



PODKARPACKI BOARD OF  
AMELIORATION AND HYDRAULIC  
STRUCTURES IN RZESZÓW

# LAND ACQUISITION AND RESETTLEMENT ACTION PLAN

for

Odra-Vistula Flood Management Project  
Loan No. 8524 PL

Subcomponent 3B: Flood Protection of Sandomierz and  
Tarnobrzeg

## WORKS CONTRACT 3B.3

*Flood Protection of Tarnobrzeg – Stage 1 (Vistula River 1)*

**FINAL VERSION**

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ODRA-VISTULA  
FLOOD MANAGEMENT PROJECT  
co-financed by:  
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## **LAND ACQUISITION AND RESETTLEMENT ACTION PLAN**

### **Subcomponent 3B: Protection of Sandomierz and Tarnobrzeg Contract 3B.3 Flood Protection Tarnobrzeg – Stage 1 (Vistula River 1)**

Land Acquisition and Resettlement Action Plan is provided for Contract 3B.B implemented by Podkarpacki Board of Amelioration and Hydraulic Structures in Rzeszów.

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Wrocław – November 2016

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## Abbreviations

Name	Description
World Bank (WB)	International Bank for Reconstruction and Development (IBRD)
PCU	Odra-Vistula Flood Protection Project Coordination Unit
CEB	Council of Europe Development Bank
DSM	Deep Soil Mixing vibration-free process for construction of filtration barrier which includes cutting and mixing soil located in the base and body of an embankment with simultaneously supplied cement-bentonite slurry
Task/Contract	Contract 3B.3 Flood Protection of Tarnobrzeg - Stage 1 (Vistula River 1)
PIO	Project Implementation Office - An organizational unit responsible for the Project implementation allocated as part of PIU
PIU/Employer	Project Implementation Unit in Podkarpacki Board of Amelioration and Hydraulic Structures in Rzeszów
Engineer - Consultant	Company/legal person who is employed by the Employer to perform the services (among others described in this document)
PZMiUW	Podkarpacki Board of Amelioration and Hydraulic Structures in Rzeszów (Podkarpacki Zarząd Melioracji i Urządzeń Wodnych w Rzeszowie)
Project/OVFMP	Odra-Vistula Flood Management Project
PAD	Project Appraisal Document in this case appraisal of OVFMP which must be prepared in compliance with the procedures of the World Bank. The said document is one of the elements indispensable for taking decisions by the World Bank on providing a loan <sup>1</sup>
LARAP	Land Acquisition and Resettlement Action Plan
LARPF	Land Acquisition and Resettlement Policy Framework
NBP	National Bank of Poland ( <i>Narodowy Bank Polski</i> )
NGO	Nongovernmental Organisation
EIA	Environmental Impact Assessment
PAP	Project Affected People
IPIP	Investment project implementation permit
Contractor	Company/legal person executing Works Contract 3B.3
KC	Law of 23 April 1964 Civil Code (consolidated text, Journal of Laws of 2016, item 380, 585)
Constitution	Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws of 1997, No. 78, item 483, of 2001, No. 28, item 319, of 2006 No. 200, item 1471, of 2009, No. 114, item 946)
KPA	Law of 14 June 1960 Code of Administrative Procedure (consolidated text, Journal of Laws of 2016, item 23)

<sup>1</sup> <http://documents.worldbank.org/curated/en/2015/07/24763021/poland-odra-vistula-flood-management-project>

Name	Description
Special Flood Act (SFA)	Law of 8 July 2010 on particular conditions for preparing flood management projects for implementation (consolidated text, Journal of Laws of 2015, item 966, 1777)
Special Decision	Investment project implementation permit (IPIP) issued under the Special Flood Act
LMA	Law of 21 August 1997 on the real property management (consolidated text, Journal of Laws of 2015, item 1774, 1777, of 2016, item 65)
LSP&D	Law of 27 March 2003 on space planning and development (Journal of Laws of 2015, item 199, 443, 774, 1265, 1434, 1713, 1777, 1830, 1890)
Regulation on land register	Regulation of the Minister of Regional Development and Construction of 29 March 2001 on the land register and buildings (consolidated text, Journal of Laws of 2015, item 542)
Regulation on evaluation	Regulation of the Council of Ministers of 21 September 2004 on the evaluation of properties and preparing an appraisal (consolidated text, Journal of Laws of 2011, item 985)

## Key definitions

The following key definitions are used herein:

**Property price** – an amount negotiated with the property owner to its benefit for a respective property or any part thereof, based on the value of the said property estimated by an authorised property appraiser.

**Cut-off-date** – date of completion of the survey of the property and of persons affected by the project. Persons who will occupy the area where the Project is implemented after the cut-off date are not entitled to compensation or any other form of resettlement assistance. Similarly, there will be no compensation for fixed assets (such as built structures, crops, fruit trees, and woodlots) established after the date of completion of the survey or after mutually agreed on date.

**Economic resettlement** – loss of benefits, incomes or maintenance means resulting from the acquisition of land or difficulties in access (to the land, water or forest) occurring as a result of the construction or operation of the proposed structures or associated equipment.

**Groups requiring the provision of special assistance** – people who due to their: sex, ethnic membership, age, mental or physical disability, difficult material situation or social position are more exposed to adverse resettlement effects than other groups and who may have a limited possibility of submitting their complaints or using assistance in resettlement or participating in the benefits connected with the project.

**Resettlement cost** – extent of compensation for lost goods/properties covering a replacement value of such goods/properties as well as cost of resettlement.

**Social impact** – in view of OP 4.12 social impact related to the resettlement is any direct loss, economic or social, resulting from expropriation, permanent constraints in use of the property or access to the property.

**Compensation** – paid in money or in the form of a property which is a substitute for the properties acquired or affected by the Project. Such compensation is paid out at the time when respective property must be released by the owner to the Podkarpacki Board of Amelioration and Hydraulic Structures in Rzeszów. Pursuant to Polish law, compensation can be paid out from the time when expropriation decision (here: IPIP), as a rule, becomes final and in all the cases – prior to the acquisition of such property or its occupation for construction purpose.

**OP 4.12 Involuntary resettlement** – Operational Policy outlining main principles and procedures, forming a basis of IBRD approach to involuntary resettlements connected with projects.

**Project affected person (PAP)** – every person who, as a result of the project implementation is deprived of the right of ownership or loses other benefits connected with the property (residential, agricultural or breeding), loss of annual or multiannual harvests and crops or other related or moveable assets, in whole or in part, permanently or periodically.

**Private person** – in jurisprudence, a natural person is a human being, from birth until death.

**Legal person** - legal persons are the State Treasury and organiztional units, that the specific provisions grant legal personality to.

**Income** – property increment obtained as a result of business activities or agricultural activities from the real estate, including the sale of such real estate.

**Involuntary resettlement** – a resettlement is involuntary when it is carried out without the consent of a person being resettled (against its will) or as a result of expressing such consent involuntarily (without a possibility of expressing its objections towards resettlement), e.g. through expropriation.

**Limited liability company** - a limited company established by one or more persons for any purpose allowed by law.

**Expropriation** – depriving of or restricting an ownership right to a specific property of a person under an individual legal act.

**Purchase / voluntary sales** – acquisition of the rights to the property from its owner / possessor for a mutually agreed price in a situation where such an owner has the right to refuse such a transaction. In the event of an expropriation, such a purchase is not deemed voluntary (i.e. willing purchaser / willing seller).

**Replacement value** - Compensation for the loss of assets is based on their market value plus any transaction costs (e.g. taxes and registration fees) and the objective is for the compensation to be enough to effectively replace the affected asset (replacement value). This valuation does not discount depreciation.

**Real estate assets (according to LMA)** - public property was sanctioned by the legislator in Article 20 of LMA. Assets have been divided according to the ownership. State Treasury property (Art. 21 and 21a of LMA) and assets of different types of local government units - Commune (Art. 24 of LMA), District (Art. 25a of LMA) and Province (Art. 25c of LMA) have been distinguished. The provision of Article. 20 of LMA does not apply to real estate assets of the owners other than those mentioned herewith.

The terms which are used in LARAP: **property - real estate – plot - land**, are used interchangeably depending on the context. Terms are used in accordance with the following legal acts:

- KC – property, real estate,,
- LMA – real estate, property,
- the Regulation on land register) – property, cadastral plot (abbreviated in LARAP – plot) and
- OP 4.12 - land.



## 1. INTRODUCTION

This document presents the Land Acquisition and Resettlement Action Plan (LARAP) for Contract 3B.3 "Flood Protection of Tarnobrzeg – Stage 1 (Vistula River 1)" implemented as part of the Odra-Vistula Flood Management Project (OVFMP) co-financed by International Bank for Reconstruction and Development (World Bank) (Loan Agreement made on September 10, 2015), Council of Europe Development Bank (CEB) (Credit Agreement made on May 24, 2016) and the State Budget. It must be underlined that this document is a "site-specific" document and it is dedicated only to Contract 3B.3 and not the entire OVFMP.

The main objective of the OVFMP is to protect the population on the flooded areas within certain parts of the river basins of the largest two Polish rivers, which are the Vistula River and the Odra River, against extreme flooding. The OVFMP consists of the following five Components: Component 1 – Flood Protection of the Middle and Lower Odra, Component 2 – Flood Protection of the Nysa Kłodzka Valley covering the mountain and upland part of Nysa Kłodzka Catchment Area, Component 3 – Flood Protection of the Upper Vistula, Component 4 – Institutional Strengthening and Enhanced Forecasting and Component 5 – Project Management and Studies. The above specified components are divided into Subcomponents. As part of Component 3, there are four Subcomponents marked as 3A (Flood Protection of Upper Vistula towns and Kraków), 3B (Protection of Sandomierz and Tarnobrzeg), 3C (Passive and active protection in Raba Sub-basin) and 3D (Passive and active protection in San basin) – wording in accordance to the following document: "Project Operations Manual" available at:

[http://www.odrapcu.pl/doc/POM\\_ENG.pdf](http://www.odrapcu.pl/doc/POM_ENG.pdf).

The Contract 3B.3 is one of three elements of Sub-component 3B Flood Protection of Sandomierz and Tarnobrzeg and it is performed by Podkarpacki Board of Amelioration and Hydraulic Structures in Rzeszów. This Task is located in the town of Tarnobrzeg, Podkarpackie Province. It consists of the extension of the Vistula River right embankment section ca. 9.9 km at the Vistula River mileage 255.000 – 264.760 (km 5+950 – 15+819 of the embankment), i.e. from Tarnobrzeg (Skalna Góra) to Koćmierzów at the border of Podkarpackie and Świętokrzyskie Provinces. Location of the Task is shown on a drawing attached (Attachment No. 1 to this document).

The extension is designed to increase flood safety within Tarnobrzeg in the following suburbs: Dzików, Zakrzów, Sielec and Wielowieś, i.e. to ensure flood protection of approx. 7 800 inhabitants living in the area of approx. 4 846 ha as well as protection of other building structures and line structures, described in detail in Point 1.3. Since this part of Sub-component 3B only involves the extension of the existing embankment and rebuilding of accompanying flood management structures, it is not expected to cause any significant adverse social impact.

The Task's implementation will require acquisition of land, but it will not result in the physical resettlement of households and only in some minimal economic displacement of sections of agricultural land (arable land and orchards).

As part of the Contract 3B.3, 284 properties, or parts thereof, with a total combined area of 11.4415 ha were expropriated on 14.01.2015 as well as 12 properties, or parts thereof, with a total combined area of 0.0894 ha on 06.05.2016. Furthermore, since it is necessary to provide and later periodically install mobile flood protection locks (at km 15+700 to km 15+819 of the embankment, i.e. at the intersection of the embankment with a public road) there is permanent limitation to the use of two properties belonging to real estate assets of the State Treasury and Tarnobrzeg Commune and not being used for agriculture by any third parties. The limitation arises from the Decision No 4/14 of the Governor of Podkarpackie Province of 8 December 2014 on permission for the implementation of flood protection project (Ref. No I-IX.7820.3.2.2014) and it is also related to the fact that in the event of

meteorological announcements informing on an approaching flood wave PZMiUW shall install stop-log gate which will prevent use of a local road but at the same time it will prevent flooding on the side protected by the embankment by waters flowing in the Vistula River terrace area. The second limitation applies to the part of the plot owned by the State Treasury where an outlet of storm water canal is located. The total area of permanent limitation amounts to 1140 m<sup>2</sup> (0.1140 hectares) and applies only to sections of these two properties, which are:

- in case of Plot No. 62, AM12, Tarnobrzeg Precinct (ownership: the State Treasury according to the Register of Land and Buildings) 0.0640 ha of the total area of 2.0141 ha (permanent limitation applies to way of use 3.18% of the Plot area);
- in case of Plot No. 292, AM12, Tarnobrzeg Precinct (ownership: the State Treasury according to the Mortgage Registers No. TB1T/00075069/8) 0.0500 ha of the total area of 0.4087 ha (permanent limitation applies to way of use 12.23% of the Plot area).

Additionally, temporary occupation<sup>2</sup> will apply to one real property owned by a natural person. This occupation is connected with the necessity of demolishing a utility building for which compensation has already been disbursed. PZMiUW on the day of 18.01.2016 signed a civil-law agreement with the owner of the plot under question, under which PZMiUW obtained the Owner's consent to the temporary occupation of the plot. An independent property appraiser will perform an appraisal study which will constitute a basis for disbursing compensation for real property occupation before commencing demolition works.

Out of the 299 properties affected, only 109 are used for agricultural purposes among others as orchards, and out of these only 30 lose more than 20% of productive area and in most cases (except 10 - remaining area of plot after the expropriation less than 0.5 ha) the remaining area continues to be economically viable. In these 10 cases, the owners could apply for the redemption of the remaining part of the property, only one person used this law (case described in point 3.3). For those PAPs were sent questionnaires to examine the impact of the Project on their standard of living. All these people responded that the permanent occupation of property is not affect the level of income of their household.

Total compensation required for land acquisition is 1,091,022.10 PLN<sup>3</sup>. As of May 31 2016, compensation for 223 (75%) out of the 299 affected properties has been paid for a total of 886,631.78 PLN and 204,390.32 PLN are still pending, it primarily results from the unregulated legal status of the said real property.

	<b>Total Hectares Required</b>	<b>Total Plots</b>	<b>Public Plots</b>	<b>%</b>	<b>Private Plots</b>	<b>%</b>	<b>Physical displacement</b>	<b>Economic displacement</b>
<b>Permanent Occupation</b>	<b>11,5309</b>	<b>296</b>	<b>62</b>	<b>21%</b>	<b>234</b>	<b>79%</b>	<b>0</b>	<b>0</b>
Permanent Occupation (compensation disbursed) *	10,0749	223	54	24%	169	76%	0	0
Permanent Occupation (compensation not disbursed)	1,4560	73	8	11%	65	89%	0	0

\* Acquisition of properties had been started before the public announcement period and were according to OP 4.12 and according to LARPF.

