

HŽ Infrastructure

Development and Investment Planning

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Croatia

Resettlement Policy Framework  
for  
Sustainable Croatian Railways in Europe Project  
(SUCRE)

March 2015

## **1. INTRODUCTION**

This Resettlement Policy Framework (RPF) has been prepared by the HZ Infrastructure of the Ministry of Maritime Affairs, Transport and Infrastructure of Croatia and covers the issues related to involuntary resettlement and land acquisition. It is one of the important documents under “safeguard policy” prepared to support the SUCRE Project aimed at improving the operational and financial sustainability of Croatia's public railway sector.

Since the project will be financed by World Bank, the RPF document has been prepared in compliance with national legislation and regulations, and in accordance with the World Bank provisions of the Operational Policy on Involuntary Resettlement (OP 4.12). Its main objective is to minimize land acquisition, if project impacts are likely to occur, and provide assistance to project affected people.

The World Bank Policy on Involuntary Replacement (OP 4.12) is applied when the direct economic and social impacts of Bank-assisted investment projects necessitate the involuntary taking of land; resulting in:

- relocation or loss of shelter;
- loss of assets or access to assets;
- loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or
- restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

The RPF document defines the procedures of involuntary resettlement, sets out objectives, principles, compensation entitlements, legal frameworks, grievance redress mechanisms, monitoring and financing.

## **2. PROJECT AFFECTED AREAS**

The SUCRE project contributes to the Transport Development Strategy of Croatia for 2014-2030 and is consistent with European Union priorities for transport. The project has components: Component 1: Support to sector restructuring and coordination; Component 2: Support to HZ Passenger Transport Restructuring; Component 3: Support to HZ Cargo restructuring; and Component 4: Support to HZ Infrastructure Restructuring and Enabling investment to increase the system efficiency.

The RPF document is prepared for the activities related to the investments under Component 4 in support of Croatian Railway Infrastructure (HZI) which are aimed at increasing the system efficiency and restoring the physical infrastructure's condition including safety and operating conditions.

The investments include the following:

- Cuts and slope reinforcement on the corridor Vb around Rijeka;
- Emergency bridges reconstruction on corridor Vb (due to their deteriorated condition, these bridges represent a safety threat);
- Rehabilitation of railway tracks and electrical systems along international corridors;
- Signaling upgrade between Moravice and Rijeka;
- Priority railway safety crossings installation;
- Rehabilitation of the Varazdin-Cakovec line;
- Replacement of switches, electrical, and support systems (for safety and signaling) on international and national corridors; and
- Construction/improvement at stations and stops.

None of the above-referenced reconstruction and rehabilitation works to be carried out on bridges, railway tracks and crossings; signaling upgrade; construction/improvement works at stations and stops are expected to involve either land acquisition or negatively affect third parties. Reconstruction and rehabilitation works will remain within the railway corridor and will not require land acquisition as they will be carried out on adjacent state owned land. No physical or economic displacement of affected population is expected under the proposed investments.

However, rehabilitation and reconstruction works on slopes and cuts at the Rijeka-Skrljevo railway section may require temporary use of private lands for access and works on the sites which may lead to temporary loss of lands. Though permanent land acquisition is not expected under the project at this time, as a precaution the RPF is also designed to cover the possibility that some unanticipated permanent land acquisition will turn out to be necessary.

This RPF sets out the guiding principles for development of Resettlement Action Plans (RAPs) or Abbreviated Resettlement Action Plans (ARAPs) that may be required during project implementation. An ARAP is a shorter version of a RAP that may be prepared if the impacts on the entire displaced population are minor, or fewer than 200 people are displaced). RAP (or ARAP) development is a prerequisite for implementation of investment activities causing resettlement (relocation or land acquisition). These measures include provision of compensation and other assistance required for relocation - prior to displacement as well as preparation and provision of resettlement sites with adequate facilities. Taking of land and related assets or denial of access to land or assets may take place only after the RAP has been implemented and all compensation and required assistance has been provided to Project Affected Persons (PAPs). The Bank's no objection will be required prior to initiating any works on the investment.

The RAP sets out specific measures to ensure that affected people are:

- ***informed about their options and rights*** pertaining to resettlement;
- ***consulted and offered choices*** among, and provided with technically and economically feasible resettlement and income restoration alternatives; and,
- **given** prompt and effective ***compensation at full replacement cost*** for losses of assets attributable directly to the project.

