

**RESETTLEMENT POLICY FRAMEWORK**

**Regional and Local Roads Connectivity Project**

**DECEMBER, 2017**

## LIST OF ACRONYMS

ADF	Albanian Development Fund
DCM	Decision of the Council of Ministers
EIA	Environmental Impact Assessment
ESMP	Environmental and Social Management Plan
ESMF	Environmental and Social Management Framework
GoA	Government of Albania
GRM	Grievance Redress Mechanism
IoCM	Institute of the Cultural Monuments
IPRO	Immovable Properties Registration Office
LGC	Local Grievance Committee
LGU	Local Government Unit
OMP	Operational Management Plan
OP 4.12	Operation Policy 4.12
PAP	Project Affected Persons
PCU	Project Coordination Unit
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SA	Social Assessment
WB	World Bank

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## 1. Definitions

<b><i>Project in Brief</i></b>	<b>Definitions</b>
<i>Application file</i>	Set of documents prepared to support the request for expropriation submitted to the Responsible Ministry/LGU
<i>Case file</i>	Set of documents that the Expropriation Commission finalizes in support of proposal for expropriation to the Council of Ministers
<i>Census</i>	A field survey carried out to identify and determine the number of Project Affected Persons (PAP) or Displaced Persons (DPs). The meaning of the word shall also embrace the criteria for eligibility for compensation, resettlement and other measures emanating from consultations with affected communities.
<i>Compensation</i>	Compensation is the payment in kind, cash or other assistances given in exchange for the acquisition of land including fixed assets, as well as other impacts resulting from project activities.
<i>Cut-off date</i>	Date of completion of the census and assets inventory of persons affected by the project. Persons occupying the project area after the cut-off date are not eligible for compensation and/or resettlement assistance. Similarly, fixed assets (such as built structures, crops, fruit trees, and woodlots) established after the date of completion of the assets inventory, or an alternative mutually agreed on date, will not be compensated.
<i>Expropriation Commission</i>	Special commission for application of the expropriation procedure in case of the sub activities.
<i>Expropriation Law</i>	Law No.8561/22/12/1999 ‘On Expropriation and Taking on Temporary Use of Private Property for Public Interest’
<i>Full replacement cost</i>	Method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. Depreciation of structures and assets should not be taken into account. For agricultural land it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes
<i>Land</i>	It refers to agricultural and/or non-agricultural land and any structures thereon whether temporary or permanent and which may be required for the project.
<i>Land acquisition</i>	It means the repossession of or alienation of land, buildings or other assets thereon for purposes of the Project.
<i>Local Grievances Committee</i>	Local committee composed of three representatives: PAPs, Project; neutral expert to handle all grievances procedures in the affected areas and address PAPs concerns.
<i>Local Government Unit</i>	The LGUs include Municipalities and Administrative Units as per the new territorial division in force since June 2015.
<i>Project</i>	Regional and Local Roads Connectivity Project
<i>Project Affected Person (s) (PAPs)</i>	PAPs are persons affected by land use or acquisition needs of the RAP in the framework of the project. These person(s) are affected

	because they may lose, be denied, or be restricted access to economic assets; lose shelter, income sources, or means of livelihood. These persons are affected whether or not they must move to another location.
<i>Region</i>	Country
<i>Replacement cost</i>	It means replacement of assets with an amount sufficient to cover full cost of lost assets and related transaction costs. The cost is to be based on Market rate (commercial rate) according to Albanian law for sale of land or property. In terms of land, this may be categorized as follows: (a) “Replacement cost for agriculture land” means the pre-project market value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of: (b) preparing the land to levels similar to those of the affected land; and (c) any registration and transfer taxes.
<i>Resettlement Action Plan (RAP), Abbreviated Resettlement Action Plan (ARAP) or “Resettlement Plan”</i>	It is a resettlement instrument (document) prepared when projects locations are identified. In such cases, land acquisition leads to physical displacement of persons, and/or loss of shelter, and/or loss of livelihoods and/or loss, denial or restriction of access to economic resources. RAP is prepared by the party (Potential Developer) impacting on the people and their livelihoods. RAP contains specific and legal binding requirements to resettle and compensate the affected party before implementation of the project activities. RAP is a site specific report for the current known impacts and is prepared in conformity with the provisions of this RPF with the views of the PAPs.
<i>The Resettlement Policy Framework (RPF)</i>	It is an instrument to be used throughout the implementation of project activities as guidance tool. The RPF sets out the resettlement and compensation policy, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the project.

## 2. Introduction

### 2.1. Project Description

Regional and Local Roads Connectivity Program represents another important step in the Albania's efforts to address the unsatisfactory road conditions which on their turn represent the biggest hindrance for transport of people and goods, international investments, development of tourism, access to social services, employment opportunities especially for people in rural areas.

In 2016, the Secondary and Local Roads Program, which started in 2008 and co-financed by the World Bank, OFID and CEB at an estimated amount of \$ 368 million, was evaluated as "Highly Satisfactory" by the Implementation and Completion Report (WB). Its primary results are improved living conditions and reduced travel time towards local markets and cultural and health care centers, for inhabitants in the rural areas all over the country.

This new project builds on these results and experience. It will be oriented toward a more strategic approach, enabling the development of tourism and agriculture sectors by improvement of road infrastructure that provides direct access to touristic and agriculture potential, and offers alternative connections with the existing road system. The Regional and local roads program will also promote sustainable regional development through improvement of road infrastructure in the support of development of the tourism sector and agriculture.

Tourism is one of most important sectors in Albania recently, which impacts directly in the social and economic development and generates employment and incomes, especially for the population in rural areas. Tourism is well linked with other economy sectors, including agro tourism, entrepreneurship development and has a huge impact in agriculture as well.

Agriculture has also been an important sector whose development has been a key indicator in the elaborated prioritization process that has preceded the work for the implementation.

The selection and prioritization of investment is result of the merging of the findings of the national level data gathering process has combined with the objectives and the facts of National Territorial Plan, National strategy for tourism, General Local Plans, Strategic Plans, Operational Plans.

### 2.2. Purpose and Principles of the Resettlement Policy Framework

The purpose of this RPF is to provide policy and legal framework and procedures to mitigate unavoidable resettlement impacts. These procedures are in conformity to the World Bank OP 4.12 on Involuntary Resettlement, as well as the applicable Laws and Regulations of GoA. Subproject resettlement plans consistent with the policy framework subsequently are submitted to the Bank for approval after specific planning information becomes available (see OP 4.12, para. 29).

Resettlement procedures should consider some main principles in order to respect the best practices and achieve to its best the purpose of the project without damaging citizens and more specifically projected affected people.

The Regional and Local Roads Connectivity Project will include in its activities the below listed principles in compliance with international practices for resettlement and World Bank Resettlement Policy principles:

- i. **Consultation and participation of affected communities:** Throughout the process of the project implementation, the consultation with the affected community is an elicit right that they have and is crucial to the positive proceedings of the project. Their consultation on the different situations brought up by the preliminary evaluations and/or mainly on the resettlement procedures, compensation procedures etc., are to be included in the Resettlement Action Plan (RAP) or in the Abbreviated version of the RAP (ARAP). Participation of PAPs in the RAP's preparation and implementation is essential for a transparent and effective resettlement.
- ii. **Minimization of resettlement:** It should be a focus of the project to ensure that the project design has minimized land acquisition and physical displacement of households and communities.
- iii. **Ensure and guarantee the provision of any necessary compensation on time** for people who are affected by the resettlement procedure (loss of assets). This need to consider principally the Word Bank policies and guidelines, despite discrepancies.
- iv. **Negotiated compensation options:** A consensus must be reached with those who will be affected so that a fair and equitable compensation made for land, houses and trees etc., that are disturbed and paid according to the prevailing market rates of the local areas.
- v. **Resettlement must take place to ensure PAPs benefit:** those who are affected should be given priority in employment opportunities that arise from the project.
- vi. In case of unexpected events during the implementation of the project the related impact will be monitored, evaluated and documented, in order to present alternative solutions in the site-specific RAPs. Preparation of the site-specific RAPs will be based on the same RPF
- vii. **Establishment of resettlement baseline data:** The following activities should be successfully completed in order to have an inventory of the affected properties. Activities undertaken:
  - *An Inventory of affected assets and land*, its use and size, needed to help determine fair and reasonable compensation levels or other mitigation measures agreed by the affected person(s).
  - *A census – socio-economic baseline survey which provides details of household demographics, health status, income levels and employment.* The baseline census data will be used in combination with the land and assets survey to facilitate identification of agreed and appropriate mitigation and entitlements to affected persons or parties.
- viii. Establishment of a **computerized data-base** which will facilitate implementation, enable monitoring and adaptive management, and provide adequate data to carry out a final evaluation with the aim of reaching closure on any outstanding issues.

