



REPUBLIC OF ALBANIA · ALBANIAN ROAD AUTHORITY

**PLANNING AND PREPARATION OF THE RESULTS-BASED ROAD
MAINTENANCE AND SAFETY PROJECT (RRMSP)**

Grant No. P13982 · Contract No. 1

DRAFT RESETTLEMENT POLICY FRAMEWORK (RPF)

Place and Date: Tirana (Albania) · 30.10.2014

SUBMITTED BY:



Partner



Leader Consultant

Table of Contents

1	EXECUTIVE SUMMARY	3
2	BASIC INFORMATION	4
2.1	Background	4
2.2	Project description	5
3	Impacts, Land Acquisition and Resettlement Principles.....	7
3.1	Possible types and scope of impacts	7
3.2	Basic Principles of the Resettlement Program	8
4	Legal Framework.....	10
4.1	Legal Criteria on the Evaluation of Properties.....	12
5	Economic Rehabilitation	13
6	Identification and Classification of Affected Population Groups.....	13
7	Expropriation Procedure	15
8	Gaps between Local Laws and World Bank (IFC) Policies.....	16
9	INFORMAL GRIEVANCE MECHANISEM IN ADDITION TO FORMAL LEGAL GRIEVANCE SYSTEM ..	19
10	Compensation eligibility and entitlements	19
11	PUBLIC CONSULTATION, CUT OFF DATE PARTICIPATION AND DOCUMENT DISCLOSURE	22
12	RAP Preparation Review and Approval	22
13	Process for Screening and of RAP- Preparation	23
14	Funding resettlement, cost estimates, flow of funds, and contingency arrangements	23
	Annexes.....	25
15	ANNEX 1: Sample Grievance and Resolution Form	26
16	ANNEX 2: Sample Table of Contents for Consultation Reports.....	28

Acronyms

ARA	Albanian Road Authority
BAT	Best Available Techniques
EIA	Environmental Impact Assessment
EMF	Environmental Management Framework
ESFD	Environmental and Social Framework Document
ESMD	Environmental and Social Management Document
ESMF	Environmental and Social Management Framework
ESSD	Environmental and social Safeguard Document
ESIA	Environmental and Social Impact Assessment
GoA	Government of Albania
LAP	Land Acquisition Plan
MoTI	Ministry of Transport and Infrastructure
NGO	Non Governmental Organization
OP	Operational Procedure
OPRC	Output and Performance based Road Contracts
PR	Performance requirements
RAP	Resettlement Action Plan
RRMSP	Results based Road Maintenance and Safety Project
RPF	Resettlement Policy Framework
RRA	Regional Road Authority
RSC	Road Safety Council
SIA	Social Impact Assessment
TOR	Terms of References
WB	World Bank

1 EXECUTIVE SUMMARY

The Government of Albania through the Albanian Road Authority (ARA) is proposing to implement performance based road maintenance contacting across all national roads. It is proposed that the first five years of this maintenance programme will be founded by Donor Partners under a new project called the Result based Road Maintenance and Safety Project (RRMSP).

This Resettlement Policy Framework (RPF) has been prepared as part of the project and sets out a framework to guide any necessary land acquisition and resettlement that may be required as a result of proposed maintenance and upgrading works within the project.

The objective of the RPF is to set out the policies, principles, institutional arrangements, schedules and indicative budget that will address anticipated resettlements. The arrangements are also to ensure that there is a systematic process for the different stages of the implementation of a framework that assures participation of affected persons, involvement of relevant institutions and stakeholders, adherence to both the World Bank and Government of Albania procedures and requirements and outlines compensation for affected persons in the execution of the proposed RRMRS project.

The activities related to the RRMSP project implementation may require land take in some cases, and may result in resettlement impacts, leading to relocation, displacement of persons currently occupying or using these lands and other assets. With reference to Component 3 of the Terms of Reference of the project, the following actions are considered:

- Review the requirements of the World Bank’s Environmental and Social safeguards policies, and prepare the Environmental and Social Safeguards documents for the RRMSP, including: Environmental Management Framework (EMF), Environmental Management Plans (EMPs), Resettlement Policy Framework (RPF), and Resettlement Action Plans for the RRMSP (as applicable).
- Review and identify gaps / inconsistencies between regulations governing environmental and social safeguard policies of the Government and the guidelines of the World Bank.
- Provision of on-the-job training of ARA staff to prepare environmental and social safeguard documents.

The laws of the Republic of Albania governing land acquisition have been analyzed and found to be largely consistent with the World Bank policy on payment of compensation for lost assets. Minor inconsistencies identified in the rate and timing of compensation payment will be addressed by adhering to the Bank’s policy of paying compensation at full replacement cost, prior to the beginning of civil works, offering resettlement assistance and recognizing all affected groups, including tenants and squatters.

The World Bank operational policy OP 4.12 states in paragraph 2:

(a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.

(b) 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 ³ should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.