The works carried out before project approval and subject to retroactive financing have not triggered any land acquisition or resettlement.

### **3. LEGAL AND POLICY FRAMEWORK**

#### **3.1. NATIONAL REQUIREMENTS**

##### **CONSTITUTIONAL PROVISIONS**

The right of ownership is a right guaranteed under the Constitution of the Republic of Croatia that may be restricted or acquired by law, subject to compensation equal to the market value. Ownership rights may be exceptionally restricted by law for the purposes of protecting the interests and security of the Republic of Croatia, nature and the human environment and human health (Article 50 of the Constitution of the Republic of Croatia).

##### **EXPROPRIATION ACT AND DETERMINATION OF COMPENSATION**

In the Republic of Croatia, the possibility of restricting or acquiring ownership rights is regulated by the Act on the Expropriation and Determination of Compensation (OG 74/14). Under that Act, real property may be expropriated, unless provided otherwise by a special act, when necessary for construction of facilities or carrying out works of state interest and when it is deemed that the real property to be proposed for expropriation will provide a higher benefit when used for other purposes than the benefits resulting from the prevailing use of that real property (Article 2 paragraph 1 of the Act on the Expropriation and Determination of Compensation).

##### **EXPROPRIATION PROCEDURE**

The procedure of expropriation is regulated by a legal act that is implemented pursuant to provisions of the Expropriation and Determination of Compensation Act (OG 74/14) and the General Administrative Procedure Act (OG 47/09). Three principal provisions guide the process: minimize expropriation; provide cash compensation according to market price; and substitute land and residences, if possible, and mutually acceptable. The entire process is public and transparent.

Once an investment is proclaimed as one of State interest, the entity responsible for the investment is given responsibility for carrying out the acquisition according to regulations and for paying compensation.

The first instance expropriation procedure is performed by an administrative body with subject-matter and territorial jurisdiction and, exceptionally and only in the case that expropriation is carried out for the purpose of construction of facilities or carrying out works for which the Government of the Republic of Croatia adopted a decision on proclaiming a strategic project of the Republic of Croatia, it is performed by the central state administration body competent for judicial affairs (the Ministry). An appeal may be filed against a first instance decision of the competent body, on which the Ministry of Justice shall bring a decision; an administrative dispute may be initiated against the Ministry's decision before the competent administrative court.

The Act on the Expropriation and Determination of Compensation recognizes two types of expropriation: complete expropriation (property exclusion – the user of expropriation takes

possession of expropriated property) and incomplete expropriation (ownership right over the real property is restricted – servitude and lease arrangements).

The procedure of incomplete expropriation is performed in the same way as the procedure of complete expropriation, taking account of its specific issues with regard to the ownership status of the real property subject to expropriation as well as with regard to determining/paying compensation for establishing the servitude or lease, which will be further explained hereinafter ("determination of compensation"). The right of servitude is established pursuant to provisions of the Act on Ownership and Other Real Rights (OG 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 153/09, 143/12, 152/14).

Prior to formally initiating the procedure of expropriation, it is required to ensure funds for resolving property ownership issues (payment of compensation and transaction costs). It is also required to make the valuation of the real property for which expropriation is sought (by a court certified assessor) via the state administration office or the Ministry. The expropriation entity is obliged to invite owners for the purpose of trying to amicably resolve the issue of acquiring the right of ownership over a particular real property (Article 30 of the Act on the Expropriation and Determination of Compensation) in the manner to deliver an offer in writing to the real property owner, that is, to deliver an offer through the means of public communication (in the case of expropriation of a large number of real properties or real property owners).

The issue of the right of ownership may be resolved by concluding a sales contract with the owners of real properties (at the price determined in the expert's findings and opinion) or, for owners with which the beneficiary failed to amicably resolve the issue of ownership, by submitting an expropriation proposal to the competent state administration office or the Ministry in the prescribed form.

The procedure of expropriation is initiated by submitting an expropriation proposal to the state administration office competent for property and legal affairs of a county, that is, of the City of Zagreb. If expropriation is carried out for the purpose of construction of facilities or carrying out works for which the Government of the Republic of Croatia adopted a decision on proclaiming a strategic project of the Republic of Croatia, an expropriation proposal is submitted to the central state administration body competent for judicial affairs (the Ministry).