- ix. **Considerations on vulnerable social groups:** These are groups that include people from the population with minimal assets, illiterate, and/or aged (those PAPs of more than 65 years). These are often physically weaker, and usually need special help in the relocation/disturbance phase. Gender differences should be monitored as female-headed households may lose out to more powerful households.
- x. **Resettlement upfront project cost:** it is critical that mitigation costs estimated in the RAP to be considered in the overall project budget as up-front costs. These costs must be disbursed, either to beneficiaries as entitlements or in the form of another appropriate mitigation measure agreed with the affected person or party.
- xi. **An independent monitoring and grievance procedure:** In addition to setting up monitoring mechanism, an independent Team comprising local administration, friendly NGO officials and the locals will play key roles in monitoring the RAP implementation. A grievance mechanism needed to solve problems and manage unforeseen issues which may arise during implementation. The mechanism will be organized in such a way that they are accessible to all, with particular concern for vulnerable groups. Monitoring will be a joint undertaking under NGO direction to measure and assess change in household status of project-affected communities.
- xii. **Potential Social Safeguard Risks and Mitigation Measures:**
  - If population and residents in the project impacted areas claims the his/her ownership on a public land, ADF will collect the necessary information from the Immovable Property Registration Office, and any other reference/evidence, and include these in the site-specific RAP..
  - A contingency/dedicated fund for expropriation, at the amount of 10% of the total estimated funds for compensations and expropriation, will be established in the ADF accounts annually. This contingency will be used to compensate and address unexpected claims of PAPs on the expropriation area, or the amount of compensation from PAPs, as well as cases that a related court decision results in higher amounts of compensation
  - In case when PAPs are not identified as they are no longer reside in the expropriated areas (migrated in another region of the country or emigrated abroad), the respective LGU will publish a notification with the PAPs names at the respective city/village, at least in two newspapers with a nationwide and local distribution for a period of one month (every Sunday).
  - A special provision will be taken in advance to publish the names and contacts of the land owners that are affected and/or their land will be expropriated. Based on the Albanian legislation "On personal data" privacy should be maintained for PAPs names and contact during disclosure of RAP. In this regard, the ADF will maintain continuous contacts with PAPs and ask them in advance if they accept to have their full name published in the newspaper.
- xiii. **World Bank's operational procedure on involuntary resettlement:** The World Bank's operational policy 4.12 on involuntary resettlement requires that involuntary resettlement is avoided where feasible, or minimized, exploring all viable alternative project designs. Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as *sustainable development programs*, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be *meaningfully consulted* and should have *opportunities to participate* in planning and implementing resettlement



programs. They should *also be assisted in their efforts to improve their livelihoods* and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of the project implementation, whichever is higher.

- xiv. **Where relocation or loss of shelter occurs**, the policy requires for measures to assist the displaced persons to be compensated in accordance with the resettlement and compensation plan of action (entitlement matrix).

### 3. Property Administration, Impacts and Categories of Affected Persons

#### 3.1. Jurisdiction of the Framework

In implementing this framework, the following will apply:

- a. In case of any gaps or misalignments between the Albanian legal framework and World Bank policies, in accordance to the Law No.10 428, dated 2.6.2011, “On the Private International Law” (article 2)<sup>1</sup>, the The World Bank Operation Policy will prevail the Albanian legislative framework; known also as the supremacy of international agreements.
- b. Where the landowner has willingly or voluntarily contributed land but is seeking compensation, the assessment for compensation shall be treated as for the case of involuntary land acquisition.
- c. Where land whose owner has freely contributed but is not seeking compensation, the assessment for compensation shall only include assets thereon and not land.
- d. Compensation shall be limited to valuations made after the cut-off date. Valuations shall be made immediately after the cut-off date and then again at the time of impact. The higher value of the two shall be used for compensation payment
- e. All land conflicts shall be resolved in a transparent manner and in a manner that is not coercive. Attempts shall be made to resolve conflicts at each benefiting municipality of the project Where this is not possible, courts of law shall be consulted.

#### 3.2. Legal Property Framework and Property Evaluation Criteria

On Article 41/4 of the Albanian Constitution<sup>2</sup> it is provided: *“The expropriations or limitations of a property right that are equivalent to expropriation are permitted only against fair compensation”*

Furthermore, on the European Convention on Human Rights, it’s provided in the Art. 1 “Right to property” of the Protocol 1<sup>3</sup>: *“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided by the law and by the general principles of international law...”*

In this spirit it’s in power Law no. 8561, dated 22. 12. 1999 “On Expropriations and Temporary Takings of the Private Property for Public Interest”<sup>4</sup>. The mentioned law provides the entire procedure how an expropriation procedure begins, for which reason, from which subject and the right of the owners to contest the evaluation of the property made unilaterally from the state institutions.

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<sup>1</sup> Law no.10 428, dated 2.6.2011, “On the private international law”,  
[http://www.pp.gov.al/web/ligji\\_drejte\\_nderkombetare\\_private\\_1\\_571.pdf](http://www.pp.gov.al/web/ligji_drejte_nderkombetare_private_1_571.pdf)

<sup>2</sup> Albanian Constitution, Article 41/4, [http://www.pp.gov.al/web/kushtetuta\\_perditesuar\\_822.pdf](http://www.pp.gov.al/web/kushtetuta_perditesuar_822.pdf)

<sup>3</sup> European Convention on Human Rights, Article 1 “Right to property”,  
[http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf)

<sup>4</sup> Law No. 8561, dated 22. 12. 1999 “On Expropriations and Temporary Takings of the Private Property for Public Interest”, [http://www.energija.gov.al/files/userfiles/Koncesione\\_2/2015/Ligji-8561.pdf](http://www.energija.gov.al/files/userfiles/Koncesione_2/2015/Ligji-8561.pdf)

Anyway, an international agreement ratified by law has priority on application in front of a common law. (Art. 116 of the Albanian Constitution<sup>5</sup>) Furthermore, if a law creates a conflict with an international agreement ratified by law, the international agreement will be applied. This principle it's a guarantee that the international agreement with the Albanian Government with the World Bank, for the loan, it will be applied in priority in front with the legislation in force, especially in front of the mentioned law "On expropriation....".

A short resume of the principles provide by law "On expropriation..." is provided below:

- The project aims public interest (Art. 8/ç of Law "On Expropriation...")<sup>6</sup>;
- The beneficiary subject in the expropriation process will be *the relevant Municipality of each city* (Art. 9 of the Law "On Expropriation...")<sup>7</sup>
- The Municipality needs to submit the request with a list of necessary documents to the Ministry of line, which is the Ministry of Urban Development and to the Institute of Cultural Monuments, in this case (with the structure of actual government);
- The line Ministry has to follow the legal procedure, on publishing the request for expropriation, collecting the complaints of the affected owners, and preparing the draft of the sub legal act for the Council of Ministers;
- The procedure will be considered complete, when the owners through a statement approve the transaction of the property in favor of the GoA;
- The decision for the expropriation (for the owners that do not agree with the expropriation) will be approved by the Council of Ministers and will enter into force immediately, also it will be published in the Official Journal;
- The owners affected have the right of complaint to the Court for the compensation and if they don't follow this procedure, the decision of the Council of Ministers will be an executive title.

Two other legal considerations are to be emphasized:

– ***The devaluation of property***<sup>8</sup>

The right of compensation is applicable and ADF will respond accordingly, in cases when, although there is no land take, the PAP's land, plantations, access to his/her plot are impacted (land is devaluated) by the project and his livelihood is not as before the project. In addition, PAPs will be eligible for 100% compensation when, even if only part of the land is expropriated, the remaining is not of any use to him/her.

– ***The provisional taken on possession of the property***<sup>9</sup>

During the land acquisition it might happen that certain properties are needed to be taken in possession for temporary use, such as the case for expansion of the village road to pass large vehicles during the works for the implementation of the project, so it is taken someone's land temporarily and than reversed it, but with payment of rent. The request to take on provisional possession a property needs to be addressed to the Ministry of Urban Development, describing

<sup>5</sup> Albanian Constitution, Article 116, [http://www.pp.gov.al/web/kushtetuta\\_perditesuar\\_822.pdf](http://www.pp.gov.al/web/kushtetuta_perditesuar_822.pdf)

<sup>6</sup> Law no. 8561, dated 22. 12. 1999 "On Expropriations and Temporary Takings of the Private Property for Public Interest", Article 8ç , [http://www.energija.gov.al/files/userfiles/Koncesione\\_2/2015/Ligji-8561.pdf](http://www.energija.gov.al/files/userfiles/Koncesione_2/2015/Ligji-8561.pdf)

<sup>7</sup> Law no. 8561, dated 22. 12. 1999 "On Expropriations and Temporary Takings of the Private Property for Public Interest", Article 9 , [http://www.energija.gov.al/files/userfiles/Koncesione\\_2/2015/Ligji-8561.pdf](http://www.energija.gov.al/files/userfiles/Koncesione_2/2015/Ligji-8561.pdf)

<sup>8</sup> Law no. 8561, dated 22. 12. 1999 "On Expropriations and Temporary Takings of the Private Property for Public Interest", Article 18 , [http://www.energija.gov.al/files/userfiles/Koncesione\\_2/2015/Ligji-8561.pdf](http://www.energija.gov.al/files/userfiles/Koncesione_2/2015/Ligji-8561.pdf)

<sup>9</sup> Law no. 8561, dated 22. 12. 1999 "On Expropriations and Temporary Takings of the Private Property for Public Interest", Article 27-37 , [http://www.energija.gov.al/files/userfiles/Koncesione\\_2/2015/Ligji-8561.pdf](http://www.energija.gov.al/files/userfiles/Koncesione_2/2015/Ligji-8561.pdf)

the property, the reason, the term and the compensation for the owner. The owner has the right to raise a complaint to the court against such decision.

### 3.3. Possible Categories of Impacts and Affected Persons

In the implementation of Regional and Local Roads Connectivity Project several social impacts could affect the community and population in the areas of the projects, according to the type of sub project to be implemented and social impacts related to each loss category.