(c) Displaced persons should 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 project implementation, whichever is higher. ⁴

Eligibility criteria will be based on the three criteria given in OP 4.12:

- *Those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);*
- *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;*
- *Those who have no recognizable legal rights or claim to the land they are occupying.*

An Entitlement Matrix which sets the measure for the payment for all losses or impacts has been included. The Entitlement Matrix lists the type of loss, criteria for eligibility and defines entitlement. Specific socio-economic studies will be carried out in connection with the preparation of resettlement action plans for each sub-project area. These will confirm land and structures to be affected and identify all project affected persons and the impacts caused by the involuntary resettlement arising out of the implementation of the proposed project.

Organizational arrangements and procedures for delivery of entitlement have also been detailed as follows:

- Involvement of Public Sector Agencies
- Notification of land resource holders
- Documentation of Holdings and Assets
- Agreement on Compensation and Preparation of funds
- Compensation Payments

Other sections discussed are grievance redress mechanisms and monitoring arrangements.

2 BASIC INFORMATION

2.1 Background

As in many other eastern European Countries, road construction and maintenance in Albania has suffered from under-investment during the past several decades. This has resulted in deterioration of

existing roads, through lack of maintenance which has then been compounded by the lack of response to increased traffic volumes generated during the last few years. In recent years a number of roads have been rehabilitated and further roads are currently in process of rehabilitation or improvement. The establishment of improved systems and standards of maintenance is important in order to ensure that these network improvements are sustained.

The overall length of the road network in Albania totals about 15,000 km. The network comprises about 3,700 km of national roads administered by the Ministry of Transport and Infrastructure (MoTI) through the Albanian Road Authority (ARA). The secondary and local road network consists of: (i) about 4,400 km of district roads, which provide rural links of district importance and are maintained by district road departments within the 12 Regional Road Authorities (county); (ii) about 4,980 km of communal roads, including private access roads, which provide rural links of communal importance and are maintained by road departments; and (iii) about 2,500 km of urban or municipal roads, which are administered and maintained by municipal road departments.

The Government of Albania has undertaken measures to increase the efficiency and effectiveness with which the management and maintenance of the country's road network is carried out. This was motivated by the recognition that the Albanian road network is the country's single largest asset and that a less-than-optimal system for the management and maintenance of this asset will generally result in high losses for the national economy. This occurs not only in the form of road deterioration and reductions in road asset value, but also in the form of increased vehicle operation costs which must be borne by the road user and therefore reduces the overall competitiveness of the national economy in an increasingly global economy.

The Government of Albania (GoA) during 2009 launched (on a pilot basis) four (4) packages for output and performance based road contracts (OPRC) covering 245 kilometres of the national road network. They were completed in November 2012. In continuation of this strategy, the Government of Albania through the ARA is proposing to implement OPRC maintenance contracting, on an area-wide basis, across all national roads throughout Albania. It is currently proposed that the first five years of this maintenance strategy will be funded by the World Bank, GoA and other Donor partners, under a new project to be called the Results based Road Maintenance and Safety Project (RRMSP).

Currently ARA has contracted maintenance activities across the entire national road network, and these will be completed in 2015. ARA must ensure that the new maintenance contracts, to be implemented under RRMSP, are ready to commence on 1 July 2015, and that these cover the entire national road network.

The Government of Albania has secured a grant from ECAPDEV to support the preparation of the RRMSP. The sound preparation of RRMSP will contribute to more effective use of the limited government funding in improving road maintenance.

2.2 Project description

The GoA seeks to provide the planning and preparation activities necessary to (a) obtain donor funding for implementation of RRMSP and (b) to prepare the documentation necessary to allow implementation of the project to commence immediately after approval is received for donor financing.

The components of the project will be as the following:

Component 1

- Assessment of the existing National Road Network inventory in order to develop the optimal arrangements for contracting out the maintenance activities on a performance basis of all national roads. Planning for the way in which the maintenance contracts will be specified (ie the area or corridor that will be included in each contract), will be based on actual physical conditions (accessibility, location, condition), socio-economic criteria and balanced geographical distribution. This component will include capacity support to ARA in planning and prioritization and in the expansion of performance-based maintenance contracting.
- Preparation of the bidding documents (BD) for all contracts. The BD will incorporate the recommendations of an independent road safety audit (see Component 2).

Component 2

- Introduction of Road Safety Audit Practices as part of operationalizing the Road Safety Action Plans, including conducting independent road safety audits and incorporation of road safety improvements and standards into the bidding documents;
- Identification and need assessment of capacity building requirements to enhance the operationalization of Road Safety within ARA and the Secretariat of the Inter ministerial Road Safety Council (RSC), and preparation of a TOR for additional Technical Assistance (TA) to address the identified requirements.

Component 3

- Review the requirements of the World Bank's Environmental and Social safeguards policies, and prepare the Environmental and Social Safeguards documents for the RRMSP, including: Environmental Management Framework (EMF), Environmental Management Plans (EMPs), Resettlement Policy Framework (RPF), and Resettlement Action Plans for the RRMSP (as applicable).
- Review and identify gaps / inconsistencies between regulations governing environmental and social safeguard policies of the Government and the guidelines of the World Bank.
- Provision of on-the-job training of ARA staff to prepare environmental and social safeguard documents.