In any case, the procedure of expropriation is instigated when the ownership data in land registry and cadaster are not identical and when it is not possible to determine the residence address of the owner entered in the land register. In the procedure of expropriation, the legal protection of interests of an unknown owner entered in the land register is ensured by appointing a temporary representative stipulated in the General Administrative Procedure Act.

In the procedure of complete expropriation, at the latest when the decision on expropriation becomes final, the real property owner may submit an application for purchasing the remaining portion of real property. The competent body shall consider that application and expropriate that part of the real property as well, if it establishes that the owner has no economic interest in using the remaining portion.

## **DETERMINATION OF COMPENSATION AND ENTITLEMENTS**

The compensation for completely expropriated real property is, generally, determined by granting ownership over another appropriate real property, whose value reflects the market<sup>1</sup>

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<sup>1</sup> market price corresponds to full replacement cost in World Bank terminology

value of the real property subject to expropriation in the same municipality or town, which provides the owner of the expropriated real property with the same living conditions and conditions for use that he/she had in using that real property (Article 46 of the Act on the Expropriation and Determination of Compensation).

In the situation when the real property owner does not accept another appropriate real property or the expropriation beneficiary fails to secure it, a cash compensation shall be determined in the amount equal to the market value of the real property subject to expropriation at the time of issuing a first instance decision on expropriation, that is, at the time of concluding a settlement, by taking into account the character of the real property use before the change of use which is the reason for expropriation (Article 46 of the Act on the Expropriation and Determination of Compensation).

The owner of a building which is constructed without the act under which construction is permitted pursuant to a special regulation or it is constructed contrary to that act has no right to compensation and such a building shall be removed. In the procedure of expropriation, the removal or legalization of an illegal building represents a prior issue, so the procedure of expropriation shall be suspended until the final completion of the procedure on deciding on that prior issue. However, the procedure of expropriation shall not be suspended if the expropriation beneficiary and the real property owner agree that compensation for an illegally built building is to be determined in the amount equal to the market value of the real property and, in that case, the owner is entitled to compensation, all of the above being prescribed in a provision of Article 48 of the Act on the Expropriation and Determination of Compensation.

The compensation for expropriated real property is generally paid to the owner entered in the land register in the manner he/she determines, that is, by depositing it in an escrow account when it cannot be paid to the owner due to an encumbrance on the real property, when the owner's residence address is unknown or when ownership cannot be determined as undisputable.

The real property owner is entitled to collect crops and fruits which are ready at the time of the expropriation beneficiary's entry into possession and, if he/she is unable to do so, the owner shall have the right to be compensated for crops and fruits at the usual wholesale price of those crops and fruits at the time of entry into possession.

For establishing servitude, the compensation shall be determined in the amount adjusted to reflect a reduced market value of real property due to servitude arrangement.

For establishing a lease, the compensation shall be determined in the amount equal to the rent that can be realized on the market and may be determined as a one-off amount for the whole duration of the lease or as an annual amount.

When the decision on expropriation becomes final, the expropriation beneficiary has the right to take possession of the expropriated real property, provided that he/she paid the agreed compensation to the previous owner or has transferred into possession another appropriate real property or, failing that, on the date of paying the compensation or transferring into possession another appropriate real property, unless agreed otherwise between the owner and expropriation beneficiary.

By way of exception, before the decision on expropriation becomes final, the expropriation beneficiary may request to enter into possession of the expropriated real property if he/she demonstrates the existence of a legal and equitable interest or the likelihood of serious

damage. These assumptions do not have to be demonstrated in case of construction of facilities or carrying out works on the public infrastructure (railway infrastructure, public roads). Together with the application, the expropriation beneficiary shall provide proof of paying the amicably agreed compensation or the compensation determined by the expert's findings and opinion or by assessment of an assessor, or proof that the funds required for compensation are deposited in an escrow account opened by the public law body competent for the procedure of expropriation. The application in question shall be decided by the Ministry or the competent body without delay. These provisions shall not apply, that is, the expropriation beneficiary may not enter into possession of the expropriated real property before the decision becomes final when the subject of expropriation is a residential or office building for which the expropriation beneficiary failed to provide another appropriate real property.