**Table 1. Categories of losses and their impacts on project affected persons**

Loss Category	Social Impacts
Relocation	Impoverishment, disturbance of production systems, loss of sources of income, loss or weakening of community system and social networks, loss of access to social amenities such as hospitals and schools, water; dispersion of kin groups, loss of cultural identity and traditional authority, loss or reduction of potential for mutual help, emotional stress.
Loss of land but no relocation	Impoverishment, loss of sources of income and means of livelihood, Loss of assets or access to assets, increased time to access resources
Alienation due to neighbors being relocated	Impoverishment, weakening of community systems and social networks, loss of mutual help and community support, loss of traditional authority, Loss of identity and cultural survival, emotional stress
Hosting PAPs	Impoverishment, loss of sources of income, reduced time and access to resources such as hospitals and schools, water, increased time to access resources.

Identification of the affected target group is conducted first on the basis of set criteria of the target group (HH, businesses etc.) that could be resident or non- resident in project areas, so as directly or not directly affected by the project implementation as a basis for (i) establishing the terms of their eligibility for support, and (ii) better specifying the terms of assistance. Upon project documents and details of sub projects provided to the experts were identified the list of typologies of affected groups.

**Table 2. General Typologies of Project Affected Groups**

General Typology	Definition
<b>Private Property Owners</b>	Are those who have legal title to land, structure and other assets
<b>Unlawful resident</b>	Are those who have illegally (informal settlements) occupied municipality/commune lands for residential, business and or other purposes.
<b>Encroachers</b>	Encroachers are persons who have extended their building, agricultural lands, business premises or work places into municipality/commune lands.
<b>Tenants</b>	Tenants are those persons having tenancy agreements, written or unwritten, with a private property owner with clear property titles, to occupy a structure or land for residence, business or other purposes.
<b>Street Vendors</b>	Street vendors are those persons who have a permit from the municipality to occupy a public structure or land for business purpose
<b>Project-Affected Families</b>	Are defined to include each adult displaced person, his/her spouse, minor children and other dependents who habitually reside in one household.
<b>Project-Affected Persons</b>	Are persons who have economic interests or residence within the project impact corridor and who may be adversely affected directly by the project.

	Project-affected persons include those displaced, those losing commercial or residential structures in whole or part, <i>those losing agricultural land</i> or homesteads in whole or part, and those losing income sources as a result of project action.
<b>Project Affected Groups:</b>	Are groups or communities outside the immediate impact of road to be rehabilitated, that may be affected by the project with a focus on the more vulnerable groups in society.
<b>HH living be the Poverty Line</b>	Based on social assistance schemes acquired at the Regional Department of Social Insurances.
<b>Vulnerable groups:</b>	Are those groups such as women-headed households, older , /disabled and landless families, who will be dealt with on a case to case basis.

### 3.4. Screening Process in Land Acquisition and Resettlement

Implementation of the project activities will focus on the improvement of road infrastructure. This activity may require land acquisition, leading to people's denial or restriction of access to land resources, services and social amenities. In this case, resettlement action plans, consistent with OP 4.12 must be prepared in accordance with this Resettlement Policy Framework. The first stage in the process of preparing the individual resettlement and compensation plans is the screening process to identify the land/areas that are being impacted. The resettlement and compensation plans will contain the analysis of alternative sites undertaken during the screening process. This section sets out a "harmonized" step by step process that the project will take to determine whether the sub-components will result in physical or economic displacements, and therefore whether a resettlement action plan (RAP) is required and if so, how to prepare and implement one. Specifically, the affected persons must be informed about the intentions to use the earmarked sites. The affected persons must be made aware of their options and rights pertaining to resettlement and compensation, specific technically and economically feasible options and alternatives for resettlement sites, process of and proposed dates for resettlement and compensation, effective compensation rates at full replacement cost for loss of assets and services, proposed measures and costs to maintain or improve their living standards.

The screening checklist serves to ensure that the process for screening remains simple and concise. The list of sub components that have potential resettlement issues will then be subjected to a comprehensive sensitization and consultation process with the potentially impacted communities and the outcome of this process would be documented for each site. The list and the outcome of the consultative process for each site/sub-component on the list would then be sent to the respective local government units in the jurisdiction mandated to confirm, approve, disapprove, refer for further consultation and/or take a final decision on each proposed site/sub-project. Carrying out the screening process in this way is designed to give it the integrity and transparency it needs to allow all stakeholders to have confidence in the process. Once sub-components have been approved using this consultative process, the chosen locations will be the subject of a study and the preparation of a document as follows:

- a socio-economic study (this study will include determination of impacts);
- preparation of resettlement action plans (RAPs) per each of the sub projects.

When the list of areas to be included in the project, has been finalized, the process for land acquisition and resettlement must. After the screening process is carried the establishment of the cut-off date needs to be done. During screening and indeed during all the other

planning and preparatory activities, there must be adequate consultation and involvement of the local communities and the affected persons.

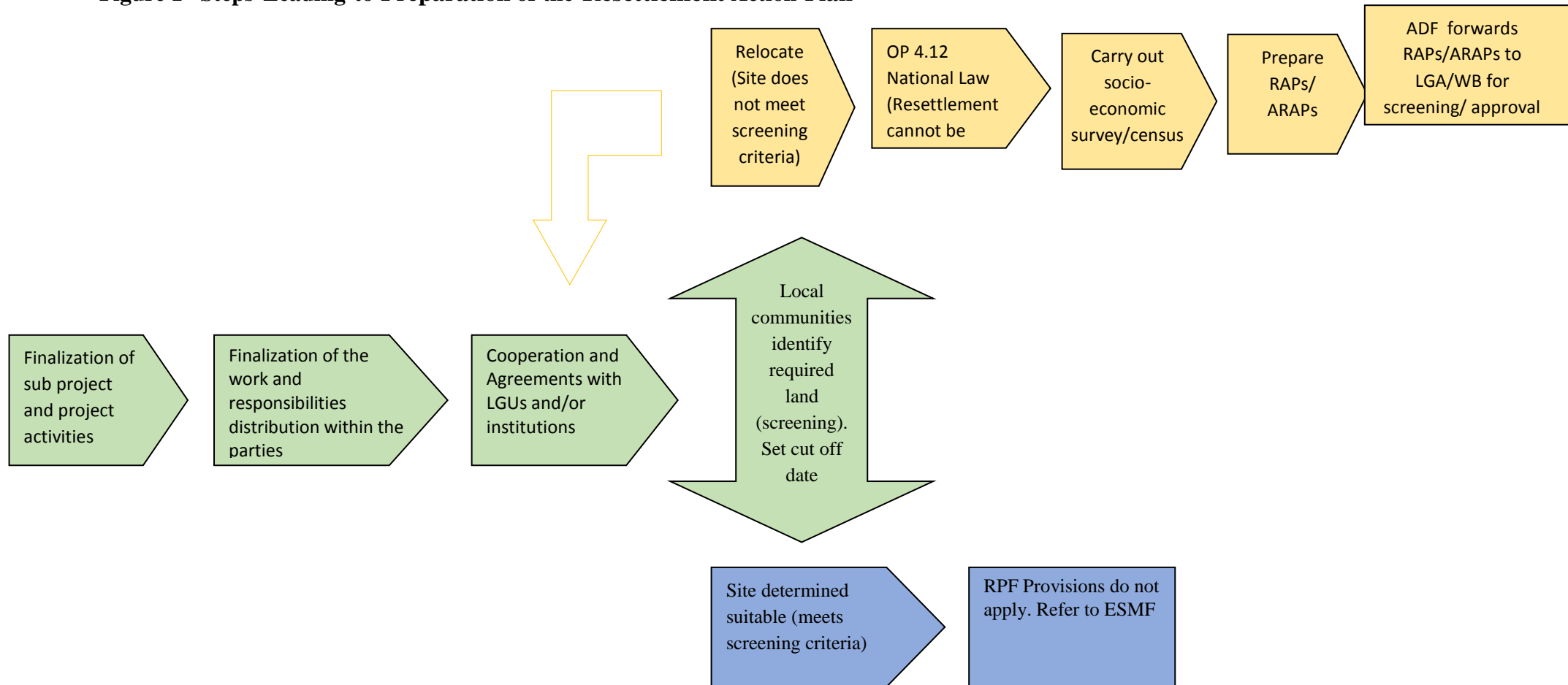
The decision to prepare a RAP or ARAP is based on the World Bank Guidelines OP 4.12 Involuntary Resettlement and the World Bank Handbook on the preparation of RAP. A flow chart for the steps to be undertaken in a RAP/ARAP procedure is provided in the figure presented below. The main possible outline and contents of a RAP is explained in Appendix 1. Possible Outline and Contents for the RAP, while the possible outline and content of an ARAP is briefly presented in Appendix 2 - Contents for Abbreviated Resettlement Action Plan. An Abbreviated Resettlement Action Plan can be prepared if agreed according to the guidelines of the World Bank<sup>10</sup>.

Based in the description of the project for the Regional and Local Roads Connectivity Project belongs to the Category B (mentioned above). Therefore a RPF needs to be prepared. All project sub-activities that trigger OP 4.12 and resettlement plans would be subjected to final approval of the World Bank, to ensure compliance with Banks safeguards. Thus ensuring that land is actually acquired or access to resource is lost, denied, or restricted and that the individual resettlement plans are consistent with this RPF. For project activities that do not have any resettlement issues and do not trigger OP 4.12, the provisions of this RPF do not apply and the reference is the Environmental and Social Management Framework ESMF.