<sup>2</sup> Temporary occupation understood as rent and return in good condition.

<sup>3</sup> The amount resulting from the prepared appraisal reports. Including 12 plots, expropriated by means of the decision of 30.03.2016.

On 23 November 2015, PZMiUW addressed a request to the Podkarpacki Governor to establish of compensation by way of decision. Currently, the Governor conducts administrative proceedings to issue a decision on determining the amount of compensation, and (for plots with unregulated legal status) proceedings to regularize their legal status. Upon concluding the administrative proceedings currently held by Podkarpackie Province (for real properties with unregulated legal status), the amount of compensation will be submitted to the court deposit. In 11 cases (for 13 properties), after the Governor decision was issued (the decision fixing the amount of compensation), PZMiUW, applied to the court with an application to deposit the compensations. Additionally to May 31, 2016 the Governor issued 7 decisions determining the amount of compensation, these amounts have been paid.

It must be noted that as of May 31, 2016 effective taking of land has not taken place and construction works are planned to start October 2016.

### 1.1 Odra-Vistula Flood Management Project (OVFMP)

Odra-Vistula Flood Management Project (OVFMP) supports the implementation of the following two key tasks:

- protection of human and animal life as well as properties,
- long-term development of urban and agricultural areas.

As a result of the Project implementation, it is anticipated to reduce the frequency and extent of flooding of densely populated urban areas in the Lower and Upper Odra River Valley and in the Upper Vistula River Valley.

OVFMP consists of the following key components and their elements within the scope of construction works<sup>4</sup>:

Component 1 – Flood Protection of the Middle and Lower Odra River,

Component 2 – Flood Protection of the Nysa Kłodzka River Valley,

Component 3 – Flood Protection of the Upper Vistula River.

Units directly responsible for the implementation of the aforementioned components are as follows:

- 1) **Regional Water Management Boards in Wrocław and in Szczecin**
  - within the scope of protecting the Lower and Middle Odra River (part of Sub-component 1B) and flood protection of Nysa Kłodzka River Valley (Component 2 – RWMB Wrocław);
- 2) **Podkarpacki, Małopolski and Świętokrzyski Boards of Amelioration and Hydraulic Structures**
  - within the scope of flood protection of the Upper Vistula River (Component 3);
- 3) **Lubuski and Zachodniopomorski Boards of Amelioration and Hydraulic Structures**
  - within the protection of the Middle and Lower Odra River (Sub-components 1A, 1C and part of 1B).

The Works Contract 3B.3 is part of Component 3 and is one of three contracts of Subcomponent 3B, i.e. Flood Protection of Sandomierz and Tarnobrzeg.

### 1.2 Scope of Works for Contract 3B.3 Flood Protection of Tarnobrzeg – Stage 1 (Vistula River 1)

The Task includes the extension of the right-bank of Vistula River at km 5+950 – 15+819 (mileage of the embankment). The purpose of proposed extension is to increase flood safety within Tarnobrzeg and in the following suburbs: Dzików, Zakrzów, Sielec and Wielowieś.

The Task includes the following works:

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<sup>4</sup> Nomenclature of components according to the data available at: [http://www.odrapcu.pl/popdow\\_oprojekcie.html](http://www.odrapcu.pl/popdow_oprojekcie.html) (data as of 10.11.2015)

- increasing height of the embankment by 1.5 - 1.8 m including compaction,
- sealing of the embankment's body and base through construction of filtration barrier with the depth of approx. 10 m (at km 5+950 – 15+700 of the embankment) by DSM method,
- sealing of water side of the embankment using calendered sheet 1.50 mm thick covered with a layer of soil which will be also used for the construction of the embankment body,
- repair of the existing service roads and construction of new service roads in section of the embankment that so far had not had such a road,
- provision of a maintenance lane on the water side of the embankment,
- refurbishment of 15 embankment crossings with a gravel surface or in two cases – an asphalt surface with the width of 3.5 m – 4.0 m,
- protection of two embankment's water gates with the diameter of 800 mm and 1400 mm (at km 8+290 and 12+866 of the embankment), outlets of storm water pumping stations with the diameter of 812 mm (at km 13+840 of the embankment) and sewage treatment plant with the diameter of 2x1600 mm (at km 9+589 of the embankment).

Refurbished embankment's parameters:

Top of the embankment width – 3.0 m

Slope ratio on water side – 1:2.5

Slope ratio on dry side – 1:2.0

Width of the embankment's berm on dry side – 3.5 m

Maintenance lane width – 4.0 m

### 1.3 Identification of the number of people benefiting from the Project's implementation

The aim of the Contract 3B.3 "Flood Protection of Tarnobrzeg – Stage 1 (Vistula River 1)" is flood protection of approx. 7 800 inhabitants living in the area of approx. 4 846 ha. Within this area there are approx. 4 100 residential buildings and utility buildings, a Wastewater Treatment Plant, approx. 80 industrial plants, including the largest industrial plants: Federal Mogul and Pilkington Automotive Glassworks, employing approx. 3900 people. Listed Historical Jacobin Monastery Complex will also be under protection. Implementation of the Contract will also contribute to the flood protection of the entire technical and municipal infrastructure located within this area, i.e. power lines, telephone lines, gas pipelines, water supply pipelines and sewage network. In addition, the Contract will contribute to the flood protection of the right-bank part of Sandomierz, which demonstrates inter-regional scope of this Task.

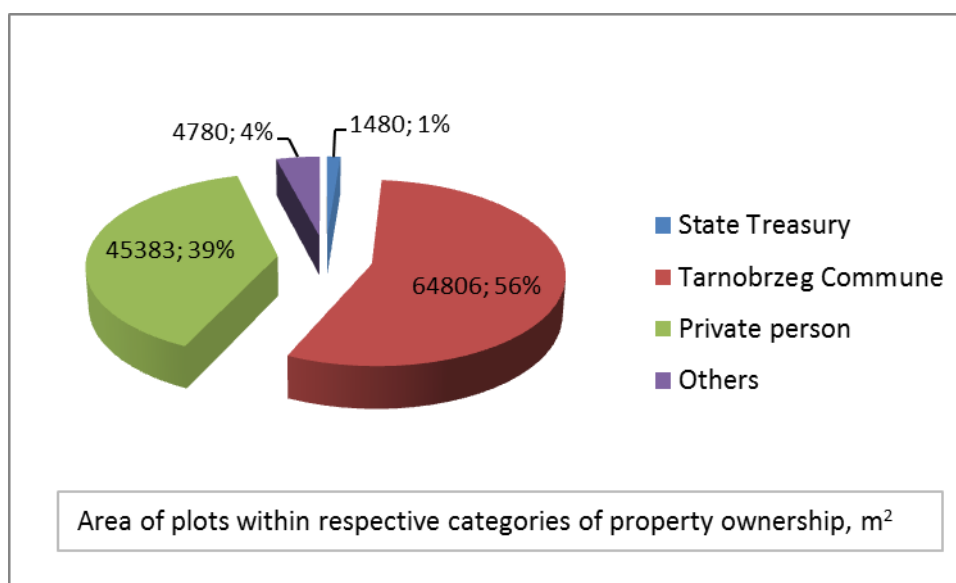
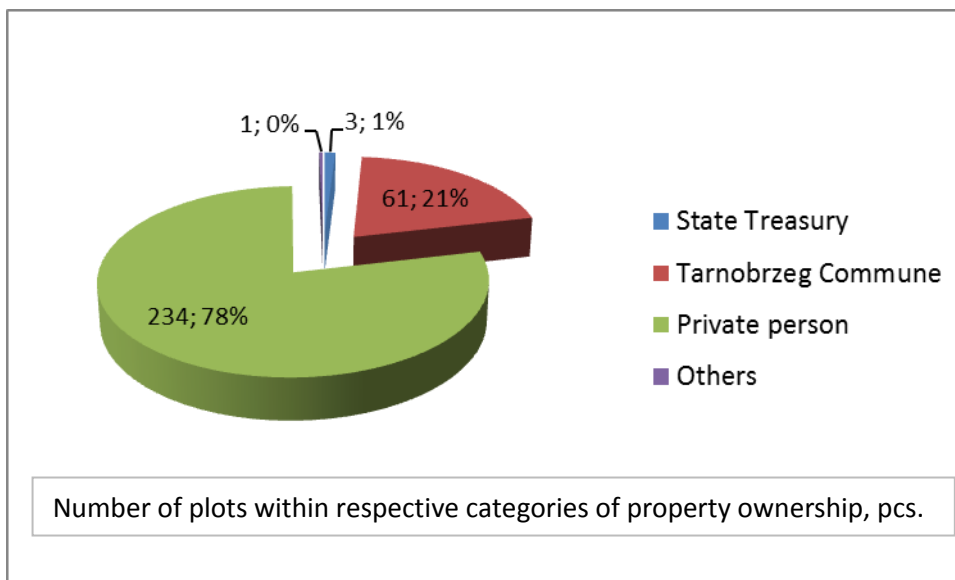
The flood of 2010 caused significant damage to private and public property as well as to roads and sewage infrastructure in many communes of Podkarpackie Province. The flood affected, in particular, Tarnobrzeg (including the following suburbs: Wielowieś, Sobów, Dzików and Zakrzów). In the city the flood caused damage to 1600 households. The number of victims to the flood in Tarnobrzeg reached 5200. Within the city road infrastructure the damage was caused to 71 sections of district roads with the total length of 84.30 km and value of PLN 13 207 000.00. Two bridges: vehicle bridge and pedestrian bridge were damaged amounting in total to PLN 1 110 000.00 in damages. Within water supply infrastructure, the damages amounted to PLN 5 000 000.00, while damages to sewage infrastructure amounted to PLN 27 888 095.00. According to the findings of the Provincial Environment Protection Inspector a Wastewater Treatment Plant in Tarnobrzeg in suburb of Zakrzów was flooded. It was shut down and municipal waste was discharged to the Vistula River. Protected area, i.e. Tarnobrzaska Vistula River Valley with an area of approx. 25 km<sup>2</sup> <sup>5</sup> was affected as well.

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<sup>5</sup> Source: "Specification of the tasks to be implemented as part of the Odra-Vistula Flood Management Project" made available by PZMIUW in Rzeszów.

#### 1.4 Description of the area of implementation of Contract 3B.3

Due to the implementation of Contract 3B.3 "Flood Protection of Tarnobrzeg – Stage 1 (Vistula River 1)" it will be necessary to occupy 299 properties, out of which 234 plots are owned by private persons and cover ca. 4.5 ha which is merely 39% of the required area. One plot is owned by company with limited liability (permanent occupation ca. 0.5 ha, 4% of the required area) The remaining plots are in real estate assets of the Tarnobrzeg Commune or State Treasury. All properties are located within Tarnobrzeg Commune.



Notice: "Others" in the description of the graphs means company with limited liability

As indicated in the graphs above, although Tarnobrzeg Community plots constitute merely 21% of all permanently occupied plots in relation to the occupied area, their percentage share is 56%.

The Works Contract will include extension and sealing of the existing embankment. Extension works will be conducted in the terrace area. The occupation will involve sections of properties which are adjacent to the water side of the embankment. On the land side of the embankment, this area is a mixture of arable lands, orchards, waste lands and urban areas. In the inter embankment area these are mostly meadows, pastures and forest areas.

Below is a description of the percentage of permanent occupation of the project in relation to different type and use of lands in the area of whole project footprint:

- 5 of the properties are residential, the total area of the occupation of this type of property amounts to 1.481 m<sup>2</sup>, which is 1.27% of the project's total area of permanent occupation,
- 15 of the properties are road plots, the total area of the occupation of this type of property amounts to 4.013 m<sup>2</sup>, which is 3.45% of the project's total area of permanent occupation,
- 109 of properties are arable plots, the total area of the occupation of this type of property amounts to 40.188 m<sup>2</sup>, which is 34.51% of the project's total area of permanent occupation,
- 52 of the properties are forest plots, the total area of the occupation of this type of property amounts to 8.482 m<sup>2</sup>, which is 7.28% of the project's total area of permanent occupation,
- 117 of the properties are plots such as meadows, pastures and waste grounds, the total area of the occupation of this type of property is 62.154 m<sup>2</sup>, which corresponds to 53.38% of the project's total area of permanent occupation,
- 1 of the properties is water, the total area of the occupation of this type of property amounts to 131 m<sup>2</sup>, which is 0.11% of the project's total area of permanent occupation.

Two properties use of which has been permanently limited are in real estate assets of the State Treasury and Tarnobrzeg Commune. The detailed description of the limitation is provided in Point 1. One real property (its part is used as a settlement plot developed with a utility building), subject to temporary occupation, belongs to a natural person with whom a civil-law agreement was concluded.

The properties where the embankment's extension will take place do not include any properties which are leased, administered by the Agricultural Real Property Agency or which contain family allotment gardens.

On two plots a perpetual usufruct was identified. On 4 properties there is non-contractual usufruct and there is no information on their legal owner. Not all the plots have Land and Mortgage Registers; therefore, this information may have to be changed, if the collection of documents for the said real estate will be analysed.

In case of 13 properties, there was information that the owner or one of co-owners is deceased and inheritance issues have not been settled. The support will be granted to PAPs within inheritance proceedings; nevertheless, if lawful heirs are not found, compensation will be submitted to the court deposit.

In case of one property which is a building plot (according to the Register of Land and Buildings) the Task clashes with a utility building used for storehouse which is to be demolished. The building's owner (private person) has been compensated on 24.09.2015 taking into account the value of the expropriated property and the utility building.

### **Current legal status, including agreements on compensations**

Decision No 4/14 of Podkarpacki Governor was issued on 8<sup>th</sup> December 2014 for the Works Contract 3B.3 regarding the permit for implementation of a project related to flood protection structures (Ref. No I-IX.7820.3.2.2014). This decision became final on 14/01/2015.

In accordance with Special Flood Act the PZMiUW commenced activities aimed at determining and paying out compensation for the 284 affected by Decision No. 4/14 properties:

1. The amount of compensation for loss of properties was determined on the basis of valuation reports drawn-up by independent property appraisers. The valuation which constitutes a basis for determining the amount of compensation is reliable, objective and independent, drawn-up by an authorised property appraiser, which assures an appropriate price for a property paid to the owner; thus minimising a negative impact of the loss of property on owners financial situation. These appraisals were based on replacement value according to OP 4.12 criteria.