The Act on the Expropriation and Determination of Compensation prescribes that a special act will regulate special forms and terms of compensation as well as all relations in relation to the relocation of owners and their families when the construction of facilities requires the expropriation of real properties, because of which it would be required to relocate a significant number of inhabitants from the area in which those real properties are located. In that case, expropriated real properties cannot be transferred into possession until obligations to owners prescribed by that special act are fulfilled. The costs of the expropriation procedure shall be borne by the expropriation beneficiary, except for the costs incurred during the appeal of the real property owner that has not been upheld, which are borne by the real property owner.

## **ACT ON OWNERSHIP AND OTHER REAL RIGHTS**

If the issue of the right of ownership is amicably resolved, and after obtaining the expert's findings and opinion in the procedure of securing evidence of the state and the value of the real property, the expropriation beneficiary-investor concludes a sales contract for that real property with the real property owner pursuant to provisions of the Act on Ownership and Other Real Rights (OG 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 153/09, 143/12, 152/14) and provisions of the Civil Obligations Act (OG 35/05, 41/08, 125/11).

The provisions regulating the sale are contained in Articles of the Civil Obligations Act (Articles 376 – 473). The contract on sale of real property, which has to be concluded in writing, determines, *inter alia*, the following as essential terms of the contract: subject of sale (real property is designated by the cadastral plot number, type of crops, surface, land register file number and cadastral municipality in which it is registered), sale price and deadline for payment thereof, and the issue of entry into possession is regulated.

For resolving property-legal relations, in cases when the transfer of the right of ownership is not permitted under valid regulations, the use of real property is provided by establishing the right to build. The right to build is a limited real right on someone's land, authorizing the person having the right to have his own building on the surface of the land or below it, and the everyday owner of the land is bound to sufferance. The right to build is established by concluding a contract and entry into the land register, that is, after the decision on establishing the right to build adopted by the competent body becomes final.

## **ACT ON THE REGULATION OF PROPERTY LEGAL RELATIONS FOR THE CONSTRUCTION OF INFRASTRUCTURE FACILITIES**

In resolving property-legal relations, the Act on the Regulation of Property Legal Relations for the Construction of Infrastructure Facilities (OG 80/11) also applies. Under the listed Act, when resolving property-legal relations for construction of infrastructure facilities in the interest of the Republic of Croatia and in the interest of local and regional self-government units (Article 2 of the Act), exemption from payment of compensations for acquiring the right to build, right of servitude and right of ownership over the land owned or managed by a legal person owned by the Republic of Croatia or a legal person founded by the Republic of Croatia or founded by a local or regional self-government unit (Article 4 of the Act).

Within the meaning of the listed Act, infrastructure facilities are structures of traffic, public, utility and other infrastructure, for the construction of which the interest of the Republic of Croatia has been established under the Expropriation Act or a special act, such as roads, waterworks, utility facilities, **railway infrastructure and the like** (Article 3 of the Act).

The property-legal relations between the land owner and the owner of infrastructure facility are regulated by a contract which is the basis for realizing the acquired rights under the Land Register Act and other public registers.

### **RAILWAY ACT**

Under the Act on the Expropriation and Determination of Compensation, real property may be expropriated, unless provided otherwise by a special act, when necessary for construction of facilities or carrying out works in the interest of the Republic of Croatia and when it is deemed that the real property to be proposed for expropriation will provide a higher benefit when used for other purposes than the benefits resulting from the prevailing use of that real property

The interest of the Republic of Croatia for implementation of the concerned Project is established under the Railway Act (OG 94/13). In fact, the Railway Act prescribes that construction, modernization, reconstruction and maintenance of railway infrastructure is in the interest of the Republic of Croatia. By expropriation, the expropriated real property becomes the ownership of the Republic of Croatia and, when expropriation is carried out for construction, modernization, reconstruction and maintenance of railway infrastructure, in the name and on behalf of the Republic of Croatia, the expropriation proposal is submitted by the infrastructure operator i.e. HŽ Infrastruktura d.o.o. as the railway infrastructure operator in the name and on behalf of the Republic of Croatia.

### **FORESTS ACT**

For resolving property-legal relations on land plots owned by the Republic of Croatia which are registered as forest and/or forest land, their use or their legal status is changed in the way that forest and/or forest land owned by the Republic of Croatia is excluded from the forest management area. The decision on exclusion of forest and/or forest land owned by the Republic of Croatia from the forest management area is adopted by the Government of the Republic of Croatia or its authorized body.

