

RESETTLEMENT ACTION PLAN for MK TTFES II

Description of the specific activities under the project that require land acquisition

1. The objective of the TTFSE II project is to facilitate movement of rapidly expanding trade along major TEN-T corridors, focusing on Corridor X¹ and on enhancing inter-agency, cross-border agency and private sector coordination of international transport documents processing. To achieve this objective, Component 1 of the project focuses on infrastructure improvement of a short section of Corridor X in Macedonia from the BCP Tabanovce (north border to Serbia and Montenegro) to the city of Kumanovo in total length of 7.3 km. This road section will be upgraded to 4-lane motorway standards along the existing alignment and civil works will include the construction of the additional lanes.

Objectives of the Resettlement Plan

2. Development projects that involve involuntary land acquisition and resettlement can cause long-term hardship, impoverishment, and environmental damage unless appropriate measures to mitigate these impacts are applied. This Resettlement Plan (RAP) provides details on the likely impacts resulting from land acquisition for the above mentioned activities and the mitigatory measures that will be put in place to address these adverse impacts.

3. The main objectives of the RAP are to:

- Provide details on the policies governing land expropriation, the range of adverse impacts and entitlements
- Present a strategy for achieving the objectives of the resettlement/ land acquisition policy
- Provide a framework for implementation of the stated strategies to ensure timely acquisition of assets, payment of compensation and delivery of other benefits to project affected persons (PAP)
- Provide details on the public information, consultation and participation, and grievance redress mechanisms in project planning, design and implementation
- Provide identified sources and estimates of required resources for implementation of the RAP
- Provide a framework for supervision, monitoring and evaluation of resettlement implementation.

¹ Corridor X = Belgrade - Nis - BCP Tabanovce - Skopje - BCP Bogorodica - Thesaloniki and branch Xd = Pristina - BCP Blace - Skopje.

Legal framework for land expropriation in Macedonia and fit with World Bank Operational Policy [OP 4.12]

4. The Land Expropriation Act dated 1995 governs the expropriation process in Macedonia. This Law was slightly amended in 1998, 1999, 2003 and 2005. These together defines the procedures for expropriation of immovable property in Macedonia. The expropriation of private properties is done only for a public interest and with fair compensation. The Land Expropriation Act (1995) vests authority in the name of the State, Funds, Public Enterprises, and Municipalities to acquire land required by the Government for public purposes. The term “public purpose” is defined.
5. For land acquisition in road projects, the Roads Fund submits expropriation proposals to the Local/ Regional Offices of Property Administration (within the Ministry of Finance). The expropriation proposal shall contain information about the purpose of expropriation, details on the real estate to be expropriated, the names and addresses of the owners of the real estate, evidence of the ownership over the real estate that is offered as replacement for the expropriated real estate and evidence for the secured funds that shall be used as compensation for the expropriated real estate.
6. Eight days from the submission of the expropriation proposal, the Local/ Regional Offices of Property Administration shall invite the owner, the carriers of other property rights over the real estate and the user of the expropriation for negotiations. The purpose of the negotiations is to determine the existence of a public interest, the veracity of ownership/ property rights, the nature and amount of the compensation etc. The law provides scope for appeal against the decision for expropriation to be submitted to the Commission of the Government of the Republic of Macedonia. These consultations go on until agreement is reached on the amount of compensation – if the concerned parties cannot agree, appeals are made to the Supreme Court regarding the amount of compensation and date of expropriation. The Roads Fund shall acquire the tenure right over the expropriated real estate 15 days after the date of the settlement (agreement).
7. The compensation price is determined with the help of qualified property assessment experts. The offer price for land is calculated based on a situation-specific formula that takes into account the market value of the affected property. There is also a process of open and transparent negotiation before expropriation proceedings begin that ensure that the final agreed price corresponds to the World Bank’s requirement of “replacement value” enabling the project affected person to purchase land of similar quantity and quality. Owners also have the right to receive market-price based compensation for trees, seedlings, crops and forests etc.
8. Depreciation is used in calculating the offer price of structures. This is not consistent with the principle of replacement value as suggested by O.P 4.12. It is not expected that there will be major structures that will need to be acquired in the project site. In the event that there are structures (barns, kiosks, small commercial buildings etc.,) that will need to be demolished, “depreciation” will not be used while calculating the compensation payable for affected structures, so that affected people will be able to replace their structures with the compensated amount.