Component 4

Definition of the proposed Project Development Objectives (PDOs) for the RRMSP, Disbursement Linked Indicators (DLIs) related to the implementation of the road repair/maintenance, the Results Framework, and establishing baseline values and annual targets;

Preparation of the RRMSP project operation manual.

Environmental Safeguards Documents

The project has been classified under World Bank policies as Category B, and as such, requires an Environmental Management Framework with sample Environmental Management Plans (EMPs) for at least two types of activities that are anticipated under roads maintenance at this stage. The EMF will also include precautionary measures for the Protection of Cultural Heritage and for activities in the proximity or within specific Natural Habitats or any protected areas. The scope and content of the EMF is provided in Annex 1 of the ToR.

Social Safeguards Documents

The Consultant shall prepare the Land Acquisition and Resettlement Policy Framework (LARPF). The LARPF must reflect regulatory requirements of Albania as well as social safeguard policies and procedures of the World Bank Operational Policies on Involuntary Resettlement OP 4.12. The scope and content of the LARPF is provided in Annex 2 of the ToR.

3 IMPACTS, LAND ACQUISITION AND RESETTLEMENT PRINCIPLES

World Bank Operational Policy on Involuntary Resettlement (OP 4.12) requires that social impacts of all its supported projects should be mitigated according to operational policies that spell out the principles and planning methods for mitigation measures. This applies whenever property must be acquired, or its use modified, for a project, and that acquisition or modification results in the loss of income, residence or access to resources, either permanent or temporary whether the occupation is legal or illegal. Land acquisition or any displacement of Project Affected People - PAPs in the project zone will therefore be carried out in accordance with the Laws of Albania taking into consideration the World Bank Involuntary Resettlement Policy Framework. Whenever there will be no accordance between the World Bank Operational Policies and Albanian Laws, the Bank Operational Policy will apply.

3.1 Possible types and scope of impacts

Based on the nature of the sub projects envisaged under the project development, it might happen that subproject activities will lead to land acquisition, restriction or loss of access to economic assets and resources, leading ultimately to land acquisition and compensation. Currently, the sections to be rehabilitated are not known, thus the RPF is prepared to guide resettlement and land acquisition in all over the span of the project. RAPs will be prepared during the project implementation, when the works will be defined. It is envisaged that only small numbers of people and area will be impacted by subproject activities. When this occurs, relevant provisions in the Albanian laws and the World Bank Operational Policy (OP) 4.12 on Involuntary Resettlement will be applied. It should be mentioned that currently it is being planned to finance only rehabilitation and maintenance works. Other possible impacts will be temporary impacts during the roads rehabilitation and maintenance works. These impacts will be limited in time and size.

A third potential impact could be the displacement of kiosks or selling tents because of the roads rehabilitation and maintenance works. Given that the rehabilitation and maintenance works are located in urban/rural areas there might be a possibility that could cause need for the displacement of these typologies of small businesses. The displacement of kiosks or tents could be of a permanent or temporary nature. Thus, potential and possible impacts from this project could be:

- (i) permanent land acquisition of urban/rural settlements, with different sizes,
- (ii) temporary land impacts of limited size (considering only rehabilitation and maintenance works),
- (iii) displacement of kiosks or selling tents.

3.2 Basic Principles of the Resettlement Program

The RPF seeks to ensure that affected persons are meaningfully consulted, participate in the planning process and are adequately compensated to the extent corresponding at least to their pre-impact time. In case of the livelihood impacts, it must be assured that incomes have been restored and that the process is a fair and transparent one.

Consultation and participation of affected persons

The rights and interests of the PAPs are to be heard and considered in the site specific Resettlement Action Plans (RAPs) or Land Acquisition Plans (LAPs). Participation and consultation of PAPs is essential for a transparent and effective compensation and mitigation of adverse impacts. The RPF seeks to ensure that affected persons, communities and local authorities (depending on severity of impacts) are regularly and genuinely informed and meaningfully consulted; are encouraged and assisted to participate in the compensation planning and implementation process; and are adequately compensated to the extent that their incomes have been restored (in case of loss of livelihoods).

Minimization of resettlement

The implementing Agency (ARA) will endeavor to ensure that the project design will avoid or minimize land acquisition and physical displacement of households or businesses.

Ensure and guarantee the timely provision of any necessary compensation before beginning civil works

This will be done in line with the World Bank policies and guidelines, for people whose land will be affected from project activities.

Negotiated compensation options

A consensus must be reached with those who will be affected, so that a fair and equitable compensation will be made for loss of assets and compensation paid according to the prevailing market rates of the local areas or replacement costs, whichever is higher.

The affected persons should be given priority in employment opportunities that arise from the project.

Establishment of impact baseline data

The following activities aim to identify affected property:

- **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 status** of affected persons.

- **Establishment of 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.

Vulnerable social groups

These are groups that include those with minimal assets, the illiterate, and the aged. These are often physically weaker and usually need special help in the relocation/disturbance phase. In particular, female headed households may be disadvantaged in comparison with more powerful households.

An independent grievance procedure

An independent team comprising local administration, central government officials, local officials, and NGOs will play key roles in establishing a grievance mechanism needed to solve problems and manage unforeseen issues, which may arise during implementation. It will be organized in such a way that they are accessible to all, with particular concern for the situation of vulnerable groups.

