uses were valued by EPS itself using experts.

[37] While the RP refers to "*socially-oriented provisions of existing legislation according to which several cases of vulnerable households are entitled to compensation as much as 40% higher than the estimated one*" (page 10), it does not provide a citation to the legislation.

[38] Particularly the lack of a socioeconomic survey/census database attached as an annex.

be resettled 2006-2010 (63 mentioned, no names). Of those in the first list, 13 out of 87 households resolved compensation issues through a court verdict, and in the second list, only two out of 30 went to court. The RP notes that "a small number of property owners" had appealed to the Supreme Court, but their petitions were not accepted. However, in none of the lists is the Simić family identified.

IX. Grievance Redress and Public Consultation Mechanisms for the Project

42. At the time of the Project, according to the Serbian Expropriation Law and other national legislation, there were no clearly-identified requirements for establishing independent project-specific grievance mechanisms. However, affected citizens had the right to appeal through administrative and judicial structures at various stages of the expropriation procedure. The agreed redress mechanism for persons affected by the Project comprised: (i) the national legal framework for expropriation of land for the Project as set out on the 1995 Expropriation Law, and (ii) processes agreed in the RP.

43. It may be relevant to look at the 1995 Expropriation Law to see to what extent it allows for public consultations (participation of the owner of real estate) and means of dispute resolution (appeals). Among its many provisions, the Law establishes, for real estate, the basis for expropriation[39] – public (common) interest – types of expropriation[40] (full expropriation, partial expropriation and temporary appropriation), the form and types of compensation,[41] procedures and responsibilities in the expropriation process,[42] and, most relevant, refers to appeals against expropriation and compensation levels.[43] Interestingly, the Law does not say that public hearings are necessary to determine or effect common interest,[44] a discretionary power exercised by the state, but does allow for hearings on "*facts of importance*" between the owner of the properties scheduled for expropriation and the municipal authorities of the area in which expropriation will take place prior to issuing the expropriation authority (Article 29).

44. In terms of appeals: (i) Article 20 states that "*an administrative suit may be filed with the Supreme Court of Serbia against the Government's decision on the determination of common interest*"; (ii) Article 29 states that "*the ministry in charge of finance shall decide on complaints filed against first-instance decisions on proposed expropriation*"; (iii) Article 36 states that, in the context of an amendment or annulment, "*in the event of a dispute, a regular court shall deal with property relations between the beneficiary of expropriation and the owners of real estate*"; and (iv) Article 61 allows for the former owner and beneficiary of expropriation to address the municipal court in the event that agreement on compensation is not reached within two months of the effective date of the expropriation order. There is caveat to the expropriation process in that if the works are urgent, the municipal assembly may have the real estate conveyed to the beneficiary once the first-instance order has been issued, that is, the process will not wait for decisions on appeals to be able to take possession of the real estate. Overall, although expropriation in the public interest is something against which a successful appeal is fairly unlikely, the Act clearly identifies the Supreme Court as the final arbiter for the owners of real estate on compensation issues, while the municipal courts provide first-order legal recourse.

[39] Articles 2, 20.
[40] Articles 4-6.
[41] Articles 11, 15, 41-49, 51.
[42] Articles 25-36.
[43] Articles 20, 36 (amendment or annulment), Article 38 (temporary occupancy).
[44] See an interesting discussion in M. Stojanović, "Expropriation in the Former and Current Law of the Republic of Serbia." Facta Universitatis. *Law and Politics.* Vol 10 No 1, 2012, pp. 91-100. The article mentions that the 2009 Amendment to the Act states that the competent authority can make a decision on expropriation without hearing the parties involved.

45. Various documents record the process, in particular the participation of the property owner, such as: "mutual agreement" on replacement buildings offered to property owners (Article 17); minutes of hearings in which property owners present "facts of importance" (Article 29); minutes recording requests of owners to expropriate any remaining real estate (Article 30); conveyance by the municipal authorities to the former owners of expropriated real estate (after issuance of the expropriation order) of the offers of compensation (Article 56); agreements on compensation (Article 57), which are recorded in minutes, which then assume the "force of an enforceable document" (Article 57), and are subsequently archived by the municipal authorities; Article 50, which disallows compensation for investments made by the former owner "*after the date on which he was **notified in writing** of the filed proposal for expropriation …*"[45]; and agreement as party of proceedings in front of the municipal authorities or the competent court on various aspects of the compensation process (Article 59).

46. In preparing the RP and setting out the resettlement process, care had to be taken that the processes identified comply with national laws, the primary document being the 1995 Expropriation Law. While a RP is not the direct responsibility of EBRD, the institution is nonetheless obliged to ensure that such documentation is prepared and the provisions implemented in accordance with policy requirements, in other words, in accordance with both national laws and the World Bank standards (that is, OP.4.12) as referred in the EBRD 1996 *Environmental Policy*. The RP for the Project was prepared by an independent specialist engaged by EBRD, and a copy was attached to the EIA, which was disclosed and made publicly available locally and nationally for a period in excess of 120 days.

47. The sections of the RP relevant to the Complaint read:[46]

> *Owners of property under expropriation are entitled to appeal against the decisions taken at the three basic stages of the expropriation procedure. During the first stage, once the characterization of the land under expropriation as being 'of general interest" is granted, owners may appeal[47] within a period of one month …*
>
> *At the second stage of assessing the owners' holdings, people are entitled to complain to the Ministry of Finance and then the Supreme Court against the 'certificate of expropriation, prepared by the municipality. This process normally takes up to 16 months to be resolved* [after which] *the certificate becomes legal…*
>
> *When owners do not accept the compensation offered* [after an extra-judicial settlement recommended by the municipality following the appeal against the certificate proposed by the municipality] … *he/she has to appeal to the district court which settles the matter finally.*

48. The RP also observes that:

> *… the Serbian law for expropriation is considered as adequately democratic while also being time-consuming.[48]*
>
> *The whole expropriation procedure, however tedious it may be, appears to have been very well managed up to now by EPS … cooperation between EPS and resettled households has been noted as positive since only 2% of them appealed against any of the decisions and offer involved.[49]*

and,

[45] Compliance Review Report author's highlights.
[46] RP. Pages 10-11.
[47] At this stage, the appeal is made to the City Office Agency for resolution (see Footnote 36). RP. Page 10.
[48] *Ibid*. Page 5.
[49] *Ibid*. Page 11.

> *The smooth implementation of the Resettlement Plan requires the proper organization and monitoring of the following actions and measures:*
>
> *a. Systematic land expropriation thorough the procedure provided by Serbian law. This process has already been described in detail and, as noted, is considered democratic even if a little time-consuming …*[50]

49. With those remarks in the RP, and the background of the Expropriation Law, it is clear that grievances would have been addressed by EPS at the outset of expropriation, and then by the district court. The recourse of the affected households, then, would involve appeals to EPS and the municipal administration, failing which, the formal judicial system for settlement. As noted earlier, the Expropriation Law states that, "*In the event of a dispute, a regular court shall deal with property relations between the beneficiary of expropriation and owner of real estate*" (Article 36).

50. The RP does make an unusual observation. Contrary to the role of municipal administrations mandated in the Expropriation Law, the RP notes that their involvement in the resettlement process under the Project was "not particularly significant." It goes on to note that "these bodies participate neither in decision-making regarding valuation nor in developing the much-needed mechanisms to support new settlers institutionally or socially." Article 29 of the Expropriation Law clearly identifies the municipal authorities as being in charge of proprietary affairs related to expropriation, and sets outs several actions related to expropriation in which the municipal administrations would have had a legally-mandated role. One could interpret the RP's remarks as evidence of some ineffectiveness on the part of the municipal administration, but that does not detract from their legal standing in the expropriation process.

51. The RP did not detail a public consultation process, but provided general guidelines for a communications strategy and public awareness campaign. In setting out the requirements for the public consultation process, the RP read:

> *The development of a consistent communication strategy is considered crucial for the elaboration and successful implementation of the proposed Resettlement Plan.*[51]
>
> *A strong promotional campaign drafted and implemented via simple, attractive, effective and reliable communication tools for the specific requirements of a Resettlement plan, should be implemented so as to maximize the benefits of a communicational campaign whilst targeting the larger population … The general campaign objective would be to provide a specific mix of information whilst educating the locals of the criteria, the various resettlement options, the specific procedures and the timing of the Resettlement programme as specified by the authorities.*[52]

52. The RP also recommended the creation of an Information Office for the Public, which would be "*strategically located*" and easily accessed by the "*large population.*" The office would be expected to "*provide information on various aspects of the Resettlement plan, day-to-day support to the affected population, as well as daily information on various events relating to the Resettlements.*" [53] The proposed Information Office was expected to be *a "small unit … flexible enough to move forward to new premises as the expropriation front moves southwards.*"[54]

[50] *Ibid*. Page 13.
[51] RP. Page 16.
[52] *Ibid*. Page 17.
[53] *Ibid*. Page 18.
[54] *Ibid*. Page 13.

53. The Compliance Review was unable to confirm whether those recommendations had been accepted and implemented by EPS at the time.

X. World Bank Safeguards Policies

54. The first environmental and social safeguard policy was adopted by the World Bank was the Operational Manual Statement (OMS) 2.33, *Social Issues Associated with Involuntary Resettlement in Bank-Financed Projects*, which came into effect in 1980. With lessons of experience, the World Bank followed up with the issuance of the Operational Directive on Involuntary Resettlement (OD 4.30) in 1990. With a general review and extensive consultations, the World Bank replaced OD 4.30 with OP 4.12 in December 2001.[55]

55. The following sections will review OP 4.12 from the perspective of public consultations and grievance redress.

A. Public Consultations

56. As the EBRD's operational processes are covered by the policies and procedures set out in the *Disclosure of Information Policy* 1996, there is no requirement for reference to the policies of other multilaterals.

B. Grievance Mechanisms

57. In its 2008 publication,[56] IFC CAO commented that "*Grievance mechanisms provide a way to reduce risk for projects, provide an effective avenue for expressing concerns and achieving remedies for communities, and promote a mutually constructive relationship.*" Noting that "*local people need a trusted way to voice and resolve concerns linked to a development project, and companies need an effective way to address community concerns,*"[57] it further observed that:

> *A well-functioning grievance mechanism:*
> - *Provides a predictable, transparent, and credible process to all parties, resulting in outcomes that are seen as fair, effective, and lasting*
> - *Builds trust as an integral component of broader community relations activities*
> - *Enables more systematic identification of emerging issues and trends, facilitating corrective action and preemptive engagement.*[58]

58. Similarly, in discussing human rights, a well-known report[59] from the UN Special Representative on Business and Human Rights identified six features of grievance mechanisms, which

[55] World Bank. *Operational Policy 4.12*. 2001. World Bank Archives. The policy was further revised in 2013. Currently, prompted by the findings of the 2010 evaluation of the safeguard policies conducted by the World Bank's Independent Evaluation Group (IEG), *Safeguards and Sustainability Policies in a Changing World: An Independent Evaluation of World Bank Group Experience,* consultations are ongoing for a revision of the entire suite of safeguards policies that will constitute the new *Environmental and Social Framework.*

[56] IFC Compliance Advisor/Ombudsman. *Advisory Note: A Guide to Designing and Implementing Grievance Mechanisms for Development Projects*. 2008.

[57] *Ibid*. Executive Summary. Page 1.

[58] *Ibid*. Page 1. Further detailed in pages 10-11.

[59] J. Ruggie. *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development. Protect, Respect and Remedy: A Framework for Business and Human Rights. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises.* United Nations Commission on Human Rights (UNHCR). 2008.

should be legitimate, accessible, predictable, equitable, rights-compatible, and transparent. This was endorsed by the resolution of the UN Human Rights Council as *Guiding Principles on Business and Human Rights.*[60]

59. While the human rights perspective provides the desirable elements of an effective grievance mechanism, and reflects the right of an affected person to a fair and transparent process, it has to be noted that at the time of the Project, there was no requirement for a mechanism that formally mandated adherence to a specified set of grievance redress parameters. As set out in EBRD's 1996 environmental Policy, the World Bank's Policy on Involuntary Resettlement (OP 4.12) and sector/country interpretations provide the appropriate reference for EBRD for a grievance redress mechanism.

60. The World Bank's OP 4.12 is quite clear in its requirements that a resettlement plan should specify a grievance mechanism that is appropriate and accessible:

> *… The Bank requires … the following:*
> *(a) Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are established for these groups …*
>
> *… The procedure* [for eligibility] *includes provisions for meaningful consultations with affected persons and communities, and, as appropriate, nongovernmental organizations (NGOs), and it specifies grievance mechanisms.*[61]

61. The key defining words in OP 4.12 are "appropriate" and "accessible." While there can be much discussion on how a judicial system should truly work,[62] the large body of work on donor-supported judicial reform focuses on systemic improvements in efficiency, fairness and accessibility in the context of case management, which then works to achieve higher levels of social legitimacy.[63] Even with international norms, such judicial reforms need to be driven locally. Accessibility itself can range from physical access to mediation and legal aid to more effective information mechanisms, especially for poor people for whom the first level of adjudication should be simple, readily available, and of low to no cost. The World Bank does approach empowerment and access to justice activities with due regard for state authority and relations.

62. However, and most relevant to the Complaint, other than the mandated requirement that an appropriate and accessible grievance mechanism be specified/established, OP 4.12 leaves the structure of that mechanism open and undefined. This is where good practice, then, comes into play – the expectation that EBRD would rely on contemporary practices to design an appropriate and effective redress mechanism. However, at the time, there was wide variation in practice, with some projects incorporating detailed guidelines and mechanisms, others leaving redress to the administrative and judicial system of the country, particularly in Eastern European projects. Thus, there is no set reference against which EBRD performance can be judged, and the practice followed at the time in neighboring countries appears to provide the relevant benchmark.[64]

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[60] *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework.*16 June 2011.UN Human Rights Council Resolution 17/4.
[61] *Ibid*. Paragraphs 13, 14.
[62] For a quick overview, see V. Maru, *Access to Justice and Legal Empowerment: A Review of World Bank Practice*. 2009.
[63] As the World Bank observes, "*The ingredients of reform are many—freedom of information, greater transparency and sunshine laws, self-regulation through reform-minded bar associations and law societies, updating of antiquated laws and court procedures, and the independence, competence, and integrity of judicial personnel*" World Development Report. *WDR 2004 Making Services Work for the Poor*. Page 198.
[64] There were no donor-financed Serbian projects with formal resettlement plans at the time.

63. In OP 4.12, the World Bank *Involuntary Resettlement Sourcebook*[65] is referred as providing good practice guidance to staff. However, the *Resettlement Sourcebook* itself does not go into any great detail on the structure of grievance mechanisms, apparently recognizing the tremendous diversity in, among others, country, sector, cultural, and judicial situations. It defines grievance procedures as:

> *The processes established under law, local regulations, or administrative decision to enable property owners and other displaced persons to address issues related to acquisition, compensation, or other aspects of resettlement.*[66]

and goes on to observe that "*as some DPs* [displaced persons] *are still likely to believe they have been treated inadequately or unfairly,*"

> *Providing an accessible and credible means for DPs to pursue any grievances may decrease the likelihood of overt resistance to the project or of protracted judicial proceedings that can halt implementation. For such reasons, the Bank requires that RPs specify grievance procedures available to DPs. A checklist of issues to be considered in design of grievance procedures includes the following:*
>
> - *An inventory of any reliable conflict mediation organizations or procedures in the project area and an assessment to determine if any can be used instead of having to create new ones.*
> - *A review of grievance redress mechanisms for simplicity, accessibility, affordability, and accountability. Good practice is to ensure that DPs can apply orally and in the local language and to impose explicit time limits for addressing grievances. Appeal procedures need to be specified, and that information needs to be made available to the DPs* [displaced persons].
> - *Any new committee created to address grievances will need to be given the authority to resolve complaints. Such committees normally include representatives of DPs or NGOs, as well as project officials and staff from other agencies with a substantial role in resettlement activities.*[67]

also, if needed,

> *Local mechanisms if effective, should be relied on to air and resolve the grievances of the affected people. Proposed redress mechanisms should be discussed with, and be acceptable to, the affected people. They should provide clear information on who to approach, and how, when to expect a response, and what to do if a response is inadequate. A provision for appeal through the legal system should be available, and the project should provide legal assistance to affected people who wish to lodge a complaint.*[68]

64. The Sourcebook does note that in addressing disputes, *"a key aspect … will be role of government in both mediation and the enforcement of agreements."*[69] Government, then, is an important recourse, largely represented by the executing agencies in many projects.

65. From the perspective of designing a grievance redress mechanism, then, the elements are generally well laid out – reliance on local laws and regulations, simple procedures, accessible institutions, a clear resolution mandate, and if applicable, the participation of affected persons in the design of the mechanisms. The judicial system, of course, remains the formal legal recourse for affected persons, so it

[65] World Bank. *Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects*. 2004.
[66] *Ibid*. Glossary. Page 417.
[67] *Ibid*. Pages 243-244.
[68] *Ibid*. Pages 338-339.
[69] *Ibid*. Page 31.

is more a matter of determining whether having a community-based and local administration-reliant structure would serve the interests of affected person better by offering a faster, less onerous and more convenient route to dispute resolution. Having such a structure in complex cases involving a large number of affected persons certainly appears to make sense. However, if the formal judicial system is perceived to be "effective" and responsive to the needs of the community, and if there are only a few claims for which the system is adequate in its capacity to address, then not specifying the establishment of local grievance redress mechanisms does not contradict World Bank guiding principles in OP 4.12 and the *Resettlement Sourcebook*.

66. The World Bank experience on resettlement has been exhaustively documented, readily available in the World Bank archives and in commentaries by many NGOs and academic sources; hence, this Report will not attempt to cover the wide range of issues and experiences with grievance redress processes. However, it is evident that the experience is mixed, and that there is no set standard for the structure of a grievance redress mechanism, with three basic approaches applied: (i) recourse specified to be the legal and administrative system of the country; (ii) initial mediation to be offered by the project executing agency; and (iii) a wide range of local community-based grievance redress mechanisms developed in individual project and country contexts. In all cases, further appeal could be made to the judicial system of the country involved, which would have the final say in the matter in accordance with the laws of the land.

67. At the time of the Project, Asia had the most detailed grievance redress mechanisms, partly a response to active civil society participation in large infrastructure projects. The mechanisms were local community-based and in line with the notions of legitimacy (in the project context), accessibility, and transparency (including documentation on proceedings).[70] Latin American projects were far less structured, and most appear to depend on the project implementing agencies to provide guidance on designing a grievance redress mechanism, primarily government-based.[71]

68. For Europe, at the time, the Compliance Review has been unable to find World Bank projects for which RPs were prepared, and the few references to grievances available indicate that the projects relied entirely on the formal judicial system to resolve disputes.[72] Even as late as 2010, the Romania *Hazard Risk Mitigation and Emergency Preparedness Project* (as part of the continuing 2003

[70] In the complex *Mumbai Urban Transport Project* (2002), with over 100,000 people and some 2,000 commercial establishments that were relocated, the role of the grievance redress mechanism was given great emphasis. As the World Bank's *Urban Land Acquisition and Involuntary Resettlement: Linking Innovation and Local Benefits (*Case Study Report, 2015) notes, "*At the appraisal stage, the project established a two-stage grievance redress process, which was streamlined during implementation. The grievance redress committees—field and senior levels—handled complaints and grievances from PAPs. The field-level grievance redress committee considered individual grievances, and a senior-level grievance redress committee considered appeals against field-level grievance redress committee decisions. Independent, well regarded citizens not associated with project implementation administered complaints. The field-level grievance redress committee heard and resolved 3,704 cases, of which 1,169 received favorable verdicts. The senior-level grievance redress committee resolved 902 cases, of which 294 cases received favorable verdicts. An independent resettlement impact assessment study carried out in 2007–08 … recorded a high degree of PAP satisfaction with the grievance redress process."* Page 24.