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<sup>10</sup> O.P. 4.12. Resettlement Instruments, Article 25: Where impacts on the entire displaced population are minor,<sup>26</sup> or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower

**Figure 1 Steps Leading to Preparation of the Resettlement Action Plan**



## 4. Criteria and Conditions for Resettlement of Project Affected Persons

### 4.1. Entitlements for Compensation

**Table 3. Properties type and compensation<sup>11</sup>**

Appropriated Assets	Type of Impact	Owner	The right of compensation
<b>LAND</b>	Agriculture Land: Affected from the project less than 80% of the total land The rest of the land remains economically usable.	Owner/Holder of the property title	Compensation in Cash for affected land equivalent to the market value of the property, enough to replace lost assets and cover transaction costs. Compensation in Cash for lost assets and assistance for rehabilitation, including employment or job training to persons affected. Rehabilitation assistance for renting alternative land / property for relocation of activities such as grazing. Other assistance: For people with disabilities, will be given assistance in communication with the relevant authorities, which will be provided by the Local Complaints Committee to facilitate the procedure of expropriation.
	Affected from the project more than 80% of the total land The rest of the land remains economically unusable	Owner/Holder of the property title	Compensation in Cash for affected land equivalent to the market value of the property, enough to replace lost assets and cover transaction costs. Compensation in Cash for lost assets and rehabilitation assistance, including employment or job training to affected people. Rehabilitation assistance for renting alternative land / property for relocation of activities such as grazing.
<b>BUILDINGS</b>	Fully/partially affected structures.	Owner/Holder of the property title	Compensation in cash (Cash) for structures partially or completely affected and other material assets depreciation. The right to preserve materials without deduction from compensation. Rehabilitation assistance if required (assistance for employment, training).
<b>AGRICULTURAL CROPS</b>	Agricultural crops affected by the permanent/temporary land appropriation.	Owner/Holder of the property title	Compensation in cash (Cash) equal to the fair market value of the affected crops. (Vineyards, Olives, Wheat, Corn)
<b>TREES</b>	Cut Trees	Owner/Holder of the property title	Compensation in cash (Cash) based on the type, age and production value of affected trees. (Cherry trees, Plum trees)

<sup>11</sup> The application of the right of compensation as listed in the table will be subject to further evaluation in each of the Resettlement Action Plan prepared for the specific subprojects.



<b>TEMPORARY ACQUISITION</b>	Temporary Acquisition	Owner/Holder of the property title	Replacement of affected assets (eg destroyed boundary walls, damaged trees, etc.) in case of any event after the field survey.
<b>LOSS OF RENTAL ACCOMMODATION</b>		Residential Tenant: Business Tenant	Replacement costs for non-movables if installation was agreed with owner.
<b>LOSS OF BUSINESS</b>		Owner/Holder of the business	For loss of business, payment of lost income at an agreed rate (say payment of six months of past year average turnover)
<b>BUSINESS / EMPLOYMENT</b>	Temporary or permanent loss of business or employment	Business Owner; Employees	Business owner: (i) Cash compensation equal to one year income, if loss is permanent; (ii) cash compensation for the period of business interruption, if loss is temporary. Worker/employees: Indemnity for lost wages for the period of business interruption up to a maximum of 3 months.
<b>RELOCATION</b>	Transport and transitional livelihood costs	Owner/Holder of the property title affected by relocation	Provision of sufficient allowance to cover transport expenses and livelihood expenses for one month.
<b>VULNERABLE PAPS LIVELIHOOD</b>		PAP below poverty line	Subsistence grants to displace poor /vulnerable families. Employment priority in project-related jobs.
<b>UNFORESEEN / UNANTICIPATED IMPACTS</b>			Any unforeseen/ unanticipated impacts due to the sub-projects will be documented and mitigated based on the spirit of the principle agreed upon in this framework
<b>PUBLIC FACILITIES</b>		Community	Compensation at full replacement value for structure, relocation to resettlement site, with payment of site rent. Land replacement at new site, plus land clearing by the project Waste facilities, connection to utilities and provision of access roads For loss of business, payment of lost income Provision of alternative temporary facilities during construction, where appropriate.
<b>SOCIO-ECONOMIC AND CULTURAL IDENTITY</b>			Disturbance assistance, shifting and relocation costs Rehabilitation assistance, skills training and other development activities to be provided in coordination with other government agencies; if the present means of livelihood is no longer viable and if the PAP/DP will have to engage in a new unfamiliar income generating activity Arrange for assistance from host communities

## 5. LEGAL CRITERIA ON THE COMPENSATION AND EVALUATION OF PROPERTIES<sup>12</sup>

The Council of Ministers Decision No. 138 dated 23. 3. 2000<sup>13</sup> provides the legal criteria for the evaluation of properties affected by expropriation.

- **Land:** The estimation of expropriated land shall be determined for urban lands, lands within the yellow line town and administrative unit properties according to the prices approved by Council of Ministers Decision deriving from Law No. 9235, dated 29.7.2004 “On restitution and compensation of private properties”<sup>14</sup>.
- **Residential properties:** Value of expropriation compensation for residential properties is considered the average sales price according to the records of the Immovable Property Registration Office (IPRO).
- **Industrial and Agricultural properties:** The value of expropriation compensation for industrial and agricultural properties is considered the average sales price according to the records of the Ministry of Urban Development. Depreciation of property must be subtracted from the price.
- **Agricultural land, forested areas, etc:** The estimate value of agricultural lands, forested areas, pastures and grasslands is determined from the prices approved by Council of Ministers Decision complementary to the Law No. 9235, dated 29. 7. 2004 “On restitution and compensation of private properties”. In cases where there are no prices approved for certain regions, the evaluation for agricultural lands, forested areas, pastures and grasslands is determined by the average sales price available at IPRO.
- **Fruit trees:** For fruit trees the estimated value is calculated considering costs of investment and expenses. This value is calculated per unit (number of fruit trees) or unit per land surface (m<sup>2</sup> of vineyard, nursery etc.). The investment present in the land, the total expenses and different amortization factors are foreseen by special Ministry of Agriculture directives.<sup>15</sup>
- **Crops:** For crops the estimated value is calculated based on the expected yield and market unit price.<sup>16</sup>
- **Illegal constructions:** For investments the owners of properties, who are not registered at the IPRO (without a title), are also expropriated. The entity, which initiates the expropriation has the right to complete the procedure if: the owners of the property have started an administrative process at the Agency for Legalization and Integration of Informal Properties (ALUIZNI) according to Law No. 9482, dated 3.4.2006 "On legalization, urbanization and integration of informal properties (updated”<sup>17</sup>; in case the illegal building (or additional works

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<sup>12</sup> As per Albanian Legislation in force.

<sup>13</sup> The Council of Ministers Decision No. 138 dated 23. 3. 2000,

[http://www.transporti.gov.al/files/userfiles/Shpronesimet/VKM\\_138\\_date\\_23\\_03\\_2000.doc](http://www.transporti.gov.al/files/userfiles/Shpronesimet/VKM_138_date_23_03_2000.doc)

<sup>14</sup> Law No. 9235, dated 29. 7. 2004 “On restitution and compensation of private properties”,

[http://www.nchb.al/wp-content/uploads/2014/12/LIGJI\\_KTHIMIN\\_KOMPENSIMIN\\_E\\_PRONES.pdf](http://www.nchb.al/wp-content/uploads/2014/12/LIGJI_KTHIMIN_KOMPENSIMIN_E_PRONES.pdf)

<sup>15</sup> The Council of Ministers Decision No. 138 dated 23. 3. 2000,

[http://www.transporti.gov.al/files/userfiles/Shpronesimet/VKM\\_138\\_date\\_23\\_03\\_2000.doc](http://www.transporti.gov.al/files/userfiles/Shpronesimet/VKM_138_date_23_03_2000.doc)

<sup>16</sup> The Council of Ministers Decision No. 138 dated 23. 3. 2000,

[http://www.transporti.gov.al/files/userfiles/Shpronesimet/VKM\\_138\\_date\\_23\\_03\\_2000.doc](http://www.transporti.gov.al/files/userfiles/Shpronesimet/VKM_138_date_23_03_2000.doc)

<sup>17</sup> For more, please refer to the Full Version of the Law:

[http://www.planifikimi.gov.al/sites/default/files/Ligji\\_nr.9482\\_per\\_legalizimin,\\_urbanizimin\\_dhe\\_integrimin\\_e\\_nderitimeve\\_pa\\_leje,%20i%20ndryshuar\\_1.pdf](http://www.planifikimi.gov.al/sites/default/files/Ligji_nr.9482_per_legalizimin,_urbanizimin_dhe_integrimin_e_nderitimeve_pa_leje,%20i%20ndryshuar_1.pdf)

on the existing building) have been previously declared and have been qualified later for legalization permit from ALUIZNI, based on the criteria set in the Council of Ministers Decision No.438, dated 28.6.2006 "On the criteria, procedures and required documentation that determine legalization of informal properties"<sup>18</sup>; in case when the owners of the property are in the process of taking a legalization permit, etc.

## 5.1. World Bank Criteria for Determining Eligibility for Compensation

### *Eligibility Criteria for Compensation*

According to OP 4.12 of the World Bank<sup>19</sup>, the criteria for determining eligibility for compensation, resettlement and rehabilitation assistance measures for persons to be displaced, shall be based on the following:

- a. those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);
- b. those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets--provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan;
- c. those who have no recognizable legal right or claim to the land they are occupying.