9. The Roads Fund is obliged to make the compensation payments within 30 days from the date of signed agreement or court decision, if any? If compensation cannot be paid or deposited within the deadline, interest will be paid at market rate on the amount awarded from the date of award till the date of payment. Compensation for lost assets shall be provided before these are taken into possession.

10. While World Bank OP 4.12 embodies the principle that a lack of legal land title does not disqualify people from resettlement assistance, under relevant Macedonian legislation, discrepancies with this principle arise. However, within the scope of this project, the sites are not occupied by large illegal settlements; neither are there individuals that have multiple or competing or illegal claims to land in the project area. All project affected people in the area whose land have to be acquired have legal titles, according to the updated land ownership report prepared by the State Cadastre Office (Kumanovo branch).

Valuation of assets

11. The valuation of land is established by a committee of valuation experts hired for the purpose. Comparable data on prices are gathered through consultation with Public Revenue Office whose data from recently concluded contracts on sale and purchase of land in the region are extracted. The market value which the Road Fund proposes to provide reflects adequate compensation for the asset to be expropriated. It must be noted that active markets for land and housing exist and not only people do use such markets, there is also sufficient supply of both land and housing. The Road Fund considers that the market values proposed are fair and reasonable and will be adequate for the affected people to purchase alternative land of the same size and quality within the region.

12. Buildings are valued based on the price of construction material with which they have been built. The market price remains the most reliable way to evaluate buildings also having a commercial use, i.e. kiosks, shops, workshops or commercial enterprises.

Description of the consultations with affected/displaced persons

13. Information dissemination and consultation with the PAPs reduces the potential for conflicts, minimises the risk of project delays, and enables the project to include resettlement and rehabilitation as a comprehensive development programme to suit the needs and priorities of the PAPs. Specific objectives of the public information campaign and public consultation were (i) to fully share information about the proposed project, its components and its activities, with affected people; (ii) to obtain information about the needs of the affected people, and their reactions to proposed policies and activities; (iii) to ensure transparency in all activities related to land acquisition and compensation payments.

14. The Fund for National and Regional Roads held several meetings with the local population in the period between January and February 2007. Around 80 representatives from the local communities, persons whose properties will be expropriated for the construction of the Tabanovce – Kumanovo motorway, the persons affected by the exhuming of the graves, representatives from the relevant church authorities – Kumanovo and personnel from the Department for Property Issues in the Municipality of Kumanovo, took part in the meetings and public debates.

15. The basic technical characteristics of the route and of the structures, the expropriation line of the route and maps were presented. One of the discussion points raised related to the access of the settlements with the motorway. The technical solutions for the connections with the motorway were presented and were accepted by the representatives present at the meeting. The issue relating to the amount of the compensation for the expropriated land, the manner and the procedures of the expropriation process raised most interest. The representatives of the Department for Property Issues of the Municipality of Kumanovo, the expert for assessment of the value of assets, and representatives of local communities took part in the discussion on these issues. The manner and the process of the expropriation were fully explained and the community did not have issues or problems with the approach or the method for assessing value or payment of compensation.

16. One of the most sensitive issues was regarding the dislocation of 17 (seventeen) old graves on the village cemetery in Recica. On the previous meeting we had talked with the competent Bishop of the Kumanovo region, the Metropolitan Kiril and with the relevant church authorities in Kumanovo. The competent priest and the technical documentation proved that the 533 m² of land which has to be expropriated, and where the cemetery is situated, is registered in the cadastre as church property. The Fund for National and Regional Roads will pay the church compensation of 5 EUR for m², and the church will use those funds to buy other piece of neighboring land for dislocation of the graves which are affected with the construction of the motorway, as well as for extension of the existing cemetery. The Fund for National and Regional Roads confirmed that it will bear all the expenses for exhumation of the graves i.e. displacing of the graves from the existing to another location. For that purpose, the church will prepare calculation for each grave, and on that bases the dislocation costs will be paid. This approach was accepted by the representatives interested for the dislocation.