[71] Several resettlements plans across Latin America were reviewed during the course of preparing this Report, but those seem to have either left the structure of the grievance mechanism undefined or relied on project executing agency support structures. For example, in the Nicaragua *Off-grid Rural Electrification Project* (2003), communications channels were set up with the Ministry of Public Works and Communications.

[72] Take Poland. As a report prepared for the World Bank notes, "*The general procedure in this respect is provided for in the Act of 21 August 1997 on Real Estate Management (Dz.U. of 2000 No 46 item 543 as amended). The procedure provides far reaching protection of real estate owners against voluntary decisions. There are requirements for negotiations to be undertaken, for the fair and transparent process, for fair compensation and for access to justice. Compulsory land acquisition under this Act is quite a difficult and lengthy process under extremely rigid judicial control. Even the compulsory land acquisition under the Special Roads Procedure Act, which provides for a simplified and prompter procedure, is well within the standards appropriate for a democratic country ruled by law*." J. Jendrośka et al. *Environmental Assessment in Poland as Compared to Relevant World Bank Policies and Procedures*. December 2003.

Irrigation Rehabilitation and Reform Project) notes in the Resettlement Policy Framework section on grievance redress mechanisms:

> *The Expropriation Law provide for an appeals process against the proposed award for compensation. The PMU staff also plays an advisory and facilitating role in resolving grievances. Grievances related to land acquisition impacts should be pursued at the municipality/community level with facilitation by PMU staff together with design consultants in order to find technical solutions that avoid or further minimize the need for land acquisition. Solutions to grievances related to compensation amounts, delays in compensation payments should be pursued directly by the designated authorities in liaison with the PMU staff who will inform PAPs about the avenues for grievance redress, and will maintain a record of grievances received, and the result of attempts to resolve them …*[73]

69. There were variations in later institutional applications, such as in the World Bank-financed *Corridor X Highway Project*,[74] and the *Serbia Road Rehabilitation and Safety Project*[75] in which the Resettlement Policy Frameworks[76] set up independent grievance commissions, composed of representatives of project stakeholders to mediate disputes on compensation levels, including resources for hiring of experts for assessment.[77] However, the reliance on the judicial system continued, as a later project states:

> *… the project-affected person with legal title is offered the assessed fair value as determined by the Tax Administration. If the project affected person wishes to challenge the assessment of "fair value" they can resort to the judicial process.*[78]

70. These examples set out a few principles that while applied several years after the Project, demonstrate the evolution of good practice, but it also seen that variations do include only specific recourse to the country's judicial system. There appears to be evidence, though, that mediation structures which precede recourse to the judicial system do tend to create a more trusting environment, enhanced accountability, deliver more satisfactory outcomes to complainants, and generally facilitate the implementation of the Project. A key word in the later Serbia projects is "independent," which covers not only community representatives, but also the expropriating agency to enable mutually agreed outcomes rather than dependence on formal bureaucratic structures. Again, final recourse, of course, remains the judicial system.

71. Following the general principle, then, that contemporary practice in Europe was to depend entirely on judicial systems for grievance redress and that local jurisdictions could be used for legally-

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[73] *Land Acquisition Policy Framework for the Romania Hazard Risk Mitigation and Emergency Preparedness Project*. Page 10.
[74] Approved 9 July 2009. Resettlement Policy Framework. Pages 9, 11, 16.
[75] Approved 13 April 2013. Resettlement Policy Framework. Pages 12-13, 24.
[76] 4 June 2009.
[77] In Kosovo, the *Energy Sector Cleanup and Land Reclamation Project* (2006) notes, *"The Project's grievance management mechanism procedure is applicable to all grievances received from Project affected communities and/or individuals. A grievance commission was established by MESP in 2010 to address grievances relating to the Shala resettlement program. Grievances may be lodged by any individual or group of individuals who have a concern or grievance regarding the resettlement program, including the impacts of the Project's current or planned activities, asset data accuracy and team member activities. Grievances are reviewed by the commission once 15-20 grievances are amassed or every 15 days, whichever occurs first. At the conclusion of the review process, the record of the decision is provided to the complainant … In cases where the complainant is not satisfied with the proposed resolution, the complainant is fully within their rights to pursue the case in Kosovo's judicial system."* Resettlement Action Plan: Shala Neighbourhood.
[78] *Flood Emergency and Recovery Project*. Approved 3 October 2014. Resettlement Policy Framework, February 2015. Page 10.

binding outcomes, the judicial and administrative system can be recognized as an acceptable recourse for project-affected persons.

XI. Guidelines of Other Multilateral Agencies

72. Other major multilaterals had safeguards policies applicable to involuntary resettlement in effect at the time. The Inter-American Development Bank (IADB) had its policy of 1998,[79] the Asian Development Bank (ADB) was applying its well-established Policy on Involuntary Resettlement,[80] and the African Development Bank (AfDB) had its guidelines on displacement and resettlement.[81] While institutional experiences varied across sectors and countries at both policy and operational levels, the application of those policies in operations were mandatory and generally consistent with the provisions of World Bank OP 4.12.

73. At the time, ADB had in place a well-applied involuntary resettlement policy,[82] which covered access to information through public consultations and structured grievance redress mechanisms using local community-level organizations before recourse to the formal judicial system. The latter was most visible in South Asian projects, and facilitated the implementation of projects with resettlement components. It also allowed for greater accountability in ensuring that the provisions of resettlement plans were applied properly – which is not to say that there were no concerns or lapses in procedural compliance, but overall, the general principles were relevant and appropriate.

74. The Special Study that preceded the revision of the ADB safeguards policies, however, noted that the experience with dispute resolution was varied, and that "*grievance redress mechanisms were often established, but mostly within the government or project structure, and sometimes committees were not functional.*"[83] Nonetheless, even at the time of the Project, virtually all projects funded by ADB had local extra-judicial redress mechanisms that allowed easier dispute resolution, and rarely did a case reach the formal judicial system. For example, in ADB's 1994 *Jamuna Multipurpose Bridge Project*, over 9,000 cases were settled by a special Grievance Redressal Committee set up for the project.

75. The IADB's involuntary resettlement policy[84] highlights consultations, and is not prescriptive about the form on a grievance mechanism except to emphasize its usefulness in avoiding onerous judicial proceedings.

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[79] IADB. *Involuntary Resettlement Operational Policy*. OP 710. 22 July 1998. In 2006, the IADB adopted the revised *Environment and Safeguards Compliance Policy* (OP-703).

[80] ADB. Policy on Involuntary Resettlement. 1995.

[81] AfDB. *Operational Guidelines on Displacement and Involuntary Resettlement.* 1995. The first formal policy was issued in 2003, and then replaced by the 2013 *Integrated Safeguards System*, which specifies that "*Although the Bank addresses grievances primarily at the country level, it has an interest in ensuring that these processes are responsive, treat claimants fairly, and operate effectively … The Bank ensures that clients establish credible and independent local grievance and redress mechanisms to help resolve affected people's grievances and concerns regarding the environmental and social impacts of the project.*" (Page 18) and, "*The borrower or client establishes a credible, independent and empowered local grievance and redress mechanism to receive, facilitate and follow up on the resolution of affected people's grievances and concerns about the environmental and social performance of the project. The local grievance mechanism needs to be accessible to the stakeholders at all times during the project cycle, and all responses to grievances are recorded and included in project supervision formats and reports*" (Page 29).

[82] *Policy on Involuntary Resettlement*, 1995. See also *Handbook on Resettlement: Guide to Good Practice*. 1998. The Policy has now been updated and incorporated, together with the *Policy on Indigenous Peoples* (1999) and *Environment Policy* (2002), into ADB's *Safeguards Policy Statement*, 2009.

[83] ADB. *Special Evaluation Study on Involuntary Resettlement*.

[84] IADB. *Involuntary Resettlement: Operational Policy and Background Paper*. 1998.

A preliminary resettlement plan must be prepared as part of the Environmental and Social Impact Assessment (EIA). It must undergo a process of meaningful consultation with the affected population … It must include sufficient information to be evaluated along with other project components. At a minimum, it must include … evidence of consultation with the affected populations.[85]

The final plan must contain … a mechanism for the settlement of disputes regarding land, compensation and any other aspects of the plan.[86]

In larger resettlement projects, mechanisms should be established to provide … simple and transparent dispute resolution, particularly in regard to claims for compensation, to avoid lengthy judicial and/or administrative procedures.[87]

XII. Videoconference with Complainant

76. During review of the Complaint, a videoconference was held on 7 May 2015 between the Expert and a representative of CEKOR,[88] the Complainant, with a representative of the PCM participating as observers. The hour-long discussion covered several aspects of the Complaint, and provided useful insight into the development of the mine and the state of the villages affected by its expansion. The Complainant stressed that the Simić family had not known about the expansion of the mine and its potential impact in expropriating properties in the village of Kalenic, was not consulted, and simply made an offer of compensation, which it then later took to court owing to its perceived inadequacy of coverage. The Simić family wanted to continue with an appeal,[89] but owing to the illness of Milan Simić, accepted the verdict and the compensation offered. The Complainant drew attention to failings in the judicial system and the perceived political and institutional clout of EPS, which would have ensured that the Simić properties and assets would have been expropriated even with reportedly unfair compensation levels. However, the Expert emphasized that the Compliance Review Report could not address any broader state, legal, institutional or political issues other than those that directly related to the Complaint.

77. Subsequently, the CEKOR representative provided feedback on the Compliance Expert's query on the conduct of consultations:

Law on the environmental impact assessment in Serbia was adopted in 2004. Therefore all rules regarding public consultations didn`t exist at that time, so Ministry had no obligation to conduct public consultations regarding Tamnava West project. That is the answer to question why affected people (like Simic family) were not informed about the project and was not included in EIA process. We have checked that with department for EIA and SEA of ministry for environment of Serbia thorough telephone …[90]

XIII. The Complaint: Compliance with EBRD Policies and Procedures

78. The Complaint involves circumstances that occurred some 12 years ago, and the Complaint itself was made seven years after the dispute by the Simić family on compensation levels had been legally

[85] *Ibid*. Page 4.
[86] *Ibid*. Page 5.
[87] *Ibid*. Page 34.
[88] Mr. Zvezdan Kalmar.
[89] The Eligibility Assessors understood this to be to the Constitutional Court of Serbia.
[90] Email from Mr. Zvezdan Kalmar to PCM Officer. 11 May 2015.

adjudicated. While one can look back in hindsight with a commentary on what could have been, it is equally important to see whether the lessons of experience have been incorporated in policy evolution since those times. Not that that exonerates faults, if any, but if there have been improvements to approaches, that demonstrates intent to remedy past mistakes.

79. For the purposes of this Report, there are two dimensions that may be considered in assessing the Complaint. First, as the Eligibility Assessment sets out, and in strict adherence to the terms of reference set out for the Compliance Review, was EBRD in compliance with its policies and procedures existing at the time? Second, could EBRD have done better? The latter is distinct from the compliance issue, but as this Report believes it is important to place institutional conduct of resettlement planning in a more dynamic context as an observation on ongoing institutional practices.

80. The preceding sections have set out in some detail the requirements and context in which public consultations and grievance mechanisms associated with the Project were expected to have been designed. From a public consultations perspective, the 1996 Environmental Policy was quite unambiguous about the way in which EBRD needed to handle environmental information on the Project and communicate critical information to stakeholders, particularly affected persons. Clearly, consultations and communications had to be an integral part of the Project. At the field level, EPS and MB Kolubara needed to keep affected persons informed as part of both the expropriation process and the compensation and relocation. At the corporate level, EBRD needed to ensure that EPS carried out its consultative commitments and reflect public disclosure efforts, mechanisms and mandated periods in its documentation.

81. For EPS:

- Public consultations were mandated as part of the EIA process, and the EIA was made publicly available in June 2002, and explained at public meetings initiated by the municipal administration and through local media (newsletters, brochures, institutional contact, TV)
- All consultation and information dissemination requirements associated with expropriation of the properties for the Tamnava West Field expansion were carried out in accordance with legal requirements under the Law on Expropriation and associated regulations and procedures

82. For EBRD:

- All public consultation requirements (national as well as EBRD requirements) were met, with EPS having established a public information and consultation process to continue liaison with the affected public during its expansion phases
- The EBRD Board document for the Project explicitly stated that public consultation requirements had been met, including the required 120-day public disclosure period

83. For the Simić family:

- Expropriation processes involved notifications related to the expropriation of their properties that were acknowledged by the Simić family, including: notice of expropriation; registration of Certificate of Expropriation; offer of compensation; minutes of agreement on partial acceptance of compensation terms.
- With documentary evidence of notifications and compensation offers (and partial acceptance of compensation made in the initial offer), the Simić family was able to seek legal recourse from the Municipal Court of Ub, reportedly upheld by the Serbian Supreme Court, which made binding decisions on the case.

84. Whether or not the consultations attracted significant attention, locally, nationally or internationally, as noted by EBRD Management and internal documentation, is somewhat irrelevant. True, EPS had already completed the process of public information aimed at resolving resettlement issues with the local population, but lack of noticeable attention does not mean that individual households may not have been concerned.

85. The RP was generally consistent with contemporary resettlement planning practices, and identified several aspects of the resettlement process relevant to the Complaint. Sections VII and VIII of this Compliance Review Report have discussed the RP and its provisions in some detail. It notes that with the relocation of several settlements over many years of mine development and expansion, the relocation experience had been seen by local municipal assembly members as positive. However, at the time, there was some disaffection with the resettlement process owing to slow infrastructure development in New Kalinic, ascribed to shortage of funds at EPS. Hence, the RP was quite emphatic about the need to improve communications between EPS and the communities to restore their confidence in the company, the process and outcomes. It is evident, though, whatever resentment potentially displaced persons might have had, that there was still considerable interaction between EPS and the communities, both on the substantive expropriation procedures and the right to contest compensation levels. Hence, the communities were not uninformed. The recourse offered to affected peoples to appeal valuation and compensation levels had been exercised by a few households.

86. This Compliance Review Report understands from EPS that with expropriation having been an essential feature of the Kolubara Mine development and expansion over many years, the following elements were integral to the process and had been applied to the Project itself:[91]

- Regular public meetings on the potential expropriation are organized by the Municipality of Ub to which all community members are invited through public an corporate information systems (newsletters, formal notices, website, television)
- Through the public information campaign, an individual property owner in the municipal area is made aware of whether the property was within the Tamnava West Field development area and thus subject to expropriation within a period that is also communicated at that time
- With the "public interest" legally established for the expropriation of identified properties by the expropriation beneficiary (EPS), a first contact is made by the municipal administration with each individual owner of properties and assets
- During the first contact, each owner is informed of the details of the expropriation of all properties and assets and his/her rights in the expropriation proceedings
- All observations are recorded in formal minutes signed by the property owners that also included objections, if any, by the owners
- The property owners are informed that there would be an inventory of the properties identified for expropriation – conducted in the presence of a lawyer if the owner chose to retain one
- The owners are given the findings of the inventory/valuation conducted by experts and requested to check the details carefully, and submit objections, if any, to the expropriation beneficiary
- The expropriation beneficiary makes a formal offer to individual property owners to conclude an agreement on compensation for the expropriated properties based on the expert assessment
- During the agreement on compensation at the municipal administration, the owners are cautioned not to agree to the compensation levels offered if they have any objections, and that reimbursement would be determined in extra-judicial proceedings in a "competent" court based on estimations by an expert appointed by the court

[91] Communication from EPS to EBRD, 15 June 2015.

- The final decision would be rendered by the court and compensation levels communicated to the individual owners that had had objections earlier
- A legal remedy is mentioned in the court's decision on compensation levels for the properties and assets proposed for expropriation

87. The procedure that EPS followed was generally consistent with expropriation procedures across most European countries, and accepted practices in multilateral-financed projects that involved involuntary resettlement planning.

88. From a consultations perspective, what documentary evidence could have been submitted as to prove that there had indeed been consultations with the Simić family prior to the judicial proceedings that the family later instituted? Among those, there could have been:

- *Record of participation by the Simić family in public or individual meetings with EPS, if any*
- *Results of the socioeconomic survey for the Simić property itself, if covered by the RP*
- *Certificate of Expropriation, issued and received by the Simić family*
- *Permission to enter the Simić property for valuation, if other than verbal*[92]
- *Offer of compensation through either EPS or the Municipality of Ub*
- *Rejection of offer, if other than verbal*
- *Acceptance of an EPS compensation payment by the Simić family*[93]
- *Records of communications at EPS demonstrating exchanges with the Simić family*

89. The Compliance Review Expert was unable to obtain specific information on those aspects. In a communication[94] to EBRD responding to queries made by the Compliance Review Expert, EPS mentioned a list of documents, reportedly submitted by EPS to EBRD during meetings held in 2013, which included an appendix devoted to the issue of the expropriation of the Simić family properties[95]: However, the Compliance Review was not able to obtain a copy of those documents, which were not available with either the operational departments or PCM; indeed, it was mentioned by EBRD that the list was not mentioned in any formal documentation held at the institution. The Eligibility Assessment Report for this Complaint refers to "an extensive meeting with relevant representatives of EPS during his visit to Serbia … during which they expressed company's position regarding the Simić case,"[96] and "an additional letter sent to the PCM on 4 November."[97] However, it is understood that there are no minutes or records of the meeting indicating the topics discussed or documents reviewed.

90. The database at EBRD regarding resettlement issues as part of project documentation was inadequate. While one understands that significant time has elapsed since the event, all documentation formally submitted to EBRD, whether to PCM or operational departments, should have been archived and accessible for review as needed. EBRD itself did note at the time that EPS could have had a more comprehensive and systematic data management system, and the European Agency for Reconstruction later provided technical assistance to improve the environmental management system at EPS.

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[92] An interesting article that analyses views of households being resettled as part of the Kolubara mine expansion mentions the term, "*Komisija*," which it notes "*is the expression used by the local resident who, as part of compensation process during the resettlement, would visit individual households in order to make detailed calculation of individual property value in monetary terms*." J. Petric, "Residents' Views of Resettlement Issue of Vreoci: Sustainability or Phrases." *Spatium*. No 12. Pages 12-17.

[93] Partial payment was accepted. See Footnote 13.

[94] 15 June 2015.

[95] *Information No. 7-21-7057 dated 04.11.2013. List of submitted documentation No. 7-21-7058 dated 04.11.2013.*

[96] *Eligibility Assessment*. Page 7.

[97] *Ibid*. Page 10. Footnote 5.

91. The assessment of the case from a consultation perspective, then, has to be based on the assumption that if the Simić family contested the valuation of their properties in court, then they would obviously have had to have known, prior to their suit against EPS, that (i) the lands were scheduled for expropriation and that they had been informed of the initiation of expropriation proceedings;[98] (ii) other properties and assets in the vicinity of their holdings were being expropriated; (iii) they would be compensated for their properties and assets; (iv) there had been a valuation of their properties and assets based on their permission to enter into the properties in question; and (v) there was a valuation of the properties and assets in a formal offer made by EPS/Municipality of Ub (Certificate of Expropriation). Given the kinship connections among inhabitants of a long-established village, it seems improbable that the Simić family would either not have known of the expansion of the Tamnava West Field into Kalenic Village or that they had not been informed by EPS or the Municipality of Ub of that expansion in public communications. It is even more likely that the Simić family would have known as the Kolubara Mine (Tamnava West Field) had been operating in the area since 1984. Also, as Dragan Simić had been an employee of EPS for quite some time as an operator of auxiliary machinery,[99] he must have been familiar with mining operations and expropriation issues associated with the expansion of the mine area, and should certainly have been aware through EPS newsletters and announcements. Hence, the contention by the Complainant that the Simić family was unaware of the expansion of the mine and impending expropriation must be untrue.

