

## **Resettlement Policy Framework for the Albania Education, Excellence and Equity (EEE P078933)**

### **Project Background**

1. The Albania Education Excellence and Equity Project (EEE-P) supports the Government of Albania in the implementation of the first phase of Albania's National Education Strategy (NES). The objective of EEE-P is improved quality-of-learning conditions for all students and increased enrollment in general secondary education, especially for the poor. Priority areas are: (i) strengthening leadership, management and governance of the education system, (ii) improving conditions for teaching and learning, (iii) improving and rationalizing education infrastructure, especially in secondary education and (iv) setting the stage for higher education reform. While not foreseen at appraisal, Priority iii would include school rehabilitation, expansion and new construction.<sup>1</sup> The project supports implementation of the priority areas of the NES during 2006-2010 through a Specific Investment Loan (SIL) using a sector-wide approach (SWAP). Annual reform programs (ARP) are developed within the framework of the NES. The EEE-P pools funds with the MOES annual reform program budget together with other donors, namely the European Investment Bank (EIB) and the Council of Europe Development Bank (CEDB).

### **Objectives of the RPF**

2. The purpose of the present Resettlement Policy Framework (RPF) framework is to clarify land acquisition and resettlement principles together with organizational arrangements under the Albania EEE Project. The area of impact of subprojects cannot be determined in advance because the site locations and designs of new school construction included under all work plans are not yet finalized. The present RPF was prepared consistent with the World Bank O.P 4.12 on Involuntary Resettlement as a guide to the preparation of specific resettlement plans. For successive investments carried out under various annual work plans at the various Municipalities and financed by the Bank, specific Abbreviated Resettlement Plans (ARPs)<sup>2</sup> following the principles included in this RPF shall be submitted to the Bank for approval when detailed investment planning information and the scope of the civil works become available and, in all cases, prior to beginning construction.

### **Components for which Land Acquisition and Resettlement are Required**

3. The designs for specific investments are being determined during project implementation. Land acquisition and resettlement, if any, caused by the activities supported under the Project will be carried out following procedures specified in World Bank Operational Policy (OP) 4.12 and Bank Procedures (BP) 4.12 on Involuntary Resettlement. In the event of a discrepancy between Albanian jurisprudence and Bank policy, the latter will prevail. These procedures are further

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<sup>1</sup> The project originally aimed at financing design work only; however, at the request of the Borrower, and having verified the need for such investments, the Bank has agreed to finance construction costs as well. This would be formalized in an amendment to the Financing Agreement to be finalized by June 2009.

<sup>2</sup> The resettlement action plan (RAP) is the standard resettlement instrument. However, in cases where the total number of people resettled is less than 200, an abbreviated resettlement plan (ARP) may be used.

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specified in the following sections which also provide detailed guidance regarding documentation and impact assessment.

**Principles and objectives governing the RPF**

4. Resettlement is defined in Bank Policy as the displacement of residents, owners, renters, businesses and other economic activities caused by the taking of land in order to achieve project objectives. All displacement is considered to be involuntary when the affected parties do not have the option to remain in place or retain ownership or control their land. Involuntary resettlement may lead to loss of shelter, assets or access to assets, loss of income sources or means of livelihoods as well as disintegration of social ties, hardship and impoverishment. Taking of land necessary for the fulfillment of project objectives is covered by this Policy Framework regardless of whether it is financed directly by the World Bank.

5. The primary objective of this framework is to reduce the adverse impact of involuntary resettlement on people and to allow them to share in the benefits of development. The basic principles encompassed by Bank Policy are (i) land acquisition causing involuntary resettlement shall be avoided or minimized, and feasible alternative project designs will be explored.(ii) where it is not possible to avoid resettlement, displaced persons will be consulted in advance of site preparation or construction and assisted in their efforts to restore or improve their livelihoods and standards of living to levels prevailing prior to the beginning of project implementation.

