



RESETTLEMENT POLICY FRAMEWORK

TRADE AND TRANSPORT FACILITATION PROJECT

MACEDONIA

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LIST OF ACRONYMS

ARAP Abbreviated Resettlement Action Plan

BoE Beneficiary of Expropriation

EIA Environmental Impact Assessment

ESMP Environmental and Social Management Plan

ESMF Environmental and Social Management Framework

GoM Government of Macedonia

GRM Grievance Redress Mechanism

LGC Local Grievance Committee

LGU Local Government Unit

OMP Operational Management Plan

OP 4.12 Operation Policy 4.12

PAP Project Affected Persons

PCU Project Coordination Unit

PIU Project Implementation Unit

RAP Resettlement Action Plan

RM Republic of Macedonia

RPF Resettlement Policy Framework

SA Social Assessment

TTFP Trade and Transport Facilitation Project (the Project)

WB World Bank

WBTTTFP World Bank Trade and Transport Facilitation Project (the Project)

LIST OF DEFINITIONS/GLOSSARY

COMPENSATION. Payment in cash or in kind for asset/s and/or resource/s acquired or affected by a project. Compensation will be paid prior to taking possession of the land and assets in all cases, including where this is not possible due to the absence of the owners. In the case of absence of owners, the money will be deposited to an escrow account, or account alike.

CUT-OFF DATE. Date of socio-economic Survey determining the number of PAPs and the extent of impact on their structures and other assets. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. Similarly, fixed assets (such as structures, crops, fruit trees, and woodlots) established after the cut-off date will not be compensated.

ECONOMIC DISPLACEMENT. Loss of land, assets or access to assets, including those that lead to loss of income sources or other means of livelihood.

EXPROPRIATION. The right of the Government by means of Eminent Domain to take or limit ownership rights over a property subject to compensation at replacement cost.

GRIEVANCE REDRESS MECHANISM. Project specific procedures and mechanism in place in parallel to official grievance panels, allowing affected people to lodge a complaint or a claim, related to direct or indirect impact from the Project, without cost and with the assurance of a timely and satisfactory resolution of that complaint or claim.

INVOLUNTARY RESETTLEMENT. Resettlement is involuntary when land or non-land asset is acquired through the application of state powers. Actions may be taken without the displaced person's free prior informed consent or power of choice.

LIVELIHOOD RESTORATION. Measures aiming to assist physically and/or economically displaced persons to restore or improve their livelihoods and standards of living, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is to the benefit of the PAPs. Assistance must continue after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living.

MOVING ALLOWANCE. The moving allowance is a cash compensation for costs directly associated to moving/relocation of the household.

PAP. Project Affected Person is any person who, as a result of the implementation of a project, loses the right to own, use, or otherwise benefit from assets (structures, land (residential, agricultural, or pasture), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily).

PHYSICAL DISPLACEMENT. Loss of shelter or property caused by acquisition of land in connection with the project, which requires the physical relocation PAPs from their pre-project place or residence, place of work or business premises.

PROJECT PROMOTER. Refers to the responsible state agency for Project implementation, namely Ministry of Transport and communications of the Republic of Macedonia i.e.their PIU respectively.

REPLACEMENT COST. For agricultural land, replacement cost is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not considered, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. It also includes costs for levelling or other preparation for new construction or use. Costs are calculated based on the time at which the asset is being replaced, if not, inflation is considered in calculating costs.

ABBREVIATED RESETTLEMENT ACTION PLAN (ARAP).The document specifying the procedures to be followed and the Actions to be taken to mitigate adverse effects, compensate losses, and provide development benefits to persons and communities affected by an investment project in cases when less than 200 persons are affected by the Project and resettlement impacts are minor.

MINOR RESETTLEMENT IMPACTS. For resettlement to have minor impacts all of the following conditions have to be met: (a) Impacts are considered "minor" if the affected people are not physically displaced and less than 10 percent of their productive assets are lost, b) the remainder of their land is economically viable.

RESETTLEMENT POLICY FRAMEWORK (RPF). RPF is a Project level resettlement instrument aiming to set forth resettlement principles, organizational arrangements, and design criteria to be applied to subprojects to be prepared during project implementation. It contains clear definitions of conditions under which the resettlement (for a specific project, a sector program or within a political entity like a state or a province) will be planned and implemented. It defines issues like entitlement, principles of compensation,

grievance processes and other legal procedures. An RPF is required for projects with subprojects or multiple components that cannot be identified before project appraisal.

STAKEHOLDERS. Any and all individuals, groups, organizations, and institutions interested in and potentially affected by a project or having the ability to influence a project.

1. Introduction

1.1. PROJECT BACKGROUND

The World Bank is considering to embark on the Trade and Transport Facilitation Project, thus supporting the efforts of the Government of the Republic of Macedonia to stay aligned with the Connectivity Agenda and institutional efforts to foster regional integration, with an acknowledgement that trade and transport facilitation are key elements of WB6's efforts to deepening economic integration in the region and the EU. The WB6 countries are committed to this agenda with a clear EU accession perspective and integration into the multilateral trading system. The Western Balkan countries, the EU, and the main regional organizations have all recognized the importance of the regional cooperation and have committed to supporting the integration agenda.. The project is part of a Multiphase Programmatic Approach covering in the first phase Serbia, Albania and Republic of Macedonia supporting a combination of investments, technical assistance and regulatory and institutional reforms.

A number of papers, studies, considering critical factors hindering economic growth have identified that Infrastructure gaps as well as high transport costs in a combination with regulatory and controlling agencies are responsible for to delays effecting transport and trade.

The Project will have a Project specific Environmental and Social Management Framework (ESMF) in place to serve as a guide for the initial screening of the proposed project activities for any negative environmental and social impacts, which would require attention prior to project implementation. The Project is unlikely to require massive land acquisition for development of the proposed components. Out of the Components only **Component 1, Facilitation cross-border movement of goods**, focusing but not limited to the improvements in border crossings in selected trade corridors, is the only component likely to require land acquisition. It is highly unlikely that physical displacement will be induced, however, this RPF presents provisions for physical relocation as a precaution.

Notwithstanding, the ESMF adopted for the Project has lied out a social screening procedure to identify adverse social impacts through a social screening form. If the screening results report back positively on adverse social impacts triggering OP. 4.12, the PIU shall proceed with mitigation measures as set forth in this RPF. The RPF provides

guidance to preparation of site-specific resettlement instruments as a condition precedent to commencement of civil works under any such Sub-Project requiring land acquisition, involuntary resettlement and loss of livelihood as a direct or induced result of the Project. Relying on information and plans at the pre-appraisal stage, land acquisition may be required for the improvement of the Border Crossing Point improvements of **Deve Bair BCP**, located on the Corridor VIII and **Kajfasan** (border with Albania) or joint BCP. This component will consist of improvements and repair of selected facilities and accesses, as well as provision of equipment to expedite inspection to speed up the flow of goods. These include but are not limited to new parking spaces, upgrade of administrative buildings, construction of one-way carriage ways exclusive for cargo and improvement of traffic flow through the Customs terminal. The construction of new roads is not envisaged.

1.2. PROJECT DESCRIPTION

The Project will consist of 4 Components all Facilitating trade and transport. Details are provided below.

Component 1: Facilitate cross-border movement of goods.

Sub-component 1a): Design and Installation of the National Single Window (NSW)

There are two phases to implementing a NSW – a preparation and design phase and an installation phase – that will generally take 4 to 5 years to complete (corresponding to one Phase under the proposed program). The installation phase involves installing the ICT systems that will help to provide more transparency and predictability to traders.

Sub-component 1b): Improvements in Border Crossings in Selected Trade Corridors

The project will improve physical capacity and working conditions at key border crossings. This component will consist of improvements and repair of selected facilities and accesses on above corridors, as well as provision of equipment to expedite inspection to speed up the flow of goods. These include but are not limited to new parking spaces, upgrade of administrative buildings, construction of one-way carriage ways exclusive for cargo and improvement of traffic flow through the Customs terminal. The construction of new roads is not envisaged.

Component 2: Enhancing transport efficiency and predictability.

The component will focus on:

(a) the adoption of an Intelligent Transport System (ITS) and corridor performance monitoring, (b) the improvement of railway level crossings and (c) deployment of a Vessel Traffic Management Information System (VTMIS)

Sub-component 2a): Intelligent Transport System (ITS)

The project will introduce ITS on selected road corridors and will integrate the existing ITS elements in an overall ITS architecture deployment. ITS equipment that can be carried out within the first phase is the following: a) a system for collecting data on traffic flow in the form of inductive loops that are positioned into the carriageway; b) Weight in Motion (WIM); c) Elements to control the height of vehicles that access highway; d) A system to collect data on weather conditions along the route of the highway (weather stations).

Component 3: Enhancing Market Access for Trade in Services and Investments.

This component will support the implementation of commitments to improve market access in services and foster regional investments through technical assistance and support for the implementation of regulatory and institutional reforms.

Component 4: Supporting project management and policy coordination.

This component will support project implementation units and provide additional technical support, including for policy coordination, and monitoring and evaluation of the project.