17. The socio-economic survey of 102 affected households revealed that 100% of the respondents were aware of the project prior to the survey taking place. Project authorities will ensure that local authorities, as well as representatives of PAPs, will be included in the implementation process. The project team has held additional meetings (during project appraisal) to further discuss compensation levels and time schedule for payment and implementation of civil works, procedures of grievance, and mechanisms for monitoring and evaluation. The project authorities will continue the dialogue with local officials and representatives of the PAPs during the project implementation process. PAP participation would also be ensured during final assessment of compensation and monitoring.

A census of affected persons and inventory of losses

18. The majority of land affected is state-owned land i.e. 63.5% due to the fact that the proposed alignment follows the alignment of the existing road. There are 294 owners affected by the Project, and the most of them will lose part of their agricultural land. No residences are adversely affected; so there will be no physical displacement of persons. There are no buildings that will need to be demolished --- there is one gas station that sits along the side of the current road, but the building will not be affected by the Project either. A census of persons affected is available in the Project files. The following tables indicate the degree of impact and an inventory of losses.

Table 1: Inventory of Losses (private property)

LOSS	MAGNITUDE
Agricultural Land	102,337 sq.m
Meadows	9,027 sq.m
Vineyards	7,408 sq.m
Trees	795
Standing crops	--
Residential Buildings	--
Commercial Buildings	--
Graves	17
Other Public Infrastructure	--

Table 2: Categories of Households Affected

CATEGORIES	NUMBER OF HOUSEHOLDS AFFECTED
Partly lose agricultural land [less than 70% of their total holding]	102
Fully lose residences	--
Partly lose residences	--
Partly lose commercial land	--
Fully lose commercial land	--
Fully lose commercial structures	--
Partly lose commercial structures	--

The Entitlement Matrix and Eligibility of affected persons

19. The definitions used in this Resettlement Plan are:

1. **“Census”** means the head count of the persons affected by land acquisition in terms of asset loss, together with an inventory of the assets lost by these persons.

The census also includes basic socio-economic data. The date of the census establishes the cut-off date to record the persons in a community project area, who can receive compensation for lost assets, and/or resettlement and rehabilitation assistance.

2. “**Compensation**” means the reparation at market rates (which is equivalent to replacement cost) in exchange for assets acquired by the Project.
3. “**Cut-Off Date**” means the date after which no person moving into the project area will be eligible to receive compensation related to land acquisition and resettlement. The cut-off date is the date of the census of the persons affected by land acquisition.
4. “**Rehabilitation Assistance**” means assistance comprising job placement, job training, or other forms of support to enable displaced persons, who have lost their source of livelihood as a result of the displacement, to improve or at least restore their income levels and standard of living to pre-project levels.

20. The matrix below defines the eligibility for compensation and/or rehabilitation assistance for impacts/losses for different types of assets for different categories of project affected persons.

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PERSON	COMPENSATION ENTITLEMENT
AGRICULTURAL LAND	No displacement: <ul style="list-style-type: none"> • Less than 70% of land holding affected, • The remaining land remains economically viable 	Farmer/title holder	Cash compensation for affected land equivalent to market value
	Displacement: <ul style="list-style-type: none"> • More than 70% of land holding lost 	Farmer/title holder	<ul style="list-style-type: none"> • Not applicable
COMMERCIAL LAND	Not applicable		
RESIDENTIAL LAND	Not applicable		
STRUCTURES	Not applicable		
TREES	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees.
TEMPORARY ACQUISITION	Temporary acquisition	PAP (whether owner, tenant, or squatter)	Cash compensation for any assets affected (e.g. boundary wall demolished, trees removed)

21. Project affected people (PAP) includes any household who at the cut-off date of the project (i.e. at the date of conducting the census and baseline survey) are residing or deriving an income from the project area, and because of the project, would lose land, or any other movable or fixed assets, in full or in part, temporarily or permanently, or have their business, occupation, place of work or residence adversely affected. Lack of legal

rights will not bar affected people from entitlement to compensation for their lost assets (improvements including structures, houses, crops, trees and other fixed assets). The land ownership information prepared by the State Cadastre Office (Kumanovo branch) clarified that there are no illegal encroachers on land, who occupy, reside and cultivate land that does not belong to them in the project area.

22. PAPs suffering partial loss of agricultural or commercial land or structures will be entitled for full compensation for the entire affected assets at replacement cost paid in cash.