Potential Social Safeguard Risks and Mitigation Measures

- The implementing Agency (ARA) through the legal department and the Ministry of Transport and Infrastructure (MoTI) has to verify at the time of project implementation, if any of the residents has ownership claims on the property in case this is a public land. If someone has such ownership claims, the Ministry must assist them to obtain property titles and compensate them for the expropriated property.
- To include an additional expropriation reserve fund, for any unexpected claim on land compensation from PAPs, who may require additional compensation and may win the case in Court.
- A pre-disclosure phase is recommended in cases when PAPs are not identified as they could no longer reside in the expropriated areas (migrated in another region of the country or emigrated abroad). The notification should be done by the implementing Agency (ARA) through publication of PAPs name at the site-project level, and at least in two newspapers with a nationwide and local distribution for a period of one month (every Sunday).

World Bank's operational procedure on involuntary resettlement

The World Bank's operational policy 4.12 on involuntary resettlement requires that involuntary resettlement should be 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 (if any) by the project to share in project benefits. Affected persons should be *meaningfully consulted* and should have *opportunities to participate* in planning and implementing resettlement/compensation 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.

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

The methodology followed is based on national legislation and on best international practices.

- i. Firstly, the ***project affected persons have to be informed*** about the project implementation and impacts, in order to, having received feedback from them, choose the best alternative to minimize the negative effect of the project. Secondly, the authority in favor of which the expropriation will be done, will negotiate with affected people for an agreement on expropriation. If the affected counterparts do not agree with the proposed terms, the unilateral expropriation process will be activated, after all alternative project designs to avoid impact have been assessed.
- ii. ***Permanent land expropriations:*** Permanent expropriations for works with public interest are requested when the owner's land and right of use have been totally deprived. The prices of permanent expropriations for specific regions are specified with a map approved by a decision of the Council of Ministers. Land values must be current market prices; real estate agents should be consulted on actual land prices in the area, these prices should be actual amounts paid, not reduced amounts used to reduce taxes on land sales. It is essential that the values are objectively established; use of the zonal map can only be done if the values correspond to actual current values for land sales.
- iii. ***Temporary expropriations:*** Temporary expropriations are requested for temporary use of land during construction (access roads or repository areas). The expropriation prices are paid to the owner on a monthly basis as long as the land is occupied. The price varies upon the type of land functionality. The price references can be taken from the Agricultural Directorate of the Region where the project is located. However the amount for monthly compensation will be determined by an independent evaluator. The land/plot after the works will be restored to pre-project condition.
- iv. ***Provision of resettlement measures for affected persons without recognized property rights (squatters)*** as per OP 4.12, requires that affected persons without recognized rights to compensation (“non land owners” e.g. tenants and unlawful land users or occupiers) should be provided with assistance for certain aspects, such as cash compensation for the loss of permanent structures, trees and crops that belong to them personally, but not for land compensation.
- v. ***Damages payout:*** Additionally to the temporary expropriation, compensation is given to the land owner for any damages caused during construction activities. The reference prices can be taken from the relevant institution of the region.

4 LEGAL FRAMEWORK

On Article 41/4 of the Albanian Constitution 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: “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 is in power the Law no. 8561, dated 22. 12. 1999 “On Expropriations and Temporary Takings of the Private Property for Public Interest”. The mentioned law provides the entire procedure on

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.

In any case, an international agreement ratified by law has priority on application confronted to common law (Art. 116 of the Albanian Constitution). Furthermore, if a law creates a collision with an international agreement ratified by law, it will be applied the international agreement. This principle is a guarantee that the international agreement between the Albanian Government with the WB for the loan will be applied in priority compared to the legislation in force, especially in front of the mentioned law "On Expropriations and Temporary Takings of the Private Property for Public Interest".

Below are listed some of the principles provided by law "On Expropriations and Temporary Takings of the Private Property for Public Interest":

- The project aims is of public interest, since it is **an investment on road sector**(Art. 8/c of the fore mentioned Law);
- The beneficiary subject in the expropriation process will be **Private Ownerships**, relevant **Municipality and also relevant Ministries** (Art. 9 of the Law);
- **The interested institution, ARA** in this case, needs to submit the request with a list of necessary documents to the Ministry of line, which is the Ministry of Transport and Infrastructure (with the structure of actual government), (Art. 10 and 11, of the Law);
- 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 approve the transaction of the property in favor of the State through a statement;
- The decision for the expropriation (for the owners that do not agree with the expropriation) will be approved by the Council of Ministers, enter into force immediately and published in the Official Journal;
- The owners affected have the right of complaint to the Court for the compensation; if they do not follow this procedure, the decision of the Council of Ministers will be an executive title.

Almost the same procedure "*mutatis mutandis*", needs to be followed for other institutions:

1. *on the devaluation of property*; (Art 18, of the Law "On Expropriations and Temporary Takings of the Private Property for Public Interest")
2. *on the provisional taken on possession of the property*; (Art. 27- 37 of the Law "On Expropriations and Temporary Takings of the Private Property for Public Interest")

The devaluation of property: During the construction for public interest it might happen that some properties will not be necessary to be taken from the owner, but at the same time the owner will not be able to enjoy the property like earlier and thus he has the right to be compensated for the devaluation of his property. This institution is not applied so often in practice, but it is provided by law, if owners are affected in this manner during the project implementation.