1.3. PROJECT ACTIVITIES THAT CAN CAUSE LAND ACQUISITION AND LOSS OF ASSETS, AND EXPECTED SCOPE OF SUCH IMPACT

Only under Sub-component 1b can land acquisition be expected as it envisages physical capacity key border crossings. The impacts will be limited to land acquisition and are highly unlikely to require resettlement of residential structures or impact business. This component will consist of improvements and repair of selected facilities and accesses on above corridors, as well as provision of equipment to expedite inspection to speed up the flow of goods. These include but are not limited to new parking spaces, upgrade of administrative buildings, construction of one-way carriage ways exclusive for cargo and improvement of traffic flow through the Customs terminal. The construction of new roads is not envisaged.

1.4. RATIONALE FOR RPF PREPARATION

Because of the nature and design of the project and specific components and subcomponents the scale and scope and the zone of impact of subprojects cannot be determined during project preparation, which is why a Resettlement Action Plan (RAP) could not be prepared. Once the site allotment is completed and the designs are ready, individual RAPs will be prepared in line with the processes as defined in this Resettlement Policy Framework (RPF). Resettlement Policy Framework (RPF) is prepared to guide potential land acquisition and resettlement for the improvement of the Border Crossing

Points in accordance to the requirements of the World Bank (WB) and its Operational Policy 4.12 and fit with the national legislation.

WB OP 4.12 indicates that a Resettlement Policy Framework (RPF) needs to be prepared at appraisal if the project may involve involuntary resettlement. The objective of this document is to provide guiding principles for the TTF Project implementation intended to ensure timely, adequate and efficient actions, specified by priority, in order to avoid, minimize and compensate all adverse impacts during resettlement. RPF is prepared in accordance with the legal system, laws and procedures of Republic of Macedonia, in conformity with WB resettlement policies and good international practice. RPF also provides the mandatory basis for developing site specific resettlement instruments; RAP, ARAP or Integrated RAP, to be developed as appropriate during Project implementation that lead to resettlement.

1.5. FUNDAMENTAL PRINCIPLES GUIDING RESETTLEMENT

During implementation of the Project, the need for land acquisition and involuntary resettlement might occur as a result of civil works planned under a limited number of components of the Project. This document provides overarching and binding principles to be applied in all cases of physical resettlement, economic displacement and all other adverse social impact caused by Project implementation regardless of the phase. These principles shall govern all actions of the Project Promoter and its representatives, its PIU, their subsidiaries if any, contractors, all other state and local institutions involved in the Project implementation.

The fundamental principles guiding resettlement in TTF Project are:

- If possible, all resettlement should be avoided by exploring all viable alternatives during Project design and selection of alternatives.
- If avoidance is not possible, adverse effects should be rendered to the bare unavoidable minimum.
- When unavoidable adverse effects and social impact occurs, all loss of property shall be compensated at the value of replacement costs and PAPs livelihood restored at least to the level before the start of investments that cause such losses, or improved.
- PAPs will be assisted in all phases of the Project in their effort in livelihood restoration and living standards in real terms to level prior to start of investments that cause such losses.

- All resettlement needs to be managed in accordance with national laws, OP 4.12, and accepted international good practices. Where gaps exist between them, provisions of this document, or more stringent one between them based on the agreement between the Bank and the Government of Macedonia. As a fundamental rule, under this RPF, during implementation of the Project, policy that is most beneficial to the PAPs will always prevail.
- Project Promoter will be involved in all resettlement activities and at the earliest stage possible in the project design, in order to provide cost-effective, efficient and timely implementation of principles and objectives set by this RPF, as well to promote innovative approaches for improving the livelihoods and standards of living of those affected by involuntary resettlement.
- Special support will be provided to vulnerable groups during resettlement process, as well as during implementation of all phases of the Project, according to their specific vulnerability.
- The Project will ensure a gender sensitive approach by , inclusion of women, part of affected households, in all public consultation and discussions on specific mitigation measures. All activities in this RPF will aim to be gender tailored, with the goal to empower women and provide with the possibility to participate in mitigation measures provided for resettlement impact, . The documentation for ownership or occupancy, such as title deeds and lease agreements (including the bank accounts established for payment of compensation), will be issued in the names of both spouses, if the expropriated assets are part of marital property of both spouses. Other resettlement assistance, such as skills training, access to credit and job opportunities will be made equally available to men and women and adapted to their needs.
- In accordance with this RPF, Resettlement Action Plans (RAP), or Abbreviated RAP (ARAP) as appropriate, will be prepared. RPF and the RAP(s) and/or ARAPs, will be publicly disclosed during public consultations held prior to its final approval and prior to start of works that cause physical or economic displacement, to allow affected persons and stakeholders to participate in Project development, planning and implementation of resettlement programs.
- As part of the preparation of site-specific RAP or ARAP and before civil works that cause relevant physical or economic displacement, a Grievance Redress Mechanism (GRM) accessible to affected people will be developed per this RPF. During the Project implementation and resettlement cycle, stakeholders will be provided with full information about their grievance rights, possibilities and

procedures. All grievances will be considered during Project implementation and resettlement activities.

- All resettlement activities should be conceived and conducted as sustainable projects by providing sufficient investment resources to enable principles and goals of resettlement defined by this RPF and RAPs to be fully achieved.

1.6 OBJECTIVES OF THE RPF

The main objective of this RPF is to define overarching principles, procedures, actions, organizational structures and capacity requirements during resettlement, if such should be required, and its impact attributable to Project implementation. It provides the framework for individual RAPs under the Project.

RPF specific objectives are to:

- classify RM legal solutions in main events of involuntary resettlement, relocation and loss of assets, including legal and administrative procedures and assessment of compensation to be paid for loss of assets;
- compare them to WB resettlement policies and international good practices; and provide the way to bridge the gaps, if any;
- identify key institutions of RM, besides the Project Promoter, involved during the TTF Project implementation, including especially legally authorized state institutions implementing the procedures and safeguards of involuntary resettlement process;
- include Project promoter measures and monitoring in order to provide compliance with WB OP 4.12. resettlement policies, international good practices, this RPF and individual RAPs;
- design monitoring and evaluation criteria in order to provide compliance with OP 4.12 international good practices, this RPF and any subsequent (A)RAP;
- present PAPs' eligibility criteria and compensation entitlement matrix according to type of loss assets;
- define the basic process of identification and evaluation of affected assets and the value of compensation to replace the loss of assets;
- provide instruments for prompt and effective compensation at full replacement cost for loss of assets or access to assets;

- describe mitigation principles, including fundamentals in order to minimize impacts on PAPs during Project implementation, including mitigation guidelines measures provided for vulnerable groups and women;
- define grievance process and complaint rights, process, bodies and procedures available to PAPs during the whole course of Project implementation, including feedback reporting;
- describe and provide directions for preparation, approval procedure, outlines and implementation process of RAPs or (A)RAPs, as relevant;
- specify requirement of public disclosure, disclosure of documents, public and local community involvement in all phases of the Project preparation, including RPF and RAPs; especially include public consultation guidelines in the PAP community during process of involuntary resettlement and Project implementation that may result in loss of assets;
- establish a gender-sensitive guidelines framework for resettlement in order to determine differential impacts since economic and social disruption do not result in equal hardship for women and men;
- specify internal monitoring activities during all phases of Project implementation, especially regarding resettlement issues, safeguarding legal and under this RPF defined process, including evaluation of the resettlement process and external monitoring and evaluation;
- present a Project Grievance Redress Mechanism (GRM) to provide people who believe are adversely affected by the project, an avenue to raise issues and concerns.

2. Legal framework

2.1 RM NATIONAL LEGAL FRAMEWORK INFLUENCING RESETTLEMENT

Constitution of Republic of Macedonia¹ - The constitution guarantees legal protection of ownership and states that no person may be deprived of his/her property or of the rights deriving from it, except in cases concerning the public interest determined by law. If property is expropriated or restricted, rightful compensation not lower than its market value is guaranteed. It is important to note that the Constitution of RM prohibits the payment of a compensation less than the "market value", but allows the payment over the established market value, which is an important provision for bridging gaps between Macedonian laws and WB OP 4.12 resettlement policies, as will be presented later in this document.

Furthermore, Article 118 states that international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by law. This provision allows implementation of WB OP 4.12 resettlement policies, provisions of this RPF and individual RAPs next to existing laws, and most important ways of bridging gaps between them.

Law on Property and Other Real Property Rights² - (Official Gazette of the Republic of Macedonia No. 18/01, 99/08, 139/09 and 35/10) stipulates fundamental provisions of property relations, including ownership rights substance, subjects of ownership rights, co-ownership and joint ownership rights, acquiring the right of ownership, right on yields emanating from owned thing, possession rights, easement rights, ownership acquired by adverse possession, ownership relations deriving in situations when structures was built on someone else's land, protection of ownership rights, protection of possession, cessation of ownership rights, etc.

Law on management of illegally constructed buildings³ - (Official Gazette of the Republic of Macedonia No. 23/11, 54/11, 155/12, 53/13, 72/13, 44/14, 115/14, 199/14, 124/15, 129/15, 217/15, 31/16) covers the issues of record, process and rights to legalize illegally constructed buildings, which can influence the market price of buildings, thus the compensation under the Macedonian expropriation law. It is likely that if the Project will have any resettlement impact, some of the assets will be illegally constructed buildings, so provisions of this law can be important.

¹ http://www.wipo.int/wipolex/en/text.jsp?file_id=239363

² <http://88.85.126.176/PregledNaZakon.aspx?id=6552>

³ <http://88.85.126.176/PregledNaZakon.aspx?id=21584>

Law on privatization and lease of construction land in state ownership⁴ - (Official Gazette of the Republic of Macedonia No. 4/05, 13/07, 165/08, 146/09, 18/11, 51/11, 27/14, 144/14, 72/15, 104/15, 153/15, 23/16 и 178/16) includes provisions about the use and long term lease of state owned construction land which is subject to compensation under the Macedonian Expropriation law in the same way as ownership, but only if acquired under this law.