2. As of the day of May 31, 2016, compensation agreed and paid out amounts to PLN 886 182.78 for 222 properties.
3. Compensation has been paid out in whole (to the benefit of former owners or each of former co-owners) in case of 206 properties (representing 83% of total land required) in the amount of PLN 868 245.10 (ca. 81% of total compensation), provided that the legal status of the property was settled and former owners accepted a proposed compensation amount.
4. In the case of 16 properties (representing ca 4% of total land required), compensation was paid out partially i.e. living co-owners in the amount of PLN 17,937.68 (ca. 2% of total compensation) who accepted a proposed compensation amount.
5. 22 properties (representing 4.5% of total land required) have an unregulated legal status, out of which 8 plots belong to real estate assets of the Tarnobrzeg Commune.
6. As to the remaining 44 properties (representing 8.5% of total land required), their owners have not responded to the offer (i.e. letters sent from 16.06.2015 to 30.07.2015 by PZMIUW with an offer of compensation and information on the compensation payment procedure in compliance with the provisions of Article 20.1 of the Special Flood Act) or have not agreed to the offered compensation amount.

All unsettled compensations (84 cases and 18% of total land required) were directed to Governor of Podkarpackie Province (23.11.2015) in order to make an administrative decision regarding payment of compensation to owners / co-owners. Till 31.05.2016, in 11 cases (13 properties), after the Governor decision was issued, PZMIUW applied to the court with motions to submit the subject of a benefit to deposit. In case of 1 plot with permanent limitation in the real property use (in real estate assets of the Tarnobrzeg Commune) compensation will be determined and paid before occupation of property.

Additionally, for the Works Contract 3B.3, on 30 March 2016, the following was issued: decision No 1/2016 of Podkarpacki Governor on the investment project implementation permit within the scope of flood management facilities (ref. No I-IX.7820.3.1.2016). This decision became final on 06.05.2016.

Under this decision, 12 real properties, including 10 belonging to natural persons and 2 belonging to real estate assets of the Tarnobrzeg Commune, were expropriated. PZMIUW ordered the preparation of valuation of real properties to an independent property appraiser. Appraisal reports were made on basis of OP 4.12 criteria – the total amount of compensation is PLN 19 366.00. As of 31.05.2016, compensation for one property was paid to a natural person in the amount of PLN 449.00.

Notwithstanding the decisions above, PZMIUW obtained decision No 3/16 of Tarnobrzeg City Mayor of 14 March 2016 (ref. No UAB-III.6741.2.2016) approving of the construction design and granting permit for the demolition of a utility building colliding with the route of the embankment under extension and located on plots No 803/1 and 803/2 within Sielec.

Plot No 803, partially developed with a utility building, prior to its surveying division and expropriation belonged to a natural person. After the division of plot No 803, one of these plots, i.e. No 803/2 was expropriated under the decision of Podkarpacki Governor No 4/14 of 8 December 2014. The other plot, i.e. No 803/1 under the decision issued by the Mayor is subject to temporary occupation. PZMIUW on the day of 24.09.2015 disbursed compensation for the expropriated real property (property) and its component part i.e. utility building.

On 18 January 2016, PZMIUW signed a civil-law agreement with the owner of the plot No 803/1, under which PZMIUW obtained the Owner's consent to the temporary occupation of the plot. Currently, an appraisal study is being made on basis of OP 4.12 criteria, which will constitute a basis for disbursing compensation for real property occupation before commencing construction Works.

The list of properties which are subject to permanent occupation, restrictions within usufruct and temporary occupation and a status of paying out compensations on day 31.05.2016 is presented

in table constituting Attachment No. 2 hereto (Attachment is not to be made public due to protection of personal data).



## 2. OBJECTIVES AND RULES FOR LARAP IMPLEMENTATION

A key objective of this Land Acquisition and Resettlement Action Plan is to acquire properties required for the implementation of the Contract in compliance with Polish legislature and the World Bank Policy OP 4.12, in such a way as to minimise negative impact on the Project Affected People and improve or at least reinstate their life conditions or ensure the long-term and sustainable use of natural resources within this area (it refers to the decision No 1/2016 of Podkarpacki Governor on the investment project implementation permit within the scope of flood management facilities (ref. No I-IX.7820.3.1.2016) and decision No 3/16 of Tarnobrzeg City Mayor of 14 March 2016 approving of the construction design and granting permit for the building demolition (ref. No UAB-III.6741.2.2016).

In case of decision No 4/14 of Podkarpacki Governor dated 8<sup>th</sup> December 2014 (Ref. No I-IX.7820.3.2.2014), since expropriation has taken place on 14.01.2015 this LARAP also has the objective of documenting that process of land acquisition and assessing if it met the requirements of OP 4.12 or if there are any gaps that need to be corrected.

The rules which are applied in the process of obtaining properties and resettlements are compliant with provisions of OVFMP programme document of a general nature, which is LARPF, available at:

[http://www.odrapcu.pl/doc/OVFMP/Resettlement\\_Policy\\_Framework.pdf](http://www.odrapcu.pl/doc/OVFMP/Resettlement_Policy_Framework.pdf)

Another objective in the implementation of LARAP (which PZMiUW will follow) is to ensure that compensation for property expropriated by law or permanently limited in use was and will be disbursed prior to the commencement of construction works.

The objective of LARAP is also to collect basic social and economic data concerning Project Affected People, to identify impacts, to determine mitigating measures and compensating measures for prospective negative impacts, to assess whether the conditions within the scope of further management of properties covered by the Project have been reinstated (it applies both to properties owned by private persons, company with limited liability and public entities i.e. the State Treasury and the Tarnobrzeg Commune). LARAP contains also the procedures, budget and deadlines for achieving the above objectives.

LARAP document will be continuously monitored, on the basis of established indicators, as well as periodically updated by a team of Engineer - Consultant and by the PIO, as the works progress and new factual and legal circumstances emerge which affect the implementation of its provisions. It will allow among other to provide relevant information to people affected by the Project, early risk identification and implementing the methods that allow for the risk minimization or elimination. Monitoring results will be presented in the monthly and quarterly reports.

The ex-post evaluation will be conducted six months after the RAP is fully implemented and its objectives will be assessed and provide documented evidence.

### 3. IMPACT MINIMISATION

#### 3.1 Minimising the areas subject to occupation at the design stage

One key principle during the process of designing the component was to minimise the area of permanent occupation and imposed restrictions on land use.

Such solutions were applied for natural persons and company with limited liability and public entities (i.e. the State Treasury and the Tarnobrzeg Commune), e.g.:

- Provision of an operation lane on the terrace side of the bank in order to avoid larger interference on the landside in case of residential developments, road infrastructure and water supply and sewage systems or arable lands and orchards;
- Embankment's sealing was designed in form of a filtration barrier in DSM technology to be provided at the foot of water side slope which will limit the impacts on the landside areas during the execution of works;
- Within the section at km 15+700-15+819 of embankment – mobile log stop gates are proposed instead of a classic embankment structure in order to facilitate communication.

#### 3.2 Minimising impact during construction stage

Prior to the commencement of works the PZMiUW will conduct a wide-spread information campaign concerning the planned Contract and will open an information centre for Project Affected People, where they will be able to file their proposals and comments regarding construction works and planned occupations. An information brochure will be prepared and sent to all PAPs, advising on a possibility of submitting complaints (in accordance with the provisions of LARAP) and providing contact details.

It will be necessary to occupy properties temporarily for the purpose of the Contract implementation (occupation for a site back-up facilities and for storing soil masses and other building materials). The scope and proposed location of temporary occupation will be specified upon the appointment of the Contractor. The Contractor while negotiating conditions of temporary occupation the properties will be guided by the rules provided herein (this process will be on voluntary basis).

#### 3.3 Minimising the impacts through informing the parties on their rights

As part of the information campaign described in item 3.2 above, Project Affected Persons (PAP) should be informed on a possibility of submitting an application for purchasing the remaining parts of the property (i.e. remnants) if as a result of subdivision of the property and occupation of its part for the Project, there is a part left which is not suitable for further usage for current purpose (pursuant to Article 23.2 of Special Flood Act).

Currently one application has been made to the PZMiUW for purchase of the remaining part of the property. The PZMiUW is in the process of reviewing the application, if the provisions of Art. 23 sec. 2 of the Special Act is met (namely that if the part of real property was acquired and the remaining part is not possible to be used for recent purposes) the property shall be acquired by the State Treasury. As per Bank's politics OP 4.12, if the remaining area is not viable for residential or economic use, it should be compensated by the project.

#### 3.4 Minimising the impact – organisational activities

Minimising the impacts within the Contract implementation may also take place through organisational activities at the stage of construction and assembly works. The following activities are introduced:

- Hand over of the property will take place after harvest or if not possible due to the construction program, additional compensation for lost crops during that specific harvest will be paid out.

- Expropriated person will be entitled to free of charge use of the land in the current manner until obtaining a compensation or (if the amount of compensation is not agreed upon) its agreed portion.
- PAP will be informed by the PZMiUW in advance, at least 6 months, on the factual commencement of works which will enable them to complete farming activities on the property.
- All the costs related to activities minimising and compensating negative impact will be included in the costs of OVFMP.
- Required distances from overhead power lines must be maintained during construction works.
- All the works in the vicinity of the existing underground utilities will be carried out manually in order to prevent their damage.
- Works shall be performed from 6:00 a.m. to 10:00 p.m. only.
- Filtration barrier will be executed using DSM technology (vibration-free).
- Supervision of infrastructure owners will be ensured for the duration of works. Owners of the service networks will be notified in advance of the date of commencement of works.
- The owners of properties which will be occupied temporarily during implementation of the Task shall receive compensation for the temporary occupation (the Contractor shall be responsible for specific activities within this scope; the Contractor shall, by its own endeavours, negotiate land for temporary occupation on voluntary basis (i.e. temporary occupation can not be imposed on people)). Upon completing the works property will be reinstated to its previous condition and return in good condition.
- In km 12+845 of the embankment (in Dzikowskiej Street) in the area of works impact there is a roadside chapel. The Contractor's obligation shall be the protection of the chapel for the period of works performance so that no accidental damage of the object occurs.
- Additionally, in km 12+845 of the embankment (in Dzikowskiej Street) in the area of works impact, there is an information board concerning NATURA 2000 site (site No. 3). The Contractor's obligation shall be the protection of the street furniture object for the period of works performance so that no accidental damage of the object occurs.



Photo 1. Information board.



Photo 2. Roadside chapel.

The Task is viewed positively by local inhabitants because the development of the embankment will secure their life and property against floods which may occur in the future.

A more comprehensive description of measures mitigating and minimising negative impacts and protecting valuable natural resources is provided in the document "Environmental Management Plan for Contract 3B.3 Flood Protection of Tarnobrzeg – Stage 1 (Vistula River 1)".

## 4. LEGAL FRAMEWORKS AND VALUATION METHODS

### 4.1 Property acquisition – binding Polish legislation

The most significant normative acts related to acquiring rights to properties necessary for the implementation of the Project include:

- Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws of 1997, No. 78, item 483, of 2001, No. 28, item 319, of 2006 No. 200, item 1471, of 2009, No. 114, item 946),
- Law of 21 August 1997 on the real property management (consolidated text, Journal of Laws of 2015, item 1774, 1777, of 2016, item 65),
- Law of 27 March 2003 on space planning and development (consolidated text Journal of Laws of 2015, item 199, 443, 774, 1265, 1434, 1713, 1777, 1830, 1890),
- Law of 23 April 1964 Civil Code (consolidated text, Journal of Laws of 2016, item 380, 585),
- Law of 8 July 2010 on particular conditions for preparing flood management projects for implementation (consolidated text, Journal of Laws of 2015, item 966, 1777),
- Regulation of the Council of Ministers of 21 September 2004 on the evaluation of properties and preparing an appraisal (consolidated text, Journal of Laws of 2011, item 985).

### 4.2 Property acquisition – World Bank Operational Policy OP 4.12.

OP 4.12 Involuntary Resettlement is applied whenever the implementation of the Project requires:

- a) involuntary occupation of the property resulting in:
  - (a) relocation or loss of shelter,
  - (b) loss of assets or access to assets,
  - (c) loss of income sources or impoverished standard of living,
- b) the involuntary restriction of access to parks and protected areas resulting in adverse impact on the livelihoods of the persons affected by the Project.

To decrease the impacts of these activities, the borrower is obliged to prepare a Land Acquisition and Resettlement Policy Framework or a Land Acquisition and Resettlement Action Plan depending on the fact whether the specific interventions and related impacts have been identified or not.

A detailed description of obligations arising from OP 4.12 as in OVFMP programme document of a general nature, known as LARPF is available at:

[http://www.odrapcu.pl/doc/OVFMP/Resettlement\\_Policy\\_Framework.pdf](http://www.odrapcu.pl/doc/OVFMP/Resettlement_Policy_Framework.pdf)

This detailed LARAP contains obligations specific for the Contract 3B.3 and corresponding to the advancement of the process of preparing the Contract for implementation.

### 4.3 Property acquisition – rules and procedures within the meaning of the provisions of the Act of 8<sup>th</sup> July 2010 on specific rules for preparing projects related to flood protection, hereinafter referred to as the “Special Flood Act”.

On 8<sup>th</sup> July 2010 the Parliament of the Republic of Poland passed the Special Flood Act aimed at simplifying and accelerating procedures related to the implementation of flood protection projects. The provisions of this new act apply to, i.a., issues related to acquisition of properties to the benefit of the State Treasury, Provinces and communes. This act was amended twice in the year 2014 and then in the year 2015.

The substantiation for the Act provides for the aim which is the effective fulfilment of tasks within the scope of flood protection structures with the use of the EU's and international organisations' funds. Before the Special Flood Act became effective, the implementation of flood protection projects required multi-staged proceedings, the necessity for obtaining a range of administrative decisions (e.g. decision on the public purpose project's location, decision on subdivision, construction permit decisions) and conducting proceedings aimed at obtaining permanent or temporary occupations of properties (as part of negotiations with owners or obtaining expropriation decisions). According to the

provisions of the Special Flood Act a competent administrative body will issue one integrated decision concerning the entire flood management Project, known as project implementation permit. Restrictions within ownership rights, which will result from issue of the aforementioned decision, will be compensated through granting compensation to the owners or holders of the properties.

The Governor shall notify all the parties of the commencement of the proceedings concerning the issue of a decision on the Project implementation in accordance with Article 7 of the Special Flood Act.