### **LAND REGISTRY ACT**

The registration of the right of ownership over land plots covered by the concerned Project, both those acquired by the sales contract and those that were expropriated, is executed on the basis of the sales contract or on the basis of the final decision on expropriation and the proof of paying the compensation, if that decision prescribes a cash compensation, or the proof of



the former owner acquiring the right of ownership over another appropriate real property, on request of the expropriation beneficiary or the former owner of the expropriated real property.

The registration of other real rights (servitude, lease and the right to build) is executed based on the contract on the right of servitude, lease contract or contract on the right to build, that is, based on the final decision establishing the relevant real right.

The registration of the listed rights is carried out pursuant to the Land Register Act (OG 91/96, 68/98, 137/99, 114/01, 100/04, 107/07, 152/08, 126/10, 55/13, 60/13).

### **3.3.2 PLOTTING AND OTHER SURVEYING STUDIES**

As part of the design phase, the survey location plan of the as-built drawings with regard to the location and elevation, showing location and elevation data on all visible natural and constructed facilities as well as data on actual breakpoints and boundaries of cadastral plots in the scope of the project (spatial intervention) shall be prepared pursuant to the Ordinance on surveying designs (OG 12/14, 56/14).

The technical basis for initiating the procedure of expropriation is the plotting study which has to be drawn up pursuant to the Ordinance on plotting and other surveying studies (OG 86/07, 25/09 and 148/09). Other than the plotting study, the designer shall also draw up other studies and perform actions required for verification and registration of the plotting study by the competent branch cadastral office, if that is required in view of the fact that the current situation in land and cadastral registers, due to historical, technical and other circumstances, mostly does not reflect the actual situation on the site.

Since the plotting study will be the basis for resolving property-legal relations on real properties located with the boundaries of the building plot, it must be drawn up as to designate portions of cadastral plots making the building plot as separate, newly formed cadastral plots. The plotting study should also show plots whose entire surface enters the building plot.

In addition to the plotting study, a list of owners of land plots making the building plot will be prepared in alphabetical order with the following data from the land register and the registration form for the plotting study: the owner's name and surname, address, land register file number, co-owned portion of the cadastral plot, number of the elementary and newly formed cadastral plot, type of crops, surface of the elementary plot and of the newly formed cadastral plot making a portion of the building plot.

Separately for each phase, it is required to prepare a plotting study for the purpose of forming the building plot in compliance with requirements set in the location permit on establishing the shape and size of the building plot, obtain a certificate from the body competent for physical planning on its compliance with the location permit and a certificate from the regional cadastral office on its conformity with geodetic and cadastral regulations and obtain registration of that study in the land register of the branch municipal court and in the branch cadastral office.

Plotting studies are drawn up separately for each building plot and, if the building plot covers more than one cadastral municipality, then also separately for each cadastral municipality.

After drawing up the plotting study and resolving property-legal relations on real properties making the building plot, separately for each phase, it is required to draw up a surveying study on merging cadastral plots formed under the previously prepared plotting study for the purpose of forming the building plot. The branch cadastral office has to verify that the

surveying study has been developed in conformity with geodetic and cadastral regulations. After that, the surveying study on merging cadastral plots is submitted for registration in the land register of the branch municipal court and in the branch cadastral office.

The setting-out of a building is performed on the basis of data on the building's characteristic point coordinates relevant for setting-out its location and elevation in line with data from the detailed (main) design. A setting-out study shall be prepared, showing the method of transferring elevations and locations of the points of the designed route and facilities on the site. The study must include a list of the building's characteristic point coordinates and a list of coordinates of established and stabilized permanent geodetic points serving for setting-out as well as for future supervision over construction of the building.

After the construction of the building, an approved engineer of geodesy is obliged to issue a written statement that the building is constructed in conformity with the geodetic part of the detailed design, as provided under the Ordinance on surveying designs (OG 12/14, 56/14).

Under the Act on Performance of Geodetic Activities (OG 152/08, 61/11, 56/13), the person responsible for the preparation of all the listed geodetic sections of the design has to be an approved engineer of geodesy who is a member of the Croatian Chamber of Chartered Geodetic Engineers and who is authorized to perform professional geodetic activities by the State Geodetic Directorate.