6. The objective of this RPF is to ensure that, where land acquisition is unavoidable, project affected persons (Affected persons) will be compensated within the framework of Albanian law for lost assets at replacement cost, and, in the event of displacement, be provided with assistance to help them restore or improve their livelihoods and standards of living to pre-displacement levels. To support this objective, the following guidelines will apply:

- a. During the sub-project preparation process, consideration of technical options shall include an assessment of the need for land acquisition, so that design alternatives to minimize such impacts can be identified as early as possible. ARPs shall briefly document the alternatives considered (e.g. site selection, architectural design, use of site) and the reason for the choice of the selected alternative.
- b. Consultation during sub-project preparation shall be transparent and inclusive aimed not only at providing information but also considering issues raised by the affected people themselves;
- c. Lack of formal title/ ownership document for lost assets (land/house/business) does not preclude an affected person's right to assistance to achieve the objectives of this Framework;
- d. Temporary resettlement shall be avoided except in situations where the health or safety of nearby residents or business persons is at risk due to construction. Where temporary displacement is unavoidable, solutions may include temporary housing similar to existing housing, payments for rental expenses, compensation for lost business profits, etc.
- e. Resettlement plans shall be coordinated with the construction work schedule;. Evictions, demolitions or site preparation and construction shall not begin until families or businesses have been consulted and relocated and any compensation or

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assistance due has been delivered to the affected parties or other arrangement satisfactory to the Bank has been made

- f. Special attention shall be given to vulnerable people who, for reasons of economic status, age, health status or other condition, are unable to cope with displacement without assistance.

**Legal framework reviewing the fit between Albanian laws and regulations and Bank Policy requirements**

7. Law 8561, dated 22.12.1999, *On Expropriations and Temporary Takings of Private Property for a Public Interest* and four Council of Ministers Decisions define the procedures for expropriation of immovable property in Albania. The expropriation of private properties is done only for a public interest and with fair compensation. Expropriation is completed by a Decision of the Council of Ministers based on the proposal of the Minister, who is competent under the law. In general, expropriations may be carried out for projects and investments in the territory of Albania, for the protection of environment, culture and public education, for the protection of archaeological, historical or cultural monuments and for the protection of public health and security. Law 8561 requires that direct notification procedures for the intent to expropriate begin within 10 days after the relevant Ministry accepts the expropriation request. In addition, a one-week publication period in a national newspaper is required.

8. Albanian law does not allow for compensation to persons encroaching upon public land or for constructions undertaken without official authorization.. However, under the provisions of OP/BP 4.12, people illegally encroaching on public land are (a) entitled to compensation for improvements made to the land (such as structures, perennial crops and trees) as well as (b) resettlement assistance in order to avoid lowering their standard of living **or livelihood** by expropriation or resettlement, if they occupied the land before an established cut-off date.

9. The value of immovable property is determined by a Valuation Commission that bases its calculation on the respective Decision of Council of Ministers for approval of land prices determined for different regions, and on the last 3-month average of sales of similar properties registered in the Immovable Property Registration System. World Bank Policy OP 4.12 states that payment of cash compensation for lost assets is appropriate only where active markets for land, housing, and labor exist. In Albania, there are no major legal impediments to the land market that prevent displaced persons from purchasing alternative land or housing with the compensation or assistance received from the government as a result of expropriation. Furthermore, Albania has an active market in immovable property that – according to a review of recent purchases -- application of compensation at “market value” corresponds to the Bank standard of full replacement cost.

10. Notification of the final Decision of the Council of Ministers on expropriation is made directly to the owners of the expropriated property, who have the right to appeal in court within 30 days from receiving notice but only with regard to the amount of compensation specified in the decision. However, an appeal of a decision of the Council of Ministers for expropriation does not stay implementation of the decision and the respective procedure for the transfer of title of the expropriated property. See below regarding an extrajudicial grievance procedure.

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11. In addition to the Ministries involved in the expropriation, other institutions hold relevant information and must be consulted in the process as well. One of the main institutions is the Immovable Property Registration System IPRS [*Zyra për Regjistrimin e Pasurive të Paluajtshme administron*]. The IPRS administers all spatial and legal ownership data related to immovable property. In addition to ownership information, other real rights are registered in the IPRS as well. For example mortgages, liens, leases and easements are registered for each property. When the property in question is located in a cadastral zone that has completed First Registration and the data have been transferred to the IPRS, the expropriation process can proceed in a relatively straightforward manner. When a Cadastral Zone has not completed First Registration, the expropriating entity relies on documents issued by the local land commissions in rural areas and several other types of documents for urban areas. While World Bank OP 4.12 embodies the principle that a lack of legal land title/ ownership document does not disqualify people from resettlement assistance, under relevant Albanian legislation, discrepancies arise. Specifically, according to the 1998 Urban Planning Law, buildings without construction/building permits are considered illegal and no indemnity or expropriation shall be provided for illegal buildings or other improvements, either by state organs or by the private persons who are implementing the approved urban plans. However, there are some mechanisms for the legalization of properties that were built without the necessary construction permit. Law 9482 of April 3, 2006 sets out conditions under which an illegally constructed building may be legalized. Within the scope of this Project, owners of buildings subject to demolition under the project, located in a zone or category where legalization is possible, may receive legal and other assistance from appropriate government agencies<sup>3</sup> to legalize their property in order for compensation to be paid. Given the length of time required, legalization may not be feasible within the time-frame of the project. In such cases, affected persons shall be assisted to the extent necessary to prevent loss of livelihood.