The provisional taking on possession of the property: During construction works it might happen that certain properties are needed to be taken in possession for temporary use. The request to take provisional possession on a property needs to be addressed to the Ministry of line, describing 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.

4.1 Legal Criteria on the Evaluation of Properties

The Council of Ministers Decision No. 138 dated 23.3.2000 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 commune 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".
- **Residential properties:** The value of expropriation compensation for **residential properties** is considered the average sales price according to the records of the Real Estate Registration Office (ZRPP).
- **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 Transport and Infrastructure or the Ministry of Agriculture. 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 ZRPP or can be evaluated by licensed evaluators.
- **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 (m² 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.
- **Crops:** For crops the estimated value is calculated based on the expected yield and market unit price.
- **Illegal constructions:** For investments on local and rural roads the owners of properties, who are not registered at the ZRPP (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 Nr. 9482, dated 3.4.2006 "On legalization, urbanization and integration of informal properties"; in case the illegal buildings (or additional works on the existing buildings) 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"; in case the owners of the property are in the process of taking a legalization permit.

5 ECONOMIC REHABILITATION

Projects leading to inconveniences to the society within which the projects is located require adequate economic rehabilitation of the affected people with due vetting of the entitlements. The project proponent will compel at affected people for loss of physicals assets, revenue and income resulting from economic displacement or physical relocation whether the losses are temporary or permanent. The project proponent will establish transparent methods for the evaluation of all assets affected by the project as required under the Albanian laws and Operational Policies 4.12 of the World Bank. The methods include consultation with the affected individuals together with the representatives, to assess the adequacy and acceptability of the proposed compensation to ensure the economic rehabilitation of all the affected people. Economic rehabilitation will be part of the compensation alternatives if the livelihoods of the PAPs, apart from assets, are affected.

6 IDENTIFICATION AND CLASSIFICATION OF AFFECTED POPULATION GROUPS

Identification of the affected target group will be conducted first on the basis of set criteria if the target group (HH, businesses etc) are resident in project areas or non-resident, so as not directly affected by the project implementation. Then, there will be an identification of the different categories of people affected by the project, as a basis for **(i) establishing the terms of their eligibility for support, and (ii) better specifying the terms of assistance.** Below it is provided a list of typologies of affected groups.

Table 1. Typologies of Project Affected Groups

No.	Typology of Affected Persons	Definition
1	Private Property Owners:	Are those who have legal title to land, structure and other assets
2	Unlawful resident (squatters):	Are those who have illegally (informal settlements) occupied municipality/commune lands for residential, business and or other purposes.
3	Encroachers	Encroachers are persons who have extended their building, agricultural lands, business premises or work places into municipality/commune lands.
4	Tenants	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.
5	Project-Affected Families	Are defined to include each adult displaced person, his/her spouse, minor children and other dependents who habitually reside in one household or losing some of the assets
6	Project-Affected Persons	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, those losing agricultural land or homesteads in whole or part, and those losing income sources as a result of project action.

7	Project Affected Groups	Are groups or communities outside the immediate impact of RRMSF to be established, that may be affected by the project with a focus on the more vulnerable or weaker groups in society
8	HH living above the Poverty Line	Based on social assistance schemes acquired at the Regional Department of Social Insurances.
9	Vulnerable groups:	Are those groups such as women-headed households, handicapped/disabled and landless families, who will be dealt with on a case to case basis

7 EXPROPRIATION PROCEDURE

Table 1. Description of Expropriation Procedure Steps according to Albanian Legislation

STEPS	INSTITUTION	DESCRIPTION	REMARKS
STEP I	Interested Institution, i.e. ARA, and Ministry of Transport and Infrastructure (MoTI)	<ul style="list-style-type: none"> ➤ Request for expropriation for public interest; 	Fulfill of criteria provided by law, especially the necessary documents that prove the expropriation needs;
STEP II	MoTI	<ul style="list-style-type: none"> ➤ Commission for expropriation at MoTI has to examine the request and documents; ➤ If the legal criteria are fulfilled the MoTI starts the expropriation procedures; ➤ If not, the request will be rejected; 	
STEP III	MoTI	<ul style="list-style-type: none"> ➤ Agreement with the subjects about expropriation; ➤ Publication of the notice for the expropriation; ➤ Examine the suggestions and the complaints of persons affected by the process; ➤ Prepare the draft decision for the Council of Ministers; 	Important: the fair evaluation of the properties; The procedure must be followed carefully and respecting the right of the third persons to prevent the complaint to the Court; The expropriation it will be done for the persons will accept with free will to be compensated with the conditions published.
STEP IV	Council of Ministers	<ul style="list-style-type: none"> ➤ Approve the decision of the expropriation for public interest; or <ul style="list-style-type: none"> ➤ Reject the proposal to MoTI with the suggestion to review, if it is not in conformity with the law; 	
STEP V	MoTI	<ul style="list-style-type: none"> ➤ Pay the compensation to persons affected by the expropriation, before the civil works begin; 	