### **3.4. WORLD BANK REQUIREMENTS ON INVOLUNTARY RESETTLEMENT**

Specific World Bank requirements concerning resettlement are contained in the Operational Policy (OP. 4.12) on Involuntary Resettlement that is based on the following principles:

- Involuntary resettlement should be avoided in all cases where feasible, and where it is not possible to avoid resettlement, it should be kept at a minimum;
- Where it is necessary to carry out resettlement, it should be treated as a development programme providing efficient resources for a new investment to a displaced person;
- Persons affected by resettlement shall be fully informed and shall have the opportunity to participate in procedures with a view to protecting and exercising the rights which they are entitled to;
- Displaced persons shall be assisted in their efforts to improve their income and standards of living, or at least to restore them to and keep them at pre-displacement levels;
- The obligation to assist displaced persons and to provide them with appropriate protection shall exist regardless of how they have acquired property and possession, i.e. regardless of their legality (thus, also when displaced persons have no legal basis and they are unlawful users);
- Displaced persons shall be ensured full payment of replacement costs and a compensation for the property taken, in the amount which enables the compensation or replacement of the property taken with a new one.

The given Policies contain the obligation to provide support and assistance in the course of the compensation and resettlement process, during and after the resettlement process.

Assistance during the compensation and resettlement process shall include:

- Assistance during the relocation of personal belongings;
- Maintenance, transport, and/or sale of materials from the old facility;
- Transport of household members with medical assistance where required; and

- Assistance with the entering into possession of new real property.

As part of the quoted World Bank Policies, particular attention is paid to vulnerable groups of the population. These are groups of people who, under the impact of the Project, by virtue of gender, ethnicity, age, physical or mental disability, economic status, or social status may be more adversely affected by resettlement caused by the Project than other population groups, or who may be limited in their ability to claim or take advantage of resettlement assistance.

Consistent with paragraph 16 of OP 4.12, the following categories of persons will be qualified for compensation based on land ownership:

- a) Persons who have legal formal rights to land (including legal title or customary and statutory rights of occupancy recognized under the Law),
- b) Persons 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 national law or become recognized through a process identified in the resettlement and compensation plan,
- c) Persons who have no claim to land they are occupying or using.

Persons covered under a) and b) above are to be provided compensation for land they lose, and other assistance in accordance with the policy. Persons covered under c) above are to be provided with resettlement assistance in lieu of compensation for the land they occupy or use, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy or use the project area prior to a cut-off date established by the appropriate authorities and acceptable to the Bank. All persons included in a), b) or c) above are to be provided with compensation for loss of assets other than land.

### **3.5. COMPARISON OF THE WORLD BANK REQUIREMENTS WITH THE NATIONAL REGULATIONS**

Overall, national legislation adequately reflects the major provisions of the Bank's OP 4.12, however, there are some differences to be noted.

The most significant one is that under national legislation, the emphasis is put on the definition of formal property rights and on how the property acquisition for public purposes is to be implemented and compensated whilst OP 4.12 provisions state that lack of title should not be a bar to compensation and rehabilitation measures as economic rehabilitation of all affected people needs to be effected (including those who do not have legal/formal rights on assets).

Also, national legislation requirements on public consultations and participation for acquisition of privately owned land by the State in the public interest requires only notification to affected landowners whilst the Bank's policies require that persons affected by resettlement need to be fully informed and have the opportunity to participate in procedures with a view to protecting and exercising the rights which they are entitled to.

Additionally, national legislation has no reference to restoration of income/livelihoods or provision for collecting data needed to anticipate or monitor livelihood impacts (except for

some exceptions to the requirement that compensation be paid prior to land being taken) unlike the Bank’s policy which requires rehabilitation for income/livelihood losses. National legislations does state that the owner of a property shall be compensated in compliance with the Expropriation and Determining of Compensation Act, i.e. they shall receive either a replacement real property or the full compensation. Unlawfully constructed facilities can also be the subject matter of expropriation, while the owners of such facilities can exercise their right to compensation in accordance with the provisions of the Expropriation and Determining of Compensation Act.

To reconcile the gaps between laws and regulations of Republic of Croatia and the World Bank Operational Policy on Involuntary Resettlement OP 4.12, the HZ Infrastructure has developed this RPF. OP 4.12 requires that resettlement and compensation plans provide prompt and effective compensation at full replacement cost for losses of assets attributable directly to a Bank-financed project. Replacement cost is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account in determining their value.

As noted, rehabilitation and reconstruction works on slopes and cuts at the Rijeka-Skrljevo railway section may require temporary use of private lands for access and works on the sites, this may lead to temporary loss of use of lands or land-based assets.