#### **4.3.1 Decision on the project implementation permit compared to permanent occupation and restrictions in use of such property.**

Upon having processed an application filed by the PZMiUW, a Governor issues a project implementation decision, object of which is a series of issues which have been until now regulated by separate administrative decisions. Obtaining a decision under the Special Flood Act is tantamount to obtaining a decision on development conditions or decision on approving the location of a public purpose Project. This decision also includes, i.a. the specification of lines demarcating the Site and approval of the property subdivision as well as approval of a construction design. Furthermore, in relation to the properties specified by the PZMiUW in the application, this decision indicates:

- properties or their parts covered by the Project, indispensable for its implementation, which become the ownership of the State Treasury,
- properties or their parts covered by the Project, indispensable for its functioning, which become the ownership of the State Treasury but use of which is permanently restricted.

The above means that as of the day on which a decision under the Special Flood Act becomes final, properties or their parts identified in the application will become legally owned by the State Treasury or there will be permanent restriction in their use. Such a decision will be a basis for making entries in the Land and Mortgage Register as well as in the Register of Land and Buildings.

In the event of permanent restrictions in use of the property the owner or perpetual holder of such property may demand the redemption of such properties by the State Treasury on the basis of an application filed within 90 days of the day of being served with a notification of instituting the proceedings concerning an Investment project implementation permit. The right under Article 22.2 of the Special Flood Act (in terms of purchase of the property, which permanent restriction of land use) is not entitled to the owner of the property on which there are public roads.

If a part of a property is acquired by the State Treasury and the remaining part is not suitable for current use, upon the application submitted by the owner or perpetual holder of such a property, the PZMiUW is obliged to acquire (in the name of and on behalf of the State Treasury) remaining part of the property. Such a regulation solves a problem of so called “remnant” – the remaining part of a property transferred to the ownership of the State Treasury. In such a case, the owner (perpetual holder) of the property is entitled to a claim for PZMiUW to purchase the remaining part of the property.

#### **4.3.2 Compensation for properties acquired under the Special Flood Act**

A property owner or perpetual holder is entitled to compensation for transferring the ownership of the property onto the State Treasury.

The amount of compensation is determined separately for each property by negotiating individually between PZMiUW and the current owner or a holder of usufruct right or person, who has other legal limited property right. Such compensation is paid out by the PZMiUW acting on behalf of the State Treasury or a local government, as appropriate. All arrangements are made in writing under pain of nullity.



However, if the agreement in the scope of the compensation amount is not reached within 2 months from the day when the investment project implementation permit became final, the amount of the compensation is determined by the Governor in form of an administrative decision. The principles set out in the Law on Real Property Management are applied to determine the amount of compensation. The amount of compensation is determined by authorised property appraiser on the basis of market value (if this cannot be determined is based on replacement value).

A decision on the amount of a compensation amount as well as a decision on the project implementation permit may be contested by a party through submitting an appeal to a body of higher instance. This procedure in details is described in section 9.2.

Filing an appeal against the said decision does not prevent payment of compensation to authorised persons – under Article 21.11 of the Special Flood Act, a party submitting such an application may apply for payment of a compensation specified in the Special Flood Act, and the State Treasury is obliged to pay out this amount despite the appeal filed. Payment of a compensation amount does not affect the appeal proceedings.

Compensation granted to current owner or perpetual holder is decreased by an amount of restricted rights established on the properties (e.g. usufruct, easement, lien, housing cooperative property right to premises or mortgage). This amount is estimated by an independent property appraiser in compliance with the rules outlined in the Regulation of the Council of Ministers of 21.09.2004 on real property valuation and preparing an appraisal study.

#### **4.3.3 Additional benefits for the owners or perpetual holders of properties acquired as part of the Special Flood Act**

The Special Flood Act provides for detailed regulations according to which owners or perpetual holders of properties which become the ownership of the State Treasury are entitled to payment of additional benefits.

In addition, for immediate release of property it will be possible to increase compensation with the amount of 5% of the value the property according to the rules specified in the Special Flood Act.

Current owners or perpetual holders of properties or their parts which became the ownership of the State Treasury may use properties free of charge until the expiry of the time specified in the decision under the Special Flood Act.

#### **4.3.4 Application of the Special Flood Act during the Project implementation**

At the request of the PZMiUW, justified by a social or economic interest, a Governor issues a decision under the Special Flood Act under pain of immediate enforcement, which means that current owners are obliged to release properties within 90 days of the date of issue a special decision (under the Special Flood Act) and that the PZMiUW is authorised to take over a property and commence construction works (if, in accordance with OP 4.12 PAPs were paid compensations).

#### 4.4 Analysis of inconsistencies and corrective measures

Given that there are inconsistencies between Polish law and the World Bank's OP 4.12 the corrective actions described below will apply to this Project and its components.<sup>6</sup>

OP 4.12	Polish laws	Corrective action
Lack of legal title to the land should not bar compensation. People without legal title are eligible for compensation.	Polish legal system does not account for the right to compensation of the occupants/users of the land that do not hold legal title to it (except for the people whose legal title to the real estate was lost or who acquired the title by usucaption (by which ownership of property (i.e. title to the property) can be gained by possession of it beyond the lapse of a certain period of time according to KC).	<p>In case a project affected person without legal title or legal rights over the land is affected by project-related land acquisition the case will be analyzed individually for the possibility of applying general mechanisms from the Civil Code to achieve the objectives of OP 4.12.</p> <p>As per OP 4.12 affected people without legal titles will be not eligible to receive compensations for the land. However, they will be eligible for compensation for any structures, crops or improvements to the land that were done before the cut-off date and to receive adequate solutions in cases where they have to be physically or economically displaced.</p> <p>In this cases, additional nonfinancial mitigation measures can be applied.</p>
WB Policy requires compensation for the loss of income <sup>7</sup> resulting from taking of land that generates the displacement of economic activities (e.g. business, agriculture, etc).	Provisions of Polish law do not provide compensation for the loss of income resulting from land take required for a task.	<p>Persons who lost income or employment will receive support (health insurance, professional trainings etc.) from the employment offices.</p> <p>In case of entrepreneurs or agricultural activities, it is possible to apply general mechanisms from the Civil Code (covering loss suffered (damnum emergens) and the expected profits which are lost (lucrum cessans).</p>
Particular attention should be paid to vulnerable social groups, such as the poor, the elderly, single mother headed household, children, ethnic minorities.	Polish law does not require planning specific measures aimed at additionally assisting vulnerable social groups (the elderly, the handicapped, the poor, and other groups with special needs).	<p>The project will grant to the affected people help in obtaining assistance from offices and institutions.</p> <p>Additional measures will be implemented as needed to ensure that the objectives of OP 4.12 are met.</p>

<sup>6</sup> See RPF for the OVFP p. 29 link [http://www.odrapcu.pl/doc/OVFP/Resettlement\\_Policy\\_Framework.pdf](http://www.odrapcu.pl/doc/OVFP/Resettlement_Policy_Framework.pdf)

<sup>7</sup> In the conditions of the Polish economy understood as revenue.

OP 4.12	Polish laws	Corrective action
<p>WB Policy requires additional compensation for expenses incurred by PAP as a result of physical relocation (i.e. transport of materials) and assistance in implementing the resettlement.</p>	<p>Assistance regarding incurring costs of relocation and other similar costs resulting from the necessity to move to a new location by the citizens and enterprises is not provided in the provisions of law.</p>	<p>In order to cover costs of relocation and other similar costs it is possible to apply general mechanisms from the Civil Code in a manner that achieves the requirements of OP 4.12.</p>
<p>The compensation should be paid prior to physical occupation of the land for the purposes of implementation of the task.</p>	<p>The flood act allows for occupying the land and commencing works before the compensation is paid.</p>	<p>In all cases, no work will begin until there is documented evidence that the project-affected person has been informed well in advance, compensation has been paid and it has granted permission to enter the land.</p> <p>The only exceptions are cases where the process is taken to the courts because negotiations fail or other reason or cases were absentee owners cannot be found. In these cases, as per Polish regulations, the compensation amount will be put into an escrow account and the money will be available to affected people once the court makes a decision or the owner is located.</p> <p>To minimize the risk of starting works before compensating for losses the project will plan and conduct land acquisition well in advance of starting construction</p>
<p>Compensation for the loss of assets is based on their market value plus any transaction costs (e.g. taxes and registration fees) and the objective is for the compensation to be enough to effectively replace the affected asset (replacement value).</p>	<p>Applied methods of valuation may lead to lowering the value of the real estate as compared to prices of similar real estate on the local market.</p>	<p>The valuation of the real estate will be conducted by an independent and experienced property appraiser. Property appraiser opinion should be verified by PIO. The expropriated party should be granted proper amount of time to get familiar with the property appraiser's extract from appraisal report. Should there be any doubts regarding the sufficiency of the due amount of compensation, value of the real estate should be estimated by an independent property appraiser in the proceeding with the Governor.</p> <p>In all cases effective replacement value will be achieved.</p>



OP 4.12	Polish laws	Corrective action
Requires to prepare a socio-economic baseline, Resettlement Action Plan and monitor of compensation, resettlement and livelihood restoration measures as well as evaluation of their efficiency.	Provisions of polish law do not account for obligation to gather a socio-economic baseline and prepare a Resettlement Action Plan as such and there is no obligation of monitoring or evaluation of their effectiveness.	Socio-economic baselines and Resettlement Action Plans will be prepared based on the RPF, monitored and evaluated in line with OP 4.12 and good practices.

#### 4.5 Valuation methods

Current owner, holder of perpetual usufruct right to land or a part of land which is necessary for Contract's implementation is entitled to compensation for the transfer of ownership of the property to the State Treasury.

In all cases compensation must meet the principle of a **replacement value** which means the market value of the land and related assets (e.g. crops or others elements) increased by a transaction cost required to replace it, such as taxes and other fees. Compensation is determined on the basis of a valuation by property appraiser and other team of property appraisers (e.g. agricultural property appraiser) as required.

According the OP 4.12, with regard to land and structures, a "replacement value" is defined as follows: a) for agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes; b) for land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes; and c) for houses and other structures, it is the market value of the materials to build a new houses and objects replacing houses and object affected by the results of the task implementation, in the quantity and quality similar to or better than those uses in the expropriated houses and objects or partially affected by the results of the task implementation jointly with the cost of transporting building materials to the construction site, the cost of any labour as well as transaction costs, fees and taxes related with the implementation of new objects.

In determining the replacement cost depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Unless Polish law meets the standard of compensation at full replacement cost, compensation under Polish law is supplemented by additional measures so as to meet the replacement cost standard, such as support after displacement for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living (including sources of income), etc.

The amount of compensation paid by the State Treasury or the local government, respectively, is agreed between the PZMiUW and the current owner, holder of perpetual usufruct or other legal holder through negotiations (or established by the Governor if it does not come to determining the amount of compensation as a result of negotiations). In all cases the compensation should, at least, be consistent with a replacement value.

Compensation is subject to indexation as of the day of payment according to the principles applicable in the case of return of expropriated property.

The compensation is established on the basis of the valuation prepared by a professional property appraiser.

**NOTE:**

The valuation methods are defined in a legal act which is the Regulation of the Council of Ministers of 21 September 2004 on property valuation and preparation of a valuation report, specifying the methods and techniques of compensation estimation.

#### **4.5.1 Property valuation**

The amount of compensation is based on the market value of a property. While establishing the market value of a property, the following factors in particular are taken into consideration: its type, location, use and assignment in the local spatial development plan, existing technical infrastructure, overall condition and current market prices. Should the change of zoning and land use for the purpose of the Project decrease the property's value, its market value will be ascertained according to pre-zoning and pre-project use. If the data from the local or regional property market allows an appraiser to ascertain the market value of the property, they should apply one of the approaches, i.e. the sales comparison approach, the income capitalisation approach or the combined approach. Should the zoning in accordance with the purpose of the Project increase the property's value, its market value is ascertained according to the alternative use resulting from the new zoning. If the data from the local or regional property market does not allow an appraiser to ascertain the market value of the property, they should ascertain the replacement value of the property on the basis of the cost approach.

If a current owner or perpetual holder of a property subject to a decision on the Project implementation permit releases such a property, or releases such a property and empties premises and other rooms not later than within 30 days of the date of delivering a notification of issuing an Investment project implementation permit with immediate effect (this applies to both above mentioned IPIP obtained by PZMiUW), compensation amount shall be increased by 5% of the property value or the value of perpetual usufruct law.

#### **4.5.2 Valuation of plants and crops**

The valuation of tree stand or tree cover, if the tree stand includes usable assets, will involve the valuation of timber in the tree stand. If the tree stand includes no usable assets or if the value of timber is exceeded by the costs of reforestation and maintenance of the tree stand, the valuation concerns the costs of reforestation and maintenance of the tree stand until the day of expropriation.

The valuation of fields of perennial plants involves the valuation of the costs of determining the field and its maintenance until the first crop as well as of the lost profit in the period from the day of expropriation until the completion of the full yield. The aggregate of costs and the value of lost profits are reduced by the sum of the yearly depreciation charge resulting from the period of using the field from the first year of yield until the day of expropriation. The valuation of crops, cultivation and other yields of annual plants involves the valuation of the expected yield according to the current market prices, reduced by the value of necessary expenditures related to the harvest of the crops.

The valuation of crops, cultivation and other yields of annual plants involves the valuation of the expected yield according to the current market prices, reduced by the value of necessary expenditures related to the harvest of the crops.

### 4.5.3 Valuation method for structures

In order to estimate a value of structures which constitute an object of ownership separate from the land, a cost approach could be applied, as well as a cost replacement method and an indicator technique.

A cost approach consists in determining a value of a property assuming that such a value corresponds with the costs of its replacement.

A value of land constituents is assumed as an amount equivalent to the costs of their replacement or substitution.

A key of a cost approach is assuming that a property acquirer will not pay for such a property more than the costs of erecting such a property in the same technology or function in the same location.

A consequence of the above assumption is the specification of two types of costs:

- replacement cost,
- substitution cost.

In order to apply a replacement cost method it is necessary to be in possession of technical data on the structures under valuation, data on the prices for materials and construction works.

A replacement cost means a cost of erecting an identical structure (exact copy) to a structure under valuation. While estimating a value of such a structure, a property appraiser takes into consideration the same design, equipment, quality of construction works and takes into account all defects, shortcomings as well as required elements of equipment or construction, or materials which are out of use. Replacement costs also include the costs of building additional installations strictly connected with the structure under valuation, preparation and ordering of the area and the costs of drawing-up design documentation and construction supervision. Therefore, while estimating structure replacement costs, it is necessary to provide the costs valid as of the day of valuation of building its copy. If materials which were used to build such a structure are no longer available on the market, while estimating a value, it is necessary to consider the prices for material as similar to the materials used as possible.

### 4.6 Special procedures

#### 4.6.1 Payment of compensation for permanent limitation in the real property use

Real properties required for the implementation of the Contract were acquired under two IPIPs issued in compliance with the provisions of the Special Flood Act.