8 GAPS BETWEEN LOCAL LAWS AND WORLD BANK (IFC) POLICIES

CATEGORY	NATIONAL LEGISLATION	WORLD BANK POLICY	RECOMMENDATIONS TO BRIDGE (MODERATE) GAPS
<p>A. Loss of Land</p> <p>Families, households</p>	Compensation with the price defined before for urban land and agriculture land	<p>Compensation at full replacement cost.</p> <p>For agriculture land pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential within the same area.</p> <p>For urban land, pre-displacement market value of land of equal size and use, with similar facilities and sources within the same area.</p> <p>Replacement land of equivalent productive potential.</p>	<p>Full compensation with the market prices. In cases where there is no developed market than the compensation will be determined through replacement value.</p> <p>Compensation whichever is higher.</p>
Non-title holder who are in legalization process	Compensation with the price defined before for urban land and agriculture land	<p>Compensation at full replacement cost.</p> <p>Assistance to legalize the property will be provided</p> <p>For agriculture land pre-project or pre displacement, whichever is higher, market value of land of equal productive potential within the same area.</p>	<p>Full compensation with the market prices. In cases where there is no developed market than the compensation will be determined through replacement value.</p> <p>Compensation whichever is higher. Assistance to legalize the property will be provided</p>

		<p>For urban land, pre-displacement market value of land of equal size and use, with similar facilities and sources within the same area.</p> <p>Replacement land of equivalent productive potential.</p>	
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.	<p>Resettlement assistance to restore pre-displacement level livelihoods.</p> <p>Vulnerable groups may include but not be limited to: poor or landless, women headed households, disabled and elderly.</p> <p>Encroachers will not be entitled to any compensation for their affected unauthorized/illegal, land plot, but for extensions over public land they will be compensated for the construction material or value of production (agricultural production).</p> <p>Encroachers with economic losses are entitled to assistance for livelihood restoration.</p>
<p>B. Loss of Homes, Structures</p> <p>Families, households, Structure owners</p>	<p>Compensation at the prices referred by the Register of Real Estate Office or manual of Ministry of Finance.</p> <p>Compensation for the structure without title with the condition to have applied</p>	<p>Compensation at full replacement cost.</p> <p>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. If in the</p>	Compensation at the replacement value or market level compensation whichever is higher.

	before for legalization at the Legalization Agency;	settlement and the neighboring settlements there is developed real estate market than compensation could be determined through market value.	
C. Loss of Economic Assets Families, households	Compensation with the cost method of evaluation of object.	Compensation at full replacement cost	Compensation at replacement cost or market prices whichever is higher.
D. Loss of Income	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.
E. Loss of Community Resources	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.
F. Consultations	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 redresses mechanisms to be in place.

9 INFORMAL GRIEVANCE MECHANISM IN ADDITION TO FORMAL LEGAL GRIEVANCE SYSTEM

An informal grievance mechanism will be established for residents in the settlements where site specific projects will be implemented. This mechanism will be available for the sub-project affected persons to be able to address their issues and to solve prior to use formal legal grievance system. Once the sub-project is defined and the preliminary foot prints of the site specific project are defined, public consultation will be organized with the neighboring residents. In these meetings, residents and interested citizens will be informed about grievance mechanism as well. Grievance mechanism will involve the institution of a committee with representatives from the Ministry of Transport and Infrastructure, a person from the department that will be a project related counterpart, a person from the Implementing Agency (ARA), and a person appointed from the commune where the settlement belongs. The committee will facilitate procedures about the issues raised by residents with the Implementing Agency during the works period. Through this mechanism, residents will be able to react on any damages occurred during the works or any other issue that might arise during the work. In case the site specific project has impacts that will result on loss of assets or displacement of small businesses, then the task of the committee will be to facilitate relations between the PAP and the Implementing Agency to come up with the fair compensation.

10 COMPENSATION ELIGIBILITY AND ENTITLEMENTS

The process of creation of Entitlement Matrix has to follow WB procedures for eligibility criteria; all persons/families with or without a legal title to their property are eligible for compensation.

The following are the three categories of people that may be affected by land acquisition process:

- 1) People who have formal legal rights on the land (including customary and traditional rights recognised under national laws);
- 2) People who do not have formal legal rights on the land at the time of the census, but who have a claim on land that is recognised or recognisable under the national laws; or
- 3) People who have no recognisable legal right or claim on the land they occupy.

Compensation entitlements for different categories of eligible persons and assets (properties) are summarized in the following table.