Affected persons classified under paragraph (a) and (b) shall be provided compensation, resettlement and rehabilitation assistance for the land, building or fixed assets on the land and buildings taken by the project. The compensation shall be in accordance with the provisions of this framework and if affected persons occupied the project area prior to the cut-off date (date of commencement of the Census). Persons covered under sub-section (c) above are to be provided with resettlement assistance in lieu of compensation for the land they occupy. In addition, they have to be given the necessary assistance to satisfy the provisions set out in this policy, if they occupy the project area prior to the established cut-off date<sup>20</sup>.

All persons in the three sub-sections above are to be provided with compensation for loss of assets other than land. Consequently, this policy advocates for some kind of assistance to all affected persons, including squatters or other persons encroaching on the project area illegally, irrespective of whether they have formal titles, legal rights or not. However, all persons who encroach on the project area after the cut-off date will not be entitled to any compensation or any assistance.

Communities including districts, towns, wards and villages permanently losing land, resources and/or access to assets shall be eligible for compensation. Compensation measures shall ensure that pre-resettlement socio-economic status of the communities are restored and maintained.

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<sup>18</sup> For more, please refer to: <http://www.aluizni.gov.al/vendim-nr-438-per-percaktimin-e-kritereve-te-procedurave-dhe-dokumentacionit-te-zbatueshem-per-te-kualifikuar-objektet-ne-ndertim-qe-legalizohen-ose-jo/>

<sup>19</sup> OP 4.12 of the World Bank, <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0..contentMDK:20064610~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>

<sup>20</sup> OP 4.12 of the World Bank

### *World Bank Criteria in the Evaluation of Properties*

The World Bank policies require the application of the local laws for the valuation and compensation of losses as far as they fit the principles of the WB (Achieving the replacement cost for lost assets). For all losses of assets attributable directly to the project, full compensation needs to be done. In the Operational Policy 4.12 is defined an assured compensation as per the replacement cost as below:

*“With regard to land and structures, “replacement cost” is defined as follows: For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive 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. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes. 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.”*

The OP 4.12 as well defines that when the domestic law does not meet the standard of compensation settled by the WB, at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. However, by the Law No.10 428, dated 2.6.2011, “On the Private International Law”,<sup>21</sup> any international agreement ratified by law prevail over the provisions of this law, when its provisions do not agree with them<sup>22</sup>.

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<sup>21</sup> Law no.10 428, dated 2.6.2011, “On the private international law” (article 2),  
[http://www.pp.gov.al/web/ligji\\_drejtjen\\_nderkombetare\\_private\\_1\\_571.pdf](http://www.pp.gov.al/web/ligji_drejtjen_nderkombetare_private_1_571.pdf)

<sup>22</sup> As explained previously in the text this means that in case of any gap or misalignment of the Albanian law and World Bank policies, the international agreement between them prevails the legislative framework; known also as the supremacy of international agreements.

**Table 4. Table of GAPS of Albanian Legislation and World Bank Policies**

Category	ALBANIAN LEGISLATION	WORLD BANK POLICY	RECOMMENDATIONS TO BRIDGE GAPS
<b>A. Loss of Land</b>  Families, households	– Compensation with the price defined before for urban land and agriculture land	Compensation at full replacement cost. – For agriculture land pre-project or pre displacement, whichever is higher, market value of land of equal productive potential within the same vicinity; – For urban land, pre-displacement market value of land of equal size and use, with similar facilities and sources within the same vicinity; – Replacement land of equivalent productive potential.	– Full compensation with the market prices;
<b>A. Loss of Land</b>  Non –title holder	– No compensation provided	– Resettlement assistance in lieu of compensation for land occupied (land, cash, and other assets, employment) to at least restore their livelihoods and standards of living to pre-displacement levels.	– Resettlement assistance to those most vulnerable to restore pre-displacement level livelihoods. Vulnerable groups may include but not be limited to: poor or landless, women headed households, disabled and elderly. – Encroachers will not be entitled to any compensation for their affected unauthorized/illegal extensions over public land. – Encroachers with economic losses are entitled to assistance for livelihood restoration.
<b>B. Loss of Homes, Structures</b>  Families, households, Structure owners	– Compensation at the prices referred by the Register of Real Estate Office; – Compensation for the structure without title with the condition to have applied before for legalization at the Legalization Agency;	– Compensation at full replacement cost. – For houses and structures the market cost of the materials and labor to build a replacement structure of a similar quality or better than the affected structure.	– Law provides the same standard with WB, meaning that nobody will be denied of any further opportunity to be compensated.

<b>C. Loss of Economic Assets</b> <i>Families, households</i>	– Compensation with the cost method of evaluation of object.	– Compensation at full replacement cost	– Law provides the same standard with WB, meaning that nobody will be denied of any further opportunity to be compensated.
<b>D. Loss of Income</b>	– No provisions	– Measure to assist affected people in improving their former living standards, income earning capacity, and production levels, or at least restoring them	– Rehabilitation assistance for lost or diminished livelihoods. – In the case of landless families who suffer partial or total loss of livelihood, provide income generating options and support mechanisms.
<b>E. Loss of Community Resources</b>	– Compensation by the Government with market value.	– Measures to assist impacted communities to re-establish or re-develop lost Community resources.	– Compensation for re-establishing or reconstructing lost community resources such as religious and cultural structures, irrigation structures. – Restore partially affected structures.
<b>F. Consultations</b>	– The Environment Impact Assessment Act features some consultative activities to be carried out with impacted populations	– Systems for comprehensive consultations, full documentation and grievance redressed mechanisms to be in place	– Comprehensive consultations with full documentation and grievance redressed mechanisms to be in place.
<b>G. Grievance procedure</b>	– Grievance procedures as stipulated in WB OP4.12 are not addressed in the laws. – In the Law on ‘Expropriations’ is cited that the owners of expropriated assets that have been depreciated, have the right to appeal to the court on the compensation amount within 30 days from the receipt of notice.	– An adequate grievance redress mechanism for affected entities is required as early as possible.	– A grievance redress mechanism and procedures should be established to address concerns of the affected entities promptly and effectively, using an understandable and transparent process that is culturally appropriate and readily accessible at no cost and without retribution.

## **5.2. Conditions to be followed in the Resettlements Procedure**

Where displacement of people is unavoidable, the following conditions shall be followed:

- a. The entitlement cut-off date shall be determined and agreed upon in consultation with all stakeholders;
- b. An estimation of the time likely to be needed to restore their living standards, income earning capacity and production levels shall be prepared;
- c. The estimate shall ensure that the condition of the project affected persons shall be maintained to at least the Project Affected Person's pre-project levels condition;
- d. The project affected persons shall be provided with development assistance, in addition to compensation measures described in above. This shall include assistance for land preparation, credit facilities, training, or job opportunities, residential housing, or housing sites; or, as required, agricultural sites for which a combination of productive potential, location advantages, and other factors shall be at least equivalent to those of the old site. Assistance to displaced persons during relocation shall also be provided;
- e. Project affected persons who encroach on the project area after the cutoff date shall not be entitled to compensation, or any resettlement assistance or any other form of rehabilitation assistance.

### 5.3. Notification, Valuation Procedures and Entitlements

#### *Notification of Land Acquisition/Resettlement*

The competent authorities by public notice to be published in the Daily Newspapers (for one month), should inform the public of its intention to land acquisition for the sub projects. A copy of such notice shall be served to each owner, occupier and person or agent having an interest in the land thereof. The names and addresses of the owners, occupiers and agents shall be readily ascertainable.

The notice shall clearly state the below mentioned information:

- Government’s proposal to acquire the land;
- The public purpose for which the land is requested;
- That the proposal or plan may be inspected at the central authorities or in the Office of the LGUs/ADF Project Unit, during working hours;
- That any person affected may, by written notice, object to the transaction of expropriation, land acquisition or resettlement giving reasons for doing so.

### 5.4. Possible Mechanisms of Valuation

#### *General Financial (Cash) Compensation*

The compensation method, as per Albanian legislation in force to be applied for this expropriation procedure is cash compensation. The option “land-for-land” is not provided<sup>23</sup> by the Albanian legislation to private owners. Cash compensation need to be fully sufficient to compensate the acquired land/property and should consider some main criteria:

- Compensation rates should be calculated in consultation with representatives of affected populations to ensure that rates are fair and adequate;
- Compensation for land should be sufficient to enable affected people to restore their standard of living after the expropriation;
- All compensations should be included in the RAP. In case of any event, after the time of RAP preparation, it must cover full replacement cost *exclusive of depreciation* and inclusive of all fees such as construction permits and title charges and labor costs;
- Compensation payments must be made before any acquisition of assets or physical expropriation takes place unless those payments are staggered to enable affected people to begin preparation of new sites;
- Compensation for dismantled infrastructure or disrupted services must be paid to affected communities, or to local institutions as appropriate, at full replacement cost, before civil works begin;
- Compensation for lost earnings must be paid to proprietors and employees for the duration of work stoppages resulting from the relocation of enterprises.

**Land Compensation:** The evaluation method for estimating the compensation should consider all the available sources of information in order for the proposed value for

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<sup>23</sup> The only case when “land for land” compensation method could be applied, is when the affected entity is the commune itself and a communal property is being expropriated. The Council of Ministers gives another property in compensation to the affected commune. In every other case, as per basic principle, for expropriation is provided a fair compensation (constitutional principle) in Cash and not in kind. However, this is a practice which is not yet implemented by the GoA.



compensation to reflect the market value / replacement value of the land. Main assumptions to be taken into consideration in the methodology frame could be related with the current regulatory framework for land expropriation and its recent amendments; financial analysis on net income stream on the sites and its neighborhoods; eventual transactions (sales and leasing) on the region. Below you can find the auxiliary overview tables to be used in the phase of compensation.