Furthermore, the IPIP issued indicate 2 real properties, constituting a part of the Task, which are indispensable for its functioning, but which do not become the property of the State Treasury and towards which the use manner is permanently limited (hereinafter referred to as: TO) - in detail these cases are described in item 1. Such real property will not be involved by the permanent change in the management manner and basically they may be used by the owner (perpetual usufructuary) like before the development implementation; nevertheless, after fulfilling the task – with some functional limitations.

The said limitations and related inconveniences, restrictions in an economic potential and real property market potential (e.g. prohibition of development, prohibition of planting trees, prohibition of conducting an agricultural activity, etc.) affect the real property market value negatively and they must be compensated accordingly. In an extreme case of usefulness loss for the owner (perpetual usufruct), they are entitled (under Article 22.2 of the Special Flood Act), to demand its purchase under civil law procedures. If this procedure is not used, there is an administrative procedure in which applicable compensation is established. The right under Article 22.2 of the Special Flood Act (in terms of purchase of the property, which permanent restriction of land use) is not entitled to the owner of the property on which there are public roads.

The Special Flood Act does not define the use manner permanent limitation (TO) and does not indicate an administrative body, competent in terms of the subject matter, to establish compensation in

administrative proceedings. Such a state, i.e. lack of clear legal provision indicating content-related competence of a body is caused by an obvious legal loophole and it authorises to apply in the administrative proceedings an iuris analogy (road special act - ZRID) referred to the Decision of the Supreme Administrative Court in Warsaw of 9 November 2012 (I OW 142/12). The Court, indicating a Governor as a competent body, unambiguously decides that [cited] *A body competent for establishing compensation is a body which issued a Road Investment Project Implementation Permit (RIPIP)... It is not possible to accept that a legislator distributed competences for establishing compensation for the effects of the same decision depending on the object of compensation.*

In consequence, with reference to the determination of compensation towards TO, the competent body will be the Governor which issued IPIP and compensation will be determined under terms and conditions specified herein.

As far as prospective temporary occupation is considered, whose exact range cannot be defined at the current stage of the Contract progress, the Contractor will enter with the owners into voluntary agreements where the rules of temporary occupation will be outlined for the needs of the Contract implementation. In each case, the owners of real properties under permanent and temporary occupation will be effectively informed on the planned Contract and the rights they are entitled to.

PZMiUW held negotiations (by means of correspondence) with the owners of real properties concerning the amount of compensation for the real properties or their parts under expropriation. The interested parties were informed on the rights they were entitled to in the course of negotiations, including but not limited to the possibility of establishing the amount of compensation by Podkarpacki Governor in administrative proceedings. In cases when negotiations did not lead to establishing the amount of compensation, PZMiUW sent relevant applications to the Governor and the amount of compensation shall be established by the Governor.

#### **4.6.2 Depositing funds in the court account if paying out of compensation is not possible**

Pursuant to the Art. 133 of the act on property management, the PZMiUW submits the amount of compensation to the court deposit in accordance with the decision of the Governor obliging the PZMiUW to pay the compensation to the deposit, which is equivalent to fulfilling the obligation. The above can take place only in the following two cases: if an authorised person rejects accepting compensation or its payment is hindered significantly (lack of capacity of a creditor, its longer absence in the country, lack of appointing a proxy, natural disasters, marital law) and when compensation for expropriation applies to properties with an unregulated legal status (Decision of the Province Court of Administration in Lublin 2005-02-25, case ref. No II SA/Lu 884/04).

Depositing compensation in the court account entails the same effects as disbursing such a compensation and obliges a creditor to reimburse depositing costs to the debtor. However, according to OP 4.12, a PAP does not incur any costs within this scope.

If the Court overrules such an application, such a fee shall not be subject to reimbursement and if a creditor (as a party to the proceedings) is represented by a legal counsel or attorney, the Court may impose the payment of the amount of PLN 120 for representation remuneration.

## PROCEDURE

STEPS	ACTIONS TO BE TAKEN	YES	NO	COMMENTS
Step 1	Issue by the Governor of a decision on establishing the compensation obliging to pay the compensation to the court deposit	Step 2	Not taking any actions	
Step 2	Filing a motion for placing the benefit object in the court deposit	Step 3	-	Step 2 and step 3 must be carried out simultaneously
Step 3	Paying a court fee of PLN 100			
Step 4	Accepting a motion by the Court	Step 5		
Step 4a	Overruling a motion by the Court		Complaint	
Step 5	Paying the funds to the deposit account indicated by the Court			
Step 6	Proceedings concerning releasing the deposit			
Step 7	Paying the funds to the deposit account indicated by the creditor			
Step 8	Reimbursement of the costs for filing a motion to the debtor by the creditor			

## 5. SOCIAL-ECONOMIC SURVEY

A basic source of information concerning the development and use of occupied properties is the analysis of GIS data, excerpts from the Register of Land and Buildings and on-site verification. The status of ownership (owners/co-owners, holders of perpetual usufruct rights and owners-like possessors without legal land titles) of the occupied properties has been determined on the basis of the Register of Land and Buildings and Land and Mortgage Register. The presence of infrastructure has been determined on the basis of the analysis of detailed land survey drawings and on-site verification.

As far as a social impact is concerned, a basic source of information was data obtained on the basis of available registers (e.g. register of economic activity, National Court Register) as well as details obtained during on-site inspection. Also GUS data were used and materials posted on the Internet (information from Municipal websites, Internet forums, etc., local press releases).

In addition, in April and in May 2016, there was a questionnaire conducted among PAPs within the scope of viewing the justification of the Works Contract 3B.3 implementation and its impact on their life quality and economic situations (impact on the income level). Target respondents included primarily persons under expropriation where permanent occupation areas exceeded 10% of the initial area of the plot under occupation. For conducted studies, a more restrictive impact indicator than 20% of occupation was assumed (see point 1).

We received 56 questionnaires out of 75 distributed among PAPs. Neither of those persons indicated that the Contract implemented affected their economic situation negatively or decreased their income level. 100% is content with the fact of extending the flood embankment and targeted reinforcement of flood protection.

A separate issue is the question of the further management of the remaining parts of the property so-called remnants, as described in point. 1.

### Data concerning properties

The data concerning the use of properties occupied for the Contract are presented in Point 1.4. Their actual development corresponds to type of lands listed in the Register of Land and Buildings. On the land side of the embankment, in several cases there are wastelands on the meadows and pastures which are subject to environmental succession (overgrowing with shrubs and trees). On the land side of the embankment at the following km of the embankment: 7+600 – 7+850, 12+300 – 12+400 and 12+750 – 13+000 there are residential building developments and farm buildings. Only in one case there is a collision of the proposed Contract with a utility building (barn). On this area there are no listed monuments or cultural assets which could be affected by the Task. It shall not affect or hinder the access to the natural resources.

On the basis of the analysed information sources, it has been determined that it is not necessary to conduct any detailed social-economic survey with the use of questionnaires dedicated for specific people. The initial survey demonstrated that due to the nature and location of the proposed Contract as well as the planned extent of property occupation, in the event of the project under consideration there will be only minor sections of land area to be acquired and no physical or economic displacement will take place.

The analyses carried out demonstrated that there will be no physical or economic resettlements, and that social and economic impacts of this Contract will not be significant. Therefore, it has been indicated that cash is the best compensation form and also the one selected by the PAPs.

The insignificant social and economic impacts of the Contract also result from the fact that on the proposed site there are no public utility institutions, such as schools, offices, work establishments, churches or seats of other religious associations, as well as no family allotment gardens.

The date of obtaining IPIP is considered to be a cut-off date for social and economic survey. This cut off date has been communicated to PAPs through letters.

## 6. ELIGIBILITY AND MATRIX OF RIGHTS

Taking into account the size and extent of the Contract which is the extension of the existing embankment and rebuilding of accompanying flood management structures, the Contract implementation is not expected to cause any significant adverse social impact.

Nonetheless the above, a priority objective of all the institutions engaged into the extension and operation of the embankment is to reach an agreement with the public.

Achieving such an objective is possible through:

- conducting a policy of consultations and dialogue with public,
- detailed identification and listing of all the problems which may occur during the extension and operation of the embankment.

On the basis of the analyses carried out, it is possible to indicate social groups and problems arising from the location of properties near the embankment.

PAPs identified within the area of execution of Contract 3B.3 eligible for compensation due to impacts arising from its implementation:

- legal land owners and co-owners of properties covered by the Contract and holders of perpetual usufruct rights;
- lessees, tenants (if any, to 31.05.2016 not identified such PAPs),
- owner like possessors who without any legal land title cultivate the land and benefit from harvesting on such lands.

PAPs will be entitled to receive compensation for the following categories of effects/losses:

- compensation for the lost ownership title to a part of property under permanent occupation – it is anticipated to pay out a compensation in cash in the amount of replacement value of a respective property under expropriation. “Land for land” exchange is not anticipated due to the fact that permanent occupation on properties of natural persons is not high and amounts from a few to hundreds of square metres; only in two cases in relation to natural person (in case of the owner and in case of 4 perpetual co-holder) these are the areas exceeding 1000 mt<sup>2</sup> (0,1 hectare) but they do not affect the loss of “residence and source of income”.
- compensation for the lost rights (e.g. perpetual usufruct, lease, etc.) to the part of a property under permanent occupation. PAPs who are not owners but who hold a legal title to a property (e.g. lessees, tenants) shall receive compensation in money corresponding to the value of expropriated rights. At this stage there are no identified leaseholders or tenants, so this provision will come into force when there are appropriate cases. To perpetual usufruct holders compensation has been paid.
- compensation for non-residential structures and constructions – PAPs will receive compensation in money for the permanent loss of such an infrastructure element. The Contract 3B.3 requires one utility building [barn] to be demolished which collides with the embankment at km 7+710 (plot No 803/2). Compensation has already been paid to the owner (natural person).
- compensation for lost plants (plants, trees, etc.). The loss of plants will be compensated in cash, considering the costs of starting and caring for plants as well as the value of lost benefits in the period from an expropriation day to the day of finishing of full yielding, in the event of trees – on the basis of estimating a value of timber which may be obtained. Persons holding a legal title to a property as well as owners like possessors who without any legal land shall be entitled to receive compensation for plants. Such elements have been estimated in appraisals, which have been commissioned by PZMIUW and prepared by an property appraiser (documents available in PZMIUW).
- compensation for permanent limitation of use the land will be paid on the basis of an appraisal report prepared by the property appraiser prior to the time of the actual occupation of property;
- compensation towards temporary occupation (against one case of plot 803/1) shall be excluded from the PZMIUW 's actions (it shall be implemented by the Contractor) in compliance with the provisions of LARAP, as indicated above. However, the PZMIUW will be responsible for ensuring that the Contractor meets the provisions.



All the cases (properties) with a lack of legal title or legal status as well as former owners have not responded to the offer addressed to them were submitted on 23.11.2015 to Podkarpackie Governor in order to determine due compensation by the said Body.

No vulnerable groups were identified which would require specific support from PZMIUW.

PZMiUW started the process of acquiring properties in 2012 prior to the preparation of LARAP document (at the stage of design preparation have already been identified property and data on their owners / holders); nevertheless all the actions undertaken by the unit have always taken into account the World Bank's policy. Among such actions, there are all mitigation measures actions described in item 3 of LARAP, as well as informing the parties referred to in item 7.

Additional rights, indicating a social group and providing minimising activities, as well as the assistance offered are indicated in Table No. 1.

Table No. 1. Social groups, (PAP), impacts resulting from the implementation of Contract and compensations / assistance offered

Impacts / losses	PAP identification	Compensation
Permanent property loss	Owners, perpetual usufruct, owner-like possessors	<ul style="list-style-type: none"> <li>• compensation in money,</li> <li>• covering all transaction costs</li> </ul>
	Holders of properties	<ul style="list-style-type: none"> <li>• compensation in money for the loss of the right to the property,</li> <li>• assistance in starting the usufruct of a similar property.</li> </ul>
	Lessees (if identified)	<ul style="list-style-type: none"> <li>• compensation in money for the losses incurred in connection with the agreement expiration,</li> <li>• covering transaction costs</li> </ul>
	Illegal possessors of properties	<ul style="list-style-type: none"> <li>• lack of compensation for the property loss</li> <li>• support in obtaining adequate institutional support if the loss of property causes the loss of income (necessity of additional diagnosing and monitoring of such cases)</li> </ul>
	Illegal possessors of servitude (if identified)	<ul style="list-style-type: none"> <li>• for illegal possessors of servitude - support in finding a solution enabling the use of a given property.</li> </ul>
Permanent limitations in the property operation	Owners	<ul style="list-style-type: none"> <li>• Compensation in money for the loss of rights to property usufruct,</li> <li>• covering transaction costs,</li> <li>• due to the fact that these are public entities (i.e. the State Treasury and the Tarnobrzeg Commune), no other additional measures are anticipated which would be connected with institutional support and consulting within the scope of a possibility of different property usufruct.</li> </ul>
Non-residential facilities and structures (stables, fencing, technical infrastructure etc.)	Owners, perpetual holders, owner-like possessors of facilities and structures	<ul style="list-style-type: none"> <li>• Compensation in money in the amount of the replacement value for the lost assets,</li> <li>• Transfer or reconstruction of the assets lost.</li> </ul>
	Holders	<ul style="list-style-type: none"> <li>• Compensation in money in the amount of the replacement value for the</li> </ul>

Impacts / losses	PAP identification	Compensation
		lost assets, <ul style="list-style-type: none"> <li>Transfer or reconstruction of the assets lost.</li> </ul>
	Illegal possessors of facilities and structures (if identified)	<ul style="list-style-type: none"> <li>Compensation in money in the amount of the replacement value for the lost assets,</li> <li>Transfer or reconstruction of the assets lost.</li> </ul>
Loss of plants	Owners, perpetual holders, owner-like possessors	<ul style="list-style-type: none"> <li>Compensation in money, including the costs of seeding and caring for the plants as well as the crops lost,</li> <li>Enabling harvesting</li> </ul>
	Holders	<ul style="list-style-type: none"> <li>Compensation in money, including the costs of seeding and caring for the plants as well as the crops lost,</li> <li>Enabling harvesting</li> </ul>
	Lessees (if identified)	<ul style="list-style-type: none"> <li>Compensation in money, including the costs of seeding and caring for the plants as well as the crops lost,</li> <li>Enabling harvesting</li> </ul>
	Illegal possessors of properties (if identified)	<ul style="list-style-type: none"> <li>Enabling harvesting</li> </ul>
Loss of trees	Owners, perpetual holders, owner-like possessors	<ul style="list-style-type: none"> <li>Compensation in money, including the costs of seeding and caring for the tree stand as well as the trees and crops lost,</li> </ul>
	Holders	<ul style="list-style-type: none"> <li>Compensation in money, including the costs of seeding and caring for the tree stands as well as the trees and crops lost,</li> </ul>
	Lessees (if identified)	<ul style="list-style-type: none"> <li>Compensation in money, including the costs of seeding and caring for the tree stands as well as the trees and crops lost,</li> </ul>
	Illegal possessors of properties (if identified)	<ul style="list-style-type: none"> <li>enabling trees felling and collecting timber</li> </ul>
Impact on business and employment due to land acquisition	Sole traders (if identified)	<ul style="list-style-type: none"> <li>Cash compensation for lost income<sup>8</sup> during the period of transition,</li> <li>Institutional support for people liquidating their business activity.</li> <li>Granting "land for land" compensation on the conditions enabling the continuation of agricultural/orchard activity or compensation in money,</li> <li>Compensation in money enabling starting an agricultural/orchard activity on a new property.</li> </ul>
	Non-government organisations (if applicable)	<ul style="list-style-type: none"> <li>Granting compensation in money</li> <li>Compensation in money enabling starting a business activity on a new property.</li> </ul>

<sup>8</sup> In the conditions of the Polish economy understood as revenue.