12. Within the scope of this Project, Municipalities will be strongly encouraged to avoid selecting sites occupied by illegal settlements or sites with competing claims to land. If construction alignments require the acquisition of land occupied by encroachers/ squatters who lack formal legal rights/ownership documents to land, these project affected people will be provided compensation for lost assets located on the land and assistance as necessary to help restore their livelihoods and standards of living. Such assistance may be provided by various means such as training, grants for acquisition of tools or equipment, or by other means and may require the collaboration of other government agencies acting at the request of MOES or the local municipality.

### **Categories of Affected Persons, Eligibility Criteria Compensation**

13. It is possible that expropriation will require land acquisition and result in the loss of land and assets and perhaps the loss of shelter and/or land-based sources of income. This RPF considers the possibility of the adverse impact of relocation or loss of shelter as well as loss of assets.<sup>4</sup> Those eligible to receive benefits include landowners, tenants and other occupants who have (a) formal title to land, (b) those whose property rights are recognized in law; and also (c)

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<sup>3</sup> This includes the Municipality or Komuna that also play a role in legalization.

<sup>4</sup> OP/BP 4.12 applies to loss of livelihood *only* when land is taken. This does not preclude providing assistance to persons whose livelihoods are lost without displacement as a consequence of project implementation.

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those who do not have formal or recognizable legal rights to land they are occupying. Under Albanian law, compensation for lost assets (land or other assets) cannot be paid to people who occupy land illegally or who occupy buildings built without proper license. However, under Bank policy and under this RPF, such people would be entitled to compensation for lost assets besides land. MOES, together with Municipal or *Komuna* authorities and other agencies, as appropriate, will also provide assistance to illegal occupants to assist them to maintain or improve their standard of living. The experience in Albania to date has been to follow existing legislation and to compensate private owners with a lump sum of cash. Cash compensation may be offered at levels that will be sufficient to replace the lost land and other assets and include moving allowances etc. For the most part, project affected people, if displaced, will move to other parts of the land they already hold or will buy alternative land in the vicinity. In the case of illegal occupants, assistance will be provided if the occupants can show that they were present in their location prior to the cut-off date established by the authorities, usually the date of completion of the census.

14. The following entitlement matrix describes the eligibility for compensation and/or rehabilitation assistance for impacts/losses for different types of assets and for different categories of project affected people.

**15. Preparation of Resettlement Plans**

16. MOES will prepare an Abbreviated Resettlement Plan for each site and submit it for Bank review at least 3 months (90 days) prior to commencing physical works. The Plan will include the following sections:

- a) Background details and description of alternative sites considered;
- b) Legal status of the selected parcel
- c) Location and description of proposed site with a sketch of the proposed works drawn on a map or sketch of the affected area;
- d) Census survey of affected households and valuation of assets;
- e) Documented consultations with affected people;
- f) Timetable (correlated with the construction timetable);
- g) Budget and source of funds;
- h) Description of compensation and other resettlement assistance to be provided;
- i) Arrangements for monitoring and evaluation..

**Entitlement Framework**

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PARTY	ENTITLEMENT
PRIVATE AGRICULTURAL OR COMMERCIAL LAND	Less than 70% of land holding affected, and The remaining land remains economically viable	Owner	Cash compensation for affected land at replacement value