Law on Construction⁵ - (Official Gazette of Republic of Macedonia No. 130/09, 124/10, 18/11, 36/11, 54/11, 13/12, 144/12, 25/13, 79/13, 137/13, 163/13, 27/14, 28/14, 42/14, 115/14, 149/14, 187/14, 44/15, 129/15, 217/15, 226/15, 30/16, 31/16, 39/16, 71/16, 132/16) governs the building, the basic requirements construction of buildings, the required project documentation for obtaining a building permit, the rights and the obligations of the participants in the construction, the manner of use and maintenance of construction, as well as other issues of importance for construction etc.

Law on spatial and urban planning⁶ - (Official Gazette of Republic of Macedonia 199/14, 44/15, 193/15 and 31/16) regulates the conditions and the system of the spatial and urban planning, the types of planning documentation and the procedure for preparation, and adopting it as well as other issues in the field of spatial and urban planning etc.

Law on Assessment⁷ - (Official Gazette of the Republic of Macedonia No. 115/10, 158/11, 185/11, 64/12, 188/14, 104/15, 153/15, 192/15, 30/16) and;

Methodology for assessment of the market value of the real estate⁸ - (Official Gazette of the Republic of Macedonia No. 54/12) regulates methodology and other issues concerning market price assessment of immovable property (land, buildings, immovable facilities, perennial plants etc.) and defines key procedures for establishing compensation for expropriated property under the Expropriation law.

Law on Property Cadastre⁹ - (Official Gazette of the Republic of Macedonia No. 55/13, 41/14, 115/14, 116/15, 153/15, 192/15, 61/16) and

Rulebook on the method of cadastral classification and determination and registration of the change of cadastral culture and land class¹⁰ - (Official Gazette of Republic of Macedonia No. 144/13, 95/15) regulates the professional activities and affairs of the state administration related to land, buildings and other structures survey, real estate cadastre, records and registration of property, registration of possession, registration of

⁴ <http://88.85.126.176/PregledNaZakon.aspx?id=9653>

⁵ <http://88.85.126.176/PregledNaZakon.aspx?id=17985>

⁶ <http://88.85.126.176/PregledNaZakon.aspx?id=34910>

⁷ <http://88.85.126.176/PregledNaZakon.aspx?id=20130>

⁸ <http://88.85.126.176/PregledNaZakon.aspx?id=25186>

⁹ <http://88.85.126.176/PregledNaZakon.aspx?id=28139>

¹⁰ <http://88.85.126.176/PregledNaZakon.aspx?id=29659>

illegal buildings and buildings legalized utilities cadastre, basic geodetic works, address register, topographic and cartographic activities, valuation of real estate based on land class and culture, geodetic and cadastral information system.

Several other laws provide for and regulates legal procedures, rights and issues that are related to and can influence the resettlement process:

The Law on Extra-Judicial Proceedings¹¹ (Official Gazette of Republic of Macedonia No. 9/08) - In accordance with this Law, the court in extra-judicial proceedings determines compensation for an expropriated property after it establishes the important facts and approves a decision which defines the type and amount of compensation in case when BoE and property owner didn't reach a negotiated, amicable agreement.

The Law on general administrative procedures¹² (Official Gazette of Republic of Macedonia No. 124/15) - It defines legal procedures, process, grievances etc. in a manner of how state institutions must act when deciding on rights, obligations or legal interests of individuals, legal persons or other parties, within the framework of administrative procedures. Decisions by administration bodies are approved in form of a decree, after completing the procedure as prescribed by this Law. The party has the right to appeal against the decision approved in first instance. This Law is providing the legal framework for action of relevant ministry or municipalities administration after the Proposer of expropriation submits the expropriation request.

Law on acting upon complaints and proposals¹³ (Official Gazette of Republic of Macedonia No.82/2008, 13/13, 156/15, 193/15) - This law regulates the handling of complaints and proposals submitted to the President of the Republic of Macedonia, the Parliament of the Republic of Macedonia, the Government of the Republic of Macedonia, the courts, the state administration bodies, the local self-government units, the public institutions and services and other bodies and organizations that perform public authorizations (hereinafter: bodies that deal with complaints and proposals), including request for expropriation submitted by the Proposer of expropriation.

There are also several social issue laws that can be of influence regarding some aspects of resettlement, but also other different issues that are important in following WB Operational Policies:

Law on Social Protection (OG of RM no. 79/09, 148/13,164/13, 187/13, 38/14, 44/14, 116/14, 180/14, 33/15, 72/15, 104/15, 150/15, 173/15, 192/18, 30/16); Law on Pensions and Disability Insurance (OG of RM no. 53/13, 170/13, 43/14, 44/14, 97/14, 113/14, 160/14, 188/14, 20/15, 61/15, 97/15, 129/15, 147/15, 154/15, 173/15, 217/15, 27/16, 120/16, 132/16); Law on Housing (OG

¹¹ <http://88.85.126.176/PregledNaZakon.aspx?id=14231>

¹² <http://88.85.126.176/PregledNaZakon.aspx?id=37954>

¹³ <http://88.85.126.176/PregledNaZakon.aspx?id=14176>

of RM no. 99/09, 57/10, 36/11, 54/11, 13/12, 55/13, 163/13, 42/14, 199/14, 146/15, 31/16); Law for Health Protection (OG of RM no. 43/12, 145/12, 87/13, 164/13, 39/14, 43/14, 132/14, 188/14, 10/15, 61/15, 154/15, 132/15, 154/15, 192/15, 37/16); Law on Public Health (OG of RM no. 22/10, 136/11, 144/14, 149/15, 37/16); Law on Sanitary and Health Inspection (OG of RM no. 71/06, 139/08, 88/10, 18/11, 53/11, 164/13, 43/14, 144/14, 51/15, 150/15, 37/16); Law on Equal Opportunities of Women and Man (OG of RM no. 06/12, 166/14, 150/15, 201/15); Working relations law (OG 62/05) etc.

2.2. EXPROPRIATION PROCESS IN MACEDONIA

The Expropriation Law¹⁴ (Official Gazette of Republic of Macedonia No. 95/12, 131/12, 24/13, 27/14, 104/15, 192/15, 23/16, 178/16) (passed in 2012, amended few times in 2012, 2013, 2014, 2015 and 2016) enables government institutions to acquire property by deprivation and/or restriction of property rights on immovable private property for projects that are deemed to be of public interest, while protecting the interests of all persons with legal title, whose property are to be expropriated. The Law on expropriation does not use the term "involuntary resettlement", but instead uses the term "expropriation" and is based on the Governments eminent domain power. The law also enshrines the principle of fair compensation according to "market value" of the property instead of the "replacement value" used in WB OP 4.12.

2.2.1. Key provisions of the Expropriation Law

Immovable assets (by Law generally defined as agricultural and construction land, forests, buildings and installations) can be expropriated only after declaring public interest in accordance with that Law, based on a planning document. Public interest can be declared if construction is of importance to the Republic of Macedonia or of local importance. The Law provides extensive list of constructions that can be regarded of public interest. The list includes construction of border crossing points which can be relevant to the TTF Project. The Beneficiary of Expropriation (BoE) can be the Republic of Macedonia the city of Skoplje and local municipalities, and the law defines that there are also authorized Proposer for expropriation, by their appropriate bodies.

Expropriation can be complete or incomplete. Complete expropriation allows the RM (in case of public interest for construction of national importance), the city of Skoplje or local municipalities (in case of public interest for construction of local importance) to obtain ownership over the expropriated property, while the ownership by the owner and other rights on that property cease to exist. Incomplete expropriation provides the BoE with specific easement rights, as well as the lease of the land for a definite period of time. At

¹⁴ <http://88.85.126.176/PregledNaZakon.aspx?id=25907>

the end of the easement or lease period full ownership rights over property are returned to the owner, and must be restored to condition prior to expropriation.

Owners of immovable property partially expropriated are entitled to request expropriation of the entire property and the corresponding compensation, in case if expropriation deteriorated the economic situation of the property owner or made the remaining part of property useless or difficult to use - unviable, but the owner needs to state and justify the reasons for requesting expropriation of entire property. The deadline for this request under the Law is rather short as it may be filed only before the settlement for compensation of the expropriated property is reached, or by legal validity of the expropriation decision.

The owner of expropriated property shall also be entitled to compensation for crops, seeds, forests on the land and fruits, if they were not incorporated in the market value of the land. The owner of the expropriated property shall also have the right to compensation for the plantation, sown fields, forests and the *fructus* (if they were not incorporated in the market value of the land). The owner of the property shall not be entitled to compensation for investments made after the date of submission of the proposal for expropriation, which is the only way the Expropriation law sets up a similar institute to the cut off date.

If economic activity is performed in a property which is to be expropriated, the effect of interruption of this activity should be taken into account when determining the compensation due for expropriation. This amount shall be determined by an expert, pursuant to the Law on Assessment.