Impacts / losses	PAP identification	Compensation
	Micro-entrepreneurs (employing to 10 workers) (if identified)	<ul style="list-style-type: none"> <li>Granting compensation in money</li> <li>Compensation in money enabling starting a business activity on a new property.</li> </ul>
		<ul style="list-style-type: none"> <li>compensation in money,</li> <li>Institutional support for people liquidating their business activity.</li> </ul>
		<ul style="list-style-type: none"> <li>granting indemnity in the form of compensation in money</li> <li>Compensation in money enabling starting an agricultural/orchard activity on a new property.</li> </ul>
	Small-entrepreneurs (employing to from 10 to 50 workers) (if identified)	<ul style="list-style-type: none"> <li>compensation in money,</li> </ul>
	Workers on civil law contracts (if identified)	<ul style="list-style-type: none"> <li>Granting the entrepreneurs with compensation enabling the maintenance of as many job positions as possible,</li> <li>Institutional and social support for the unemployed</li> </ul>
	Employees on job contracts	<ul style="list-style-type: none"> <li>Granting the entrepreneurs with compensation enabling the maintenance of as many job positions as possible,</li> <li>Institutional and social support for the unemployed</li> </ul>
Loss or limitation of access to social infrastructure	All PAP residing on the area affected by the Contract implementation	<ul style="list-style-type: none"> <li>Reconstruction of social infrastructure on a different area,</li> <li>If infrastructure reconstruction on a different area is impossible or unfounded – providing access to the existing social infrastructure.</li> </ul>
		<ul style="list-style-type: none"> <li>Temporary ensuring of recreation sites.</li> </ul>
Commune property	Commune	<ul style="list-style-type: none"> <li>Reconstruction or replacement of destroyed facilities upon consultations with the commune.</li> </ul>
Temporary property occupation (measures to be implemented by the Contractor)	Owners, perpetual holders, owner-like possessors	<ul style="list-style-type: none"> <li>compensation in money,</li> <li>Recovering the property to its initial condition</li> </ul>
	Illegal possessor of a property	<ul style="list-style-type: none"> <li>Recovering the property to its initial condition</li> </ul>
	Lessees, holders of properties	<ul style="list-style-type: none"> <li>Compensation in money,</li> <li>Recovering the property to its initial condition</li> </ul>

Table No. 2. Listed monuments, cultural assets and archaeological sites – problems and preventive measures

Listed monuments and cultural assets / archaeological sites	Problems arising from the Contract implementation	Prospective effects of the Contract implementation	Preventive measures
Listed monuments, cultural assets	None (within the area of works implementation, no occurrence of monuments or cultural assets was stated)	None	None
The chapel (without the status of cultural assets)	Risk of damage during construction and installation works	Damage	The marking and securing access
Board	Risk of damage during construction and installation works	Damage	The marking and securing access
Identified archaeological site	Provincial Monuments' Conservator, in the opinion of 27.12.2013 (file ref. UOZ-T-3.5133.34.2013), advised that "in the vicinity of the Vistula river embankment, in the town of Sielec, there is an archaeological site listed in the Archaeological Artefact Register. In connection with the above, during any construction works in this area, archaeological supervision should be provided".	Damage	Archaeological supervision during works.
Archaeological sites (discovering current unknown and unrecognised archaeological sites).	Risk of damage during construction and installation works	Damage	Archaeological supervision during works. If an archaeological site is discovered, it is necessary to conduct archaeological rescue excavations.

List of persons entitled to compensation is included in Attachment No. 2 to this document. The Attachment is not to be made public due to protection of personal data.

## 7. PUBLIC CONSULTATIONS

This document was subject to public consultation, the purpose of which was to allow individuals, institutions and all interested parties to view the document and to have an opportunity to submit comments, queries and requests regarding its contents.

Public disclosure of the Project of Land Acquisition and Resettlement Action Plan (LARAP) commenced on 30<sup>th</sup> September 2016 in accordance with Operational Policy OP 4.12, when a notice was published in local supplement to Gazeta Wyborcza (newspaper with nationwide coverage). Notice of public consultation was also posted on notice boards of PZMiUW in Rzeszow, its branch office in Tarnobrzeg, Municipality of Tarnobrzeg and sites of construction works.

The notice invited individuals, authorities and interested parties to view Project of LARAP for Contract 3.B3. LARAP was displayed to the public from 30<sup>th</sup> September 2016 to 21<sup>st</sup> October 2016 (i.e. for a period of 15 working days) on the following websites:

- PZMiUW - [www.pzmiuw.pl](http://www.pzmiuw.pl),
- Municipality of Tarnobrzeg – [www.tarnobrzeg.pl](http://www.tarnobrzeg.pl),
- Project Coordination Office – [www.odrapcu.pl](http://www.odrapcu.pl).

In addition the information (individual invitations) was sent to the public institutions interested in the Project implementation.

Printed document was made available for viewing by all interested parties during the period from 30<sup>th</sup> September 2016 to 21<sup>st</sup> October 2016 at the offices of:

- Podkarpacki Board of Amelioration and Hydraulic Structures in Rzeszow, 9 Hetmańska Street, 35-959 Rzeszów, from 8:30 am to 2:30 pm on working days,
- Podkarpacki Board of Amelioration and Hydraulic Structures in Rzeszow, Branch Office in Tarnobrzeg, 86 Sienkiewicza Street, 39-400 Tarnobrzeg from 8:30 am to 2:30 pm on working days.

During the 21 day period for submission of questions to the publicized draft of Land Acquisition and Resettlement Action Plan no questions or requests have been received by PZMiUW. However, an interest in the document was noted. Some people appeared in person at the Branch Office of PZMiUW in Tarnobrzeg and viewed printed RAP document. Downloading of the files from the websites indicated in the notice was also observed. No questions were submitted to the Office via e-mail or in person.

After completion of 21 day long period of LARAP Project's publicizing, on 24<sup>th</sup> October 2016 at 4:30 pm, in the Conference Room of Tarnobrzeg Municipality at 32 Kościuszki Street, an open public meeting took place on the draft of the Document - Land Acquisition and Resettlement Action Plan for Contract 3.B3 Flood Protection of Tarnobrzeg – Stage 1 (Vistula River 1) implemented within the Odra-Vistula Flood Protection Project.

None of the Project Affected People were present at the meeting. The participants included only representatives of units directly involved in implementation of POPDOW: Project Implementation Unit of PZMiUW in Rzeszow and Branch Office in Tarnobrzeg, Project Coordination Office from Krakow, and RAP Consultant's Team. After meeting a report was prepared that it was sent to the World Bank. The report is attached as Attachment 6 to the LARAP - this attachment shall not be made public.

Final LARAP document after obtaining "no objection" clause from WB is available to interested parties by publishing on PIU website and will remain there until the completion of the Contract. Any updates of LARAP document will be also available for the interested parties on the PIU website.

Table No. 3. Preliminary identification of interested parties participating in public consultations, entities influencing LARAP preparation and implementation.

Interested Outside Party	Type of the influence on LARAP
Ministry of Infrastructure and Construction	<ol style="list-style-type: none"> <li>1. Consideration of an appeal against IPIP</li> <li>2. Consideration of an appeal against a decision on a compensation amount</li> </ol>
Podkarpacki Governor	<ol style="list-style-type: none"> <li>1. IPIP issuance</li> <li>2. Issuing a decision determining a compensation amount</li> </ol>
Starost in Tarnobrzeg	<ol style="list-style-type: none"> <li>1. Assistance in recognising the needs of local community</li> <li>2. Direct participation in public consultations</li> </ol>
Tarnobrzeg President	<ol style="list-style-type: none"> <li>1. Tarnobrzeg Commune Representation as the entity subject to expropriation</li> <li>2. Informing PAP on community consultations</li> <li>3. Direct participation in public consultations</li> </ol>
Tarnobrzeg City Council	<ol style="list-style-type: none"> <li>1. Informing PAP on public consultations</li> <li>2. Direct participation in public consultations</li> </ol>
Entities subject to expropriation	<ol style="list-style-type: none"> <li>1. Determining the needs and losses incurred in connection with the planned expropriation</li> <li>2. Choice of a type and amount of compensation</li> <li>3. Direct participation in public consultations</li> </ol>
Tarnobrzeg City dwellers (including Dzików, Zakrzów, Sielec and Wielowieś)	<ol style="list-style-type: none"> <li>1. Direct participation in public consultations</li> </ol>

#### Public consultations during the stage of issue of Environmental Decision and IPIP

Local community was informed about the planned Contract during the process of issue of administrative decisions:

- Environmental Decision (in a period 26.10.2011 – 19.09.2013),
- Investment Project Implementation Permit (in a period 06.08.2014 – 08.12.2014) and
- Investment Project Implementation Permit (in a period 08.01.2016 – 30.03.2016)

by way of notices posted on websites of the authorities conducting the proceedings (Regional Director for Environment Protection in Rzeszow and Podkarpacki Governor) and as is customary, on publicly available notice boards in areas where the Contract will be implemented.

In addition notice was posted on websites and notice boards at Tarnobrzeg Municipality and Sandomierz Town Hall.

The local community was informed of submitting by PIU relevant applications as well as of issue of Environmental Decision and Project Implementation Permit. This provided the parties with the opportunity to comment on all matters relating to the planned Contract.

On issue of the decision the parties were also informed by the authorities about the possibility to appeal those decisions. No appeals have been filed.

In addition, PAP who own properties on the Site of the Contract implementation have been informed in writing by registered letter of the above.

## 8. INSTITUTIONAL STRUCTURE AND IMPLEMENTATION TEAM

The Diagram below presents the institutional structure of a team preparing this LARAP:

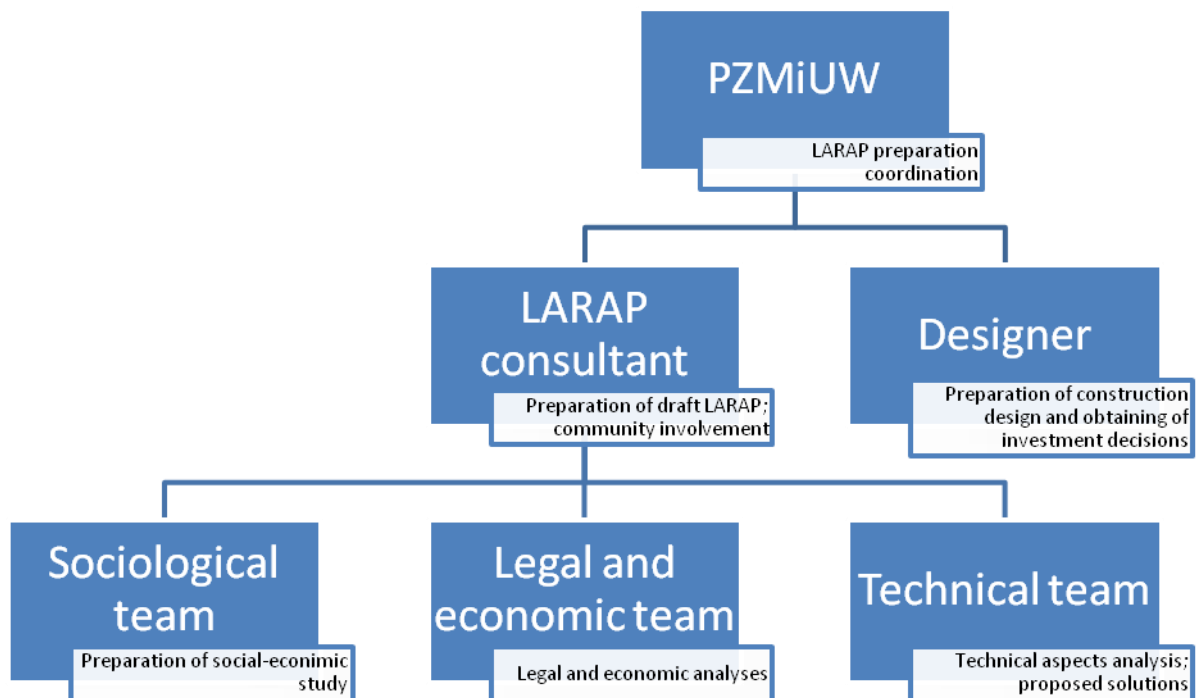


Diagram 1. Institutional structure of LARAP.