92. The grievance mechanism issue presents a different perspective. In terms of responding to the Complaint, it appears that EBRD did indeed comply with the provisions of World Bank 4.12 – which was the reference cited in the Environment Policy 1996, in the following manner:

- The RP clearly specified the grievance mechanism, which was the judicial and administrative system prevailing in Serbia
- The recourse for affected persons lay in an established appeals structure, involving the municipal administration, the district court, the Supreme Court, and perhaps even the Constitutional Court[100]
- All affected persons were free to appeal against the Certificate of Expropriation and the terms of compensation
- Local residents had ready access to the municipal administration and the Municipal Court
- In the event of disputes, compensation levels would be reviewed by court-appointed independent experts qualified to assess buildings and/or agricultural produce/productivity
- Any changes to the compensation offer decided by the courts would be binding on EPS
- Time periods at all stages of appeal were clearly specified under the law
- With few appeals in the judicial system – which appeared to reflect that the expropriation process and compensation negotiations by EPS had been conducted fairly well – persons affected by the Kolubara mine expansion could expect to have rulings within reasonable time

93. Guidance provided in the Resettlement Sourcebook refers to affected persons being able to have access to "*processes established under law, local regulations, or administrative decision,"* which was the case in Serbia. The Sourcebook does not state that an alternative grievance mechanism has to be set up, but that the prevailing situation should be reviewed to ensure that with adequate information, affected persons have ready access to dispute resolution.

[98] The Court decision on the claim for additional compensation (1R.br.55/06) notes that, "*The Proposers* [Simić] *received the notification about the initiation of the expropriation procedure on 28 June 2006*." Page 6. One of the Proposers himself (Dragan Simić) admitted that "he learnt about the expropriation of the land … in June 2006."

[99] Mentioned by EPS in its communication to EBRD, 15 June 2015.

[100] It is not clear that the Constitutional Court would have entertained appeals involving compensation levels, but rather the constitutionality of expropriation. However, the Complainant mentioned that they would have appealed to that Court had it not been for the illness of Milan Simić.

94. Now, while the mechanism may have been specified in the RP, there is the question of whether the mechanism that was relied upon was adequate for the requirements of the Project. That is, if the perception is that strict compliance was lacking, was there, then, substantial compliance with policy requirements? It is important to note that in any situation, the issue of the adequacy of a national judicial system is not really questioned in resettlement planning, but the question that is more relevant is whether the existing judicial and administrative system allowed for effective resolution of grievances, which fulfils the substantial compliance requirement. While the RP does point out that appeals to the Supreme Court of Serbia could be lengthy (even longer if an appeal was entertained by the Constitutional Court), the immediate recourse of persons affected by the Kolubara Mine expansion to client and local jurisdiction-led solutions, while at times "tedious" and "a little time-consuming,"[101] had resulted in acceptable outcomes for affected persons. Hence, as there were no prolonged judicial proceedings to avoid for which an alternative mechanism might have been required, reliance on the Serbian judicial and administrative system appears to be justified.

95. Here, EBRD and the expert engaged to prepare the RP did not vary from the practice followed in the region by the World Bank, in which the national judicial system was generally viewed as the most effective *albeit* somewhat slower method of responding to any grievances that resettlers might have had.

96. In its commitment to setting up an effective grievance mechanism, EBRD had been expected to look to good international practices at the time. While there is no evidence that international practices were reviewed – and given that there was wide variation across the globe – the approach taken for the Project was generally consistent with that adopted in the region.

97. Thus, while there may be varying perceptions about the way in which EBRD could have been more responsive to establishing more accessible means of redress, there appears to be nothing inherently inappropriate in having direct recourse by those affected by the Tamnava West Field expansion to the municipal administration and the Municipal Court of Ub. Again, while there may also be perceptions about the way in which the courts engaged experts to review cases, assess values and recommend measures, those processes were set in the laws of the land, the evolution of which takes very different routes from mere observations in infrastructure projects.

98. While not directly related to the Complaint, it could be asked whether the intervening years had shown improvement in EBRD practices with respect to consultations and grievance mechanisms. The key response to that question is that since 1996, the institution has gone through several policy iterations to improve the way in which it approaches and incorporates environmental and social issues in its operations. As with the 2008 *Environmental and Social Policy*, the current *Environmental and Social Policy* (2014) sets out 10 Performance Requirements in which aside from participatory processes, grievance mechanisms are treated in more detail, with reference to timeliness, impartiality, facilitation, cultural appropriateness, accessibility, and objectivity – and again, as with the 2008 Policy, specifically that:

> *… the client will establish an effective grievance mechanism, process or procedure to receive and facilitate resolution of stakeholders' concerns and grievances ….*[102]

[101] RP. Pages 11, 13.
[102] 2014 *Environmental and Social Policy*, Page 58; and 2008 *Environmental and Social Policy*, Page 72.

99. Of the 11 projects approved/being processed since the approval of the Policy for which ESIAs and Stakeholder Engagement Plans are available on the EBRD website, none have other than client-led mediation structures, with final recourse to the judicial system.

XIV. Conclusion

100. The issues raised in the Eligibility Assessment as the grounds for Compliance Review were:

1. ***Whether EBRD had failed to ensure the implementation of the requirements of the 1996 Environmental Policy on public consultation in respect to the Project.***
2. ***Whether EBRD had failed to ensure the implementation of the requirements of the 1996 Environmental Policy regarding establishment of a grievance mechanism.***

101. From a policy perspective, the two key documents (Relevant Policies) against which the compliance of EBRD has to be measured are: (i) *Environmental Policy*, 1996; and (ii) *Policy on Disclosure of Information* 1996. From a procedural perspective, the main references are the Resettlement Plan prepared for the Project, and the *Environmental Procedures* of EBRD.

102. Given the legal provisions of the 1995 Serbian *Law on Expropriation*, and detailed procedures in place and followed by EPS under the Project, there appears to be no failing in compliance by EBRD with its Policy requirements of disclosure and public consultations for the Project. Equally, having specified a grievance mechanism in the Resettlement Plan that was available to affected persons and offered adequate resolution of issues in accordance with the laws of the land, and was generally consistent with international practices followed in the region, EBRD did comply with the provisions of the Environmental Policy.

103. The Compliance Review concludes, pursuant to PCM RP 39, that on review of available information and with due regard to the issues relevant to the Complaint, EBRD was in compliance with its policies, practices and procedures at the time with respect to:

1. ***The conduct of public and individual household consultations, consistent with the requirements of the Environmental Policy 1996, Environmental Procedures 1996, the provisions of the Environmental Impact Assessment prepared for the Project, and practices of the Client/power utility, EPS; and***
2. ***Adherence to the provisions of the Environmental Policy 1996, which required that EBRD followed World Bank standards, that is, OP 4.12 Involuntary Resettlement, which in turn required that a grievance mechanism be identified, in this case the judicial and administrative system in Serbia.***

104. In reaching its conclusion, the Compliance Review has drawn on documentation at EBRD, documentation submitted by the Complainant, publicly available materials, discussions with EBRD (at EBRD headquarters) and the Complainant (videoconference), and research into policies and practices prevailing at other multilateral financial institutions at the time.

105. Given the conclusion, this Review has no specific recommendations to make on the compliance issue, largely in recognition of the continuing improvements to the EBRD policy environment which are evidence of institutional commitment to devising more effective environmental and social safeguards, particularly in placing those as Performance Requirements in the 2008 and 2014 Policies. However, the Compliance Review does note, importantly, that (i) there should have been more oversight

in the resettlement planning process to ensure that actions which met policy requirements were documented properly;[103] (ii) EBRD should have maintained a more comprehensive database on the resettlement planning and implementation process; and (iii) monitoring reports should have been submitted regularly and archived properly. That baseline would then have allowed for more effective evaluation of the process, including the performance of the Client (EPS) as well as the welfare of affected persons in entitlements and relocation, until the relocation of affected households had been completed, soon after which post-evaluation could have been conducted.

[103]The *Special Study 2003 Environmental Policy Review: Achieving the Bank's Environmental Mandate through Direct Investments* (EBRD Evaluation Department, January 2008) notes that a social specialist was not recruited until 2005.

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Annexes

1. Resettlement Plan
2. EBRD Disclosure of Public Information 1996

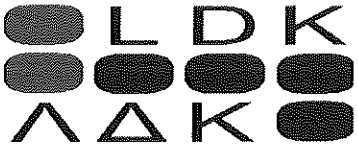
European Bank for Reconstruction and Development

TAMNAVA WEST COAL MINE PROJECT

Proposal for Additional Work to Complete Resettlement Plan

Draft Report

Project Team:



HPC HARRESS PICKEL CONSULT AG
Siemensstraße 1
50354 Huerth
Germany
tel. (+49) (0) 2233 97455-0
fax (+49) (0) 2233 78199

LDK CONSULTANTS SA
Off. Thivaidos 21
145 64 Kifissia
Greece
(+30) (010) 8196700
(+30) (010) 8196703

JUNE 2002

Contents

Executive Summary

The Tamnava West Resettlement Plan is directly related, in fact a prerequisite for the southward expansion of the coalmine in the Valley of the River Tamnava, located approximately 50-60 kilometres south of Belgrade in Serbia. Land expropriation and household resettlement in the area started in 1985 but is now trailing mainly due to shortage in funds. The whole process is fully managed by the Electric Power Industry of Serbia (EPS) who has been involved in exploiting lignite in the Kolubara basin for almost half a century and has already developed the competence of dealing with most of the complexities involved.

The expropriation plan until 2010 affects 217 households, half of which have already been relocated. Most of these households have moved in the surrounding area, about one quarter to lager urban centres and only 6 decided to construct their new home in the new settlement located at the northern edge of the open pit. Apart from carrying on the land acquisition process, the expropriator company is currently involved in the implementation of the needed infrastructure of the new settlement. Still, these works seems to be considerably delayed, thus causing a lot of dissatisfaction among the villagers. This attitude is reinforced by the serious gap that has recently been observed regarding the level of communication between EPS and affected households. Issues like future employment opportunities and even psychosocial support have become apparent in several cases, even if the existing legal framework for expropriation, which includes all needed social provisions, is executed by EPS in detail.

Apart from additional funding that is evidently needed at the moment, it is important to implement several soft measures that will provide the needed means to enhance co-operation between villagers and the expropriator in view of the need to support their smooth resettlement.

A strong promotional campaign drafted and implemented via simple, attractive, effective and reliable communication tools for the specific requirements of a Resettlement plan, should be implemented so as to maximise the benefits of a communicational campaign whilst targeting the larger population.

Special care should be placed on those people who are unable to participate in the prosperity of the society on their own. Throughout the execution of the Resettlement Plan, vulnerable groups (such as the unemployed, the elderly, people with special needs) should be further supported and their rights should be protected so as to ensure minimisation of the disruption caused by the resettlement. In line with the most important contribution of a social policy, additional support should be given to the population so as to ensure the provision of satisfactory employment conditions, and enhance the ability to earn a living for as many people as possible through dynamic economic developments and useful reforms.

The whole Resettlement Programme will be assessed by monitoring indicators which will reflect the effectiveness achieved. The monitoring procedure will help the experts involved examine the quality of the assistance and propose possible changes and amendments to the Programme. It will also assess the quality and relevance of the selected indicators.

1. Introduction

1.1 Project description and history

The Tamnava West Resettlement Plan is directly related to the southward expansion of the coal mine operations in the Valley of the River Tamnava located approximately 50-60 kilometers south of Belgrade in Serbia. The Tamnava West minefield is the current field of coal excavation in the broader Kolubara Basin, an area in which lignite has been exploited for several decades. Indeed, it is classified as one of the richest basins in coal for Serbia apart from the coal mines in Kossovo.

More specifically and in as much as the Tamnava West minefield is concerned, initial expropriation and subsequently coal excavation, started as early as November 1985. Extensive geological surveys defined the exact border of the area that is richer in coal and therefore is bound to serve as an excavation site. Since then an area of nearly 300 Ha has been exploited. The process involved expropriation of properties and relocation of households in a similar manner as it had been implemented in the case of the Tamnava East field and the other minefields that preceded it.

The whole process is fully managed by the Electric Power Industry of Serbia (EPS) who has been involved in exploiting lignite in the Kolubara basin for almost half a century and has already developed the organisational means and the competence of dealing with most of the complexities of the situation. In as much as resettlement is concerned, EPS has had the experience of moving several settlements in the past. Although they operated within a centralised political system, they proved to be apprehensive to the local communities' needs, thus overcoming the difficulties involved. As local representatives in the municipalities involved currently state, the overall impression of previous resettlement programmes is assessed as positive.

In the absence of suitable space for the relocation of the affected Kalenic households, EPS asked the residents affected to decide themselves where they wished to be resettled. Several alternatives have been offered and the decision was to establish a new plan to the north of the current open pit. The Regulating Plan of the new settlement Kalenic has then been issued in 1993. The plan consists of 160 plots ranging from 1 to 3 hectares with designated areas for the village school, the culture hall, the football ground etc (see map 1, Annex III).

1.2 Objectives of the resettlement programme

The objectives of the resettlement programme is to ensure that every household receives a compensation that will enable it to attain a standard of living similar and, if possible better than the existing one while, at the same time, securing employment as before. In fact, these provisions are guaranteed by the Serbian legal framework.

The case of the Tamnava West field resettlement needs and the means to satisfy them is very similar to other resettlement programmes in as much as their broader characteristics are concerned. Still, due to the external factors, the relocation programme trailed and this has caused a certain degree of disentchantment to the population involved, particularly referring to the relocation of the village Kalenic, which is currently directly affected.

1.3 Present status of the project

Due to political instability and shortage of funds, the development of the mining activities remained stagnant and even was arrested for several years during the previous decade. During the last 5 years, expropriation procedures as well as coal production are trailing and it appears difficult to meet the rising demands for land acquisition. On the whole, out of the 150 households in the village Kalenic that needed relocation, 117 have already compensated and most of them have moved apart from two households the cases of which are still not settled. The rest are divided in two expropriation zones depending on the programmed period of resettlement. The first zone relates directly to the immediate southward expansion of mining activities until 2005 and concerns 37 households. Within this zone, 15 households have been programmed to move before the year 2003 ends and currently have their property and holdings evaluated while the procedure has not started yet for 12 households programmed for 2004 and 10 households for 2005. The expropriation programme for the period between 2006-2010 affects an area of 235 Ha with 63 households most of which administratively belong to the village Mali Borak in the South (see Annex I). Thus, by 2010, the expropriation programme is estimated to have reached the northern border of the Mali Borak cemetery in the south eastern front of the minefield (see map 2, Annex III).

Resettlement options have been left opened for villagers to decide. Up to now only 6 households have moved to the New Kalenic while most of resettled households decided to buy land and construct a home and the secondary buildings they need in the neighbouring villages. Nearly 17% of already resettled households have chosen the nearest urban centres of Obrenovac and Lazarevac as their destination while 11% have decided to move to Belgrade. It is evident that choice of destination is affected by employment opportunities paired by the age group and attitude of the household leader or interested members.

The main problem that is currently outstanding is that, due to the shortage of funds, not only land acquisition but also the implementation of the needed infrastructure in New Kalenic has been considerably slowed down. As not only drinking water and sewage facilities have not been completed but also main roads are not even opened, villagers have become dissatisfied and are unwilling to move to a place that is not serviced properly. Thus, EPS has lost its credibility of being able to attend to the people's needs and this has caused a serious gap in their capacity for mutual communication and understanding.

On the other hand, tedious expropriation procedures are pending especially when they involve dispute either of the valuation or even of the need for the property's compulsory purchase. It must be noted that, even though very few cases of households have appealed to Serbian courts for any of the above reasons, the Serbian law for expropriation is considered as adequately democratic while also being time consuming.

With reference to the municipalities concerned, it is clear that their involvement in resettlement procedures is not particularly significant. Admittedly, although part of the procedure takes place in the municipal offices, these bodies participate neither in decision-making regarding valuation nor in developing the needed mechanisms to support new settlers institutionally or socially. Furthermore, municipalities lack the funds to participate in the implementation of the infrastructure of the new settlement as they do in other European countries. Thus the economical burden of setting up all public utility networks needed for New Kalenic village, such as roads, electricity and drinking water supply, sewage and

biological treatment of waste as well as rainwater canalisation, is left entirely for EPS to implement.

1.4 Outstanding issues

Apart from the systematic continuation of land expropriation as such, the main issue that is currently outstanding is the completion of the new village needed infrastructure. Many villagers complain that it is impossible for them to move to New Kalenic as long as the new plot is adequately serviced. More significant of the works concerning infrastructure is the opening of the settlements roads and their complete construction after the installation of the needed pipes for sewage and rainwater has been accomplished. In addition to these, the settlement's biological treatment station must be constructed along with the amelioration of the poor quality of drinking water in the area, an issue that indeed is considered problematic for the entire Kolubara Basin. Another important requirement concerns the construction of the new Culture Hall in the designated new village plot.

Lastly, it is particularly important to re-establish a higher level of communication between EPS and the villagers. As noted earlier, the strong links of understanding that existed earlier appear in many cases to have been taken over by mutual mistrust which by no means is considered beneficiary to the project. Nearly one out of five people interviewed have expressed the opinion that EPS should have handled their case by allowing them more than what has finally been agreed. Apart from the obvious complaints concerning the implementation of the infrastructure in the new settlement, the emphasis tends to be put in loss of income from agriculture, in the strong desire to be employed in EPS's Tamnava West offices as well as the need to organise community meetings to exchange views and worries concerning relocation. Naturally, the local council of Kalenic ought to take an active part in the latter.

It must be mentioned that the remarks on the needs for infrastructure as well as for a higher level of communication are justified. However, the employment aspect requires considerable attention as, on the one hand, it appears that many villagers have chosen to spent the compensation they received in buying non-productive property such as town flats for the younger family members or building larger houses and were reluctant to invest in new arable land to carry on their occupation as farmers. On the other hand, people still have the tendency to rely on the government for employment, as they did in the past, and are not used to the idea of taking an active stance in life by starting their own private businesses. Indeed the fact that, by being relocated, they receive large sums of money as compensation may enable them to invest a sizeable part in a small enterprise. In order to achieve this, is appears that they need to be properly guided to the complexities and benefits of private economies as well as equipped with knowledge of the technicalities involved.

In view of the above, it appears that the implementation of the Resettlement Plan requires the organisation and monitoring of several actions and measures that will provide, on the one hand, the basis for land expropriation and household resettlement in the same manner as it happened in the past and, on the other hand, the needed means to enhance co-operation between villagers and the expropriator in view of the need to support their smooth resettlement.

Special emphasis must be placed on the need to broaden the villagers' horizons in as much as employment opportunities and, indeed, approach to new living conditions are concerned. Although it is clear that people, and especially the young, appear generally reluctant to stay occupied in agriculture, it is reasonable to suggest that the success of the resettlement programme seen as a whole lies in the area's capacity to keep the majority of its current population.