The Article 18 of the Expropriation law defines compensation: “for the expropriated property there is a fair compensation that cannot be lower than the market value of the property. The market value of the property shall be established under conditions determined by this law, according to the methodology, rules and standards pursuant to the Law on Assessment. The right to seek compensation for expropriated property cannot become obsolete”. The Article 37 states that the market value of expropriated property and property that is given as compensation shall be determined by a qualified appraiser, pursuant to the Law on Assessment. Compensation for expropriated property usually is determined in financial means if the former owner or the possessor of other property rights and proposer of expropriation agree otherwise. Where the compensation to the facility which by its nature is not in market circulation (wells, fences, etc.) the amount of compensation shall be determined according to the market value of work and material necessary for construction, decreased by its depreciation value.

As a general rule, compensation for expropriated property is offered and paid in cash, if the Law doesn't state otherwise. But according to the same law, in the case when livelihood is acquired by expropriated property (agricultural land, business premises etc.) or a owner of property lives in the expropriated property, at property owner request, the

expropriation proposer (BoE) is obliged to offer a suitable property proportional in value. In case there is a difference between market values of the properties, the proposer of expropriation or the formal owner will compensate the difference.

The proposer of expropriation (BoE) will not be allowed to take possession of the expropriated property before eight days of legal validity of the decision on expropriation, or before the date of conclusion of an agreement on compensation for expropriated property, unless the BoE and the owner of property agreed otherwise, or unless the Law provides otherwise. But on elaborated request of the expropriation proposer GoM if it is necessary for construction of planned facilities or to avoid damages to structures or environment.

Proposal for expropriation, separate for each individual property, contains information on:

- The proposer of the expropriation;
- The property for which expropriation is proposed;
- The owner of the property (personal name or title, residence, main office);
- The holders of other real property rights (personal name or title, residence, main office);
- The type of facility or performing works for which expropriation is proposed.

The Proposal for expropriation is accompanied by the following documentation:

- An extract of the spatial planning act or approved project for infrastructure;
- A geodesic report with numerical data for the property which is proposed for expropriation;
- An offer of compensation equivalent to the market value of the property determined by a qualified appraiser pursuant to the Law on Assessment;
- A list of property under proposal for expropriation;
- Proof the funds for compensation are in place.

2.2.2 The Expropriation process

This is a step-by-step presentation of the expropriation process, as defined by Law of Expropriation.

- The expropriation process starts with a submission of a Proposal for Expropriation (Proposal) to the Expropriating Body (i.e. submitted on behalf of the State by the

State Attorney to the Department for Property & Legal Issues in the Ministry of Finance).

- The Expropriating Body shall submit (if all legal terms are met) the Proposal to the owners and holders of other property rights for which the expropriation is proposed in a time period of five days after receiving the Proposal. (Reception of this information is the cut-off date for owners, as no investment in property after this day will be compensated). The Expropriating Body will also send survey to Agency for immovable property Cadastre for entering comments in the public records in the same time period.
- The Expropriating Body shall schedule a hearing on the Proposal inviting owners and holders of other property rights within 15 days from the day of submission of Proposal to owners and holders of other property rights of the immovable property subject to expropriation.
- During the hearing before the Expropriating Body the existence of public interest, the property and the ownership rights, type and amount of proposed compensation and other facts of importance will be established. The hearing may be ended by reaching an agreement on compensation (settlement), which will end expropriation process and present valid legal document for transfer of ownership rights to BoE and payment for compensation right.
- If settlement at the hearing is not reached, the Expropriating Body shall adopt a Decision on Expropriation that will include the Proposer, data on immovable property being expropriated, data on owners of property and data on planned construction of public interest. This Decision of Expropriation must be adopted in the time frame of 30 days after the receipt of the Proposal (if legal terms are met and there are no settlement).
- A lawsuit may be filed 15 days after the submission of the Decision of Expropriation to the Administrative court, which must adopt a decision on the lawsuit in a period of 41 days (11 days to procure documents from the Body and 30 days for the decision). This decision is subject to an appeal to the Higher Administrative court, which has another 30 days for decision on appeal.
- The BoE can take possession of expropriated property eight days after legal validity of the Decision on Expropriation, or as agreed in the agreement on compensation.
- The Proposer of expropriation and owner can reach an agreement of compensation by the time the Decision of Expropriation becomes legally valid. If the agreement is not reached by that time, the Expropriating Body will schedule another hearing in the time frame of 8 days after the Decision became legally valid, in order to reach an agreement on compensation.

- If at the hearing for reaching the agreement, agreement on compensation is not reached, Expropriation body shall be obliged to submit the case, together with all the documents to the competent court within 8 days after the hearing. The process before the competent court is held under the provisions of the Law on extra-judicial proceedings and there is a right of appeal to the higher court.
- The Proposer of Expropriation proceeds with the payment of compensation or provision of replacement properties, within 30 days of the signing of a compensation agreement or the decision on compensation becoming legally binding (for delays in payment, interest rates are charged).

2.3. THE WB POLICY ON RESETTLEMENT (OP/BP 4.12)

All WB financed projects involving involuntary resettlement are subject to OP 4.12¹⁵. The policy describes the procedures and instruments for eliminating negative economic, social and environmental issues that may arise OP 4.12 is triggered not only in cases of physical relocation, but any loss of land resulting in relocation or loss of shelter, loss of assets or access to assets and loss of access to income sources and means of livelihood.

The overall objectives of OP 4.12 are the following:

- (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 should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs
- (c) Displaced persons should be assisted to improve their former 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.

OP 4.12 distinguishes the following three categories of persons for eligibility for compensation and assistance:

- (a) Persons with formal rights to land (including customary and traditional rights recognized under the laws of the country).

¹⁵ <https://policies.worldbank.org/sites/ppf3/PPFDocuments/090224b0822f89db.pdf>

- (b) Persons who do not have formal rights to land at the time the census begins but have a claim to such land and assets - provided that such claims are recognized under the country laws or become recognized through a process identified in the specific resettlement plans.
- (c) Persons without recognizable legal right or claim to the land they are occupying.

2.4. GAP ANALYSIS

The objectives of OP. 4.12 are clear in their aim to avoid involuntary resettlement caused by land acquisition measures wherever feasible and if not possible to apply such compensation principles for impacts on all PAPs and to restore their livelihoods at least to pre-project level. In general, the institutional framework for expropriation in Macedonia is not completely in compliance with the OP. 4.12, and the most evident differences relate to the requirements to compensate at replacement cost for land vis-à-vis the national requirement of compensating land at market value without payment of taxes and fees as part of compensation package. Additionally, the national law does not recognize informal users, occupiers and settlements. It does not require a project specific grievance redress mechanism, a social impact assessment, gender disaggregated data and assistance to vulnerable persons.

The table below provides an overview of specific gaps between the national expropriation law vis-à-vis OP 4.12 and the recommendations for remedy and/or mitigation in order to comply with the OP 4.12 requirements.

Table 1 Gap Analysis

Subject	RM laws	WB OP 4.12 and good international resettlement standards	Gaps and measures for bridging the gaps
<p>Resettlement instruments, census and social impact assessment</p>	<p>The only documents prepared are part of construction plans. There is no inclusion of any socio-economic issues. The expropriation study contains a detailed list of properties to be expropriated, their location, information about individuals who have formal legal rights on these properties, estimated value of affected properties, etc.</p>	<p>Preparation of this RPF, individual RAPs/ARAPs, census survey and social impact assessment is envisaged. The study should include information on (i) current occupants in the affected area, (ii) characteristics of displaced households and their standards of living and livelihoods, (iii) magnitude of expected losses and extent of displacement, and (iv) information on vulnerable groups or persons.</p>	<p>All documents must be prepared in accordance with WB OP 4.12. requirements, in addition to national legal requirements. The implementation of a census is required to identify the persons who will be affected by the project (including those who are not registered through national procedures). The implementation of census survey/ household census is necessary also to identify characteristics of displaced households, including standard of living, level of vulnerability, establishing baseline conditions for monitoring and evaluation purposes, and to set a cut-off date.</p>
<p>Avoidance and minimization of involuntary resettlement</p>	<p>The Republic of Macedonia Law on Spatial and Urban Planning (Official Gazette of the Republic of Macedonia 199/14, 44/15, 193/15 и 31/16, 163/16) states that the aim of such planning, among other things, is to ensure organized and rational use of space, as well as improved living and working conditions for citizens (Article 4).</p>	<p>Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.</p> <p>The Borrower will consider feasible alternative project designs to avoid or at least minimize displacement</p>	<p>The Project Promoter will seek to minimize physical and/or economic displacement. All alternatives and measures explored to avoid or minimize negative impact will be recorded in the internal periodical (monthly or quarterly) report required by the financing institution.</p>

Subject	RM laws	WB OP 4.12 and good international resettlement standards	Gaps and measures for bridging the gaps
Public consultations	The formal owners are contacted only at the very process of expropriation there is no requirements for public consultation apart from the spatial planning phase under the Planning and construction law.	Meaningful consultations with affected persons and communities, local authorities, and other stakeholders need to be carried out during the preparation and implementation of resettlement instruments.	National legislation does not require public consultation with affected persons and communities at the extent and reach of those envisaged by WB OP 4. 12.. The Project Promoter shall disclose RPF and RAP (if applicable) to PAPs and stakeholders and conduct consultation meetings as described in the according chapter of this RPF.
Cut-off date for eligibility and census	The Republic of Macedonia Expropriation Law does not explicitly define eligibility for compensation - the cut-off date. However, it states that all investments made by owners after receiving information about the Expropriation proposal as described in chapter 2.2.2. of this RPF.	Normally, the cut-off date is the date the census begins. The cut-off date could also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx	The cut-off will be date of beginning of the census. This will be publicly announced and published by the BoE in local newspapers, informing all owners and users of the initiation of the expropriation process, the cut-off date and the contact persons who may be contacted by PAPs for further information.
Eligibility for Compensation	The Expropriation Law recognizes the eligibility of persons who have formal legal rights on land and structures, as registered by the Real Estate Cadastre and those whose rights are recognizable under national laws (factual ownership).	WB OP 4.12 also recognizes those who have no recognizable legal right or claim to the land they are occupying on Cut-off-Date are also eligible for rehabilitation assistance and compensation for loss of non-land assets at replacement value.	Compensation and assistance to PAPs without legal right or claims will be made per principles and entitlements provided in the entitlement matrix of this RPF, if they are present in the project affected area at the time of the cut-off date. Asset inventory and valuations of their affected properties will be conducted and all measures will be recorded in the internal periodical (monthly or quarterly) project progress report.