**Table 5. Template table calculation of prices for financial compensation of the land**

No.	Commune/Municipality	Min Price (ALL)/m2	Max Price (ALL)/m2	Average Price (ALL)/m2
1.	The prices for the agricultural lands/areas as by the price list of the GoA <sup>24</sup>			
2.	The prices for the previous land expropriation			
3.	The prices for the agricultural lands/areas as by the price list of the informal transactions on wells area			
	The recommend price for the expropriation area:			

**Agricultural Crops and Trees Compensation:** The evaluation method for estimating this compensation is based on the Directive No. 1, dated 10.05.2000, “On the technical criteria for calculating the value of fruit trees that are expropriated for public interest in cases where purchasing indicators are missing”<sup>25</sup>. The technical criteria in this directive are used in case of lack of transaction indicators declared by the Office of Immovable Property Registration Office (IPRO).

By destination fruit trees plants are:

- Fruit trees plants cultivated for their fruit production;
- "Parent" fruit trees plants cultivated to get materials to increase their multiplication;
- Genetic valued fruit trees plants registered as such in the Gene Bank at the State Institute of Seeds and Seedlings or/and at the Institute of Arboriculture;
- Fruit trees plants cultivated in order to produce their fruits and improve the resident or business activity environment;
- Seed plot with all planting and multiplying materials and structures of fruit trees.

The calculation of the value of fruit trees and crops as by the “replacement cost” method for investments and activity costs done, taking into account the values of living labor, instruments and materials that are at the time of evaluation. A template table on the noted for the evaluation of trees and plants is presented below.

<sup>24</sup> As by DCM 514, Date 31.07.2014 "On the approval of property values per each district of the Republic of Albania" Official Bulletin No.118, Year 2014. [http://www.qbz.gov.al/botime/fletore\\_zyrtare/2014/PDF-2014/118-2014.pdf](http://www.qbz.gov.al/botime/fletore_zyrtare/2014/PDF-2014/118-2014.pdf) (page 3-150) This documents changes every year through a DCM and is issued in the Official Gazette/Bulletin.

<sup>25</sup> Directive No. 1, dated 10.05.2000, “On the technical criteria for calculating the value of fruit trees that are expropriated for public interest in cases where purchasing indicators are missing”, <http://www.qbz.gov.al/doc.jsp?doc=docs/Udhezim%20Nr%201%20Dat%C3%AB%2005-10-2000.htm>

**Table 6. Table for Prices Used to Compensate for Loss of Trees**

Type of plant or	Age of Tree/Year of Production of			Additional Losses	Total
	New/Small	Medium	Large		
Orange Tree					
Lemon Tree					
... etc.					

The World Bank applies as well the "Replacement cost" valuation method of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. What differs from the above mentioned technique is that the WB uses the current market price of the plants and production as per fair substitution and as does not take into consideration the depreciation of structures and assets<sup>26</sup>. That is why; the considered values should be calculated without deducting depreciation of any structure or asset. For crops the estimated value is calculated based on the expected yield and market unit price, considering also the investment costs for initiation, land usage etc.

#### *Procedures for Payment of Compensation*

Compensation payments should be made before any acquisition of assets or physical resettlement takes place unless those payments are staggered to enable affected people to begin preparation of new sites. The overall responsibility for payments on expropriation claims for the Project is under the Council of Ministers. The Council of Ministers is responsible for issuing the expropriation decision and authorizing the funds required. The land acquisition transfer must be fully completed, and payment made, before any Works can be executed on the expropriated property. Each PAP will receive the compensation payable into a bank account opened by the owner for purposes of the expropriation. Such sums will be approved by a DCM and the funds will be passed to the bank account of each PAP(s), according to the banking documentation provided by them. The PAPs should be individually informed by the bank within upon the transfer of compensation into the account. Any cost associated with account opening and maintenance will be covered by will be covered by the Ministry and the banking service will be offered free of costs to each PAPs.

The transfer of payment will be made after the publication in the Official Gazette of the Decision of Expropriation. The Decision of the Council of Ministers for expropriation is effective (enter into power) immediately and is published in the Official Gazette. In the event of an appeal in the Court, when no agreement is reached, if the compensation payable is not agreed upon between the government and the land owner, such compensation shall be determined by the Court. In these conditions the person gets the money from the bank, but depending on judicial decision he is entitled to receive an additional benefit.

<sup>26</sup> OP 4.12 - Involuntary Resettlement, Required Measures Dec 2001 (Revised April 2003)

## 5.5. Consultation with Affected Populations

To ensure the interests of the affected persons are fully included in the RAP process and income restoration, the consultant adopted a thorough consultation with the affected persons, representatives of any affected group, any interested group and the various administrative and government departments all through the project area. Some of the meetings could be done visiting the owners in their households and then invite them to participate in the public consultations. Communication with the affected persons, as well as with other community members who will express interest in the project, should be maintained throughout the implementation to closure phase.

### *Mechanisms for consultations*

In addition to documenting the expropriation procedures indicated above, once the tentative arrangement of the civil works is identified, each sub-project beneficiary (LGUs) in cooperation with the ADF will hold public consultations to discuss the expropriation and its implications. All those whose ownership or occupation of land that will be affected by the expropriation will be invited to these consultations, in which they will be offered choices about their options and rights pertaining to compensation, and resettlement – if required, and provided with technically and economically feasible alternatives.

The aim of public consultations at this stage would be to:

- Disseminate concepts for proposed projects with the aim to bring communities interest on the project, and allay fears about what might happen when the project is under way.
- Determine communities' willingness to contribute in kind towards the implementation of the project, and formulate resettlement options that address the affected people's needs.
- Determine community willingness to contribute towards long term maintenance, when and if required.

Continuous consultations should follow up in order to ensure cooperation from the PAPs and transparency on the project activities and on the evaluation of the PAPs losses.

### *Grievance Redress mechanisms*

Grievances are a common phenomenon in involuntary resettlement which, if not friendly and timely resolved, invariably gives rise to local resistance, political tension and unnecessary delays in executing the project. A grievance redress mechanism for the project has to be established for addressing potential legitimate concerns of PAPs who may consider themselves deprived of appropriate treatment under the project. The mechanism should include the following main tasks:

- a) a recording and reporting system, including grievances filed both verbally and in writing,
- b) staff with responsibility at various levels of governments, and
- c) a time frame to address the filed grievances.

The functioning of the grievance redress mechanism must be regularly monitored and evaluated by the ADF Environment Unit during project implementation and will be also subject to internal monitoring. In principle the creation of the grievance mechanism it's an easier approach, without costs, which includes people from the community, the project and

specific authorities, to manage and solve issues before they pass in formal channels which require time and have costs.

With regard to this ad hoc committee role, it should be considered as an intermediate actor to help citizens in *two moments*:

- a) Assist the PAPs once the demand for expropriation has been declared to help them find and confirm their names and registered data, as well as assist them to submit any potential complain related to the estimated price, surface, etc to the Expropriation Commission established in the responsible Ministry. Overall, the LGC should provide relevant information to the PAPs during the expropriation procedures on complain procedures (if any) addressed to the Expropriation Commission, which is entitled to issue such complaints.
- b) Also, the LGC should help the PAPs even after the decision of the Council of Ministers is published, for those who potentially might not agree with the Decision and would like to appeal it in the Court.

An established Grievance Mechanism, that could help to avoid the need to proceed to formal official authorities, would be formed by the ADF Environment Unit and include one of the PAPs, one representative from the beneficiary (Respective Municipality), and one representative considered as neutral from the affected area (local government or district official, which will be assigned when the responsibilities, nominations and coverage of the Local Districts will be decided). The creation of this committee *sui generis* is considered to facilitate considerably any issues that arise with the projects and reduce their administrative costs considering that the affected areas are away from Tirana and all proceedings of their complaints are held in Tirana.

*This committee must be composed of these members:*

(1) One representatives from the Beneficiary, Respective Municipality
(2) One representative from the PAPs;
(3) One independent individual recognized as a neutral party from the District/Local Authorities

The latter will chair the committee and will assist with determination of redress for grievances that cannot be resolved by the project representatives. The committee will maintain a record of grievances received and the result of attempts to resolve the grievances and include this information in the monitoring and evaluation report. The Expropriation Law provides for an appeals process against the proposed award for compensation. In addition, the Urban Planning and Construction Police laws allow for administrative appeals against a decision for demolitions of illegal construction. Further appeals can be made to the district courts. The Office of the Ombudsman in Tirana receives complaints from citizens against government actions that affect their rights. The project staff will also play a role in resolving grievances.

Albania has passed a transition period in its local government, due to the changes coming from the Administrative-Territorial Reform, which brought radical changes to the functioning

of the LG. Considering the changes of the local government and the steps explained above, in a forecast the grievance committee can be created immediately after RAP Approval, within the Relevant Municipality or any other chosen local institution.

## 5.6. Budgetary Implications and Funding

In general, the cost burden of compensation will be borne by the executing agencies such as government ministries, NGO's and the private service providers as may be appropriate. Costs for the implementation of the RAP include three categories: (a) technical support, (b) expropriation procedure, and (c) land acquisition.