2. Baseline Data

2.1 Area directly and indirectly affected by the programme

The territory that has been designated for coal excavation has developed similar characteristics as the rest of the Kolubara Basin, namely villages in the form of clusters of scattered houses surrounded with large patches of arable land. The average ownership of land in the area is about 6-7 Ha per household and most households own one or two parcels. One of these usually contains the household's home, barns, stables and other economy buildings while the other is used for farming. Apart from arable land, the area is characterized by smaller patches of private pastures and forests. The latter are mainly located along the Kladnica riverbeds.

As it stands at the moment, the minefield front has reached the northern boundary of what used to be the canter of the village Kalenic. This area includes many houses as well as the few diversified other land uses that used to serve the settlement, namely the village school, culture hall, few local shops and the village football ground. All these have been already vacated while the school and the football ground have been reconstructed in the New Kalenic settlement.

The development of the mine has already had several direct repercussions in the surrounding area. The main north to south, as well as east to west, traffic routes have already been blocked by mining operations and have been substituted by alternative roads constructed by EPS. Similarly, the River Kladnica, which runs along the area in question, has already been deviated based on a detailed study (see map 2, Annex III).

2.2 People directly affected by category

Agriculture and forestry represent the two most important forms of land use in the villages but this relative importance is continuously declining. 30% of the people living in the area are farmers, owing their own agricultural land, which is adjacent to their houses.

The development of mining activities, however, apart from other effects had a "social" effect as well, offering jobs with higher and less uncertain income than that from agriculture. It is not surprising, therefore, that villagers prefer and seek for a job in the mine insofar as this secures a viable income, having agriculture as a supplementary occupation. Indeed, only for a few households agriculture is the only source of income, whereas for the majority of them one member is employed by EPS.

The resettlement of the village will affect further the structure of the land since it will cause a reduction both in the number and the average size of holdings. Experience so far shows that most villagers either choose to move to the urban centres (mainly because basic infrastructure is not yet completed) or build a bigger house with no farm close to it having no incentive to remain farmers. Although the latter is not considered a negative impact from the relocation its self, the changes in the structure of land and even the depopulation of the area will, however, be accelerated.

3. Institutional framework and resettlement procedure

3.1 The legal framework for expropriation

There is no legal provision in Serbia for compulsory purchase of land for mining purposes. Thus land acquisition for such reasons has to be based on the governmental decision that the specific territory is considered as being 'of general, i.e. national, interest'. Until now, such successive decisions have seldom been contested.

On the other hand, Serbian legislation makes clear that compulsory purchase of land is enabled for communal land uses, such as roads, squares, public buildings etc. Nevertheless, it has been made evident that, in real life situations as for example in the implementation of the New Kalenic plan, this provision does not always lead to straightforward solutions. Several strips of the communal road system in the village plan have not yet been opened since owners of land are reluctant to allow EPS to enter what used to be their property, thus causing serious problems in as much as the resettlement plan is concerned.

Expropriation of land by the state or statutory organisations like EPS, is governed by the Expropriation Law the last amended version of which was issued in 1995 (see Annex II). This legal document contains detailed provisions for the manner in which expropriation procedures must be executed being particularly sensitive in providing the needed support in cases of vulnerable households. The most provisions of the Expropriation Law that pertain to the present resettlement plan are described below.

3.2 Eligibility criteria

In the Tamnava West Resettlement programme, the people who are entitled to compensation are the property owners in the territory designated for expropriation. As it happens, there are no land-less workers in the fields since the area in question, as indeed the whole Kolubara basin, is characterised by small agrarian holdings managed by individual households. Loss of income from people's employment in the primary sector is covered by specific provisions of the legal framework (see section 3.3.).

Furthermore, the 1995 Expropriation Law, article 10, provides for the households who are obliged to have a substantial part of their property expropriated. More specifically, in such cases, the expropriator may have to buy other assets that these households have even if these are not within the boundaries of the designated area.

In as much as 'cut-off dates' are concerned, it is clear that no assets are compensated other than what existed and has been taken down during the assessment of property described in section 3.3.2. Thus, new building stock either by existing inhabitants or by new entrants may not be compensated. It is important to note that, since April 2000, all building activity in the area is prohibited by law unless it is for mining purposes.

At this point, it is interesting to note that there has recently been observed construction of new secondary structures like barns and fences in the area under expropriation after the assessment of property for the specific plots has been completed. The reason for this lies either in the fact that the need is so pressing that villagers had to have a new barn even if it will be soon demolished, or that they are pushing for additional payments in their favour which, due to the low level of communication with EPS, they believe they will receive. In any case, the expropriator may surely have to develop additional channels of communication with the locals but is still not obliged to subsidise such construction.

3.3 Expropriation and resettlement procedure

The institutional and legal framework for the expropriation and compensation procedures is divided in several stages, which are well distinguished in aim. All stages allow the time needed for the affected population to appeal in case they feel they are mistreated.

3.3.1 Characterisation of the land under expropriation as being 'of general interest'

The first stage is for EPS to establish the fact that the specific territory which is under expropriation is 'of general interest' for the state. In view of this, EPS applies to the government asking for such a characterisation of the given precise acreage and the granting of permission for land acquisition. During the last 2-3 years, EPS sent proposals for 6 different areas, yet permission for expropriation by the central government has only been granted after as many as eight months instead of three according to the law.

3.3.2 Assessment of property and other assets for compensation

The following step is for EPS to prepare a detailed list of what is expropriated for each property. Exact acreage, surface of existing main and secondary buildings as well as details on agricultural assets, as for instance number and age of trees, acreage of arable land etc, are noted in detail. The list is taken to the municipalities' relevant department, which is responsible for issuing the 'certificate for expropriation' between the two interest parties, i.e. EPS and the owner.

3.3.3 Valuation of the compensation

After the agreement on expropriation is reached between EPS and the owners, the value of property is assessed. Under expropriation Law, the company must grant the affected population the money to construct new houses and other buildings of the same coverage as the existing ones and not to pay them the current market price of their old building stock. Thus the money granted enable new settlers to attain premises of similar and even better quality than the ones they currently have.

Similar conditions allow people not to lose income when compensated for their arable land and tree plantations. For example, the amount granted for a single productive tree includes not only the current market value of the actual tree, but also allows for the years needed to reach its current stage of crop production, the investment put, as well as the money needed for a new tree before it produces crop.

Based on the valuation of property, the expropriator then sends an offer for each property under expropriation to the municipality who finally announce it to the interest parties in a formal meeting. It must be noted that before this formal meeting with owners takes place in the municipal premises, the expropriator usually is involved in several talks with the owners concerning the compensation they will receive and the type of payment, i.e. whether it will purely be in the form of exchange of existing property against money, land for land etc. In certain cases, EPS has undertaken to build a new house in a new plot for households who wished to be repaid in such a manner.

The valuation of buildings is done by an independent statutory agency called the 'City Office Agency' (Gradski zavod za vestacenje), which is located in Belgrade. Valuation of agricultural assets and other land uses is carried out by officials of EPS in Tamnava West. In case that owners wish to appeal to any of the above estimates, their complain in both cases is taken to the 'City Office Agency' in order to be settled.

When owners agree with the compensation offered by EPS, they sign the 'agreement on compensation' and EPS is then obliged to pay the money within 10 days, thus being entitled to enter the premises in 15 days.

3.3.4 Provisions for vulnerable groups during valuation

It is interesting to note the socially oriented provisions of existing legislation according to which several cases of vulnerable households are entitled to compensation as much as 40% higher than the estimated one. Similarly, compensation became higher for people like a woman family leader who is blind, a boy who became an orphan within three months during expropriation process, a household consisting of two widows etc.

Furthermore as it has earlier been noted, there have been cases of people who were owners of arable land in the expropriation zone while their residence was not under expropriation, and were not interested in being farmers after their land was bought. In such cases, EPS had to buy their house as well even if it was not within the designated area.

3.3.5 Citizens' right to appeal

Owners of property under expropriation are entitled to appeal against the decisions taken at the three basic stages of the expropriation procedure. During the first stage,

once the characterisation of the land under expropriation as being 'of general interest' is granted, owners may appeal within a period of one month. Appeals generally take 12-16 months to be resolved. This delay is due to the slow manner in which several central statutory departments operate in the country.

A small number of property owners have pursued an appeal to the Supreme Court against this characterisation almost always in cases when houses rather than arable land is concerned. Their petition has never been accepted. Evidently, this decision is based on an appraisal of the national significance of mining activity in Tamnava West, yet it is also clear that the expropriator has always been watertight in supporting its case legally.

At the second stage of assessing the owners' holdings, people are entitled to complain to the Ministry of Finance and then the Supreme Court against the 'certificate for expropriation' prepared by the municipality. This process normally takes up to 16 months to be resolved. After it has been settled, the certificate becomes legal.

It must be noted that only one household is currently at the Supreme Court because they do not accept the certificate proposed for their case. This household is the Andric family who indeed, among their holdings, possess an old house, which has been classified by the Institute of Cultural Heritage as being very important paradigm of traditional architecture. This house has to be transported intact to an 'ethnic park' along with similar other houses in the area, i.e. another traditional house in Kalenic and two 'roadhouses' in Mali Borak in the South.

In cases that owners appeal against the certificate proposed by the municipality, EPS asks the latter to manage the valuation procedure described in section 3.3.3., as the owner will simply will not let them in to survey the holdings. When property owners again do not accept the compensation offered, the municipality appeals for an extra judicial settlement, which normally ends in an offer lower than the first. If gain this is not satisfactory for the owner, he/she has to appeal to the district court which settles the matter finally.

One household, which consists of two widowed sisters, is currently in the district court aiming to receive a better deal. Sisters Todorovic and Radojcic have been offered 60% more money because they are considered as being in need, yet they appealed against this offer asking for a doubled compensation. It must be noted that this household have already received an advanced payment, which unfortunately they lost because of inflation a couple of years ago. Following this misfortune and in attempt to stay close to people in need, the expropriator has given them a plot to cultivate for free.

The whole expropriation procedure, however tedious it may be, it appears to have been very well managed up to now by EPS apart from the uneasiness which is mainly derived from the lack of communication experienced recently. The officials in the Tamnava West division of EPS who are responsible for land acquisition attribute this growing dissatisfaction amongst villagers to the shortage of funds both for compensation as well as for the implementation of the needed infrastructure of the new settlement. In any case, co-operation between EPS and resettled households has been noted as positive since only 2% of them appealed against any of the decisions and offers involved.

3.3.6 Transitional arrangements

The expropriator company takes care for providing the needed support to households during the resettlement process. Thus, EPS is responsible for organising and paying for moving the households' movable holdings and equipment to their new plot. It must be noted however that experience has shown that in several occasions people have kept the expenses they received

from EPS, not moving at all in the end. For this reason, EPS has decided to give moving expenses only after households were in fact transported to the new site.

Other transitional arrangements that are taken care of and paid by EPS include: the new houses' connections to public utility networks, allowance for the transaction tax that households have to pay during the resettlement programme, etc (article 33). Lastly, it is interesting to note that article 52 of the Expropriation Law grants protection of affected households during harvest.

3.3.7 Owners and non-owners affected by loss of income

As noted earlier, the primary sector in the area is managed on family basis and there are no people who work in the fields not owning land. Similarly, no one worked in the other businesses and functions like 1-2 small shops or the old Kalenic culture hall. The old Kalenic school has already been resettled in New Kalenic and there is no compensation involved in as much as its teachers are concerned.

The only question of loss of income that must be compensated relates to income from the primary sector, like lost acreage of arable land and/or trees. The loss of these assets is estimated in great detail both in relation to what has been owned and what is needed to bring a new asset in a productive state.

3.3.8 Problems encountered and mitigation measures

As noted earlier, the delay in the expropriation programme and the implementation of the New Kalenic infrastructure, paired with the growing dissatisfaction among many of the villagers regarding their future, has certainly produced a problematic situation. It is apparent that the lack of funds is to a great extent responsible for the malfunction of most procedures. Yet, it is equally clear that abundant funding may not solve all problems encountered as a substantial part of them lies in the manner in which people approach both the resettlement programme and the future opportunities offered. In other words, critical issues appear to be essentially social in character and may only be dealt with through the implementation of several 'soft' supportive measures that will enable the villagers to view life in a different manner and co-operate with the expropriator constructively.

The most important issue relates to the need to broaden the villagers' and especially the younger ones' horizons and enable them take an active stance in life in as much as employment opportunities in a private economy are concerned. This need has been already analysed in previous sections.

Another important problem encountered relates to the fact that many villagers prefer to invest in non-productive assets, like a house bigger than what is really needed or even investing in both a house and a flat in the city, and not in buying land. Thus they end up missing the possibility of keeping their initial occupation in the primary sector. Very often they end up being dissatisfied in the end and even asking for additional compensation from EPS to buy land. The assessment of their views has shown that the issue often is particularly accentuated and it seems reasonable to suggest that it may only been dealt with the establishment of a higher level of communication between EPS and the people involved. This may be achieved

through the parallel implementation of two different measures, namely the organisation of meetings to address critical issues and the operation of a small and flexible consultation unit within the affected area.

In view of the above, it appears that the smooth implementation of the Resettlement Plan requires the proper organisation and monitoring of the following actions and measures:

a. Systematic land expropriation through the procedure provided by Serbian law. This process has been already described in detail and, as noted, is considered as democratic even if a little time-consuming.

b. Completion of the needed technical and social infrastructure in the new settlement. Apart from the actual construction works, this requires not only the construction of the new Culture Hall but also the organisation of certain institutional actions that need immediate attention, such as the launching of the legal procedure needed for the clearance of land that is now public space (for example compulsory purchase of land portions such as Mr Maximovic's in New Kalenic designated for road use etc).

c. Organisation of community meetings in which both EPS and representatives of the local and municipal councils will attend.

d. Establishment of a small unit for information and support for villagers under settlement. This unit should operate in vacated premises in the old village e.g. the school or the town hall, be organised by EPS, staffed by 2 people qualified in public relations working in shifts. Naturally, the unit should be flexible enough to move to new premises as the expropriation front moves southwards.

e. Organisation of training courses for people interested, either already or about to be resettled. The object of vocational training will have to cover: (a) introduction to the private economy rules and the approach that individuals may adopt to gain maximum benefits, (b) analysis of development sectors which may attract small scale private investment in the area, for example manufacture, retail, recreation etc, (c) familiarisation with the existing legal framework and requirements for setting up a small business and the technicalities involved, (d) survey of employment opportunities in the existing private market. The courses should be organised by the municipality or by EPS Tamnava West, held locally, and run by qualified professionals specialised in SME development preferably staying in the Kolubara Basin area, e.g. Lazarevac.

4. Social and Environmental Impacts and Mitigation

Resettlement will have an extended impact on the population and on the character of the area as a whole, since there is a tendency for villagers to build large houses rather than investing in agricultural land, and/or buying houses in the urban centers of the area. Once New Kalenic will start to function properly as an independent settlement, it will inevitably have a completely new character compared to the old village. Its dense layout and ample plot coverage for the individual parcels along with the changing pattern of population's employment will produce a tendency to create a semi-urban rather than an agrarian

community. This trend implies the need to provide a different set of amenities, more relevant to urban rather than rural life.

The setting up of the new village by EPS appears problematic and it is currently behind schedule since shortage of EPS funds hinders the expropriation of land as well as the installation of the needed infrastructure in New Kalenic. Many households had to move elsewhere in the area and construct new houses and premises independently.

If the relocation process does not function properly, and if public utility networks will not operate properly in the new Kalenic area, there are reasons to believe that villagers will carry on moving out of New Kalenic in a haphazard way, as indeed it has happened up to now.

As the period of resettlement is approaching, people must start to build new homes in new places. This causes anxiety and restlessness to nearly all people, especially those who are above forty years old. Many villagers will definitely lose their fairly productive fields that were attached to their homes. Buying new land of similar standards is uncertain and the majority of the elderly farmers are expected to retire.

Since EPS has expressed the attitude to employ at least one member of each relocated household the pattern of employment is expected to change further. People, who will not be employed in the mine, will have to move elsewhere. Thus, a strong tendency for families to split may develop. In such cases the younger people leave for the larger urban centres while the older generation stays with limited options for employment.

Villagers are generally prohibited from making major improvements in their homes where there is a prospect for resettlement. In many cases years go by with people living in dilapidated or substandard housing while they wait for a decision on resettlement or the completion of their new dwellings.

In order to mitigate the adverse impact on the area's population it is essential to organise the following measures:

The level of communication between EPS and the villagers must be improved. This communication must take the form of continual meetings in the area. In these meetings, all villagers must be encouraged to attend and express their opinions and worries about the relocation programme as well as their involvement in this. The aim is for them to understand when they finally have to move, the compensation they are entitled to receive for their property and what options they have.

It must further be noted that the implementation of the new Kalenic plan has met several difficulties originating from the land expropriation procedure, which is needed to install infrastructure and especially new roads. Thus, it is essential that villagers of Kalenic, or even from other neighbouring villages such as Brgule or Radljevo who own land in the territory of New Kalenic contribute to this direction.

Several institutional measures are required to support people's employment, especially in agriculture. As funds for buying land and selling it to villagers who wish to remain farmers are impossible to be obtained, it is inevitable to pursue institutional arrangements in order to expand the percentage of arable land in the area. For example, the granting of special

permission from the relevant statutory authorities to de-characterise a forest and turn it into agricultural land would be a typical example of measure to be undertaken.

The Cultural Hall along with the shopping malls must be constructed as soon as possible while several other facilities, such as coffee bars, youth club and even a discotheque appear that need to be planned in the nearest future. In addition to the above, certain measures are needed for the protection and care of the elderly population, such as pensioners' home, a unit providing psychological and family support etc. These new public care structures are important in view of the uneasiness caused by relocation especially for the elderly population, and must be provided by local or regional administration agencies.

EPS must make all the necessary efforts to employ members of the families of the villages, in order to involve them actively in the mining activities and make them feel part of the evolution. Job creation has to be sufficient to reduce unemployment, but at the same time minimise inequalities among different sections of the population. Special attention must be given to people who will be enforced to early retirement i.e. farmers who will lose their land, since it is particularly difficult for them to find another job. Other social groups that need special treatment are:

- young people,
- long-term unemployed,
- non-qualified persons,
- women, and
- migrant population.

These groups are considered weaker than the others and need special protection in order to avoid serious social consequences that will occur if they are (or having the feeling of being) cut off from the society.

Since rural society is increasingly subject to pressures that threaten the existing delicate balance, fertile land adjacent to the new houses must be provided for agriculture in order to keep farmers on the land and help the rural development of the area. Further investigation should be carried out as regards the potential to encourage the diversification of activities, which could generate additional income such as rural tourism.

A number of overall targets could be defined for particular population groups in as much as their interests and needs are concerned:

- Keep the younger population in rural areas. This implies an overall improvement of educational standards, the availability of micro-credit schemes and other financial facilities for agricultural production and private enterprises. Young people are more receptive to modern farming techniques and better able to adapt to changes in production and the need to diversify activities.

- Stimulate the younger female population to stay in rural areas by implementing specific programmes intended to the enhancement of living conditions.

- Provide protection and aid to the elderly population, particularly the aged, single and two-member households by implementing appropriate public care programmes and by organising compensations and/or indemnities for such activities through inheritance or use of their properties.

Lastly, and in view of the development of New Kalenic as semi-urban community it is recommended to carry out a 'specialised development plan' for the settlement, under the responsibility of the local Community. This plan could review the legal as well as socio-economic context in which the settlement is bound to grow and focus on its functional needs and its potential for development.