Category of PAP	Property	Type of Project affected right or property or loss	Entitlement	Process and specific conditions	Remarks	
Owner (1)	Land	Loss of fraction of land and the rest of the parcel is viable	Registration of land parcels according to Albanian legislation, prior to expropriation, free of costs	Transfer of property right through expropriation process.	During the prior expropriation it is probable that size of rested parcel to be very small, consequently the rest of parcel is viable, but value is reduced. In this case the agency responsible for compensation has to calculate the lost value.	
Owner			Cash compensation for affected land at replacement cost (equivalent to the market value of the property, sufficient to replace the lost assets and cover transaction costs) plus transaction costs and any taxes to register the land.			
Tenant			Registration of land parcels according to Albanian legislation, prior to expropriation, free of costs			Transfer of property right through amicable agreement during expropriation process.
Owner (1 and 3)	Commercial property (kiosk or selling tent)	Loss of business and/or rent	Cash compensation for all affected land at a replacement cost or Land plot of similar size and characteristics, with a secure tenure status	Assistance in lease of alternative land/property to re-establish use	Finding alternative location of similar characteristics given for use with security of tenure (e.g., lease)	This is an unlikely situation
Owner (1 and 3)	Commercial property (kiosk or selling tent)	Loss of business and/or rent	Compensation for loss of income incurred as a result of relocation including any discrepancies in livelihood. Assistance to displace the	Compensation will be provided until recovery of the income stream.	This is also an unlikely situations because small space of kiosk or	

			kiosk or selling tent		selling tent. But if it happens the reallocation assistance would be available and help to find another location
Claim to ownership (2)	Land	Loss of land	Cash compensation for affected land at replacement cost	Providing help to transfer the property into their name	Same as above
No recognizable legal right or claim (3)	Land or Business	Loss of land	No cash compensation for affected land at replacement cost. Compensation for the structures at the replacement cost and assistance to find new place to establish same business		Encroachers prior to cut off date will be entitled for compensation to displace a structure or small business
Owner	Land	Temporary loss of land or access to land because of reconstruction or maintenance works.	Rent payment for the time the land is not available to owner or user	In circumstances where part of the land could be used by the owner/user or imposed restricted use, then relevant compensation will be provided.	.
Owner	Business	Temporary interruption of business activity because of reconstruction or maintenance works.	Compensation for the business interruption		

11 PUBLIC CONSULTATION, CUT OFF DATE PARTICIPATION AND DOCUMENT DISCLOSURE

Concerned citizens from the concerned areas, municipalities' officials and citizens from villages will be informed about the site specific project/s. Public consultation will be organized in the settlements where the road maintenance project will be applied. The public consultations will be organized to inform the neighboring citizens about the type and purpose of works and especially to avoid any need for land or small business impact. Site specific public consultation will be considered as cutoff date in case impacts on ownership of any asset or use of any asset cannot be avoided.

Once the public consultation are finalized and site specific project footprints will be discussed, pictures will be taken and actual situation will be recorded. The content of the public consultation will be part of the RAP/LAP which will be disclosed in the website of the implementing agency as well as in the public space of the settlement where the site specific project will be implemented.

In addition, during this public consultation the neighbouring residents will be in touch with the contact information in the Project Implementing Agency (ARA) and in the relevant Ministry for any additional question which may arise before or during the execution of the works. Through these contacts, the residents will be able to resolve their grievance through informal agreements or arrangements with no need to go to the court (i.e. if damage happens during the works period).

12 RAP PREPARATION REVIEW AND APPROVAL

As stated earlier, the World Bank policy on Involuntary Resettlement OP4.12 is triggered because the project may require the involuntary taking of land or other assets, or have economic impact on residents. Once the locations of the areas where reconstruction and maintenance works will be made are known (at the time of the preparation of the sub-projects), the identification of these areas will be made. In case that there will be the need for land to be acquired and people will be affected, at that stage, OP4.12 calls for the preparation of individual RAPs that must be consistent with this RPF.

To address the impacts under this policy, resettlement and compensation plans must include measures to ensure that displaced persons are:

- (a) *Informed about their options and rights pertaining to resettlement and compensation.*
- (b) *Consulted on, offered choices among, and provided with technically and economically feasible compensation alternatives.*
- (c) *Provided prompt and effective compensation at full replacement cost for losses of assets and access, attributable to the project.*

13 PROCESS FOR SCREENING AND OF RAP- PREPARATION

The RAP will be prepared by the Project Management Unit (PMU), in coordination with the Legal Department in ARA. The PMU has the responsibility and will take all the necessary steps in coordination with the Ministry of Transport and Infrastructure for resolving any case on private lands use and impacts.

- Once the investment and the preliminary footprint of the site-specific project is defined, ARA will determine whether there is the possibility of any impact, such as the existence of any land in use by private persons, the need of private land acquisition or any envisaged displacement.
- A first public consultation will be carried out to discuss possible alternatives for the exact location of the investments.
- In case there is the need for preparation of RAP, then ARA will prepare a screening report where the impacts will be defined (this is the situation where impacts such as loss of assets or displacement cannot be avoided).
- ARA will carry out consultations with the affected persons and record minutes of these meetings. As set above, the consultation with the affected persons will be about the modes of compensation and level of compensation.
- ARA will prepare a RAP laying the plan, budget and time frame for implementation of the RAP.
- ARA will submit the RAP to the Bank and, after obtaining approval, will continue with the implementation.
- The procurement of the goods and works cannot start prior to the satisfactory implementation of the RAP.

ARA, in coordination with the Ministry of Transport and Infrastructure will implement expropriation when needed (or land purchase from private sector).