- a) *Technical assistance* of the RAP implementation cover the monitoring and preparation of the expropriation case application file. For the implementation of these projects will be used World Bank loans to cover the costs of technical assistance.
- b) The overall responsibility for *resettlement and expropriation* for the Project is under the Council of Ministers.
- c) The financial responsibility for the expropriation procedures, including the compensation to be paid, resettlement costs, etc., lies with the Albanian Government, based on the ratification of the **Loan Agreement signed between the IBRD and the Government of Albania**. This agreement stands above the law on expropriations and will be implemented using adequate national legislation.
- d) Costs for the expropriation procedures are managed by the government budget for the functioning of the special expropriation commission for covering the costs of any fees for the registration of new ownership titles and issuing of Certificates of Ownership for all PAPs.
- e) The *land acquisition* will be financed by the GoA budget. The Council of Ministers is responsible for issuing the expropriation decision and authorizing the funds required, which will be delivered to owners as soon as the CoM Decision publishes in the Official Gazette. The land acquisition transfer must be fully completed, and payment made, before any Works can be executed on the expropriated property.

The estimate of the overall cost of resettlement and compensation would be determined during the socio-economic study. Disbursements based on budgetary requirements, established by the RAPs in consultation with PAPs and local chiefs, will made through the relevant District Administration.

## 6. Institutional and Implementation Arrangements

### 6.1. Institutional responsibility for project implementation

The Albanian Development Fund has ultimate responsibility for the implementation of all project components. A committee composed of PAP-Project Authorities will be constituted to be responsible for overseeing the implementation of the RAP. The ADF will prepare the RAP/ARAP based on data received from the LGU and other institutions. The ADF will also cooperate with all local institutions to provide a successful implementation of the RAP. The RAP will be submitted to the WBG for clearance prior to implementation. A property evaluation study, an integral part of the design, will serve as the basis for the preparation of the RAP/ARAP.

The LGUs (Municipalities, Administrative Units) are the final beneficiaries of the project implementation. From the institution it is required continuous assistance and presence during all the progress of the project.

Immovable Property Registration Office for each District in the Project area, under the authority of the Central Registration Office, which are responsible for identifying and verifying property boundaries and ownership.

Land Administration and Protection Offices (formerly Cadastre Offices) under the Region, which will clarify land allotment certificates for agricultural land that has not been formally registered and transferred to the Immovable Property Registration Offices.

The Regions and the Municipalities will be responsible for the coordination of the implementing procedures and execution of the compensation.

## 6.2. Institutional Arrangements for the Land Acquisition and Resettlement Process Implementation

Table 7. Institutional Arrangements for Implementation

Steps	Institution	Description of responsibilities	Timing	Remarks
<b>RAP Planning</b>				
<b>Step I</b>	ADF / LGU (or Consultant on behalf of ADF)	Identification of PAPs, calculation of RAP value conform the WB OP 4.12	During project design phase	Information on project effects, needs for RAP/ARAP, evaluation and verification of PAPs
<b>Step II</b>	ADF / LGU (or Consultant on behalf of ADF)	PAP Consultation	Project design, prior to final design preparation	Explanation on assets to be affected, identification of the best way for compensation, explanation of time of compensation, main actors on implementation process, procedures to be undertaken and the rights for Grievance. The information must have been available to PAPs 20 days prior to the meeting.
<b>Step III</b>	ADF	Grievance Committee Creation		The Grievance Committee needs to be formalized and specific contacts need to be given to the PAPs.
<b>Step IV</b>	ADF / LGU /or Consultant on behalf of ADF	Preparation of draft RAP report	During project design	Preparation of draft RAP/ARAP Report compliant with OP 4.12
<b>Step V</b>	ADF/LGU/or Consultant on behalf of ADF	Consultation of draft RAP with PAP	During project design	Consultation of draft RAP/ARAP with affected communities and allowing time for receiving grievances
<b>Step VI</b>	ADF / LGU /or Consultant on behalf of ADF	Preparation of final RAP report	Prior to start of works	Preparation of final RAP/ARAP Report considering comments of WB
<b>Step VII</b>	WBG	Approval of final RAP/ARAP report	Prior to start of works	The WBG must provide No Objection to the RAP prior to initiation of its formalization process
<b>Step VIII</b>	LGU/Responsible ministry	Request for expropriation for public interest	Prior to start of works	Fulfill of criteria provided by law, especially the necessary documents that prove the expropriation needs
<b>Step IX</b>	Responsible ministry	Expropriation Commission at Responsible ministry has to examine the request and	Prior to start of works	Setting up of Expropriation Commission, verification of documentation on proprieties, calculation and verification of compensation value



		documents		
		If the legal criteria are fulfilled the Responsible ministry starts the expropriation procedures.		
		If not, the request will be rejected.		
<b>Step X</b>	Local authority/ADF/ Responsible ministry /PAPs	Compile the agreement considering pretends of any parts and legislation	Prior to start of works	Give solution and incite agreements supporting PAPs requests upon legislation
<b>Step XI</b>	Responsible ministry /Council of Ministers	Formalization and execution of RAP/ARAP to enable compensation of PAP's	Prior to start of works	A decision of the Council of Ministers for compensation will be issued, in line with the Resettlement Policy Framework and WB Operation Programme 4.12, based on the approved RAP/ARAP
<b>Step XII</b>	Council of Ministers	Approve the decision of the expropriation for public interest;	Prior to start of works	DCM shall be implemented 1 month after declaiming on official newspaper
<b>Step XIII</b>	ADF / Grievance Committee	Ensure that the Expropriation Commission decisions are based in Albanian Legislation and WB guidelines and considers PAPs requests	Prior to start of works	Evaluation of compliance between interested part requests
<b>Step XIV</b>	Responsible ministry /LGU	Agreement with PAP's about expropriation.	Prior to start of works	Important: the fair evaluation of the properties
		Publication of the notice for the expropriation - Declamation		The procedure must be followed carefully and respecting the right of the third persons to prevent the complaint to the Court
		Examine the suggestions and the complaints of persons affected by the		The expropriation it will be done for the persons who will accept to be compensated with the conditions published.

		process		
		Prepare the draft decision for Council of Ministers.		Preparation of DCM on PAP compensation
		Or		
		Reject the proposal to Responsible ministry with the suggestion to review, if it is not in conformity with the law. Pay the compensation to persons affected by the project		
<b>Step XV</b>	ADF (or Consultant on behalf of ADF)/Grievance Committee	Assistance on relationship between PAPs and Local and Governmental authorities, verifications, and supervision of RAP implementation	Prior to start of works	Verification of compatibility of the agreement between interested parts.
<b>Step XVI</b>	ADF	Issuing of clearance memo	Prior to start of works	ADF provides a clearance memo for start of works that ensures that compensation / mitigation measures are implemented before any impacts related to land acquisition take place
<b>RAP Implementation</b>				
<b>Step XVII</b>	ADF (or Consultant on behalf of ADF)/Grievance Committee	If needed, assistance of PAPs on grievance procedures for administrative bodies, RAP procedures, compensation values etc and support PAPs grievances on the Court	Prior to start of works	If PAPs will have grievances
<b>Step XVIII</b>	PAPs	Opening a Bank Account and reporting it at the Responsible ministry	Prior to start of works	Institutional support of the compensation process

<b>Step XIX</b>	Responsible ministry	Pay the compensation to persons affected by the expropriation before the civil works begin	Prior to start of works	Ensure that compensation are done in respect (amount and time) of agreements signed by interested parties and before starting the project implementation
<b>Step XX</b>	ADF	Oversee RAP Implementation in accordance with WB guidelines, loan agreement and national legislation	Prior to start of works	Ensure that compensation are done in respect (amount and time) of agreements signed by interested parties
<b>Step XXI</b>	ADF	Prepare the final report on RAP implementation	Prior to start of works	Considering that compensations should be finished before starting the project implementation.
<b>Step XXII</b>	Responsible ministry, PAP, ADF	Assignment of the disclosure process according the interested parties demands and in respect of DCM	Prior to start of works	Ensure a signed document that shows the RAP is finished and the compensation is done.
			Prior to start of works	This document also will verify that in the future the expropriate lands are ownership of Responsible ministry

## 7. Monitoring Program

### *Arrangements for monitoring and evaluation*

The arrangements for monitoring and evaluation are shared between the ADF and the Municipalities.

The ADF Environment Unit is responsible of monitoring the Grievance Committee as the committee will report directly to the Head of ADF Environment Unit or to an assigned specialist. It is also ADF responsibility to undertake the below explained internal monitoring. The responsible ADF Environment Unit representative for Grievance Committee reporting should be different from the one responsible of Internal Monitoring.

#### • *Internal monitoring*

It is recommended that ADF be charged with the task of monitoring and evaluation of the PAPs, procedures related to their needs and grievance. As mentioned above ADF will be final responsible for 2 procedures:

- Monitoring the Grievance Committee
- Overall Internal Monitoring

The internal monitoring procedures are related to:

- Public consultation meetings held;
- Census, assets inventories, assessments and socio-economic studies completed;
- Grievances filed and their status;
- Compensation payments disbursed; and
- Monitoring report submitted.

Internal Monitoring Actions are not limited and they can include participation in the processes etc. Reports of internal monitoring should be prepared and submitted to ADF and shared with other specialists and partners in order to serve for the possible RAP Implementation Report.