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ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PARTY	ENTITLEMENT
	More than 70% of land holding lost or The remaining land parcel is not economically viable and owner prefers taking of all land	Owner	Compensation in cash for the entire landholding at replacement value Transition allowance equivalent to 2 months net income based on net income of household.
<b>RENTER (RESIDENTIAL OR COMMERCIAL) RENTER ON PRIVATE LAND</b>	Loss of residence or place of business.	Renter	Assistance with Moving expenses Up to 6 months rent subsidy
<b>PRIVATE RESIDENTIAL LAND</b>	<b>No displacement:</b> Land used for residence partially affected, limited loss, and the remaining land remains viable for present use	<b>Owner</b>	Cash compensation for affected land equivalent to replacement value
	<b>Displacement:</b> Land used for residence severely affected, remaining area insufficient for continued use	Owner	Compensation in cash equivalent to replacement value. Assistance with moving expenses. Transition allowance equivalent to 2 months net income based on net income of household.
<b>BUILDINGS AND STRUCTURES LOCATED ON PRIVATE LAND</b>	Building is fully legalized. Structure partially affected	Owner	Cash compensation for impact on building.
	Building is fully legalized. Structure demolished	Owner	Cash compensation at replacement value of building based on recent transactions as determined by local commission under Albanian regulations. Right to salvage materials without deduction from compensation. Assistance with moving costs.
	Building lacks permit. Structure partially affected	Owner	Cash or other assistance for rebuilding. Direct legal assistance, or reimbursement for legal fees to regularize building status can be provided to affected owners.
	Building lacks permit. Entire structure affected	Owner	Assistance, including possible cash payments, to find replacement housing or commercial location.. Right to salvage materials without deduction from compensation. Assistance with moving expenses. Cash compensation at replacement value of building based on recent transactions as determined by local commission under Albanian regulations.
<b>BUILDINGS AND STRUCTURES LOCATED ON PUBLIC LAND</b>	Structure is demolished.	Occupant	Assistance with moving expenses Assistance with finding new housing or business location; Assistance with income generation, e.g. training. Right to salvage materials without deduction from compensation. Compensation at replacement value of lost assets;
<b>STANDING CROPS ON PRIVATE or PUBLIC LAND</b>	Crops affected by land acquisition	Owner/Tenant/ Occupant)	Whenever possible, farmers should be allowed to harvest their crops even after expropriation. If not possible, cash compensation equivalent to the market value of the harvest.
<b>TREES ON PRIVATE LAND</b>	Trees lost	Owner with or without title	Cash compensation equivalent to the monetary value of up to five-year's production less costs sufficient to allow the replanting of trees or alternative investment.

**Consultations with Affected People**

17. Bank policy requires that affected persons shall have an opportunity to participate in the planning of project opportunities that affect them. "Affected parties" refer not only to those who

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are displaced by project works but also neighboring communities. In addition to documenting the expropriation procedures indicated above, once the scope of the civil works is known, the Municipality and representatives from the ministry of Education and other appropriate institutions will hold open public consultations to discuss expropriation and its implications. Affected people will be advised of their options and rights. The content and results of the consultation shall be recorded in minutes and made available to the and the Bank team.

**Description of the Implementation Process**

18. The implementation of resettlement activities will be linked to the implementation of the civil works to ensure that displacement of people or acquisition of land or other assets does not occur before necessary mitigation measures for resettlement including payment of compensation or resettlement assistance have been carried out or other arrangement, satisfactory to the Bank has been made..

19. The beneficiary of the project (Municipality or Komuna) shall assign personnel as a link to affected parties and such personnel shall be accessible to the affected parties before, during and after resettlement.

**Arrangements for Funding Resettlement**

20. Overall responsibility for resettlement and expropriation for the Project is under the Ministry of Education and Science. However, the financial responsibility for resettlement and expropriation procedures lies with the Ministry of Finance. Bank Loan funds may not be used for land acquisition or compensation. However, insofar as authorized by the amended Financing Agreement, other costs of assistance may be considered as eligible expenses such as moving expenses, replacement housing, tools or equipment, legal fees for regularization of title or building permit. As noted above, the land acquisition transfer must be fully completed and duly registered, and payment made, before construction work can begin on the expropriated or acquired property.<sup>5</sup>

**Responsible Institutions and/or Agencies**

21. The following agencies and institutions are responsible for the coordination and delivery of each activity in the entitlement policy:

22. Municipalities (or Komunas) that are the direct beneficiaries of school construction have an important role to play as shown in the table below. The scope and specific activities to be played by municipalities are specified in law and additional requirements may be determined on a case-by-case basis. Municipal authorities should familiarize themselves with the contents of this Policy Framework. MOES will require the active participation of Local Governments (Municipalities, Komunas) in consultation and appropriate assistance to affected parties as a condition of participation in the school-construction program.