Subject	RM laws	WB OP 4.12 and good international resettlement standards	Gaps and measures for bridging the gaps
<p>Valuation methodology for compensation for property</p>	<p>Compensation for loss of properties and assets should be at least equal to the market price.</p> <p>Depreciation are deducted from compensation (or included by decreasing the market price value appraisal). The Expropriation Law does not specifically mention compensation for the costs of any registration fees and transfer taxes.</p>	<p>Compensation should be equal to full replacement cost without depreciation.</p>	<p>Compensation and assistance to PAPs will be at least equal to replacement value as provided in the entitlement matrix of this RPF.</p>
<p>Escrow accounts</p>	<p>There is no requirement to have an escrow account, but as a principle compensation is always available</p>	<p>If there are significant difficulties related to the payment of compensation to particular affected persons, on an exceptional basis, with prior agreement of the Bank, the Project Promoter may deposit compensation funds as required by the plan (plus contingencies) into an interest-bearing escrow or other deposit account.</p>	<p>Compensation funds as required by the RAP/RPF including contingencies, can be deposited into interest-bearing accounts, if necessary, however only under exceptional circumstances and with prior approval from the WB.</p> <p>If the BoE is not able to deposit funds into an interest - bearing account, a systematic solution needs to be sought with the government of RM.</p>

Subject	RM laws	WB OP 4.12 and good international resettlement standards	Gaps and measures for bridging the gaps
Transitional Support	<p>The Expropriation Law requires provision of compensation for business losses incurred during the period of transition, as well as damages associated with the change of location. Losses are determined in each particular case, in accordance with the Law on Assessment (Article 43).</p> <p>The law follows the basic legal principle on how incomes and livelihoods can be acquired as per virtue of law and therefore recognizes only formal sources of income and livelihoods.</p>	<p>Displaced persons should be receiving support after physical displacement for a reasonable duration of time likely to be needed to restore their livelihood and standards of living.</p>	<p>In a highly unlikely event that physical displacement is unavoidable, the Project Promoter will ensure that displaced persons receive transitional support per entitlement of this RPF</p>
Addressing Loss of Livelihoods / Incomes	<p>The Expropriation Law requires provision of compensation for business losses incurred during the period of transition, as well as damages associated with the change of location. Losses are determined in each particular case, in accordance with the Law on Assessment (Article 43).</p> <p>Loss of benefits and income for workers and employees are not specifically mentioned by the Law.</p>	<p>In addition to compensation at full replacement cost, displaced persons must be assisted in their efforts to improve, or at least restore, their livelihoods and living standards.</p>	<p>Each site specific RAP/ARAP shall include measures and design adequate support and assistance commensurate to the impact, as a way to bridge the gap, and all measures must be demonstrated and documented to the satisfaction of the WB.</p>

Subject	RM laws	WB OP 4.12 and good international resettlement standards	Gaps and measures for bridging the gaps
Gender aspects	Men and women have equal rights in the Republic of Macedonia (Article 9 of the Constitution of the Republic of Macedonia), including the possibility to have formal legal rights on properties.	<p>Women’s perspectives must be obtained through consultation and their interests factored into all aspects.</p> <p>Documentation of ownership or occupancy and compensation should be issued in the names of both spouses wherever possible.</p>	<p>Particularly in some rural areas, women’s participation in consultations may be limited. Women only consultation may be held as relevant.</p> <p>Documentation of ownership or occupancy and compensation should be issued in the names of both spouses.</p>
Grievance Redress Mechanism (GRM)	There is no requirement to have grievance redress mechanism apart from the institutional ones	Appropriate, affordable and accessible procedures for third-party settlement of disputes arising from resettlement must be established; such grievance mechanisms should consider the availability of judicial recourse and community and traditional dispute settlement mechanisms.	The Project Promoter will establish a Project specific and impact commensurate Grievance mechanism as described in the RPF.
Monitoring & Evaluation	No specific monitoring procedures are required by RM laws to be implemented by the BoE.	The Borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instruments.	The Project Promoter will be responsible for monitoring in line with the requirements set out in the RPF and any subsequent RAP.

3. Resettlement compensation strategies applicable to the TTF Project

3.1. KEY PRINCIPLES

This RPF committed key principles which will govern all resettlement activities by the Project Promoter and be incorporated into all site specific RAP/ARAP. The principles for the impacts identified could be briefly summarized as follows:

Resettlement and compensation of Project-Affected People will be carried out in compliance with Macedonian legislation and World Bank's Policies and Procedures on involuntary resettlement OP 4.12, where the more stringent requirement will take precedence.

All Project Affected People (PAP) will be compensated for their losses at replacement cost to allow restoration at pre-displacement level,

The RAP/ARAP implementation and outcomes will be monitored and evaluated by the PIU, and all measures must be demonstrated and documented to the satisfaction of the WB, and be recorded in the internal periodical (monthly or quarterly) report required by the financing institution.

3.2. THE CUT-OFF DATE

The date of beginning of the Census serves as the Cut-off date. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. Similarly, fixed assets (such as built structures, crops, fruit trees, and woodlots) constructed after the cut-off date will not be compensated.

A Moratorium notice informing the general public of the declaration shall be made to serve as the cut-off date for eligibility to entitlements.

In addition, at the beginning of the Census, every individual surveyed shall be informed about the moratorium date and the respective consequences of commencing activities after the date of Census.

3.3. ELIGIBILITY CRITERIA AND ENTITLEMENT MATRIX

The unit of entitlement is any individual eligible to receive compensation or rehabilitation benefits. Determination of unit of entitlement is in lieu with developing and identifying the census and inventory of all assets impacted by the Project to allow full compensation in line with the Entitlement Matrix. All PAPs identified prior to the cut-off date shall be entitled to compensation, according to the compensation principles of the law, this RPF and OP 4.12 whereas the more stringent in requirements shall prevail.

Project affected persons are defined to include the following categories:

Project affected persons, with formal title, who lose all or part of their land;

Project affected persons, with formal title, who have immovable property with or without building permissions on the land to be expropriated;

Project affected persons with formal title over businesses that are affected by the loss of all or part of the land on which businesses are located

Project affected persons with formal title over animal husbandries and agricultural processors that are affected by the loss of all or part of the land on which they are based;

Project affected persons with formal title of tenancy on private or public land;

Project affected persons with formal title over land that will be needed during construction on a temporary basis;

Project affected persons without formal title on affected land or businesses but their livelihoods are directly dependent on the affected land or businesses (e.g., those working on affected agricultural land or working in the affected businesses);

Project affected persons without formal title of ownership or use but who have established usage of public or private land by investing in immovable objects, crops, woods, trees, fruit bearing trees, vineyards, the age of crops, and the time needed to reproduce them; and

Any affected community facilities will also be reconstructed or necessary support will be provide for their relation to the community loosing access to such common facilities

3.4. ENTITLEMENT MATRIX

The entitlements for different categories of impact and PAPs shall be as per the Entitlement Matrix as adopted in this RPF.

Table 2 Entitlement matrix

Affected Categories	Eligible people	Entitlement
Loss of land (partial or whole)	Owners with full legal ownership; owners with recognizable claim to the land they occupy on cut-off-date	Cash compensation based on replacement cost including all taxes
Unviable, redundant parcels of land/structures	Owners with full legal ownership; owners with recognizable claim to the land they occupy on cut-off-date	If a remaining parcel of land after expropriation is not economically viable, it will be acquired and compensated
Structures and installations on the land (barns, shacks, fences, etc.)	All affected people without regard to legal status of asset ownership	The replacement cost for any investment made, and the value of time invested in construction, without depreciation. Salvage materials will be provided to affected people
Residential houses	All affected people without regard to legal status of asset ownership	Partial demolition without physical relocation: cash compensation at replacement cost. Salvage materials will be given to affected people. If physical relocation (highly unlikely) is necessary, cash compensation sufficient to restore a comparable residential structure plus moving cost, administrative taxes, and transition allowance. Transitional allowance shall be a one-time cash compensation
Crops (inc. nursery)	All affected people without regard to legal status of asset ownership	Compensation for lost crop or nursery plants at replacement value
Fruit bearing plants, vineyards, and orchards (without regard to age)	All affected people without regard to legal status of asset ownership	Compensation equivalent to the cost to raise a replacement vineyard or orchards, including the value of time needed to reproduce replacement vineyard or orchards, and compensation for lost yields till trees reach full productivity
Temporary land occupation	Owners with full legal ownership; owners with recognizable claim to the land they occupy on cut-off-date	The market rental price for the duration of the lease. The land should be returned to the project affected person, in the same condition as it was taken and improvements should remain

Affected Categories	Eligible people	Entitlement
Lessees of Public or State-owned properties	Lessees	Provision of the use of other corresponding Public or State owned equivalent property with the rights of a lessee for an equivalent period of time
Loss of job or non-agricultural income	All affected people	Temporary loss of income will be compensated as a one-time cash compensation equal to net income for 6 months based on tax report. In case if tax report is not available, equivalent to the sum of minimum wage over six months. In case of permanent income loss, transitional allowance on one time basis will be paid to assessed on reasonable time needed to restore livelihood means + Training for alternative jobs if possible + Priority in employment on the Project, if possible and on a case by case basis (In accordance with social assessment processed in (A)RAPs)
Illegal users of public and private land or property squatters	All affected people	If illegal users on land, and livelihood is land based, Compensation for all improvements on land (such as irrigation). Compensation will be paid at replacement cost: market price for improvements + labor and time to install improvements at market price + costs of equipment relocation and installation, if any + transitional allowance and Replacement land for lease, if possible, of similar state-owned property
Vulnerable groups (affected households with many dependents, household with unemployed head, households with disabled, poor households)	All affected people	For this group, they will be given additional financial assistance to ensure that they will be no worse off after the project and can maintain and restore their livelihoods.