### **7.1. Proposed Indicators for Resettlement Monitoring Plan**

**Table 8. Activities and Indicators of the Monitoring Plan<sup>27</sup>**

No	Issues / activities to be monitored	Indicators
1	General success/acceptability of the compensation/resettlement process	Outstanding (unsigned) individual compensations/resettlement contracts as a percentage of total compensation/resettlement contracts
		Ratio of PAPs remaining supportive of the project against

<sup>27</sup> Note: These are only some of the indicators that could be used. Specific indicators will need to be developed taking into account site specific conditions.

		those not supportive
		Level of public consultation measured as ratio of those that acknowledge to have been
		Consulted vs. those that were not consulted. This ratio can be determined by random sampling.
		Actual time of completing resettlement compared to planned time
2	Project acceptance (or not) by the community	Number of complaints as a percentage of total PAPs
		Number of grievances successfully resolved as a percentage of total number of grievances
4	Restoration of areas temporarily disrupted by construction	Area of land restored to cultivation as a percentage of total area of land disrupted
5	Replacement of grazing land permanently displaced by access roads and building construction	Area of new land opened up for cultivation/grazing as a percentage of total original land area cultivated/grazed
6		
7	P	
		.

## Appendix 1. Possible Outline and Contents for the RAP

A Resettlement Action Plan should include as by the *Handbook for Preparing a Resettlement Action Plan* the below listed chapters and subchapters. Along with the main structure is explained the content needed in each chapter.

### **Introduction**

- Briefly describe the project.
- List project components including associated facilities (if any).
- Describe project components requiring land acquisition and resettlement; give overall estimates of land acquisition and resettlement.

### **Minimizing Resettlement**

- Describe efforts made to minimize displacement.
- Describe the results of these efforts.
- Describe mechanisms used to minimize displacement during implementation.

### **Census and Socioeconomic Surveys**

- Provide the results of the census, assets inventories, natural resource assessments, and socioeconomic surveys.
- Identify all categories of impacts and people affected.
- Summarize consultations on the results of the various surveys with affected people.
- Describe need for updates to census, assets inventories, resource assessments, and socioeconomic surveys, if necessary, as part of RAP monitoring and evaluation.

### **Legal Framework**

- Describe all relevant local laws and customs that apply to resettlement.
- Identify gaps between local laws and World Bank Group policies, and describe project-specific mechanisms to address conflicts.
- Describe entitlement policies for each category of impact and specify that resettlement implementation will be based on specific provisions of agreed RAP.
- Describe method of valuation used for affected structures, land, trees, and other assets.
- Prepare entitlement matrix.

### **Resettlement Sites**

- Does the project require community relocation sites? Have affected people been involved in a participatory process to identify sites, assess advantages and disadvantages of each site, and select preferred sites?
- Have the affected people been involved in developing an acceptable strategy for housing replacement? Will new housing be constructed/allocated?
- Does the project involve allocation of agricultural land or pasture/rangeland? Have the individual households that will be allocated lands been involved in identifying potential new sites, and have they explicitly accepted the selected sites?
- Describe the specific process of involving affected populations in identifying potential housing sites, assessing advantages and disadvantages, and selecting sites.
- Describe the feasibility studies conducted to determine the suitability of the proposed sites, including natural resource assessments (soils and land use capability, vegetation and livestock carrying capacity, water resource surveys) and environmental and social impact assessments of the sites.

- Demonstrate that the land quality and area are adequate for allocation to all of the people eligible for allocation of agricultural land. Provide data on land quality and capability, productive potential, and quantity.
- Give calculations relating to site requirements and availability.
- Describe mechanisms for: 1) procuring, 2) developing and 3) allotting resettlement sites, including the awarding of title or use rights to allotted lands.
- Provide detailed description of the arrangements for site development for agriculture, including funding of development costs.
- Have the host communities been consulted about the RAP? Have they participated in the identification of likely impacts on their communities, appropriate mitigation measures, and preparation of the RAP? Do the host communities have a share of the resettlement benefits?

### **Income Restoration**

- Are the compensation entitlements sufficient to restore income streams for each category of impact? What additional economic rehabilitation measures are necessary?
- Briefly spell out the restoration strategies for each category of impact and describe their institutional, financial, and technical aspects.
- Describe the process of consultation with affected populations and their participation in finalizing strategies for income restoration.
- How do these strategies vary with the area of impact?
- Does income restoration require change in livelihoods, development of alternative farmlands or some other activities that require a substantial amount of training, time for preparation, and implementation.
- How are the risks of impoverishment to be addressed?
- What are the main institutional and other risks for the smooth implementation of the resettlement programs?
- Describe the process for monitoring the effectiveness of the income restoration measures.
- Describe any social or community development programs currently operating in or around the project area. If programs exist, do they meet the development priorities of their target communities? Are there opportunities for the project proponent to support new programs or expand existing programs to meet the development priorities of communities in the project area?

### **Institutional Arrangements**

- Describe the institution(s) responsible for delivery of each item/activity in the entitlement policy; implementation of income restoration programs; and coordination of the activities associated with and described in the resettlement action plan.
- State how coordination issues will be addressed in cases where resettlement is spread over a number of jurisdictions or where resettlement will be implemented in stages over a long period of time.
- Identify the agency that will coordinate all implementing agencies. Does it have the necessary mandate and resources?
- Describe the external (no project) institutions involved in the process of income restoration (land development, land allocation, credit, training) and the mechanisms to ensure adequate performance of these institutions.
- Discuss institutional capacity for and commitment to resettlement.
- Describe mechanisms for ensuring independent monitoring, evaluation, and financial audit of the RAP and for ensuring that corrective measures are carried out in a timely fashion.

### **Implementation Schedule**

- List the chronological steps in implementation of the RAP, including identification of agencies responsible for each activity and with a brief explanation of each activity.
- Prepare a month-by-month implementation schedule (using a Gantt chart, for example) of activities to be undertaken as part of resettlement implementation.
- Describe the linkage between resettlement implementation and initiation of civil works for each of the project components.

### **Participation and Consultation**

- Describe the various stakeholders.
- Describe the process of promoting consultation/participation of affected populations and stakeholders in resettlement preparation and planning.
- Describe the process of involving affected populations and other stakeholders in implementation and monitoring.
- Describe the plan for disseminating RAP information to affected populations and stakeholders, including information about compensation for lost assets, eligibility for compensation, resettlement assistance, and grievance redress.

### **Grievance Redress**

- Describe the step-by-step process for registering and addressing grievances and provide specific details regarding a cost-free process for registering complaints, response time, and communication modes.
- Describe the mechanism for appeal.
- Describe the provisions for approaching civil courts if other options fail.

### **Monitoring and Evaluation**

- Describe the internal/performance monitoring process.
- Define key monitoring indicators derived from baseline survey. Provide a list of monitoring indicators that will be used for internal monitoring.
- Describe institutional (including financial) arrangements.
- Describe frequency of reporting and content for internal monitoring.
- Describe process for integrating feedback from internal monitoring into implementation.
- Define methodology for external monitoring.
- Define key indicators for external monitoring.
- Describe frequency of reporting and content for external monitoring.
- Describe process for integrating feedback from external monitoring into implementation.
- Describe arrangements for final external evaluation.

### **Costs and Budgets**

- Provide a clear statement of financial responsibility and authority.
- List the sources of funds for resettlement and describe the flow of funds.
- Ensure that the budget for resettlement is sufficient and included in the overall project budget.
- Identify resettlement costs, if any, to be funded by the government and the mechanisms that will be established to ensure coordination of disbursements with the RAP and the project schedule.
- Prepare an estimated budget, by cost and by item, for all resettlement costs including planning and implementation, management and administration, monitoring and evaluation, and contingencies.



- Describe the specific mechanisms to adjust cost estimates and compensation payments for inflation and currency fluctuations.
- Describe the provisions to account for physical and price contingencies.
- Describe the financial arrangements for external monitoring and evaluation including the process for awarding and maintenance of contracts for the entire duration of resettlement.

**Annexes**

- Copies of census and survey instruments, interview formats, and any other research tools
- Information on all public consultation including announcements and schedules of public meetings, meeting minutes, and lists of attendees.
- Examples of formats to be used in monitoring and reporting on RAP implementation.

## Appendix 2 - Contents for Abbreviated Resettlement Action Plan

This is a Template for an Abbreviated RAP (ARAP):

**1. Census survey of displaced persons and valuation of assets;**

(List of affected people and how they are affected. What are they losing concretely and valuation?)

**2. Description of compensation and other resettlement assistance to be provided;**

(self-explanatory: what is being given and how they are helped)

**3. Consultations with project affected persons (PAP) about acceptable alternatives;**

(report on consultation)

**4. Institutional responsibility for implementation and procedures for grievance redress**

(who does what? and when?)

**5. Arrangements for monitoring and implementation**

**6. Time table and budget**

(timing for each step and the costs)

**7. Simple socio-economic study**

(In addition to the census of the individual PAPs, the survey would list all their assets and livelihood factors in order to be able to assess the magnitude of impact.)

It is important to emphasize that according to OP 4.12 “On Involuntary Resettlement”, Annex A, Article 22<sup>28</sup> an abbreviated plan covers the following minimum elements:

- a. a census survey of displaced persons and valuation of assets;
- b. description of compensation and other resettlement assistance to be provided;
- c. consultations with displaced people about acceptable alternatives;
- d. institutional responsibility for implementation and procedures for grievance redress;
- e. arrangements for monitoring and implementation; and
- f. a timetable and budget.

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<sup>28</sup> OP 4.12, Annex A:

<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20066696~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>