Procedures for grievance and institutional responsibility for implementation and redress

23. There are two types of complaints. The first one is a complaint to the act of expropriation submitted to the second stage commission of the Government. If the owner is not satisfied with the decision of this commission, he/she can start an administrative court case at the Supreme Court. The second type of complaint is when the owner is satisfied with the decision for expropriation, but not with the offered price. In that case a complaint is submitted to the regular court in the municipality where the expropriation takes place.

24. The overall activity and responsibility for resettlement and expropriation policy on road infrastructure civil works remains under the authority of Fund for National and Regional Roads in cooperation with the Ministry of Finance - Local/ Regional Offices of Property Administration. Regardless of the source of financing for the contract civil works, the financial responsibility for resettlement and expropriation procedures is under the budget of the Fund for National and Regional Roads. The FNRR is responsible for the preparation and implementation of all the necessary steps concluding with the submission of the expropriation dossier required by Macedonian Expropriation Law.

25. The FNRR is responsible for following up and concluding the compensation procedures for the people to be compensated.

26. The institutions and responsible agencies for the co-ordination of all the activities, policy of compensation rights, and execution of compensation are as follows:

- ③ Ministry of Finance - Local/ Regional Offices of Property Administration.
- ③ FNRR: Commission for Expropriation Procedures, Juridical Department, Economic Department, Technical Department;
- ③ Cadastral Department in Kumanovo;

27. The FNRR, State Cadastre Office (Kumanovo branch) and the Ministry of Finance - Local/ Regional Offices of Property Administration. have agreed to act together for all complaints and problems presented by local affected people regarding RAP during the entire process. They will act as liaison, informing the FNRR and relevant Institutions and Agencies responsible for redressing all grievances and

complaints. Solutions to grievances related to compensation amounts, delays in compensation payments or provision of different types of resettlement assistance will be pursued directly by the designated staff in FNRR through liaison with the relevant actors. FNRR staff will ensure that community members and in particular PAPs are informed about the avenues for grievance redress, and will maintain a record of grievances received, and the result of attempts to resolve these (see Annex 1). This information will be entered into the FNRR's Management Information System (MIS) and be included in the regular progress reporting. The FNRR office will also maintain a report on inventory of assets and compensation paid for monitoring purposes (see Annex 2 on Reporting Format for Land Acquisition & Resettlement (Inventory of Assets Lost, & Delivery of Compensation)).

A time-bound implementation plan and budget.

28. Expropriation costs are financed from the FNRR budget funds. Estimated budgets are submitted on an annual basis by the FNRR to the Ministry of Finance. Then with the Central Budget it is submitted to the Council of Ministers, which, after approval, submits it to the Parliament for final approval. Once the overall budget has been approved, FNRR allocates the appropriate funds to different road construction sections. Funds are released by the FNRR after the Government approval of the annual program. FNRR estimates that \$1.5 million Euro is budgeted for expropriation purposes. Civil works will not commence until compensation has been paid to all affected people from the project.

29. A time-bound Implementation schedule is attached below in Annex 3.

Annex 2: Reporting Format for Land Acquisition & Resettlement (Inventory of Assets Lost, & Delivery of Compensation)

Project name and location: _____

Date: _____

Name of PAPs	Inventory of Assets acquired through land acquisition and value of compensation awarded												Resettlement and Rehabilitation		Compensation		
	Agricultural Land			Meadow Land ²			Vineyards			Other Assets			RA ⁷	SK Or JB ⁸	Total value of Comp ³	Date Of Com ⁴	Date of Poss ⁵
	<70%	>70%	CV ⁶	Partly	Fully	CV	Partly	Fully	CV	Trees /crops	Temp.	CV					

² **Partly** = No resettlement since the land is partially affected, and the remaining land remains viable for present use. **Fully** = Resettlement since the land is severely affected, and the remaining area insufficient for continued use.

³ **Total value of Com(pensation)** = The total monetary value of compensation for different types of lost assets.

⁴ **Date of Com(pensation)** = The date on which the compensation payment was made to the PAP.

⁵ **Date of Poss(ession)** = The date on which the assets acquired were physically taken into possession for the community project.

⁶ **CV** = Compensation Value at replacement costs assessed in Jamaican Dollars

⁷ **RA** = Addl compensation until next harvest.

⁸ **SK** = Skills training, and **JB** = Job placement for displaced PAPs who have experienced a decline in income as a result of the expropriation, and who need assistance regarding income restoration.