5. Public Consultation

The development of a consistent communication strategy is considered crucial for the elaboration and successful implementation of the proposed Resettlement Plan. For a communication strategy to effectively and efficiently respond to the needs of the larger population, a multiscope approach should be adopted. General communication activities should be tailor made according to specific pre-relocation requirements and in line with local and regional characteristics including general information activities for the entire affected population will be undertaken during this initial phase. Alternatively, and upon request, additional support could be provided throughout the execution of resettlement negotiations and/or legal actions so as to maximise the efforts for optimisation of the project's overall successful implementation. Finally, additional support should be provided throughout the execution of the Resettlement Plan, so as to settle potential disputes whilst minimising the negative effects of similar large-scale schemes.

The population's living conditions as well as their health and socio-economic conditions (demography, health statistics and other economic indicators) should be closely monitored so as to clearly define and codify existing living conditions. Throughout the Resettlement Phase the above indicators should be periodically assessed so as to evaluate the project's overall social impact as well as its efficiency and effectiveness in assuring baseline living conditions. Similarly, and throughout the execution of the Resettlement Plan, continuous efforts should be made so as to ensure equivalent or improved living standards for the affected population.

Special care should be placed on those people who are unable to participate in the prosperity of the society on their own. Throughout the execution of the Resettlement Plan, vulnerable groups (such as the unemployed, the elderly, people with special needs) should be further supported and their rights should be protected so as to ensure minimisation of the disruption caused by the resettlement. In line with the most important contribution of a social policy, additional support should be given to the population so as to ensure the provision of satisfactory employment conditions, and enhance the ability to earn a living for as many people as possible through dynamic economic developments and useful reforms.

5.1 Public awareness campaign

A strong promotional campaign drafted and implemented via simple, attractive, effective and reliable communication tools for the specific requirements of a Resettlement plan, should be implemented so as to maximise the benefits of a communicational campaign whilst targeting the larger population.

The Awareness Campaign will utilise both media and extra-media tools to inform, educate, and/or sensitise the large population along with specific pre-selected target audiences. For the specific needs of the Resettlement Plan, one should consider the following: (a) the available time frame for the implementation of a campaign following finalisation of the documents and information to be promoted, (b) more general restrictions forcing the design of very specific set of actions at the beginning of the Resettlement Plan.

The general campaign objective would be to provide a specific mix of information whilst educating the locals of the criteria, the various resettlement options, the specific procedures and the timing of the Resettlement programme as specified by the authorities.

Specific campaign objectives should include (although not restrictively):

- identification of the target audience (stakeholders) to be involved in the consultations, reflecting the structure of the local community,
- provision of general information to the larger population of the Resettlement Project,
- provision of specific information to the selected target audience of the various resettlement options, the resettlement procedures, and the relevant time schedule
- provision of a detailed description of the programme, achievements to date, and a timetable of future activities,
- provision of regular updates of the Resettlement Plans progress,
- provision of support to individuals and/or specific households,
- enhancement of the Resettlement initiative's overall transparency, and,
- organisation and execution of vocational training for SME development tailor-made to the regional and individual needs.

In light of the aforementioned objectives, a set of specific activities and/or communication tools should be developed as described hereafter:

Identification of the target audience: Creation of a database of the affected household

The creation of a reliable database with contact information (names, address, telephones, etc) of all the affected population and the households is essential for the success of all promotional tools to be employed. All communicational data should be as reliable and precise as possible whilst continuously updated for the duration of the project.

The creation of an "Information Office for the Public"
An information office, which will be employing on a permanent basis two employees, should be established strategically located so as to be clearly identified and easily accessed by the large population. The employees should be independent professionals with a strong background in public relations and/or socio-psychology, and they are to be employed on a part-time basis in two different shifts. Following the resettlement of the majority of the population, the information office could operate with one employee.

Amongst others, the information office should provide information on various aspects of the Resettlement plan, day-to-day support to the affected population, as well as daily information on various events relating to the Resettlements. Public consultations and regular meetings with local representatives, NGO's, the relevant authorities and other interested parties will also be organised, implemented and hosted by the information office.

Finally, the information office, in close collaboration with local and state authorities, training institutions and other entities should organise additional vocational training to the affected population in the form of seminars, fora, exhibitions, surveys etc.

The Information office's specific deliverables should include:

- *Printing and distribution of information leaflets.*
- *Dissemination of specific information relating to resettlement to all interested parties.*
- *Meetings, Interviews with project authorities.*
- *Regular reviews and summaries of emerging public concerns relating to Resettlement and further communication to EPS, local authorities, and other interested parties .*
- *Communication of the conclusions of various public consultations to the population.*
- *Dissemination of information relating to employment opportunities, job creation and SME funding.*

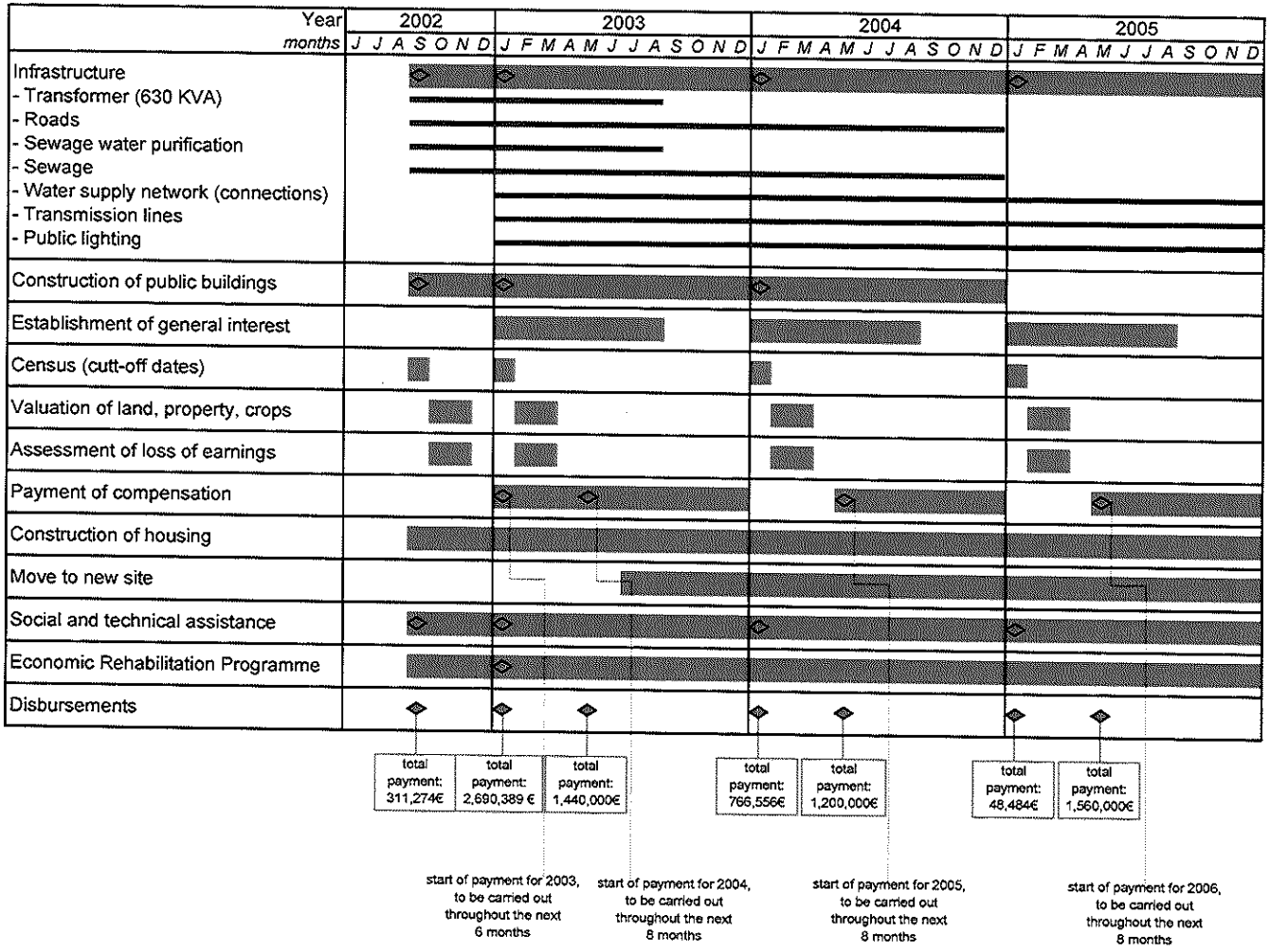
Workshops, seminars and other publicity events
Different seminars and/or workshops should be effected so as to efficiently address the needs of a large-scale resettlement initiative, clearly explain the resettlement procedure, and provide -if necessary- additional assistance in a simple and understandable manner. Moreover, selected representatives could be engaged in further discussions, so as to express public concerns to the local authorities.

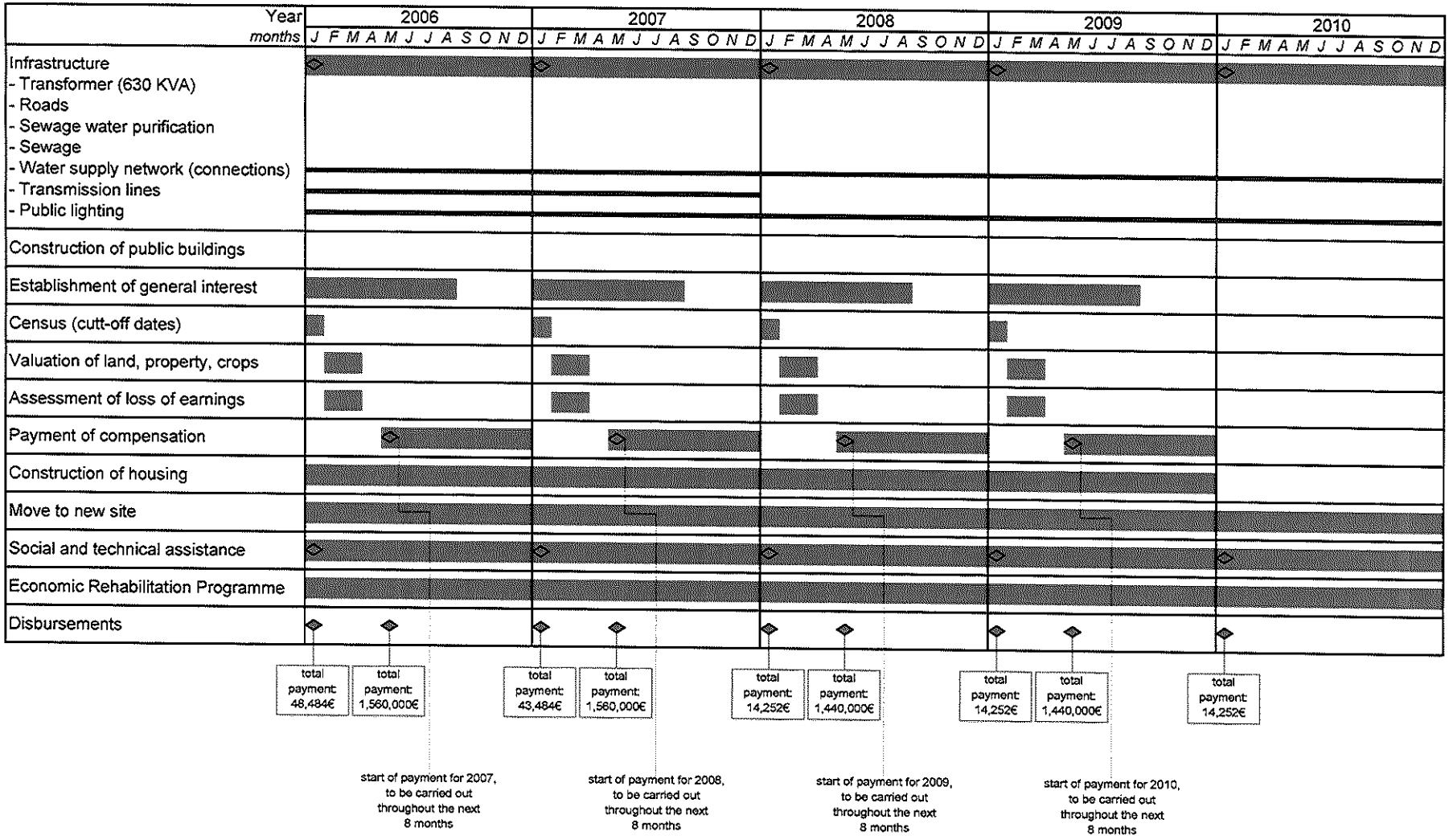
Other Activities
Various activities will be reserved in the framework of Public Consultation. Amongst others the following activities will be held:

Institutional Relations
Regular consultative meetings with Institutions, NGO's and the local Authorities will ensure the efficiency in communicating any public concerns.

Publications
A note with the general title: "Explaining Resettlement", which will present in details the process in implementing the Resettlement strategy in the years 2002 and 2003 will be drafted and will be disseminated. This will be followed up by regular monthly updates, which will illustrate -often in co-operation with other interested parties- and explain to the population the Resettlement process throughout the various stages.

6. Schedule


Year
months
2002
J J A S O N D
2003
J F M A M J J A S O N D
2004
J F M A M J J A S O N D
2005
J F M A M J J A S O N D
Infrastructure
- Transformer (630 KVA)
- Roads
- Sewage water purification
- Sewage
- Water supply network (connections)
- Transmission lines
- Public lighting
Construction of public buildings
Establishment of general interest
Census (cutt-off dates)
Valuation of land, property, crops
Assessment of loss of earnings
Payment of compensation
Construction of housing
Move to new site
Social and technical assistance
Economic Rehabilitation Programme
Disbursements
total payment: 311,274€
total payment: 2,690,389 €
total payment: 1,440,000€
total payment: 766,556€
total payment: 1,200,000€
total payment: 48,484€
total payment: 1,560,000€
start of payment for 2003, to be carried out throughout the next 6 months
start of payment for 2004, to be carried out throughout the next 8 months
start of payment for 2005, to be carried out throughout the next 8 months
start of payment for 2006, to be carried out throughout the next 8 months


Year
months
2006
2007
2008
2009
2010
J F M A M J J A S O N D
Infrastructure
- Transformer (630 KVA)
- Roads
- Sewage water purification
- Sewage
- Water supply network (connections)
- Transmission lines
- Public lighting
Construction of public buildings
Establishment of general interest
Census (cutt-off dates)
Valuation of land, property, crops
Assessment of loss of earnings
Payment of compensation
Construction of housing
Move to new site
Social and technical assistance
Economic Rehabilitation Programme
Disbursements
total payment: 48,484€
total payment: 1,560,000€
total payment: 43,484€
total payment: 1,560,000€
total payment: 14,252€
total payment: 1,440,000€
total payment: 14,252€
total payment: 1,440,000€
total payment: 14,252€
start of payment for 2007, to be carried out throughout the next 8 months
start of payment for 2008, to be carried out throughout the next 8 months
start of payment for 2009, to be carried out throughout the next 8 months
start of payment for 2010, to be carried out throughout the next 8 months

7. Costs

INFRASTRUCTURE

No.		Unit	Quantity	Price/Unit €	Total price €
1.	Roads	m	5,200	200	1,040,000
2.	Sewage	m	4,700	75	352,500
3.	Sewage water purification	set	1	-	141,667
4.	Water supply network (primary)	m	7,500	-	completed
5.	Water supply network (connections)	piece	100	583	58,300
6.	Electrical lines	m	7,200	20.3	146,160
7.	Public Lighting	piece	176	89.3	15,717
8.	Transformer (630 KVA)	piece	1	-	44,083
				TOTAL:	**1,798,427**

BUILDINGS

- AGRICULTURAL COOPERATIVE: **EUR 283,000**

In this amount the cost for the construction of the Culture Hall is also included.

HOUSEHOLDS

The payment of compensation for each household has been estimated at 120,000 EUR.

SOCIAL & TECHNICAL ASSISTANCE

Running costs of the information office include the following budgetary lines:

- 10,000 EUR for the procurement of standard office equipment, inclusive of one PC station, a telephone line, installations for display material, etc. The information office could be established in an office provided by the local authorities.

- 8,000 EUR annual salaries for both employees for the period 2002-2006
- 2,000EUR annual operating costs for the period 2002-2006, inclusive of leaflet publication, seminar handouts, and administrative support.

Please note that, for the last four years (2007-2010), both annual operating costs and salaries will be halved following the successful relocation of the population and the subsequent decrease of the need for additional informative and supporting activities.

ECONOMIC REHABILITATION PROGRAMME

Additional cost of one training expert, employed in a 10 days seminar is estimated at 2,000 EUR. Note that no additional expenses are to be included in this budget line as both the facilities and the administrative support are to be provided by the local community and/or EPS.

This seminar could be organised and executed on various occasions, according to specific needs, upon request.

The following Table illustrates the costs of all the components of the Resettlement Plan as well as the schedule for disbursements.

ACTIONS	Breakdown of costs / year (€)																Total cost / action (€)
	2002	2003		2004		2005		2006		2007		2008		2009		2010	
	Sep	Jan	May	Jan	May	Jan	May	Jan	May	Jan	May	Jan	May	Jan	May	Jan	
Infrastructure																	
- Transformer (630 KVA)	14,694	29,389															44,083
- Roads	148,571	445,714		445,714													1,040,000
- Sewage water purification	47,222	94,445															141,667
- Sewage	50,357	151,071		151,071													352,500
- Connections for water supply		7,288		7,288		7,288		7,288		7,288		7,288		7,288		7,288	58,300
- Transmission lines		29,232		29,232		29,232		29,232		29,232							146,160
- Public lighting		1,965		1,965		1,965		1,965		1,965		1,965		1,965		1,965	15,717
Construction of public buildings	40,429	121,286		121,286													283,000
Payment of compensation		1,800,000	1,440,000		1,200,000		1,560,000		1,560,000		1,560,000		1,440,000		1,440,000		12,000,000
Social and technical assistance	10,000	10,000		10,000		10,000		10,000		5,000		5,000		5,000		5,000	70,000
Economic rehabilitation progr.		2,000															2,000
TOTAL COST / MONTH	**311,274**	**2,690,389**	**1,440,000**	**766,556**	**1,200,000**	**48,484**	**1,560,000**	**48,484**	**1,560,000**	**43,484**	**1,560,000**	**14,252**	**1,440,000**	**14,252**	**1,440,000**	**14,252**	**14,151,427**

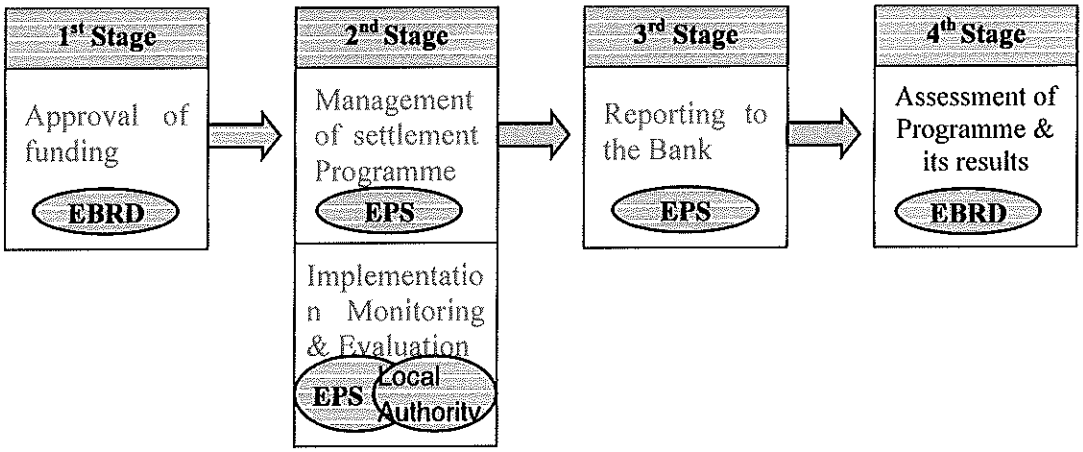
8. Monitoring and Evaluation

8.1 Institutional responsibilities for monitoring and for evaluation

As it has been mentioned although the local Municipal Authority is in close contact with the villagers and participates in discussions held, the main responsibility of the Resettlement Plan lies with EPS. However, in order for prompt and efficient assistance to be delivered, it is required that all parties involved play their part.