4. Preparation of individual resettlement instruments

4.1. SOCIAL SCREENING AND RAP DEVELOPMENT

Preparation of individual resettlement instruments will follow after the screening has been completed to determine whether the subproject would have the potential to cause

significant adverse impacts on the society, consequently the appropriate safeguard instruments and mitigation measures to manage those impacts.

Safeguards screening usually consists of checking and identifying social impacts/ risks/ opportunities, as well as identification of measures to mitigate adverse impacts, if any, associated with the proposed sub projects, (The Social Screening Form is provided in Annex 2).

While preparing any operations or projects for financing, screening will be conducted to screen for social impacts and plan any required mitigation measures. The screening process and its findings as well as the proposed mitigation measures will be documented as part of the project/subproject package. The following guidelines, codes of practice and requirements will be followed in the selection, design and implementation of any operations financed under the activities of the Project. Screening of activities will be carried out by the Environmental & Social Specialist to be employed at PIU-level. The screening reports will be endorsed by the Head of the PIU and submitted to the World Bank.

The screening will rely on the following criteria and will aim to faithfully identify whether the proposed Sub-Project will have adverse impacts on:

- (i) shelter;
- (ii) assets or access to assets;
- (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location;
- (iv) land
- (v) business
- (vi) access to education and health
- (vi) vulnerable persons and households
- (vii) community health and safety

The screening will identify Persons with formal rights to land and assets (including customary and traditional rights recognized under the laws of the country). The screening will also identify Persons who do not have formal rights to land but have a claim to such land and assets at the time of the cut-off date. The Screening will not rely on the use and analysis of secondary data readily available, but will require a walk-over survey as a validation that the secondary data provide true, reliable and accurate accounting of the

social environment. In cases when after the walkover survey still no conclusive decisions can be made further efforts will be made through key informant interviews, focus group discussions and other adequate methodology. If the screening has found that such Persons as describe above are present on project affected land, a Resettlement Action Plan (RAP) or an abbreviated RAP, as applicable, will be prepare per Resettlement Policy Framework (RPF).

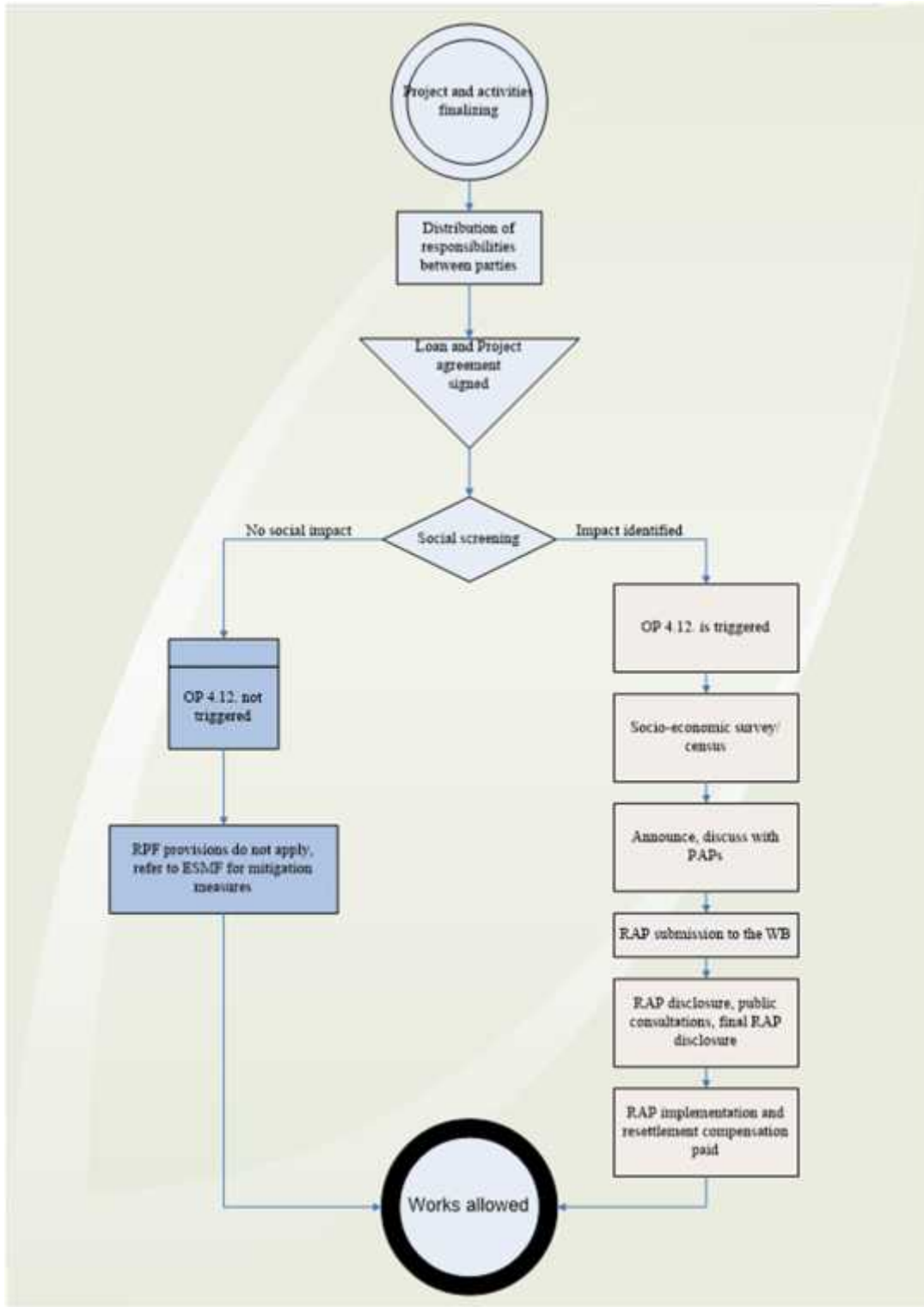
Based on this RPF, considering the extent of impact in terms of land acquisition and resettlement, site specific Resettlement Action Plans (RAP) or Abbreviated Resettlement Action Plans (ARAP) will be prepared. An ARAP can be considered to mitigate adverse effects, compensate losses, and provide development benefits to persons and communities affected by an investment project in cases when less than 200 persons are affected by the Project and resettlement impacts are minor.

Where the objective of the (A)RAP shall be to specify what procedures to follow and what actions to take to acquire land and compensate affected people in line with this RPF. Any site-specific RAP shall be based on up-to-date and reliable information about (a) the proposed resettlement and its expected impacts on the displaced persons and other adversely affected groups, and (b) the legal issues involved in resettlement. In respective of the complexity of project circumstances the site-specific RAP or ARAP shall include at minimum the following:

- Description of the project, identification of the project area and activities that cause physical or economic displacement;
- Alternatives considered to avoid or minimize resettlement;
- Socio-economic baseline assessment including census, demographic and socioeconomic characteristics of affected people;
- Expected scale and scope of impact;
- Entitlements;
- Legal and institutional arrangements;
- Implementation procedures including monitoring mechanisms;
- Grievance Redress Mechanism;
- Consultation with affected people during and implementation of RAP/ARAP;
- Cost and budget.

The following Figure 1. shows graphic overview of the steps in (A)RAP preparation:

Figure 1 Steps in (A)RAP preparation



4.2. RAP APPROVAL

Activities on the preparation of site-specific RAPs will be disclosed in the way to enable significant participation of PAPs. That assumes the phase of preliminary preparations, disclosure of preparations for population census, disclosure of census results while respecting privacy of personal information, disclosure of socio-economic baseline assessment, as well as disclosure of RAP drafts. The purpose of public disclosure and discussions is to ensure meaningful participation of PAPs in the process of preparation, implementation and monitoring of resettlement instruments.