At this time it is expected that land acquisition will only be temporary, but as a precaution the RPF is also designed to cover the possibility that some unanticipated permanent land acquisition will turn out to be necessary. Though the severity of impact is expected to be minimal, adequate compensation will be provided for any involuntary temporary acquisition.

A summary of **Entitlement matrix** is given in the Table below.

<i>Category of Affected Person</i>	<i>Type of Impact</i>	<i>Entitlement</i>
Land owner and legalizable owner	Loss of land	Compensation at replacement cost. If partial loss & remaining land is not economically viable: entire plot is taken at owner’s request.
Land occupant with no claim to land	Loss of land	No compensation for the land, but assistance as required to maintain livelihood
Land owner and legalizable owner	Temporary use of land for project purposes.	Market rate rental for use; land returned in same condition; compensation for lost crops at market value. Loss of trees: cash compensation at replacement cost on the basis of type, age and productive values of the trees
Land leaser	Temporary use of land for project purposes.	Payment of lease for time taken. Market rate compensation for lost crops or loss of other economic

		assets for the time taken. Replacement cost for any affected investments on the land. Land restored to same condition as when taken.
Land occupant with no claim to land	Temporary use of land for project purposes.	Market rate compensation for lost crops or loss of other economic assets for the period. Restoration of the land.

### 3.6. GRIEVANCE REDRESS

The activities related to expropriation proceedings shall be supervised at several instances. If a decision on expropriation is adopted by a territorially competent state administration authority having also subject-matter jurisdiction, an appeal against the decision of the authority of first instance shall be allowed. The appeal concerned can be lodged within 15 days following the receipt of the decision. The central state administration authority responsible for justice affairs shall decide on the lodged appeal (Ministry of Justice of the Republic of Croatia). An administrative dispute may be instituted against the decision of the Ministry of Justice of the Republic of Croatia, as a second instance authority, before the Administrative Court, within 30 days following the receipt of the decision.

In cases where the decision on expropriation at first instance is adopted by the central state administration authority responsible for justice affairs (Ministry), an appeal shall not be allowed, but an administrative dispute may be instituted before the competent Administrative Court. The administrative dispute shall be instituted by bringing an action within 30 days following the day of receipt of the decision on expropriation of first instance. Moreover, the activities concerned shall be supervised also by the competent central state administration authority (Ministry), since the investor is obliged to deliver regular monthly reports on actions taken and proceedings finished.

### 3.7. MONITORING

Implementation arrangements for the project would be based on project implementation unit in HZ Infrastructure with confirmed teams of qualified technical staff who will be responsible for the investment works headed by the director in charge of investment planning. The unit will also deal with the retrenchment and human resources aspects, safeguards, procurement, and financial management issues. Legal Unit of the HZ Infrastructure will also be involved in all issues related to real property acquisition.

In order to assess whether the goals of the resettlement and compensation plan are being met, a monitoring plan will be required. The monitoring plan includes indicators to be monitored, introduces milestones, and provides resources including responsible persons or institutions to carry out the monitoring activities. Set of indicators capable of measuring RAP performance will have to be developed. These may include, but not limited to, indicators related to Public

information dissemination and consultation procedures; compensation payments; number of grievances received/addressed, etc.)

The arrangements for monitoring resettlement and compensation activities will be part of the monitoring and reporting process of the project, which will fall under the overall responsibility of the HZI PIU.

The PIU with support from the Safeguards Specialist, will institute an administrative reporting system that:

- a) Alerts the project authorities on the necessity and procedures for land acquisition for the project activities and the need to incorporate land acquisition in design specifications and budgets.
- b) Provides timely information about asset valuation and negotiation process.
- c) Maintains records of any grievances that require resolution.
- d) Documents timely completion of compensation payments
- e) Updates database with respect to the changes that occur on the ground as resettlement and compensation activities are being implemented.

Monitoring results will be communicated to the Bank through bi-annual project progress reports.

### **3.8 FINANCING**

All costs associated with land acquisition and compensation payment will be considered as an integral part of the project costs and will be secured from the state budget of the Republic of Croatia. At this stage of project preparation, no estimation on potential land impact and associated costs are available. As stated, project impact in terms of land requirements is expected to be minor as rehabilitation works will mainly take place within the right-of-way of the existing railway corridor and adjacent state owned areas.