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<sup>5</sup> The amended Financing Agreement may set forth additional requirements regarding registration of expropriated property prior

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23. The Immovable Property Registration Office for each District which is under the authority of the Central Registration Office is responsible for identifying and verifying property boundaries and ownership and other real rights such as leases and concessions. Land Administration and Protection Offices (formerly Cadastre Offices) will clarify land allotment certificates (*Tapis*) for agricultural land that has not been formally registered and transferred to the Immovable Property Registration Offices.

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RESETTLEMENT ACTIVITY	RESPONSIBLE INSTITUTION	In addition above state agencies, ultimate
Assessment of Impacts & Inventory of Losses	Ministry of Education and Science jointly with Local Government	
Census of Affected persons and affected assets	Local Government jointly with Ministry of Education and Science.	
Consultations with Affected persons	Local Government jointly with Ministry of Education and Science	
Valuation of Assets	Ministry of Education and Science and certified independent valuation experts	
Preparation of Resettlement Plan	Ministry of Education and Science with Beneficiary Municipality	
Payment of Compensation and Relocation Assistance	Council of Ministers and Ministry of Finance Local Government	
Expropriation of land and assets	Council of Ministers	
Assistance (non-compensation) to affected persons	Ministry of Education and Science jointly with Local Government	
Grievances (receiving and acting upon)	Ministry of Education and Sciences	
Monitoring and Evaluation	Ministry of Education and Science	

responsibility for the implementation and enforcement of the Land Acquisition & Resettlement Policy Framework rests with the Ministry of Education. The preparation of a Resettlement Plan for a particular project in the Municipality could be incorporated in the TOR for the design consultant involved in the sub-project in question. The key activities and responsible actors in the planning and implementation of specific land acquisition and resettlement plans are outlined in the table below:

**Grievance Redress Mechanisms**

26. Families and businesses undergoing expropriation shall be notified *in writing* that they have the right to file a complaint or appeal against a decision. Such appeals shall be received, recorded and acknowledged by a designated official in MOES who will undertake a review of the review of the grievance, engaging with other stakeholders and agencies as appropriate, and provide a response within a reasonable length of time. MOES and Municipalities or Komunas shall suspend demolition of buildings or evictions until such time as a public hearing has taken place. Hearings shall be public and will involve administrative officers from MOES and the



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local government involved. Complainants are entitled to legal representation and should be able to present evidence and grounds for their complaints.<sup>6</sup> Additionally, the Office of the Ombudsman in Tirana [*Avokati Popullit*] receives complaints from citizens against government actions that affect their rights. The Expropriation Law also provides for an appeals process against the proposed award for compensation. In addition, the Urban Planning and Construction Inspectorate laws allow for administrative appeals against a decision for demolitions. Further appeals can be made to the district courts.

27. MOES will maintain a record of grievances received, and the result of attempts to resolve these (Annex 1). This information will be recorded in the Management Information System (MIS) and be included in the regular progress reporting.

### **Arrangements for Monitoring and Evaluation**

28. During implementation, MOES and the relevant local government shall monitor all activities connected with each subproject to ensure that affected persons have been able to adapt to new conditions, find new places to live and work and have the means to maintain their livelihood. A monitoring framework satisfactory to the Bank shall be prepared for each subproject and shall include indicators of outreach and consultation, public information, the actual relocation process, land expropriation, cash compensation, other assistance provided, and provisions for managing the aftermath of resettlement including the impact on livelihoods of affected parties. MOES will notify the Bank promptly and will take remedial measures to achieve the objectives of each ARP. MOES will provide the Bank with a schedule of indicators for review and clearance before applying the framework in any given context.

29. Approximately one year following the completion of each subproject, MOES will revisit the site to verify that urban services and conditions have returned to normal. Persons affected by the subproject will be interviewed to ascertain whether they have been able to restore their livelihoods adequately and whether they have managed to reproduce approximately the same standard of living as prior to resettlement. The Bank mission suggests the use of a standard questionnaire designed to be correlated with the data in the socioeconomic survey conducted prior to resettlement. For this purpose, it will be important to keep records regarding the new location of resettled persons. Summaries of monitoring data will be presented to the Bank during supervision missions and data will be analyzed to derive lessons about how to improve the resettlement process.

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<sup>6</sup> An open public hearing would be organized and conducted by MOES and would not necessarily involve the judiciary.

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