The local Municipal Authority could participate actively in the implementation of the infrastructure as well as in periodically evaluations. EBRD will approve and provide financing and assess the programme results at the end of each implementation phase. EPS will receive funding, will allocate the necessary funds according to the schedule and will report to the Bank. Both EPS and the Community could be responsible for implementing the works and monitoring the programme.

The following scheme illustrates the responsibilities for all parties:



8.2 Reporting procedures

EPS should submit an annual implementation report to the EBRD at the end of each year of implementation. The report will detail the progress made in implementing the assistance over the preceding year. This document is of fundamental importance in ensuring that the assistance is unfolding smoothly. A final report shall be sent to the Bank at the end of the Resettlement Programme.

The reports should include:

- Data on the context in which the assistance was implemented, including an analysis and interpretation of the data collected.
- Calculation of indicators;

- Progress made in achieving the results for each component of the resettlement plan;
- Characteristics of the implementation such as parties involved, institutional context, time frame;
- Financial information on the implementation of the assistance for the period concerned;
- Legal procedures followed;
- Outstanding legal issues, complains and steps towards resolution.

8.3 Monitoring

The whole Resettlement Programme could be monitored by both EPS and the local Municipal Authorities. It will be assessed by monitoring indicators which will reflect the effectiveness achieved. The monitoring procedure will help the experts involved examine the quality of the assistance and propose possible changes and amendments to the Programme. It will also assess the quality and relevance of the selected indicators.

The following Table presents a number of indicators that could provide adequate information on the results achieved through the Programme implementation.

8.4 Ex post evaluation

The ex post evaluation will help the parties involved compare the expected objectives with the results actually achieved. Ex post evaluation should cover the whole duration of the Programme and look at the impact of the interventions at all levels. It should also cover all measures and present the financial and physical results, taking into consideration that a measure may help to achieve more than one impact and that several measures could contribute to the same impact (i.e. employment safeguarded).

Lastly, a qualitative assessment of the overall impact has to be undertaken. Possible unexpected or negative impacts should also be stated.

List of Indicators

Indicator	Definition	Measurement
Agriculture		
Funds allocated to agricultural holdings	Number of holdings receiving funds	Employment safeguarded Setting up of young farmers
Infrastructure		
Road infrastructure	Roads constructed or upgraded	Km completed Degree of network completion
Drinking water	Number of households served	Volume of water consumed
Sewerage	% network completion	% of population served
SMEs		
Funds allocated to existing SMEs	Number of existing SMEs receiving financial support	% of SMEs survived Number of jobs safeguarded
Funds allocated to new SMEs	Number of new SMEs receiving financial support	% of SMEs created Number of jobs created
Productive projects		
Funds allocated to projects	Number of projects financed	Business launched Employment created or safeguarded
Social communication		
Assistance to persons / companies	Number of beneficiaries	Households settled in the new area Business launched Employment created or safeguarded
Households		
Households valuation	Number of households valued	Households accepted valuation Households received compensation
Funds allocated to households	Number of households receiving financial support	Number and % of households rellocated in the new Kalenic area Inhabitants wishing to stay in the area after 5 years
Social infrastructure and public health		
Funds allocated for health, social care, education and training	Basic services provided Support to elderly and disabled people Support for education	Number of people served and supported Number of people trained Diminution of school leavers

APPENDIX A: EXPROPRIATION LAW

EXPROPRIATION LAW

I. BASIC PROVISIONS

Article 1

Real estate may be expropriated or the title to it may be restricted only against a fair compensation that may not be lower than the market price of the real estate involved (hereinafter: the compensation), if that is required by common interest determined on the basis of law.

Article 2

The common interest for expropriation of real estate shall be determined by law or a decision of the Government of the Republic of Serbia issued in conformity with this Law.

Article 3

For the purposes of this Law, real estate shall be understood to mean land, buildings and other structures.

Article 4

The holder of title to expropriated real estate shall be changed on the effective date of the expropriation order (complete expropriation).

Article 5

Easements concerning real estate or lease of land for a definite period of time may also be instituted on the basis of expropriation (incomplete expropriation).

A relationship based on may be established only when, in view of the purpose for which the leasing is proposed, the land is to be used over a limited period of time, not exceeding three years (for the purpose of ore and other prospecting, stone quarrying, extraction of clay, sand and gravel, leasing of natural goods for the purpose of their being placed under protection and the like).

Upon the expiration of the period for which the incomplete expropriation has been carried out, the beneficiary of expropriation shall restore the land.

Article 6

The land intended to serve for a certain purpose in connection with construction of buildings (to house workers, materials, machines and the like) may be occupied on a temporary basis for up to three years (temporary occupancy).

Temporary occupancy shall be terminated once the purpose for which it was established ceases to exist and the land shall be restored upon that.

Article 7

The performance of operations preparatory to expropriation may be permitted on a specified real estate.

Article 8

Expropriation may be carried out in order to satisfy the needs of the Federation, Republic, a province, a city, a municipality, social and government funds and public enterprises, unless otherwise provided by law.

Easement in favour of citizens may be established in the expropriation procedure, if so provided by law, for the purpose of laying water mains, electric power and telephone cables and the like.

Article 9

The expropriation of a real estate shall entitle the beneficiary of expropriation to use such real estate for the purposes for which the expropriation was carried out.

Article 10

If in the expropriation of a part of a real estate it is found that the owner has no economic interest in using the rest of that real estate or that because of it, the owner's livelihood in the rest of has been rendered impossible or substantially aggravated, that part of the real estate shall also be expropriated at the owner's request.

Article 11

The compensation for expropriated real estate shall be set in money, unless otherwise provided by this Law.

Article 12

The expropriation of a building standing on urban building land shall entail the termination of its owner's right to use the land under that building and the land serving for its regular use.

In the case of land the right of use to which has been terminated, its former owner shall be entitled to compensation, unless the compensation had already been paid to him.

Article 13

Expropriated real estate may be restored to its former owner on conditions determined by this Law.

Article 14

In the areas affected by major natural disasters, expropriation of real estate shall be carried out by a special procedure determined by this Law.

Article 15

The compensation for expropriated arable agricultural land due to a person whose livelihood is conditional on the income from that land shall be set, at his request, by giving him the title to corresponding land of the same crop and class or corresponding value in the same place or nearby.

The provision of paragraph 1 of this Article shall not apply to cases in which expropriation is carried out for the purpose of extracting coal, non-ferrous metals, building materials, crude oil and natural gas, building power supply facilities (thermal power stations, thermal power/district heating stations, transformer stations, high-voltage power transmission lines, hydroelectric power station water storages), conveying, storing and processing crude oil and natural gas, as well as for water supply and flood control and construction of buildings for protection against the harmful effect of water.

The compensation due to the former owner of an expropriated building used for livestock rearing and storage and processing of agricultural products, whose livelihood

is conditional on the income from such activities, shall be set by giving him the title to another building in which he will be able to carry on his activity, at the place proposed by himself within his own holding, in conformity with standing regulations.

The beneficiary of expropriation shall perform the duty referred to in paragraph 3 of this Article within not more than 12 months from the date of demolition of the expropriated building.

Pending the conveyance of the building the title to which is transferred as compensation, the beneficiary of expropriation shall make it possible for the former owner to use another building prior to demolition of the expropriated building.

Article 16

At the request of the former owner of a residential building or apartment or business premises, the beneficiary of expropriation shall transfer to him the right of ownership or co-ownership to another residential building or apartment or business premises at the same place or nearby, the structure and area of which correspond to the conditions for dwelling or conduct of business the former owner had prior to expropriation.

When a large complex of land is being expropriated in conformity with this Law for the purpose of executing certain works, the beneficiary of expropriation shall provide the former owner with another real estate referred to in paragraph 1 of this Article in the territory of the municipality in which the expropriated real estate is situated.

The former owner using the expropriated building shall be provided with another real estate pursuant to paragraphs 1 and 2 of this Article, prior to demolition of the expropriated building, and the former owner not using the expropriated building shall be provided with another real estate within six months from the effective date of the expropriation order.

Article 17

If there is a difference in value between the expropriated building and the building the right of ownership or co-ownership to which is transferred as compensation, either the beneficiary of expropriation or the former owner shall pay the difference in price to the other party.

The former owner shall have the duty referred to in paragraph 1 of this Article only when he is agreeable to being given the right of ownership or co-ownership to a building whose value is higher than that of the expropriated one.

The mode of, conditions for and time limit for payment of the difference referred to in paragraph 1 of this Article shall be determined by mutual agreement of the parties or by court decision.

Article 18

If the former owner is not requesting to be given the right of ownership or co-ownership to another real estate for the expropriated one pursuant to Article 16 of this Law, the beneficiary of expropriation shall pay compensation to him in money, without being bound to provide him with another real estate.

Article 19

The beneficiary of expropriation shall make it possible for the holder lease on a socially or state-owned apartment for an indefinite period of time or the holder of the right of occupancy in an expropriated residential building or apartment as a separate part of the building, to use some other suitable socially or state-owned apartment as lessee for an indefinite period.

II. DETERMINATION OF COMMON INTEREST

Article 20

The Government of the Republic of Serbia may determine common interest for expropriation, if the expropriation of real estate is necessary for the purpose of constructing buildings in the following fields: education, public health, social welfare, culture, water management, sports, transport, power source and public utility infrastructure, buildings needed by the national government and territorial autonomy agencies and local self-government authorities, buildings for national defence purposes, environmental protection and protection against natural disasters and ore-mining buildings, as well as buildings to house needy people.

General interest for expropriation may be determined if an appropriate plan has been adopted in conformity with law, making provisions for construction of the buildings referred to in paragraph 1 of this Article on certain land.

The proposal for the determination of common interest for expropriation may be made by a person that may be a beneficiary of expropriation under the provisions of this Law.

The proposal for the determination of common interest for expropriation, which should be filed with the Government of the Republic of Serbia, shall include particulars about the real estate for which the determination of common interest is proposed, kind of building planned to be constructed on the given land and other data of importance for the determination of common interest. An excerpt from the relevant plan should also be filed with the proposal.

The Government of the Republic of Serbia shall render a decision on the proposal for the determination of common interest within 90 days.

In the decision determining common interest as referred to in this Article, the Government of the Republic of Serbia shall also designate the beneficiary of expropriation.

An administrative suit may be instituted with the Supreme Court of Serbia against the Government's decision on the determination of common interest.

II. OPERATIONS PREPARATORY TO EXPROPRIATION

Article 21

A legal entity intending to file a proposal for expropriation may apply for permission to perform the necessary preparatory operations in/on the real estate concerned (soil testing, surveying and the like), for the purpose of making the feasibility study, filing the proposal for the determination of common interest or filing the proposal for expropriation.

Article 22

The application for permission to perform preparatory operations shall include the purpose for which the expropriation is intended to be proposed, real estate in/on which the preparatory operations are intended to be performed, name of the owner of the real estate concerned, nature, scope and purpose of operations and their duration.

The ministry in charge of finance shall decide on applications for permission to perform preparatory operations.

Article 23

If the applicant for permission to perform preparatory operations substantiates the necessity of the preparatory operations being performed for the purposes determined by this Law, the ministry in charge of finance shall issue the permission for the preparatory operations to be performed.

In making the decision to permit the preparatory operations to be performed, care shall be taken that they are not to be performed at a time that is inconvenient to the owner of real estate, in view of the crops grown on and purpose for which the real estate is used.

The decision referred to in paragraph 2 of this Article shall include, among other things, also the preparatory operations the applicant may perform, as well as the term within which he shall have to do so.

The decision referred to in paragraph 2 of this Article may not include the permission for the execution of building and other related works.

Article 24

A legal entity that is permitted to perform preparatory operations shall pay to the owner compensation therefor as determined by this Law.

III. PROCEDURE OF EXPROPRIATION

Article 25

The beneficiary of expropriation may file the proposal for expropriation only after general interest for expropriation of real estate has been determined in conformity with this Law.

The Republic Public Legal Officer may file the proposal for expropriation on behalf of the Republic of Serbia.

In the case of a province, city or municipality, the competent public legal officer or some other person acting as agent of that province, city or municipality may file the proposal for expropriation.

The proposal for expropriation may be filed with the authorities of the municipality in the territory of which the real estate proposed to be expropriated is situated, within a year from the date of determination of common interest for expropriation.

Article 26

The following shall be indicated in the proposal for expropriation:

1) Name and registered office of the submitter of the proposal for expropriation (the beneficiary of expropriation);

2) Real estate proposed to be expropriated and place where that real estate is situated;

3) Owner of the real estate proposed to be expropriated and his/its address or registered office;

4) Purpose for which the expropriation is proposed.

Article 27

The following shall be filed together with the proposal for expropriation:

1) Registered land certificate or an excerpt from other public books in which the titles to real estate are entered, containing particulars about the real estate proposed to be expropriated;

2) Building permit issued in conformity with the engineering and construction regulations, if expropriation is proposed for the purpose of constructing a building;

3) Evidence that general interest for expropriation has been determined in conformity with this Law.

Article 28

Besides the documents referred to in Article 27 of this Law, the beneficiary of expropriation shall also file together with the proposal a commercial bank guarantee made out for the amount of dinars necessary for the payment of compensation for the expropriated real estate.

The validity of the guarantee referred to in paragraph 1 of this Article shall run until the payment of compensation.

The guarantee referred to in paragraph 1 of this Article shall also include a clause to the effect that the amount of funds specified in the guarantee is to be increased by the retail price growth index until the moment the compensation is paid.

Article 29

The authorities in charge of proprietary affairs in the municipality in the territory of which the real estate proposed for expropriation is situated (hereinafter: the municipal authorities) shall conduct the proceedings concerning the proposal for expropriation and render a decision on it.

Municipalities, cities and the City of Belgrade shall perform the duties referred to in paragraph 1 of this Article, with the exception of rendering decisions on second-instance complaints, as well as other government administration duties, as assigned duties.

If the documents referred to in Article 28 of this Article are presented together with the proposal for expropriation or subsequently, substantiate the necessary facts, the authority referred to in paragraph 1 of this Article shall adopt the proposal for expropriation, otherwise it shall reject that proposal.

Prior to issuing the expropriation order, the authorities referred to in paragraph 1 of this Article shall hear the owner concerning facts of importance for expropriation of the real estate concerned.

The ministry in charge of finance shall decide on complaints filed against first-instance decisions on proposed expropriation.

Article 30

In a case referred to in Article 10 of this Law, the authorities conducting the expropriation procedure shall advise the former owner that he may file a request for the rest of the real estate to be expropriated and enter that in the minutes.

A request referred to in paragraph 1 of this Article may be filed within two years from completion of the building or completion of works.

If the request for expropriation of the rest of the real estate is filed before the first-instance expropriation order is issued, the municipal authorities shall deal with that request concurrently with the proposal of the beneficiary of expropriation, and if the

request was filed after the first-instance order was issued, it shall be dealt with by a separate procedure.

Article 31

The decision adopting a proposal for expropriation shall include the following in particular:

1) Name of the beneficiary of expropriation;
2) Designation of the real estate to be expropriated and relevant data from the land registry or other public books in which the rights to real estate are entered;
3) Name of the owner of real estate and his/its address/registered office;
4) Purpose of expropriation and/or the building for the construction of which the real estate is to be expropriated;
5) Duty of the beneficiary of expropriation referred to in Articles 15, 16 and 19 of this Law;
6) Duty of the owner or holder to convey the real estate to the beneficiary of expropriation and the deadline for conveyance;
7) Duty of the beneficiary of expropriation to present to the municipal authorities an offer in writing concerning the form and amount of compensation for the expropriated real estate, within 15 days from the effective date of the expropriation order.

Article 32

Based on the proposal for expropriation, the beneficiary of expropriation shall file a request for the expropriation to be entered in the land registry or in other public books in which the rights to real estate are entered.

The conveyance of the real estate concerning which the expropriation was entered, as well as the change of relations affecting the real estate (change of holder of the right of occupancy, etc.) that could affect the duties of the beneficiary of expropriation, shall have no legal effect in relation to the beneficiary of expropriation.

Article 33

The expropriation procedure costs shall be borne by the beneficiary of expropriation.

Article 34

The beneficiary of expropriation shall have the right to take possession of the expropriated real estate on the effective date of the decision on compensation or the date of the agreement on compensation for the expropriated real estate, unless otherwise provided by this Law.

Article 35

At the request of the beneficiary of expropriation, the ministry in charge of finance may decide to convey the real estate to the beneficiary of expropriation before the effective date of the decision on compensation or the date of the agreement on compensation for the expropriated real estate, but not before the date of the second-instance decision on the complaint filed against the expropriation order, if it finds that so is necessary because of the urgent need for the building to be constructed or works to be executed.

The conveyance to the beneficiary of expropriation shall not be allowed before the effective date of the decision on compensation or prior to conclusion of the agreement on compensation, if the beneficiary of expropriation did not determine beforehand the elements necessary for setting the compensation for the expropriated building, pursuant to Article 31, item 7, of this Law.

If the real estate was conveyed to the beneficiary of expropriation prior to the effective date of the decision on compensation or conclusion of the agreement on

compensation, and the proposal for expropriation gets effectively rejected in further proceedings, the beneficiary of expropriation shall restore the real estate to its owner and pay damages.

If the real estate is being expropriated for the purpose of building facilities for the generation, transmission or distribution of electric power, the real estate concerned shall be put into use at the request of the beneficiary of expropriation, on the basis of final expropriation order, on condition that the beneficiary of expropriation proves that it has performed the duty referred to in paragraph 2 of this Article.

Article 36

The beneficiary of expropriation may desist from the proposal for expropriation before the effective date of the expropriation order.

An effective expropriation order shall be annulled or amended whenever the beneficiary of expropriation and the former owner file a request for that jointly.

An effective expropriation order shall be annulled or amended at the request of the former owner of the expropriated real estate, if the beneficiary of expropriation fails to execute substantial works on the building, taking into account its nature, for the construction of which the expropriation was carried out, within three years from the effective date of the decision on compensation or the date of the agreement on compensation.

In the case of expropriation for the purpose of open-pit mining, the effective expropriation order shall be annulled or amended pursuant to paragraph 3 of this Article, if the beneficiary of expropriation fails to execute the preparatory and other works necessary for mining within six years from the effective date of the decision on compensation or date of the agreement on compensation.

The authorities that have rendered the first-instance decision on a proposal for expropriation, shall also decide on desistance from a proposal for expropriation and on the request for the annulment of an effective expropriation order.

If a real estate that was expropriated by an order the annulment or amendment of which is requested had several owners, the request may be decided on, if it was filed by the majority of them and the competent authorities will also request the rest of them to state their position on the request.

In the event of a dispute, a regular court shall deal with property relations between the beneficiary of expropriation and the owner of real estate.