The first draft of RAP shall be submitted to the World Bank for review and clearance. After it has been cleared, it will be disclosed (in English in Albanian language) by the Project promoter in areas accessible to affected people, local newspapers in the community(s) affected by the Project and on internet website of the Project Promoter/PIU, followed by public consultation with local communities and stakeholders. Project promoter shall also issue a summarized information contained in the RAP for public disclosure to ensure that affected people understand the compensation procedures and know what to expect at the various stages of the project (for example, when an offer will be made to them, how long they will have to respond, grievance procedures, legal procedures to be followed if negotiations fail). Public consultation outcome shall be documented and reported with the final document of the RAP and sent to WB for "No Objection". Upon receiving the "No Objection", final RAP will again be disclosed in areas accessible to affected people, published in local newspapers in the community(s) affected by the Project and on internet portal of the Project Promoter, and made available throughout the Project, RAP implementation and process of resettlement.

4.3 RAP IMPLEMENTATION

No activities on construction works can commence until and unless compensation has been paid, or appropriate compensation set aside on an escrow or similar account, or replacement property administered to PAPs, or court procedure initiated to determine the compensation in case no amicable settlement is reached.

Implementation of RAPs is an obligation of the Borrower through the Project Promoter. The Project Promoter shall monitor overall implementation, collaborate with the municipalities in which territory the constructions are taking place, collaborate with contractors and disclose information to PAPs and communities.

5. Consultation and disclosure

5.1. PUBLIC CONSULTATION

The Project promoter will establish an ongoing relationship with the affected communities from as early as possible in the project planning process and throughout the

life of the Project. The engagement process will ensure their meaningful consultation in order to facilitate a common understanding of the nature and duration of the impacts; informed participation on matters that affect them directly; proposed mitigation measures; the sharing of development benefits and opportunities; and implementation issues. Individual meetings may be held with PAPs regarding specific cases, including when needed upon request by PAPs.

This RPF and any subsequent (A)RAP shall be disclosed and available for a public insight no later than 14 days prior to public consultations and sufficient time shall be left for submitting remarks after public consultations. All public consultations shall be announced through local newspaper and on internet portal of the Project Promoter.

5.2. DISCLOSURE OF DOCUMENTS

All documents prepared as part of the implementation of this RPF, i.e. the RPF, any subsequent (A)RAP will be disclosed in Macedonian and English language. If an affected community belongs to the local municipality where other languages are in official use (as per Article 7. of the Constitution), documents will be additionally disclosed in that language.

The RPF and any subsequent (A)RAP must be available to the public throughout duration of the Project including its evaluation. Versions in Macedonian (and additional languages of the local community) will be published on the web-site of the Project Promoter and of relevant local municipalities. All documents shall be presented to PAPs in the process of land acquisition, particularly to vulnerable groups, and project impact on their property and their rights must be explained. Hard copies of the documentation shall be available in the affected municipalities. The Project Promoter is responsible for all disclosures of the documents.

6. Grievance redress mechanism

Specific Grievance Redress Mechanism (GRM) would be designed for the TTF Project. Stakeholders and citizens will be kept well informed about the Project and sub-projects and will be able to submit their feedback, suggestions and/or complaints to improve the activities envisaged by the TTFP.

6.1. GRIEVANCE REDRESS MECHANISM PROCEDURE

The project will have a Specific Grievance Mechanism applicable for all sub-projects. PIU as the main implementing entity will have a Grievance Unit. The GU shall serve as both Project level information center and a grievance mechanism, available to those affected by implementation of all Project sub-components throughout the Project Cycle. The will be

responsible to address grievance received from residents living in the affected municipalities and persons who believe are directly or indirectly affected by the project.

The GU shall be established prior to commencement of any activities under the Project. The Project Promoter through the PIU will be responsible that there is a transparent disclosure of information of the grievance mechanism by communicating the role and existence of the GU and its function, the contact persons and the procedures to submit a complaint in the affected areas. The PIU shall inform local communities during the preparation of specific investments of the role and existence of the GU, its function, the contact persons and the procedures to submit a complaint in the affected areas through the following means:

- distribution of brochures to affected communities, and
- distribution of notices to be placed at notice boards and frequently visited places of the project areas on the notice boards and websites of respective municipalities once exact location have been identified.

Efforts will be made to adequately inform any vulnerable group or persons ensuring the GU if needed is easily accessible to such persons.

The GU shall be designed to be accessible, without cost to the complaint, effective, efficient and not precluding any official administrative or judicial legal remedy available under the law.

Whether adequate dissemination of information has been made will be verified by the Environmental & Social Consultant hired by the PIU through simple feedback questionnaires. The aim of the survey is to assess the effectiveness of information sharing and propose mitigation measures if the results should not show full transparency and accessibility to the GU.

Any grievance can be brought to the attention of the GU anonymously, personally or by telephone or in writing by filling in the grievance form by phone, e-mail, post, fax or personal delivery to the address of the PIU which will be known once established. The access points and details on entry points shall be publicized and shall be part of the awareness building once the location of impact has been known and once the PIU has been established. The access points and details on entry points shall be publicized and shall be part of the awareness building process.

The Grievance registration form is provided in Annex 1.

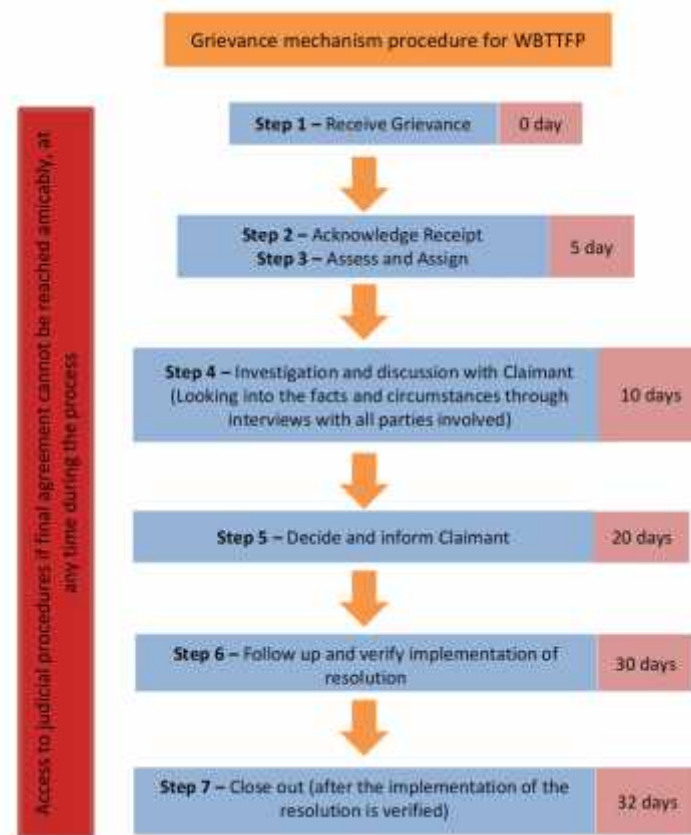
6.2. GRIEVANCE ADMINISTRATION

Any grievance shall be resolved within 7 steps: Receive, Assess and assign, Acknowledge, Investigate, Respond, follow up and close out.

Once logged the GU shall conduct a rapid assessment to verify the nature of grievances and determine on the severity. Within 3 days from logging it will acknowledge that the case is registered and provide the complainant with the basic next step information. It will then investigate by trying to understand the issue from the perspective of the complainant and understand what action he/she requires. The GU will investigate by looking into the facts and circumstances through interviews with all parties involved and confer with relevant stakeholders. Once investigated, and depending on the severity and type of grievance, the provisional decision shall be discussed with the complainant in the timeframe of 10 days after logging the grievance. Reaching and issuing a decision without conferring with the grievant shall be an exception. The final agreement should be specific and issued and grievant informed about the final decision not later than 20 days after the logging of the grievance. Closing out the grievance occurs after the implementation of the resolution has been verified. Even when an agreement is not reached, or the grievance was rejected it is important to document the result, actions and effort put into the resolution, close out the case. If the grievance could not be resolved in amicable endeavor, the grievant can resort to the formal judicial procedures, as made available under the Macedonian national legal framework. Any grievance can be taken to the authority of the judicial bodies at any time after logging. Logging a grievance with the GU does not preclude or prevent seeking resolution from an official authority, judicial or other, as provided by the Macedonian legal framework.

In case of anonymous grievance, after acknowledgment of the grievance within three days from logging, the GU will investigate the grievance and within 20 days from logging the grievance, issue final decision that will be disclosed on the website of the MIE. Closing out the grievance occurs after the implementation of the resolution has been verified. The flowchart below shows usual grievance life-cycle:

Figure 2 Grievance flowchart



The GU shall keep a grievance register log that will have all necessary elements to disaggregate the grievance by gender of the person logging it as well as by type of grievance. Each grievance will be recorded in the register with the following information at minimum:

- description of grievance,
- date of receipt acknowledgement returned to the complainant,
- description of actions taken (investigation, corrective measures), and
- date of resolution and closure / provision of feedback to the complainant

The role of the GU, in addition to addressing grievances, shall be to keep and store comments/grievances received and keep the Central grievance log administered by the Project promoter. In order to allow full knowledge of this tool and its results, quarterly updates from the GU shall be available on the Project Promoters website.

The updates shall be disaggregated by gender, type of grievances /complaints. In order to have continuous dialogue, quarterly public meetings shall be held to discuss the outcomes

of grievances, in general, discuss the grievance/complaints report and inform the community about current Project activities.

7. Monitoring and evaluation

7.1. INSTITUTIONAL MONITORING

The Project Promoter will appoint a person responsible for resettlement and preparation of the expropriation and resettlement process, coordinate the activities of expropriation between government agencies, municipalities and ministries.