14 FUNDING RESETTLEMENT, COST ESTIMATES, FLOW OF FUNDS, AND CONTINGENCY ARRANGEMENTS

Costs for any potential social impacts such as land impacts on a temporary or permanent base, or any need for business dislocation, will be financed by the funds of the implementing agency. ARA will set a fund for the compensation if the investments will have impacts on loss of assets or displacement. As mentioned above in the section for the potential impacts, the estimates for the potential impacts will be done as follow:

- Permanent loss of assets due to road reconstruction or maintenance works affecting some plots in private land. In this case, it is necessary to evaluate the range of the plots. The funds will be calculated by licensed evaluators according to land market prices or other methods taking into account plot properties.

- Temporary loss of assets related to reconstruction and maintenance works, would require most probably marginal costs.
- Potential displacement of kiosks and selling tents would require cost of displacement.

Nevertheless, if there will be the need for some expropriation or displacement, average costs will be much smaller than the cost of road reconstruction or maintenance. The implementing agency ARA will earmark funds for each road planned to be reconstructed or maintained to be used in case of need of expropriation, or to be used as a contingency if damages happen during the works. These earmarked funds will be used to pay either for potential expropriation or any damage caused during the execution of works. The compensation for the expropriation will be paid once the LAP is prepared and approval is obtained from the Bank and the expropriation process is completed. Afterwards, ARA and the legal department will authorize payment from the earmarked funds to the affected persons.

Annexes

15 ANNEX 1: SAMPLE GRIEVANCE AND RESOLUTION FORM

Name (Complaint): _____

PAPs ID Number: _____

Contact Information : _____ (Community ; mobile phone)

Nature of Grievance or Complaint:

Date **Individuals Contacted** **Summary of Discussion**

Signature _____ Date: _____

Name of Person : _____

Position: _____

Review/Resolution

Date of Meeting on Grievance _____

People Present at Meeting (see attachment):

Was field verification of complaint conducted? Yes No

Findings of field investigation:

Summary of Conclusions from the Meeting :

Key Issues:

Was agreement reached on the issues? Yes No

If agreement was reached, detail the agreement below:

If agreement was not reached, specify the points of disagreement below and Next Action Step Agreed:

Signed (Conciliator): _____ Signed (person): _____

Signed (Independent Observer): _____

Date: _____

16 ANNEX 2: SAMPLE TABLE OF CONTENTS FOR CONSULTATION REPORTS

1. Introduction.

1.1 Project Description

2. Stakeholder Analysis

2.1 1 Areas of Influence/Stakeholders

2.2 Description of Stakeholders

3. Stakeholder Engagement

3.1 Previous Consultation Activities

3.2 Implemented Community Engagement Activities

4. Summary of Key Issues

5. Future Consultation Events

TEMPLATE - Table on Consultation Activity Summary

Location and Communities Represented	Meeting Dates	Attendees	Discussion Summary
Example:			

17 ANNEX 3: Template of RAP

A Resettlement Action Plan will be prepared for the Project on the basis of the Resettlement Policy Framework. A Resettlement Action Plan (RAP) will be drafted by the Project Implementing Agency (ARA). The legal department of ARA will specify the procedures and actions that will be taken to properly resettle and compensate affected people and communities. The RAP must identify the full range of people affected by the project and justify their displacement after consideration of alternatives that would minimize or avoid displacement. The RAP outlines eligibility criteria for affected parties as per the Resettlement Policy Framework, establishes rates of compensation for lost assets, and describes levels of assistance for relocation and reconstruction of affected people, if there is any displacement.

The Resettlement Action Plan will have following sections:

- Record of any measures taken to reduce land acquisition and resettlement impacts through changes in the design of the project.
- List of stakeholders and framework for meaningful consultations/and outcome of consultation with them about the project and resettlement effects. Identified list of any vulnerable groups who might require special assistance and consult with them.
- Census of the people affected and property affected. Baseline of incomes and expenditures. Result of Consultation with the agencies (central as well as local-level) responsible for land acquisition, land replacement, valuation of assets, and compensation rates.
- Entitlement matrix listing all effects of permanent as well as temporary land acquisition. Criteria for the eligibility of resettlement assistance and benefits of affected people if there will be any form of displacement.
- Framework for participation of PAPs. All PAPs should be meaningfully consulted when defining entitlements, the implementation of land acquisition and displacement, if any. Prepare an institutional framework that designates responsibilities to provide compensation, undertake relocation work for displacement, take responsibility for income restoration, supervise, manage and monitor the implementation of land acquisition, land replacement and resettlement activities. Follow up on consultation
- Monitoring and evaluation plan, identifying the responsibilities, time frame, and key indicators. Specify the time framework for monitoring and reporting.
- Time bound implementation schedule for land acquisition and resettlement in conjunction with the agreed implementation schedule for project components, showing how PAPs will be compensated before actual acquisition of the affected land, or before demolition of any affected structures.
- Budget. Prepare indicative land acquisition and resettlement costs (if any). Prepare budgetary allocation and timing. Specify sources of funding and approval process. Prepare an annual budget estimate for resettlement by major category of expenditures.