IV. SPECIAL PROCEDURE FOR EXPROPRIATION IN THE AREAS AFFECTED BY MAJOR NATURAL DISASTERS

Article 37

In the areas affected by earthquake, flood, fire, ecological accident or some other major natural disaster, expropriation for the purpose of constructing buildings and executing works conducive to the elimination of consequences of such disaster, shall be carried out in conformity with the provisions of Articles 38 to 40 of this Law.

Article 38

Land may also be occupied on a temporary basis when so is necessary for the purpose of setting and constructing temporary buildings (business buildings, buildings to house the population and property and the like).

A complaint filed against a decision establishing temporary occupancy of land shall not stay the execution of that decision.

The decision on temporary occupancy of land shall be revoked once the reasons for which it was rendered cease to exist.

Article 39

Based on the final expropriation order, the beneficiary of expropriation may request the conveyance of the real estate concerned for the purpose of putting it to use, unless otherwise provided by this Law.

The municipal assembly may decide, at the request of the beneficiary of expropriation, to have the real estate conveyed to it once the first-instance order has been issued, if that is called for by the urgency of the execution of works.

If a residential building, an apartment as part of a building or business premises are being expropriated, the beneficiary of expropriation shall provide the former owner, holder of the right of occupancy or lessee with another apartment or business premises to be owned/co-owned, occupied or leased by them, within six months from the date of moving out from the expropriated building, apartment or business premises.

Pending the provision of an apartment or business premises, the beneficiary of expropriation shall provide the persons referred to in paragraph 3 of this Article, prior to demolition of the building, with temporary accommodation up to basic dwelling requirements or requirements for conducting business (appropriate number of rooms, electric power and water services and the like).

The provisions of paragraphs 3 and 4 of this Article shall apply accordingly also in the case of expropriation of other buildings.

Article 40

The Government of the Republic of Serbia shall determine the areas in which the provisions of Articles 38 and 39 of this Law shall be applied.

Unless otherwise provided by provisions of Articles 38 and 39, other provisions of this Law shall be applied in the areas affected by major natural disasters.

IV. COMPENSATION FOR EXPROPRIATED REAL ESTATE

1. Amount of Compensation

Article 41

The value of the building the title to which is transferred to one or several parties as compensation and the value of the expropriated building, in the case of establishment of ownership or co-ownership rights, shall be determined in accordance with the market value of such buildings at the time of establishment of the ownership or co-ownership rights.

The amount of compensation in money for expropriated real estate shall be set in accordance with market price and circumstances existing at conclusion of the agreement on the amount of compensation, and if an agreement has not been reached, in accordance with the circumstances existing when the first-instance decision on compensation was rendered.

If the real estate is conveyed to the beneficiary of expropriation before the effective date of the expropriation order, the former owner shall have the right to opt for the compensation to be set in accordance with the circumstances existing at the time of

conveyance of real estate or at the time when the first-instance decision on compensation was rendered.

If different kinds of real estate owned by a single owner are expropriated, the compensation for each individual kind of real estate (land, buildings, devices, etc.) shall be specified in the agreement on the amount of compensation or in the court decision.

Article 42

Compensation for expropriated agricultural land and building land shall be set in money in accordance with market price of such land.

Article 43

Compensation for an expropriated residential building, apartment or business premises shall be set in accordance with market price of such real estate.

Article 44

Revoked (see: Federal Constitutional Court Decision No. 23/2001-1)

Article 45

Compensation for an expropriated fruit-bearing vineyard or orchard shall be set by setting the compensation for land pursuant to Article 42 of this Law and adding to it the market price of non-depreciated capital invested in the development and maintenance of such vineyard or orchard and the net return the vineyard or orchard would have given, in view of its age and yield, in as many years as is necessary for a new vineyard or orchard to be developed and to reach full yield.

Compensation for an expropriated young vineyard or orchard which is not yielding fruit yet shall be set by setting the compensation for land pursuant to Article 42 of this Law and adding to it the capital invested in its development and the net return it would have given in as many years as that vineyard or orchard was old at the moment of expropriation.

Compensation for each fruit tree or vine on expropriated land shall also be set in conformity with the provisions of paragraphs 1 and 2 of this Article.

Article 46

Compensation for an expropriated nursery shall be set the same as for agricultural land (Article 42). The thus set compensation shall be increased by the market price of the nursery stock the former owner had not used up until the conveyance of real estate to the beneficiary of expropriation.

Article 47

Compensation for an expropriated mature or nearly mature forest shall be the value of forest trees and other forest products established in accordance with market price on the truck road or at another loading or purchasing place, less the cost of production.

Compensation for an expropriated young forest shall be set in accordance with the cost of raising such forest plus the value increase factor for the achievement of the value of a mature forest.

The compensation set in accordance with the provisions of paragraphs 1 and 2 of this Article shall be increased by the compensation for land set in accordance with the provisions of Article 42 of this Law.

Production costs shall be understood to mean the cost of felling, working up and transporting logs from the forest to the truck road or some other loading or purchasing place.

The cost of raising a young forest artificially shall be set as equal to the cost of afforestation and the cost of raising a natural young forest, as equal to the cost of artificial afforestation using seeds.

Article 48

For the purposes of this Law, a forest nearly mature for felling shall be understood to mean a single-aged forest that has reached at least two thirds of the age of a mature forest and a young single-aged forest shall be understood to mean a forest that has reached up to two thirds of the age of a forest mature for felling.

An all-aged forest (selection forest and all-aged group forest) shall be understood to mean a forest mature for felling.

Article 49

Compensation for a vineyard, orchard, nursery and forest shall be set in accordance with the provisions of Articles 45 through 47 of this Law.

Article 50

The former owner shall not have the right to compensation for the investments made after the date on which he was notified in writing of the filed proposal for expropriation, with the exception of the costs necessary for the use of real estate.

The authorities competent for the issuance of the expropriation order shall notify the former owner of the filed proposal for expropriation.

Article 51

In setting the compensation in conformity with the provisions of this Article, an amount higher than the market price may be set, taking into account the former owner's financial and other personal and family circumstances, if such circumstances are of substantial importance for his livelihood (number of household members, number of employable and/or employed household members, state of health of household members, monthly household income and the like).

Article 52

The former owner shall have the right to harvest the crops and pick the fruits on the expropriated land.

In the cases of great urgency, the authorities competent for the issuance of the expropriation order may allow the beneficiary of expropriation, at the latter's request, to start executing works on the expropriated land before the crops or fruits are ready for harvesting or picking.

A complaint filed against the decision referred to in paragraph 2 of this Article shall not stay its execution.

If the former owner was unable to harvest the crops or pick the fruits, because the beneficiary of expropriation was allowed to start executing works prior to crop harvesting or fruit picking, the former owner shall have the right to compensation for crops or fruits according to market price, less the cost he would have incurred in connection with harvesting or picking.

Article 53

In the case of a granted easement, the compensation shall be set in the amount by which the market value of the land or building concerned has decreased because of the granted easement.

The compensation referred to in paragraph 1 of this Article shall be set by the procedure determined by this Law for setting compensation.

Article 54

In the case of a leasing arrangement, the compensation is set in the amount of rent on the market for the nearest similar land.

Compensation shall be set as a lump sum for the whole lease period or in periodical payments to be made at equal time intervals.

Compensation shall be due as of the day on which the land was handed over to the lessee.

If the leasing arrangement is causing actual damage to the owner of land, compensation for such damage shall be payable, too.

Article 55

Compensation for temporary occupancy of land shall be set in the amount and way determined by this Law for compensation in the case of leasing arrangements.

Compensation for preparatory operations shall be set in the amount and way determined by this Law for leasing arrangements, only the duration of preparatory operations and the time necessary for restoration or putting in future use shall be taken as the compensation calculation base.

2. Compensation Setting Procedure

Article 56

Once an expropriation order becomes enforceable, the municipal authorities shall schedule and conduct without any delay negotiations concerning the setting of compensation for expropriated real estate by mutual agreement.

The beneficiary of expropriation shall present to the authorities referred to in paragraph 1 of this Article an offer in writing concerning the form and amount of compensation within not more than 15 days from the date of enforceability of the expropriation order.

The authorities referred to in paragraph 1 of this Article shall forward to the former owner of the expropriated real estate a copy of the offer without any delay and seek information from administrative and other agencies and organisations about facts that could be of importance for setting the compensation by mutual agreement.

Article 57

The agreement on compensation for expropriated real estate shall determine in particular the form and amount of compensation and the time limit within which the beneficiary of expropriation is bound to discharge such obligations, as well as the former owner's obligations, if covered by the agreement.

The agreement on compensation shall be entered in the minutes, which shall contain all data necessary for the parties to perform their duties.

The agreement on compensation shall have the force of an enforceable document, unless the municipal authorities refuse to conclude the agreement.

Once the first-instance expropriation order is issued, the parties may not negotiate the forms and amount of compensation outside the procedure determined by this Law.

Article 58

The municipal authorities shall refuse to conclude the agreement concerning the forms and amount of compensation for the expropriated real estate, should they find that such agreement would be contrary to standing regulations.

A special complaint may not be filed against the decision not to conclude the agreement pursuant to paragraph 1 of this Article.

Should the municipal authorities refuse to conclude the agreement on compensation, the whole compensation file shall be forwarded to the competent municipal court for the purpose of setting the compensation.

Article 59

The parties may agree on the following in the proceedings before the municipal authorities or the competent court: transfer of ownership or co-ownership rights to other real estate, instead of the expropriated one, monetary amount of compensation, mutual addition payments of the difference in the value of real estate, transfer of expropriated buildings to another location that is permissible under regulations, construction of accesses, passages and access roads and other performances permitted by law.

Article 60

The agreement on compensation in money shall be executed by the competent court and the agreement on other forms of compensation, by the municipal authorities.

Article 61

Should the agreement on full compensation not be reached within two months from the effective date of the expropriation order, the municipal authorities shall forward to the competent municipal court the expropriation order together with all other documents for the purpose of setting the compensation.

Should the municipal authorities fail to act in compliance with the provision of paragraph 1 of this Article, the former owner and the beneficiary of expropriation may address the court directly for the purpose of setting the compensation.

Article 62

The beneficiary of expropriation shall bear the cost of the procedure for setting the compensation for expropriated real estate.

3. Other Provisions

Article 63

The validity of private easements relating to expropriated real estate and all real encumbrances, other than real easements, the performance of which is possible after putting the expropriated real estate to its intended use, shall be terminated on the effective date of the expropriation order.

Any mortgage held on the expropriated real estate shall be transferred to the real estate conveyed to one or several parties in compensation for the expropriated real estate, or to some other private property of corresponding value.

The real rights referred to in paragraph 1 of this Article shall be struck off in the land registry or other public books, at the proposal of the beneficiary of expropriation.

Article 64

The registration of ownership and other rights to expropriated real estate shall be carried out on the basis of the enforceable expropriation order.

Either party may file the application for registration.

The ownership and other rights to the real estate conveyed to the former owner as compensation shall be registered on the basis of enforceable orders for expropriation and enforceable documents concerning compensation.

Article 65

Easements relating to passage, transport, water pumping, erection of power transmission facilities and other easements may be granted on state and socially owned land.

The compensation for easements shall be set in the amount by which the value of land or building or yield has decreased because of the easements granted.

Article 66

The compensation for temporary occupancy of socially and state owned land shall be set in an amount that corresponds to the rent paid for the nearest similar land.

The compensation referred to in paragraph 1 of this Article shall not preclude the right to damages pursuant to the regulations dealing with liability for damage.

Article 67

The municipal authorities shall render decisions relating to easements or temporary occupancy, unless otherwise provided by this Law.

Article 68

All submissions made and decisions rendered in the procedure for expropriation and setting the compensation for expropriated real estate shall be exempt from tax.

Article 69

The municipal authorities shall keep a record of real estate expropriations in their respective territories.

The minister of finance shall set the contents and mode of keeping a record of real estate expropriations.

The municipal authorities shall forward the consolidated data from the records referred to in paragraph 1 of this Article to the ministry in charge of finance for each quarter.

V. ADMINISTRATIVE TRANSFER

Article 70

The right of ownership to state or socially owned real estate may be revoked or restricted by decision of the municipal authorities and be transferred to some other holder of rights to socially or state owned real estate, if so is called for by common interest (administrative transfer).

The common interest referred to in paragraph 1 of this Article shall be determined in the same way as that provided by law for the expropriation of real estate.

Article 71

In the case of an administrative transfer of socially owned land or some other natural resource, the holder of the right to land or some other natural resource, which he/it had acquired without compensation, shall have the right to compensation only for the labour and funds invested in that land or some other natural resource.

VI. TRANSITIONAL AND CONCLUDING PROVISIONS

Article 72

Any proceedings instituted in connection with a proposal for expropriation, which were not effectively finalised by the effective date of this Law, shall be finalised in conformity with the regulations that were in force until the effective date of this Law, with the exception of cases in which the expropriation proceedings were not effectively finalised and commercial and residential buildings are involved.

The procedure for setting the compensation for expropriated real estate, in which an agreement on compensation was not concluded or an enforceable court decision was not rendered by the effective date of this Law, shall be finalised in conformity with the provisions of this Law.

Article 73

The validity of the Expropriation Law (Official Gazette of the Socialist Republic of Serbia, Nos. 40/84, 53/87, 22/89 and 15/90 and Official Gazette of the Republic of Serbia, No. 6/90) shall run out on the effective date of this Law.

Article 74

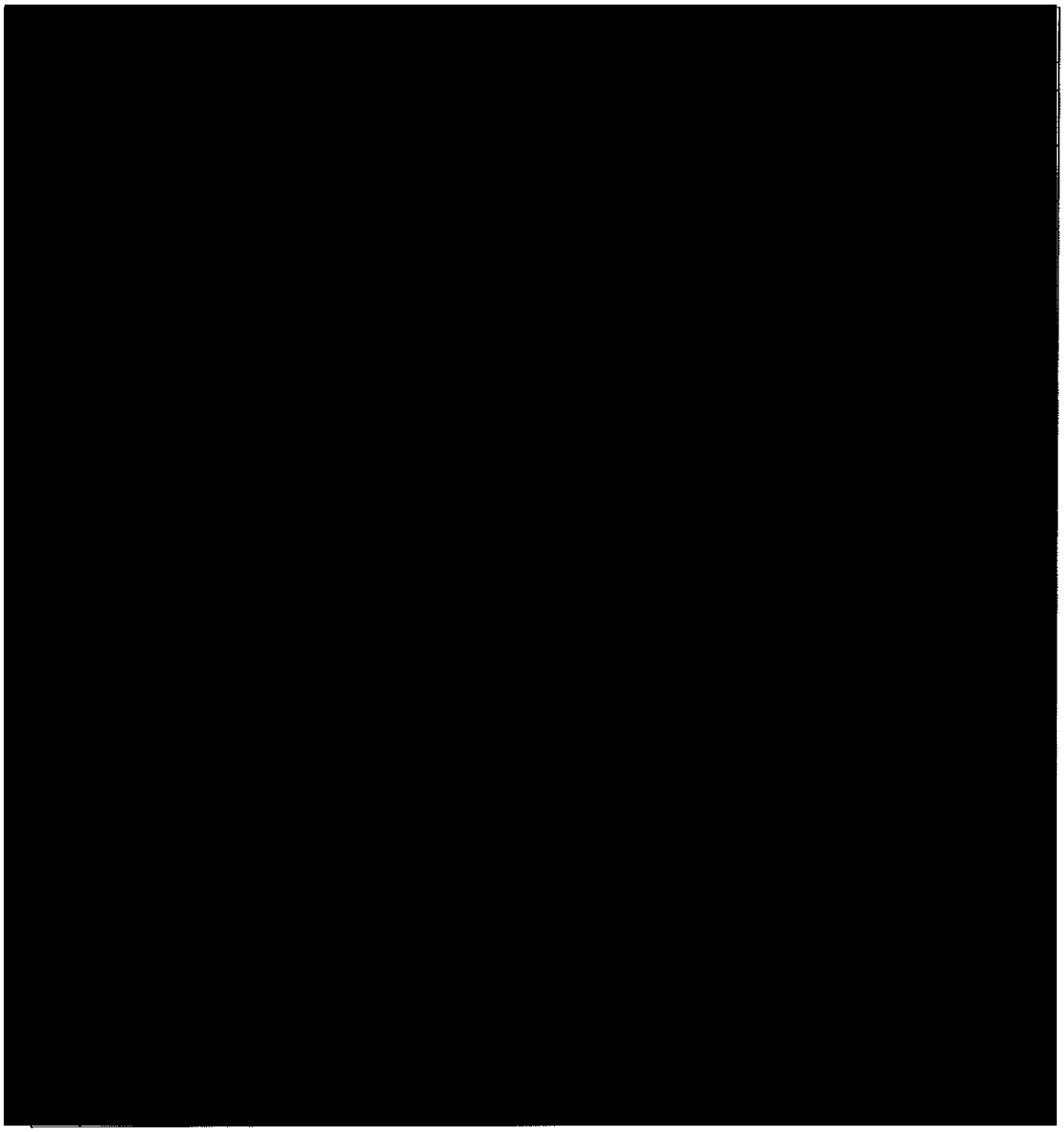
This Law shall come into force on the eighth day upon its publication in the Official Gazette of the Republic of Serbia.