The Project Promoter will also keep a database of resettlement and expropriation with all information about persons and property, with all cases of expropriation and a detailed list of all completed phases (submission of expropriation proposition to the competent municipality, compensation offer, agreements regarding the compensation, compensation payment, and payment of assistance during relocation etc.).

Some institutions have additional obligations in monitoring the resettlement process:

Table 3 Institutional responsibilities

Task:	Responsibility:
Disclosure of the RPF	Project Promoter
Information disclosure to all PAPs about the procedure of the beginning of expropriation and during all phases of expropriation	Project Promoter and line Ministry ,
Communication and consultation with PAPs	Project Promoter and line Ministry
Activities prior to commencement of works	Project Promoter and line Ministry
Providing assistance during resettlement	Project Promoter and line Ministry
Compensation payment, /Payment of additional assistance for bridging the gaps(national vs. WB standards)	Government of Macedonia through the Beneficiary of Expropriation
Grievances management	Project Promoter through the Central Grievance Desk

Task:	Responsibility:
Monitoring and reporting on expropriation and resettlement	Project Promoter / External consultant
Monitoring and reporting after commencement of works	Contractor and Supervision Consultant

7.2. MONITORING OF RESETTLEMENT PROCESS

The Project Promoter will conduct internal periodical (monthly or quarterly depending on the length of land acquisition processes) monitoring so that efficiency of the expropriation process and level of satisfaction of PAPs can be assessed.

Indicators for implementation of monitoring are as follows:

- Number of public discussions and consultations on the RAP;
- Number of completed land acquisition cases compared to expected total number;
- Number of PAPs compensated compared to the expected total;
- Amount of compensation paid compared to the expected total;
- Number and type of assistances provided to vulnerable groups compared to total; and
- Number and type of grievances, including legal actions arising from expropriation (submitted cases, resolved cases, time needed for their resolution).

The Project promoter shall monitor the implementation of the resettlement process both through internal, official institutional arrangements, as well as by a periodical independent external consultant, to be appointed by the Projects Promoter. The external monitoring and evaluation consultant may be appointed during RAP/ARAP preparation, if necessary, based on consultation with the World Bank. A RAP/ARAP completion report will be prepared and submitted to the World Bank within 2 months of the RAP/ARAP completion. The report should verify that all entitlements have been delivered in line with the site-specific (A)RAPs. In addition, the report should evaluate whether the mitigation actions prescribed have had the desired effect. The socioeconomic status of the affected population should be measured against the baseline conditions of the population before displacement, as established through the census and socioeconomic baseline studies.

8. Institutional arrangements

The Project will be implemented by the Ministry of Transport and communications of the Republic of Macedonia as the main responsible institution and Project Promoter in cooperation with the Ministry of Finance (MOF). The MTC will establish a new unit a PIU hosted in the Ministry . These two are one and same entity with dual functions assigned The PIU will be staffed with a mix of staff financed from the MoF and from the Project. The PIU will coordinate and obtain technical data from focal point in the Ministries and agencies involved in the Project. Project Management Unit will be responsible to ensure the implementation of the provisions of the ESMF, RPF and (A)RAPs, including all parties, such as sub-project Borrowers and Contractors, including environmental and social monitoring, evaluation and reporting.

Coordination of the project will be carried out through the established Working Group, formed by representative of each of the key stakeholders involved in the proposed project (Customs, Ministry of Finance, and Ministry of Transport). The Working Group will coordinate with their respective agencies (Public Enterprise for State Roads (PESR)) and Ministry, and the World Bank team, for the preparation and design of the project. The Working Group also serves of interface for data gathering, and for higher level discussions on the implementation and institutional arrangements. An overview of all institutions is presented in the Table 4. below. The specific and detailed responsibilities and arrangements for implementing the requirements of this RPF and each site-specific RAP/ARAP shall be covered in the RAP/ARAP itself.

Table 4 Key institutions in implementation of this RPF and (A)RAPs

Institution:	Key responsibility in the implementation of this RPF and RAPs/ARAPs
Ministry of Finance - department for property and legal affairs (represented by local offices in municipalities)	Sets up the Expropriating body in accordance with Expropriation law

Institution:	Key responsibility in the implementation of this RPF and RAPs/ARAPs
Project Promoter i.e its PIU	<p>Applies and coordinates all resettlement activities under this RPF and individual RAPs</p> <p>Appoints a chief resettlement officer to monitor the implementation and report on social components of the Project, particularly implementation of RPF</p> <p>Discloses the Cut-off date in public announcement</p> <p>Prepares and discloses RPF, RAP and all other documents</p> <p>Holds public consultations in all Project phases</p> <p>Engages with relevant stakeholders</p> <p>Establishes and administers the grievances of PAPs and stakeholders;</p> <p>Monitors and evaluates process of resettlement reports to WB on all issues under this RPF</p> <p>Monitors the process of temporary land occupation until the land is given back to their owners in accordance with this RPF</p>
State Attorney's Office	<p>Initiates expropriation process</p> <p>Represents BoE (if BoE is RM)</p>
The Beneficiary of Expropriation (BoE)	The Beneficiary of Expropriation (BoE) is either the can be the Republic of Macedonia , city of Skoplje and local municipalities
Expropriation body (part of department for property and legal affairs)	<p>Governs the Expropriation process as defined by Expropriation law</p> <p>Receives Expropriation proposal</p> <p>Holds hearing with owners and Expropriation Proposer after receiving Expropriation proposal</p> <p>Adopts Expropriation decision (if no amicable solution)</p> <p>Holds second hearing in attempt to find compensation agreement</p>
The Real Estate Cadastre Agency	Holds and registers the information on ownership rights of the land in Republic of Macedonia
Relevant courts	Determines compensation if amicable agreement has not been reached (extra-judicial court) and the decides on lawsuit against the Decision on Expropriation (Administrative court). Court decisions can be appealed to the higher courts.

9. Budgeting implication and funding

In general, the cost burden of compensation will be borne by the Government of Macedonia and budgeted within the Budget for the upcoming fiscal years. Costs for the implementation of this RPF include categories: (a) administrative costs including cost associated with expropriation (if necessary), and (b) compensation for land acquisition and asset loss including transitional and any other allowance as necessary.

The rough estimated cost is around 3,100,000 MKD (Macedonian Denars) or 50000 EUR, which includes all categories of cost.

The overall responsibility for resettlement and expropriation for the Project is under the PIU. The financial responsibility for land acquisition, including the compensation to be paid, resettlement costs, etc., lies with the Macedonian Government, based on this RPF and the Loan Agreement. This RPF and the Agreement stands above the law on expropriations and will define measures that will be applied when there exist gaps between the World Bank's OP 4.12 and relevant national laws.

Annex 1

Reference No: _____

Full Name

Note: you can remain anonymous if you prefer or request not to disclose your identity to the third parties without your consent

First name _____

Last name _____

- I wish to raise my grievance anonymously
- I request not to disclose my identity without my consent

Contact Information

Please mark how you wish to be contacted (mail, telephone, e-mail).

By Post: Please provide mailing address:

By Telephone: _____

By E-mail: _____

Preferred language for communication

- Macedonian
- Other indicate _____

Description of Incident or Grievance:

What happened? Where did it happen? Who did it happen to? What is the result of the problem?

Date of Incident/ Grievance

- One time incident/grievance (date _____)
- Happened more than once (how many times? _____)
- On-going (currently experiencing problem)

What would you like to see happen to resolve the problem?

Signature: _____

Date: _____

Please return this form to: [name], [company name],
Address _____; Tel: _____ or E-mail: _____@_____.com .

ANNEX 2 SOCIAL SCREENING FORM

SOCIAL SCREENING FORM AND TRIGGERS FOR SUB PROJECTS

This screening report shall comprise of the screening form, ownership evidence and pictures from the walkover survey.

Name of Sub project:

Location:

Type of Activity and Procurement Package as assigned in the Procurement Plan:

Nature of Project:

Size/Scale:

Project Implementing Agency:

Description of Project Surroundings:

Screening indicators related to Land acquisition, assets and access to resources

		YES	NO
	Type of activity – Will the sub project:		
1	Require that land (private) to be acquired (temporarily or permanently) for its development		
2	Affect more than 200 persons		
3	Use land that is currently occupied or regularly used for productive purposes (e.g. gardening, farming, pasture, fishing locations, forests)		
4	Physically displace individuals, families or businesses		
5	Result in the temporary or permanent loss of crops, fruit trees or household infrastructure		
6	Result in the involuntary restriction of access by people to legally designated parks and protected areas		
7	Result in loss of livelihood		
8	Have negative impact to any vulnerable individuals or groups		
9	Have negative impact to informal side road shops, traders or any nomadic type of commercial activity		

SOCIAL SCREENING FORM AND TRIGGERS FOR SUB PROJECTS

10	Provide the opportunities to improve the informal side road shops, traders or nomadic type of commercial activity		
11	Impact to community Health & Safety		
12	Impact internally displaced persons or refugees		
13	Disrupt access to health care and education		

If any of the boxes 1 through 9 are ticked YES the OP.BP 4.12 will be triggered and site specific instruments in line with the RPF will be prepared.

If any of the boxes 10 through 13 are ticked YES commensurate mitigation measures shall be designed through the site specific ESMP

CERTIFICATION

We hereby certify that we have thoroughly examined all the potential adverse effects of this sub project. To the best of our knowledge, the sub project does not avoid /avoids all adverse social impacts.