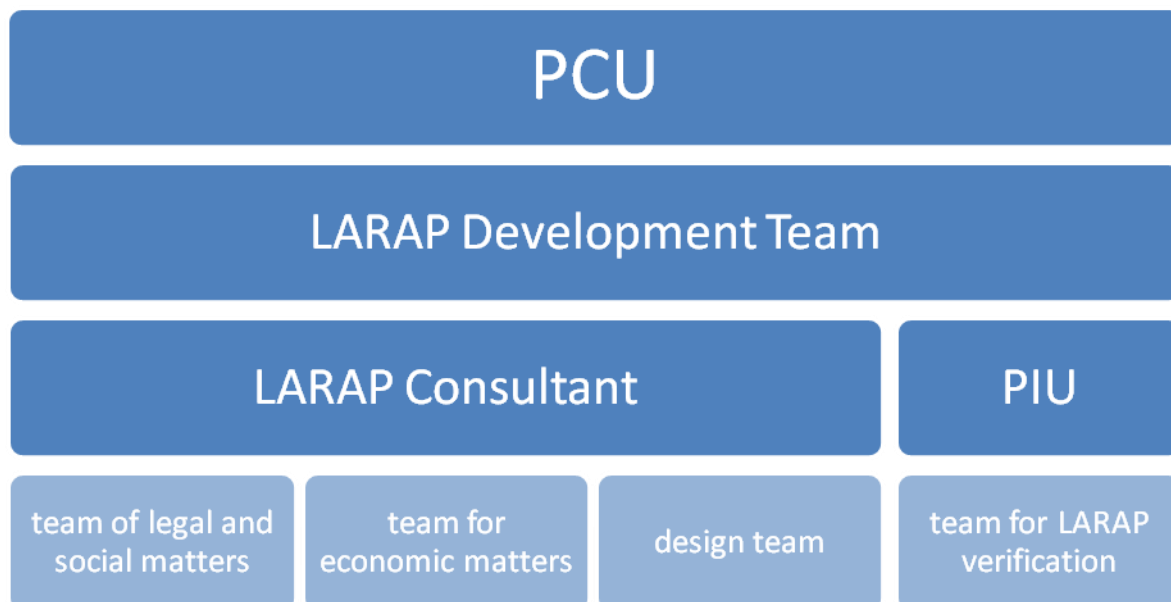


Diagram 2. Institutional structure of LARAP indicating location of PCU in the structure

LARAP Consultant for this document shall be Joint Venture Sweco Consulting Sp. z o.o./ Sweco Nederland B.V./ Artelia Ville & Transport SAS/Artelia Sp. z o.o. /Ekocentrum Sp. z o.o.

The scope of competences of LARAP preparation team is as follows:

1. PZMiUW – coordination of LARAP preparation:
  - a. Supervision over LARAP preparation,
  - b. Ensuring information exchange between LARAP Consultant and Designer,
  - c. Monitoring the process of LARAP preparation.
2. LARAP Consultant – LARAP project preparation:
  - a. Conducting social-economic survey and preparation of social and economic study,
  - b. Collection and analysis of data concerning the development and use of property,
  - c. Designing the plan of community involvement and public consultations; coordination of a public consultation process,
  - d. Preparing the proposal for impact minimisation and technical analysis of such proposals; submitting change proposals concerning the construction design to the PZMiUW,
  - e. Eligibility analysis,
  - f. Preparation of compensation packages,
  - g. Preparation of draft LARAP document,
  - h. Conducting public consultation.
3. Designer
  - a. Preparation of Building Permit Design,
  - b. Obtaining administrative decisions, including Environmental Decisions and IPIP,
  - c. Technical analysis of proposed changes in PB presented by the Consultant.
4. Odra-Vistula Flood Protection Project Coordination Unit
  - a. Provide PIU support and assistance in the application of World Bank requirements and procedures, also during preliminary works relating to LARAP.

LARAP preparation team on the part of LARAP Consultant is not included in the PZMiUW's organisational structure.



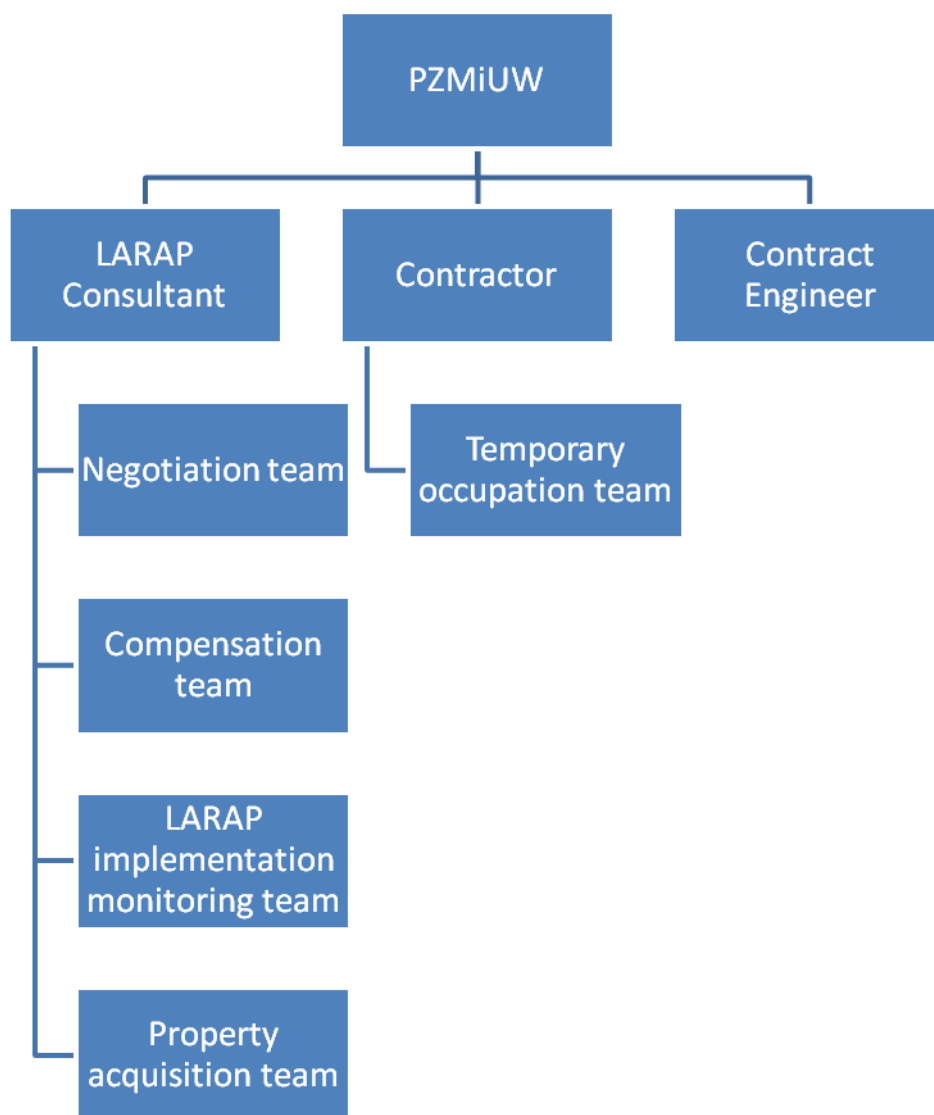


Diagram 3. LARAP introduction team during the Contract implementation period.

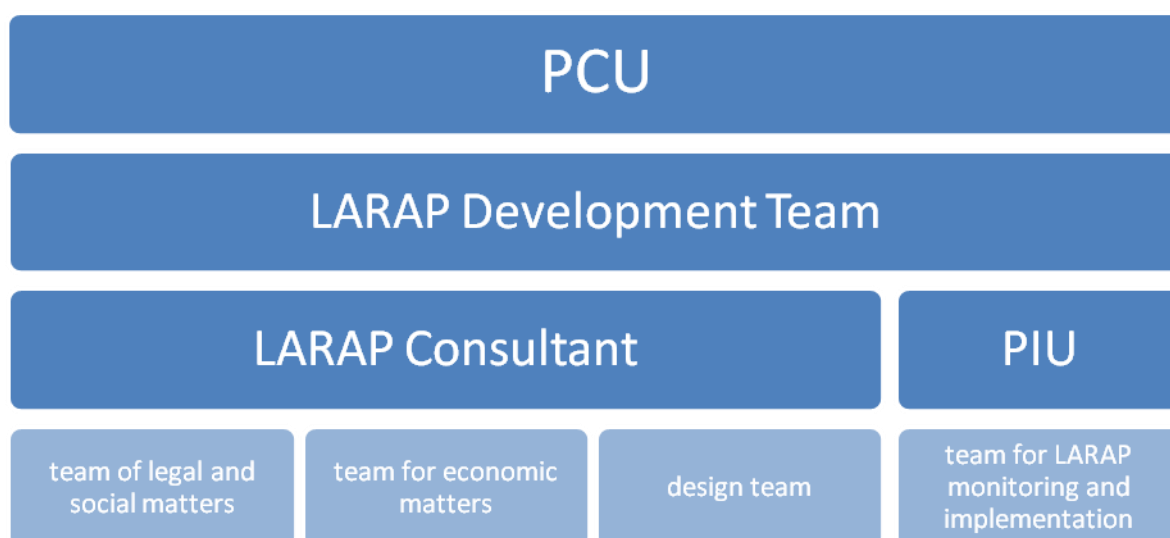


Diagram 4. Institutional structure of LARAP implementation indicating place in PCU structure

The scope of competences of LARAP implementation team is as follows:

1. PZMiUW
  - a. Facilitating supervision over LARAP implementation,
  - b. Concluding agreements on compensation,
  - c. Payment of compensation,
  - d. Ensuring flow of information between LARAP Consultant, Engineer – Consultant and Contractor.
2. LARAP Consultant
  - a. Planning negotiations and participation in negotiations (if needed)
  - b. Verification of valuations conducted by property appraisers (if needed),
  - c. LARAP implementation monitoring by the Contractor and Engineer – Consultant,
  - d. Proposing remedial activities in the event of problematic situations.
3. Engineer – Consultant
  - a. Supervision of the commencement and execution of works,
  - b. Supervision over the fulfilment of obligations by the Contractor.
4. Contractor
  - a. Obtaining access to properties for temporary occupation,
  - b. Payment of compensation for the properties acquired for temporary occupation,
  - c. Execution of works on the property under permanent occupation,
  - d. Reinstatement of properties acquired for temporary occupation to the condition prior to the Contract implementation.
5. PCU
  - a. Coordinate activities carried out by the PIU as part of the implementation of the Project, also during implementation of LARAP recommendations.

## 9. COMPLAINTS AND PROPOSALS MANAGEMENT MECHANISM

For the LARAP project purposes, the rule was accepted that the Project Implementation Unit (PIU) will undertake all measures to settle all complaints regarding the Contract in an amicable manner. Overall procedures for complaints and proposal management are described in detail in the following document: Land Acquisition and Resettlement Action Framework (LARAF) available at: [http://www.odrapcu.pl/doc/OVFMP/Resettlement\\_Policy\\_Framework.pdf](http://www.odrapcu.pl/doc/OVFMP/Resettlement_Policy_Framework.pdf)

### 9.1. Overall rules for complaints and proposals management concerning Permit for Project Implementation (IPIP)

General mechanism for complaints and proposals management will be applied for the following complaints and proposals:

- a) submitted after the IPIP issuance and/or the decision about the amount of the compensation for the expropriated property,
- b) submitted during the public consultations regarding the draft of this Plan,
- c) submitted during IPIP proceedings or the decision about the amount of the compensation directly to the PZMIUW.

With regards to this mechanism, the general rule adopted by the PIU is the right for submission of the complaint or motion regarding this Contract for each person, irrespectively of the fact whether property, rights or assets are placed on the area designed for the implementation of the Contract. Submission of the complaints and proposals is free of charge. Additionally, the person who submits a complaint or motion cannot be exposed to any harms or allegation because of the fact of submission.

All complaints and proposals can be submitted in a written, electronic or oral form to the minutes. They can be submitted directly at the PZMIUW seat or sent by post to the address provided below:

Podkarpacki Board of Land Reclamation and Waters  
in Rzeszów  
ul. Hetmańska 9, 35-959 Rzeszów

or by e-mail to:  
[rzeszow@pzmiuw.pl](mailto:rzeszow@pzmiuw.pl)

All complaints and proposals will be archived in the different register, with the submission dates, response dates and examination manners.

If the examination of a complaint or motion requires the examination and explanation of the case, all needed materials will be collected and all necessary analyses, tests, etc. will be performed. In such case, the response to the complaint or motion will be given within 14 days of the date of its submission to PZMIUW. In case, when the explanatory proceeding will not be needed, the response to the complaint or motion will be given within 7 days of the date of its submission.

In case of very complicated matters and in cases, when the examination of the complaint or motion needs to introduce some changes to the LARAP, the term of the response for the complaint or motion will be extended up to 30 days. If such a term is too short, the interested party will be informed about the reason that the substantive response could not be given within this term and provided with the new term, during which such response will be given.

In the event of the negative settlement of the case, the person submitting a complaint or motion will be comprehensively informed about the reasons of the negative settlement of the case.

Diagram of the general mechanism of the complaints and proposals management is presented below:

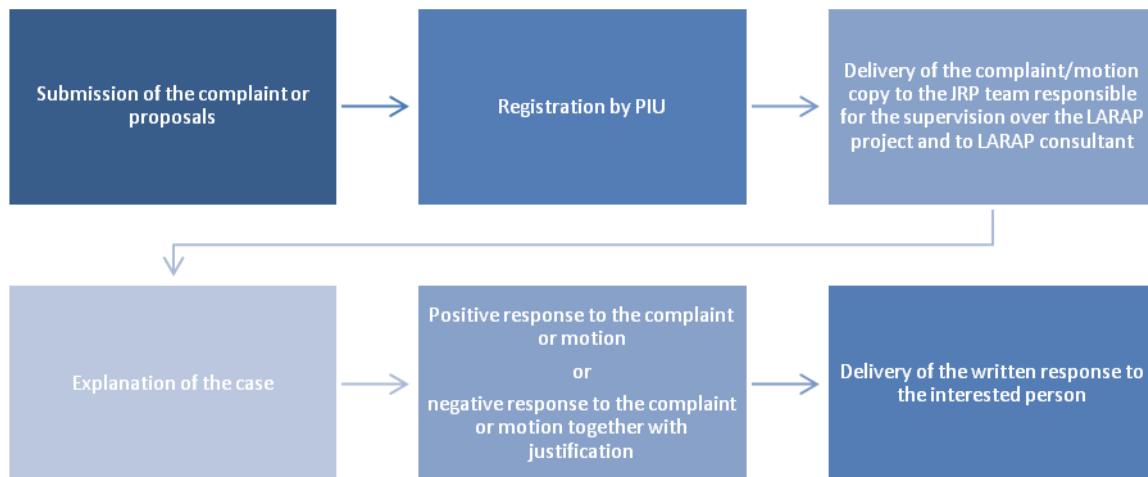


Diagram 5. General mechanism of the complaints and proposals management

## 9.2. Detailed arrangements concerning the complaints and proposals mechanism for the Investment Project Implementation permit (IPIP)

Since final IPIPs has already been issued for this Contract, in addition 80% of compensation has been disbursed for properties expropriated in compliance with law, and the remaining 20% of cases have been submitted to Podkarpackie Governor; thus, the particular mechanisms of complaints and proposals management shall be connected with the proceedings concerning the determination of compensation for the lost right to properties expropriates under law for which compensation amount has not been yet determined. They will be used in the proceedings held concerning the issuance by Podkarpacki Governor of a decision on a compensation amount and in the appeal proceedings before the Minister of Infrastructure and Construction (further: Minister) and administrative court proceedings concerning compensation determined by the Governor and possible complaints connected with the said aspects.