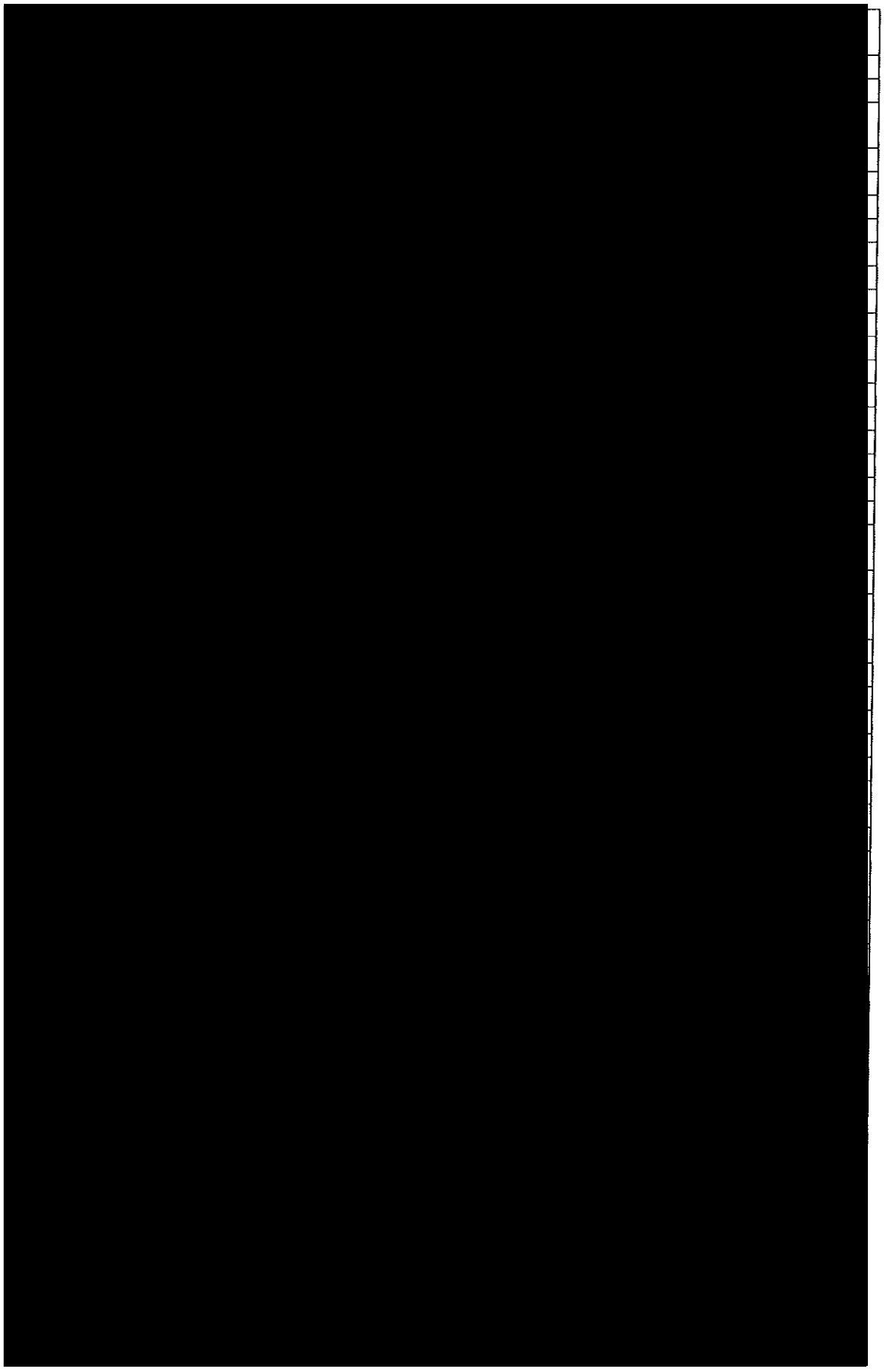
The names of the households have been redacted for privacy reasons

APPENDIX B: LIST OF HOUSEHOLDS

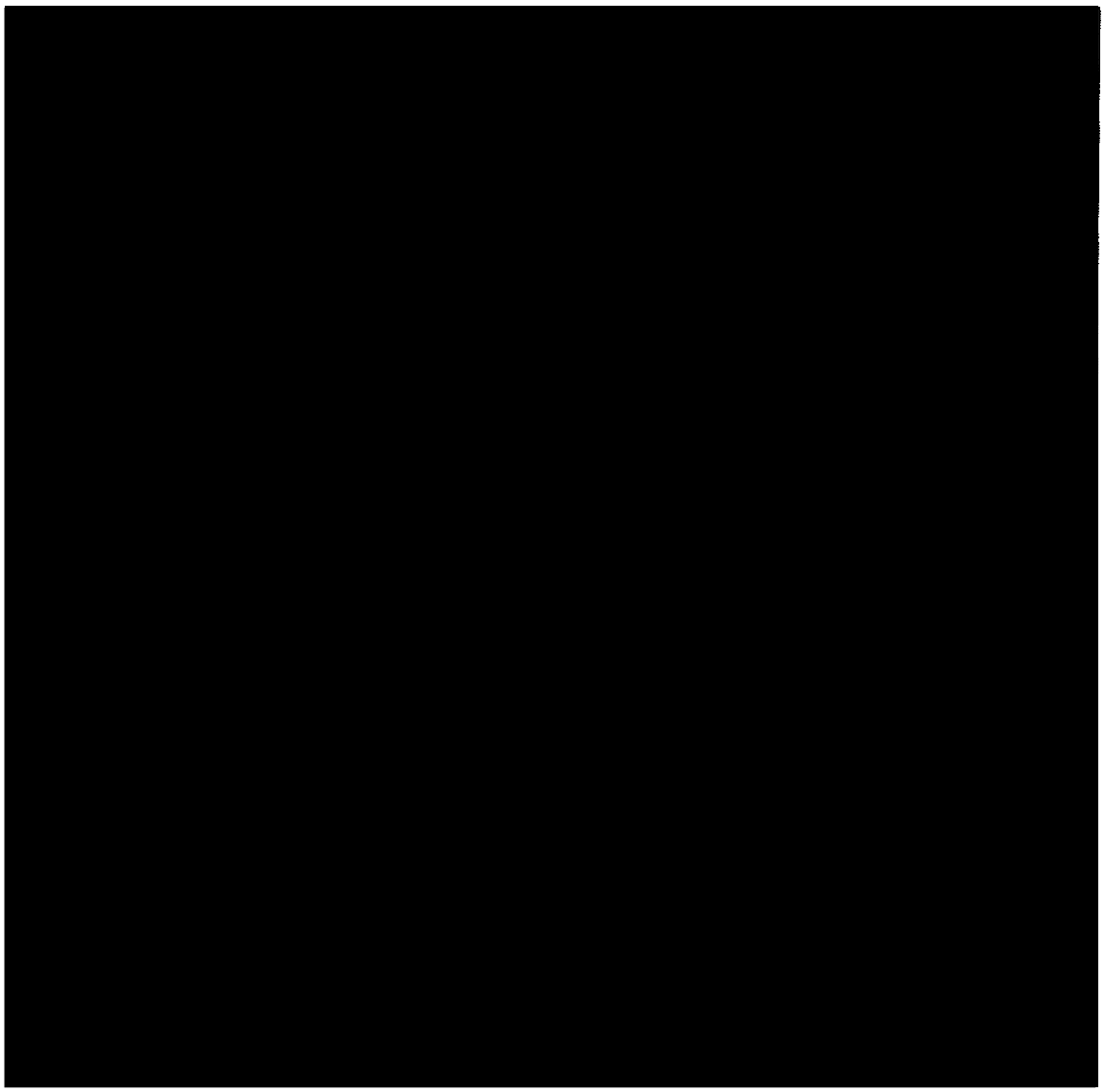
"ELEKTROPRIVREDA SRBIJE" BEOGRAD
J.P. R.B. "KOLUBARA" LAZAREVAC
D.P. "KOLUBARA-TAMNAVSKI KOPOVI-
ZAPADNO POLJE"
Broj: _____
Dana: 20.06.2002. godine.
L A J K O V A C

LIST OF HOUSEHOLDS COMPENSATED AND RESETTLED UNTIL 2002
(since pit operation started)





LIST OF HOUSEHOLDS TO BE RESETTLED IN 2002



HOUSEHOLDS TO BE RESETTLED FROM 2003 TO 2005

Year 2003

[redacted]

Year 2004

[redacted]

Year 2005

[redacted]

HOUSEHOLDS TO BE RESETTLED FROM 2006 TO 2010

[redacted]

DIRECTOR
ASSISTANT FOR
LEGAL
AFFAIRS

Mile
Jeremić,dipl.lawyer.

APPENDIX C: LAND USES MAP

APPENDIX D: MAP OF NEW KALENIC VILLAGE PLAN & PLANNED INFRASTRUCTURE

2. EBRD Disclosure of Public Information 1996

Policy on disclosure of information

June 1996

European Bank
for Reconstruction and Development

Contents

EBRD policy on disclosure of information

The European Bank for Reconstruction and Development (EBRD) was established in 1991 to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the countries of central and eastern Europe and the former Soviet Union. Providing information about the Bank's operations and the countries and sectors in which it operates is a vital part of its role in this transition.

The EBRD recognises the increasing public interest in its operations and operational policies. The EBRD's disclosure policy, approved by the Board of Directors in April 1996, aims to impart this information to a wide variety of audiences. This policy includes a number of new information initiatives to make the Bank's operations more transparent and to enhance understanding of the countries and sectors in which it operates.

The policy is based on the presumption that, whenever possible, information concerning the EBRD's operational activities will be made available to the public in the absence of a compelling reason for confidentiality. While a transparent approach to information is the EBRD's goal, this must be carefully balanced with the needs of its members and clients.

The policy provides a mechanism for keeping the public informed about the scope and creativity of the Bank's operational activities, and increases the variety and volume of publicly available information on those activities. It will also increase public awareness of the information already available through the EBRD's extensive publications programme and its Business Information Centre. The Bank will in future provide information on most projects before Board consideration, and will continue to meet individual requests for information whenever possible.

This document seeks to provide a summary of the EBRD's disclosure policy. It is hoped that this will prove a useful guide to interested groups, business partners and members of the public.

Benefits of sharing information

Accountability

The EBRD recognises that an appropriate policy of disclosure of information will help to maintain public support for its role in fostering the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the countries of operations. As a publicly funded institution, the Bank has a responsibility to disclose the nature, methods and results of its operations in pursuing its objectives. Through the implementation of this policy, the EBRD hopes to increase awareness of its operations and its role in the transition process.

Project enhancement

Increased transparency is beneficial in stimulating interest in the Bank's operational policies. In particular, it facilitates local consultation on operations. This can benefit both project design and implementation.

Transition impact

The EBRD is an important vehicle for assisting the transition process in its countries of operations. Other institutions, both public and private, are also increasingly involved. Greater awareness of the EBRD's operations helps in the coordination of the work of these organisations and, in turn, increases the Bank's influence beyond the boundaries of its own projects. Increased public awareness can strengthen the Bank's demonstration role to others working in the region. It will also increase market confidence and encourage practical financial and technical support for the Bank's work.

Disclosure policy guiding principles

The EBRD's disclosure policy is guided by the following basic principles:

- **Every effort will be made to foster a better understanding of the EBRD's mandate in order to facilitate its operational activities.**
- **All publicly available information will be accessible to individuals or organisations of any member country.**
- **Reasonable charges may be made to recoup the cost of supplying such information.**
- **The EBRD will not disclose information that it determines to be confidential or sensitive.[1] Information that a country, client or co-financing institution has indicated to the EBRD is confidential or commercially sensitive will be treated as such. The Bank will observe agreements with third parties on the maintenance of confidential information.**
- **The EBRD will encourage disclosure of information to the extent that it will not harm the interests of the Bank or those of its members, clients, co-financing institutions or staff.**

Publications programme

Through its publications programme, the EBRD currently makes available a considerable amount of information about its organisation, its operational strategy and its assessment of the economic climate in its countries of operations. The Bank also releases information about its operations and other matters of interest to the public. These publications are listed in the *Guide to Publications.* Examples include:

Reference publications

- *Financing with the EBRD*
- *Alternative Sources of Finance for Small and Medium-sized Projects in Central and Eastern Europe and the CIS*
- *Procurement Policies and Rules*
- *Environmental Policy*
- *Environmental Procedures*
- *Technical Cooperation*

Periodicals

- *Annual Report*
- *Transition Report* (annual – with semi-annual updates)
- *Procurement Opportunities* (monthly)
- *The Economics of Transition* (biannual)
- *Environments in Transition* (biannual)
- *Law in Transition* (quarterly)

Financial information

The EBRD's *Annual Report* contains financial and operational results, a review of operations for the year and an assessment of their impact. It is available in the Bank's four working languages (English, French, German and Russian).

Organisational and administrative information

In addition to the *Annual Report,* information about the Bank's organisational structure can be found in various *factsheets.* Copies of the *Agreement Establishing the EBRD* are also available.

Sectoral policy papers

Board-approved sectoral policy papers address the EBRD's policy for operations in particular business sectors, and are updated as necessary. These are usually available in all four of the working languages of the Bank.

Country strategies

Summary Country Strategies, covering the EBRD's assessment and operational policy, are now being developed for each of its countries of operations.

[1] Further details are provided on page 10 under the heading "Limits of information disclosure".

Economic analysis

The annual *Transition Report* provides a detailed assessment of the state of transition in each country of operations. Updated semi-annually, it summarises the conditions and prospects for investment in the region, and the state of enterprise development. A comprehensive annual economic analysis of central and eastern Europe and the CIS is also included.

The Economics of Transition is a biannual journal produced in collaboration with a commercial publisher. This journal, to which the EBRD is a regular contributor, provides a platform for debate on economic issues concerning the transition process.

Other sources of information

The EBRD issues press releases on many of its operations, as well as factsheets about the Bank's history, organisation, and operations. Speeches by the EBRD's President and other staff are released to the public, and many presentations by Bank staff members in conferences and seminars are also available.

New initiatives

Beginning on 1 September 1996 the EBRD will release Project Summary Documents (PSDs) for public and private sector projects. Shortened Board reports on public sector projects will also be made available.

The new Project Summary Document

A PSD will normally be prepared for each public and private sector project. Release of PSDs for private sector projects will normally occur at least 30 days prior to the project's consideration by the Board of Directors. For public sector projects the PSD will be released as soon as possible after the project has passed its Initial Review by the Bank's management (typically four-five months before Board consideration). PSDs will be updated if material changes are made to the project following the release of the original PSD.

PSDs will be made available unless the EBRD's client or co-financing institution provides sound reasons for confidentiality. In all cases, confidential information supplied to the Bank by its clients will not be released without the client's prior consent. In the event that a project is considered to be confidential in its entirety, no PSD will be produced.

PSDs will be available from the EBRD's Publications Desk and will be posted on the Bank's planned World Wide Web site on the Internet.

Board documents and technical information for public sector projects

Once a public sector project has been approved by the Board of Directors, a shortened version of the Board report will usually be available to the public on request. Information identified by the Bank in consultation with the client as confidential or sensitive or likely to impair relations between the Bank and its members will be removed from the published version. In exceptional cases, involving extensive issues of confidentiality, the EBRD may decide not to make any document available.

Additional, non-confidential, factual technical information on public sector projects may be provided on request if approved by the staff member responsible for the project, after consultation with the relevant government and any affected co-financier.

Use of the Internet

The planned establishment of an EBRD World Wide Web site will allow the public to browse or download PSDs, as well as many of the Bank's publications and other documents of general interest. Extracts from the *Annual Report, Transition Report* and *Financing with the EBRD,* as well as press releases and speeches by the President of the EBRD, will also be available.

Environmental policy and information

The EBRD's Environmental Policy requires that project sponsors provide governments and the general public, especially potentially affected parties, with information on any significant environmental impact associated with their proposed operations. Comments and views of these parties are taken into account in the EBRD's approval of individual operations.

At the Final Review stage of project approval, the EBRD's Environmental Appraisal Unit (EAU) reports on compliance with the Bank's public consultation requirements.

Release of environmental documentation

The EBRD's Environmental Procedures include different requirements for the release of environmental information, depending on the environmental significance of an operation.

"A" Level Operations have potentially diverse and significant environmental impacts which cannot be readily identified and quantified, and for which remedial measures cannot easily be prescribed. An Environmental Impact Assessment (EIA) must be prepared by the project sponsor for all "A" level operations. The project sponsor must ensure through a thorough appraisal that all key issues, and the role of the public in the appraisal, have been identified.

The public requires adequate information on the environmental aspects of an operation in order to comment.

The comment period must conform to national legislation, although the EBRD will usually require at least 30 days and often longer. Private sector operations require a minimum of 60 days between the release of the EIA and Board consideration. For public sector operations a minimum of 120 days is required. In exceptional private sector cases, where timing is crucial and the EBRD's management is satisfied that in all other respects the Bank's Environmental Procedures have been followed, the minimum requirements may be waived. The waiver will be reported in the Board documentation.

The EIA and an EIA Summary are made available to the public (without EBRD comment) in the EBRD's Business Information Centre (BIC) when they are released by the project sponsor. The EIA Summary is sent to the EBRD Board of Directors at the same time. A summary of environmental issues will also be included in the Project Summary Document.

For any exception or waiver of these requirements, private sector project sponsors must prove that commercial confidentiality considerations outweigh the benefits of public disclosure prior to Board approval. For instance, the success of a project might depend on keeping the names of project sponsors confidential until the time of Board decision. When exceptions are granted, legal documentation will not be signed until public consultation has been successfully completed following Board approval. In such cases, the scope and procedures for the public consultation will have been agreed by the Bank and the project sponsor before EBRD Board consideration.

"B" Level Operations involve potentially significant environmental impacts which can be readily identified and quantified, and for which preventive and remedial measures can be prescribed without much difficulty. The EBRD requires an Environmental Analysis of these projects. For public sector operations this analysis is an annex to the PSD. For private sector projects, a summary of key findings will be attached to the PSD. The Bank has no formal notification requirements for such projects, but environmental information on the operation must be released by the project sponsor in accordance with national legislation.

In some cases, the Environmental Analysis will indicate that there have been significant environmental issues associated with ongoing operations prior to the EBRD's involvement. For example, facilities may previously have failed to comply with environmental or health and safety requirements. In these cases, in addition to release of information by the EBRD, the Bank will usually require the project sponsor to release a statement on remedial measures agreed with the Bank, prior to disbursement.

"C" Level Operations are those with no potentially significant environmental impacts. There are usually no environmental information disclosure requirements for such operations.

Limits of information disclosure

While a transparent approach to information is the EBRD's goal, this must be carefully balanced with the needs of its members and clients. Confidential and sensitive information must be protected as appropriate. The Bank maintains a high standard of conduct with respect to confidential business information. Failure to continue to observe that standard would not only affect the credibility of the Bank with its existing clients but could act as a deterrent to future clients. Generally, confidential materials cannot be released without the agreement of their originators.

Maintaining the confidentiality of the internal deliberations of EBRD decision-making bodies ensures an internal free-flow of information and ideas. Making internal documents routinely available could discourage new and radical thinking. As a responsible employer, the Bank also has a duty to its staff to maintain their professional integrity and privacy and to protect personal confidential information.

For the reasons outlined above, certain categories of documents are not released. These include:

- documents intended for internal purposes only;
- Board documents, unless they are intended for public release and Board approval for release is given;
- privileged information, such as legal advice and correspondence with external legal advisers;
- information that might prove a threat to the national security of member governments;
- information in the EBRD's possession that was not created by the Bank and is identified by its originator as being sensitive and confidential or when the originator has requested that its release be restricted;
- information related to procurement processes, including pre-qualification information submitted by prospective bidders; tenders, proposals or price quotations; or records of deliberative processes;

- project evaluation reports which are produced for internal use only;
- financial, business or proprietary information from private organisations or individuals received by the EBRD in the analysis or negotiation of loans, unless permission is given by those private organisations or individuals to release this information; and
- other information that EBRD management determines to be confidential or sensitive.

Cost recovery

Increased public disclosure places additional demands on many EBRD staff, not just those directly involved in public information. The Bank will recoup these increased costs, where possible, by charging an appropriate fee for certain publications. The majority of the EBRD's publications will continue to be provided free of charge.

The Bank is committed to ensuring that a charge for publications does not prevent interested parties from obtaining information about the EBRD.

Requests for information

Requests for documents are handled by the EBRD's Publications Desk, and may be sent by fax, mail or telephone to the address below. Documents are also available to personal callers at the EBRD's Business Information Centre.

The new Project Summary Documents and other documents of general interest will be made available both in print and on the EBRD World Wide Web site now being developed. As well as being a popular and convenient method of disseminating information, use of the Web site will also help reduce costs.

Individual requests for information should be directed to the EBRD Communications Department. The Bank's Resident Offices in its countries of operations are also expected to play an increasing role in the dissemination of information.

Contact details

European Bank for Reconstruction and Development
One Exchange Square
London EC2A 2EH
United Kingdom

Switchboard

Tel: +44 171 338 6000
Fax: +44 171 338 6100
Telex: 8812161 EBRD L G
Swift: EBRD GB2L

External requests for EBRD information

EBRD Communications Department
Tel: +44 171 338 7236
Fax: +44 171 338 6754

External requests for EBRD documents and publications

EBRD Publications Desk
Tel: +44 171 338 7553
Fax: +44 171 338 6690

For personal callers to the EBRD headquarters

(Advance notice of a visit is advisable to ensure relevant documents are available.)

Business Information Centre
Tel: +44 171 338 6747
Fax: +44 171 338 6155

Contact details of other EBRD Departments and Resident Offices are available in the Annual Report and regularly updated factsheets.

EBRD Web site: http://www.ebrd.com
(from 2 September 1996)