If respective parties are dissatisfied with a decision issued by Podkarpacki Governor, they shall be entitled to appeal against such a decision to the Minister. In case of dissatisfaction with the decision of the Minister, the parties enjoy the right to submit an appeal to the competent Province Administrative Court in Rzeszów within 30 days of the date of receiving a decision duplicate. The Court shall examine if the minister has conducted the procedure in this scope in a relevant and reliable manner, taking into account remarks, proposals and evidence reported by the parties to the procedure. In accordance with binding legal regulation, the appeal is subject to the court fee in the amount of PLN 500.00. Moreover, the losing party is obliged to refund to the other party the cost of court proceedings.

In case when the decision of the Province Administrative Court is not satisfactory to a party, they enjoy the right of the cassation appeal to the Supreme Administrative Court. The said court shall examine not only the correctness and legality of the procedures run by the Governor and the Minister, but also the decision of the Province Administrative Court. The cassation appeal is subject to a court fee in the amount of PLN 250. Moreover, the losing party is obliged to refund to the other party the cost of court proceedings.

**NOTE:**

Reservations reported by the Parties at the stage of negotiations were archived and submitted to Podkarpacki Governor, including the appraisals. Such documents shall form a basis for issuing a decision by the Governor on the amount of compensation.

In the proceedings held by the Governor, the parties to the proceedings concerning issuing a decision determining a compensation amount shall be entitled to free of charge and active participation in the said proceedings and to submit comments and proposals. The remarks and proposals shall be submitted directly to the body conducting the proceedings. In case when a given remark or motion requires an answer on the part of the PZMiUW, it shall immediately present its opinion on the case and hand it over to a competent body. The answers of the PZMiUW shall be served via the body conducting the proceedings.

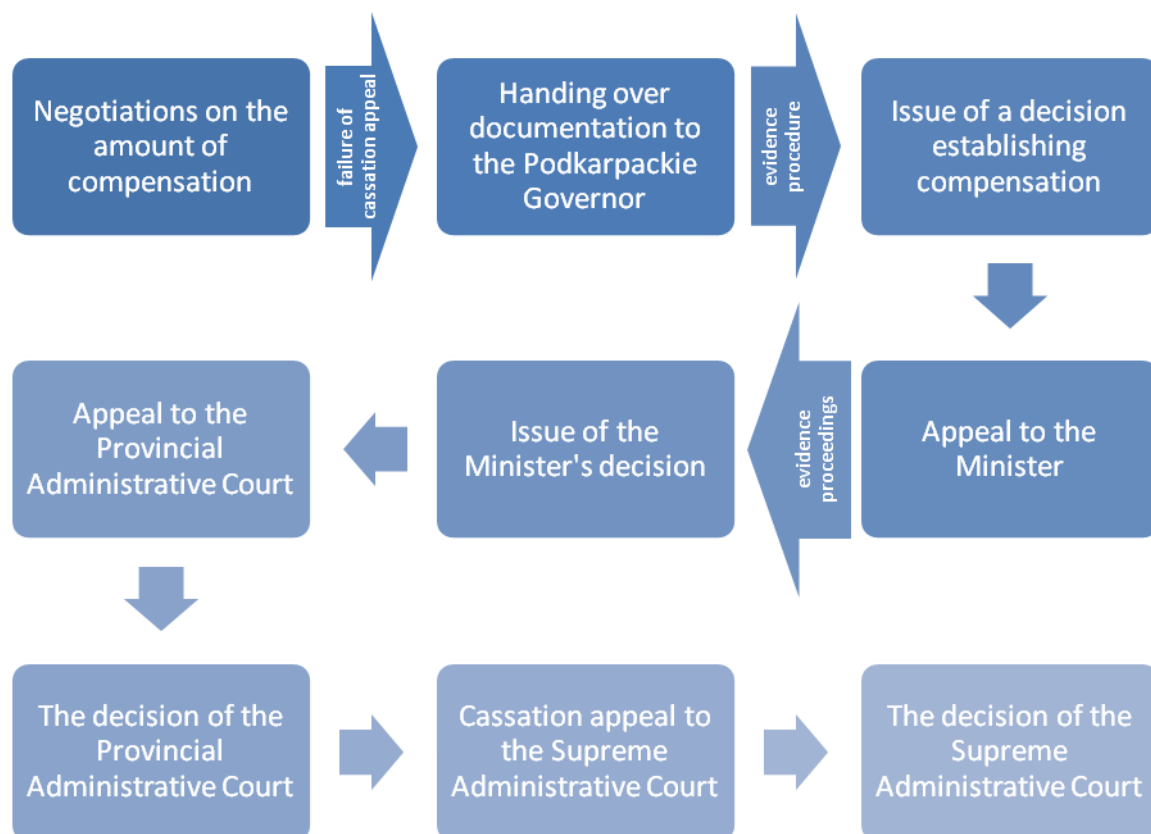


Diagram 6. Complaint management mechanism at the stage of issue a decision on a compensation amount (upon issuing IPIP and its finality).

### 9.3. Mechanism of submitting complaints and proposals concerning execution of the Contract

Mechanism of submitting complaints and proposals concerning construction and assembly works carried out by the Contractor shall be implemented at the beginning of the entire process and shall be binding throughout the implementation, operation and conclusion of the Contract.

#### 9.3.1 Location and means of submitting complaints and proposals

A complaint or a proposal may be submitted by a party in one of the following three locations:

1. Directly at the Project Office which will function as a consulting centre:

Office of the Engineer-Consultant:  
.....  
....., Poland

2. Directly in the seat of the Employer:

Podkarpacki Board of Amelioration and Hydraulic Structures in Rzeszów  
ul. Hetmańska 9, 35-959 Rzeszów

In addition, complaints and proposals may be submitted:

- By means of post to the above provided address, or
- Via Internet:

website [www.pzmiuw.pl](http://www.pzmiuw.pl);  
e-mail: [piu@pzmiuw.pl](mailto:piu@pzmiuw.pl)

- Info line – complaints may be submitted under the following telephone number:  
+48 15 822 51 12  
+48 17 85 37 458  
fax: +48 17 85 36 421

### 9.3.2 Due dates for considering complaints and proposals

Due dates for considering complaints and proposals:

- confirmation of receiving a complaint: within 7 days of the incoming date of a complaint.
- proposed solutions: within 30 days of the incoming date of a complaint.

The rules for considering complaints and proposals, referred to in Point 9.2, shall be binding also in the case of such complaints.

The mechanism of considering complaints is presented in Diagram 5.

Proposed form of complaint registration is presented in Point 12.

### 9.3.3 Persons responsible for considering complaints and proposals

A unit (Community Consultant) will be appointed within the Contract organisational structure which will be responsible for contacting the public and processing social complaints. This unit shall also include one person from the Engineer - Consultant's team with competences and experience needed within this scope.

### 9.3.4 Audits and independent appeal mechanism

It is anticipated to conduct periodical (once per six months) internal audits of the effectiveness of the “mechanism of complaints” for the purpose of assessing the effects of the system implemented.

## 10. MONITORING AND ASSESSMENT

Monitoring of the LARAP implementation is the integral part of the contract monitoring and management system. For this reason, tools for contract implementation monitoring that are used for reporting to the financial institutions and providing actual information about the problems, random events and irregularities will be used for the needs of the LARAP implementation monitoring. LARAP is an integral part of the Contract implementation process ensuring the immediate decision in case of problems or irregularities. The provision of proper communication between a consultant and PIU is also fundamental.

General monitoring and assessment procedures are described in detail in the following document: Land Acquisition and Resettlement Action Framework (LARAF) available at: [http://www.odrapcu.pl/doc/OVFMP/Resettlement\\_Policy\\_Framework.pdf](http://www.odrapcu.pl/doc/OVFMP/Resettlement_Policy_Framework.pdf)

Diagrams of information flow as part of monitoring are presented below.



Diagram 7. Information flow as part of monitoring

Key indicators which will be monitored in reference to Contract fulfilled by PZMIUW:

Table No. 4. Monitoring Indicators for the Contract fulfilled by PZMIUW

Indicator	Information source	Monitoring frequency	Progress indicator
<b>Assumed parameters</b>			
Number of properties subject to expropriation	IPIP	One time upon issuing the decision	Quantity (pcs.)
Number of properties subject to permanent limitation	IPIP	One time upon issuing the decision	Quantity (pcs.)
Number of PAP: - Legal land owners - Holder of usufruct rights - Owner – like possessors of properties that can receive title - Others (if any)	Land and Mortgage Register, excerpted from Register of Land and Buildings, IPIP decision	One time upon issuing the decision  On-going updating in the period of determining and paying compensation	Number
Amount of all the expenditures on resettlement, among other compensation (planned)	Registers of PZMIUW / Consultant	Monthly / Quarterly	PLN
Number of acquired properties	Registers of PZMIUW / Consultant	Monthly / Quarterly	Quantity (pcs.)
<b>Achieved parameters</b>			
Amount of all the expenditures on compensation (expenditures)	PZMIUW financial registers	Monthly / Quarterly	PLN
Number of acquired properties	Registers of PZMIUW / Consultant	Monthly / Quarterly	Quantity (pcs.)
<b>Effectiveness indicators</b>			
Number of complaints	Registers of PZMIUW / Consultant	Monthly / Quarterly	Quantity (pcs.)
Compensations paid, other	PZMIUW financial registers	Monthly / Quarterly	PLN

NOTE: The process of acquiring properties for temporary occupation (except plot No. 803/1) will be the sole obligation of the Contractor, but ensuring compliance with the requirements under this LARAP will be the responsibility of the PZMIUW.

Monitoring results will be presented in the monthly and quarterly reports.  
The ex-post evaluation will be conducted six months after the RAP is fully implemented and its objectives will be assessed and provide documented evidence



## 11. COSTS AND FINANCING SOURCES

Item	Unit	Unit Price	Quantity	Total, PLN
Area of land occupied permanently: cultivation, plants and infrastructure*	not applicable	not applicable	11.5309 ha	PLN 1 091 022.10
Permanent limitations in the property operation	Number	No data***	1	No data***
Court fees****	not applicable	not applicable	13 plots (11 applications)	PLN 3 100
Implementation costs of LARAP**	not applicable	not applicable	not applicable	PLN 25 000
TOTAL				PLN 1 119 122.10

\*actual costs resulting from the prepared quotations

\*\*costs of an informative campaign (correspondence with PAP), costs of postal orders for PAPs without a bank account, etc.

\*\*\* compensation shall be established by an independent property appraiser and paid before the actual occupation of the area

\*\*\*\* situation as of 31.05.2016.

Partly the financing source for the costs indicated above shall be the funds from the State budget and partly from the loan granted by the World Bank (Loan Agreement No 8524 PL).

## 12. APPENDICES

### 12.1 Form for submitting complaints to the Consultant (based on the WB guidelines)

Case Ref. No:	
<b>Name and surname</b> <i>Note: a complaint may be submitted anonymously or an applicant may demand not disclosing its personal details to any unauthorised persons without such an applicant's consent</i>	Applicant's name _____ Applicant's surname _____ <input type="checkbox"/> I want to place a complaint anonymously I request not disclosing my personal details without my consent
<b>Contact details</b> <b>Please indicate how to contact the Applicant (by e-mail, telephone, post)</b>	<b>By post (please provide a correspondence address):</b> _____ _____ _____ _____ _____ <b>By telephone:</b> _____ <b>By e-mail:</b> _____
<b>Preferred communication language</b>	Polish German English Other (please provide such a language) .....
<b>Description of the object of a case or complaint</b> Object of a case / complaint, date of occurrence, location, people involved, effects	
_____ _____ _____ _____ _____	
<b>Date of the occurrence of the object of a complaint / case</b>	<b>Single occurrence / complaint</b> (date _____) Occurred more than once (provide the number: _____) Pending (existing problem)
<b>According to the Applicant, what activities would ensure solving such a problem?</b>	
_____ _____ _____ _____ _____	
Signature: _____ Date: _____ <b>Please submit this form to:</b> [Name]      OHS Inspector      [Company name]	
<b>Address</b> <b>Phone:</b> <b>or E-mail:</b> _____ _____ _____	

## **12.2 Drawing – Contract's Location**

Attach. No. 1 - Attached in an electronic version on a CD.

## **12.3 Table of tracking a progress in obtaining properties**

Attach. No. 2 - This table is attached in an electronic version on a CD. This attachment may not be made public due to protection of personal data.

## **12.4 Property acquisition schedule**

Attach. No. 3 - This schedule is attached in an electronic version on a CD.

## **12.5 Table – summary of a progress in obtaining properties**

Attach. No. 4 - This table is attached in an electronic version on a CD.

## **12.6 Maps with demarcation lines on the Project's area (7 sheets)**

Attach. No. 5 - The said maps are attached in an electronic version on a CD.

## **12.7 Report on the Public Consultation**

Attach. No. 6 - The said Report is attached in an electronic version on a CD. This attachment may not be made public.

### 13. LIST OF APPLICABLE DOCUMENTS

1. DOCUMENT OF THE PROJECT ASSESSMENT CONCERNING THE LOAN OFFERED IN THE AMOUNT OF EUR 460 MLN (EQUIVALENT OF USD 504 MLN) FOR THE REPUBLIC OF POLAND ODRA-VISTULA FLOOD MANAGEMENT PROJECT 1 July 2015 (official English version).
2. BP DESIGN Vistula River - Stage 1 – Extension of the river right bank at km 5+950 – 15+819 section from Tarnobrzeg (Skalna Góra) to Koćmierzów (border of Podkarpackie Province and Świętokrzyskie Province).
3. DECISION No. 4/14 of Podkarpacki Governor of 8 December 2014 on permission for the Investment Project implementation within flood management structures (Ref. No I-IX.7820.3.2.2014).
4. DECISION No. 1/2016 of Podkarpacki Governor of 30 March 2016 on permission for the Investment Project implementation within flood management structures (Ref. No I-IX.7820.3.1.2016).
5. DECISION No 3/16 of Tarnobrzeg City Mayor of 14 March 2016 approving of the construction design and granting permit for the building demolition.
6. Handbook for Preparing a Resettlement Action Plan, INTERNATIONAL FINANCE CORPORATION A Member of the World Bank Group, 2001.
7. GUIDELINES FOR THE PREPARATION OF A Resettlement Action Plan, MINISTRY OF LANDS June 2003.
8. WB Policy on Disclosure of Information, Section III, Paragraph 34; and Operational Policy 4.12: Involuntary Resettlement (December 2001)  
(<http://www1.worldbank.org/operations/disclosure/policyIII.html>;  
<http://wbIn0018.worldbank.org/Institutional/Manuals/OpManual.nsf/OPolw/CA2D01A4D1BDF58085256B19008197F6?OpenDocument>) July 2 2005.