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## **Western Balkans Investment Framework Infrastructure Project Facility Technical Assistance 7 (IPF 7)**

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### **WB18 MKD TRA 01**

#### **Land Acquisition and Resettlement Framework for the Detailed Design and Environment and Social Impact Assessment for Motorway A4 Skopje – Blace**

February 2022





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The Western Balkans Investment Framework (WBIF) is a financing facility launched in December 2009 by the European Commission, together with the Council of Europe Development Bank (CEB), the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB), Bilateral Donors, and Western Balkans countries with the purpose to deliver funding for strategic investment projects in beneficiary countries. Eligible sectors include infrastructure development in the environment, energy, transport, social and digital sectors as well as private sector development. KfW and the World Bank subsequently joined the Framework. In July 2017, the KfW became a partner organisation.

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## Abbreviations

Abbreviation	Meaning
AREC	Agency for Real Cadastre
BoE	Beneficiary of Expropriation
CSO	Civil Society Organization
EC	European Commission
EBRD	European Bank for Reconstruction and Development
ESIA	Environment and Social Impact Assessment
ESP	Environmental and Social Policy
EU	European Union
GNM	Government of the Republic of North Macedonia
GRM	Grievance Redress Mechanism
IFI	International Financial Institution
IPA	Instrument for Pre-accession Assistance
IPF	Infrastructure Project Facility
LARF	Land Acquisition and Resettlements Framework
LARP	Land Acquisition and Resettlements Plan
LIU	LARP Implementation Unit
MoTC	Ministry of Transport and Communications
NGO	Nongovernmental Organization
NTS	Non-Technical Summary
OGRM	Official Gazette of the Republic of Macedonia
OGRNM	Official Gazette of the Republic of North Macedonia
PAP	Project Affected People/Persons
PESR	Public Enterprise for State Roads
PIU	Project Implementation Unit
PR	Performance Requirement
RNM	Republic of North Macedonia
RP	Resettlement Planning
SEETO	South East Europe Transport Observatory
SEA	Strategic Impact Assessment
SEP	Stakeholders Engagement Plan
TEN-T	Trans European Transport Networks
WBIF	Western Balkans Investment Framework



## 1. Introduction

The European Bank of Reconstruction and Development (EBRD or the Bank) is considering providing finances to the Ministry of Transport and Communication of the Republic of North Macedonia (MoTC) and the Public Enterprise for State Roads ("PESR" or "Beneficiary") of the Republic of North Macedonia to finance construction of section of Motorway A4 Skopje – Blace: **"Construction of motorway from Interchange with local road for village Blace (interchange "Blace") to Skopje (Interchange "Stenkovec"), km 2+000 to km 12+250"**. The planned Motorway A4 Skopje – Blace project to be financed ("the Project") will connect Skopje to Kosovo via Route 6a and the latter to Corridor VIII as part of the extension of the TEN-T Core Network in Western Balkan on the Orient/East-Med Corridor.

The Project has been screened as a Category A project under EBRD's Environmental & Social Policy (2019).

### 1.1 Objectives and Scope of the LARF

The European Bank of Reconstruction and Development (EBRD) is considering providing finance to the Public Enterprise for State Roads ("PESR" or "Beneficiary") of the Republic of North Macedonia to finance construction of Motorway A4 Skopje – Blace. The planned Motorway A4 Skopje – Blace project ("the Project") will connect Skopje to Kosovo via Route 6a and the latter to Corridor VIII as part of the extension of the TEN-T Core Network in Western Balkan on the Orient/East-Med Corridor.

This document is a Land Acquisition and Resettlement Framework (LARF) for the Project and it describes the principles, objectives and planned approach to land acquisition, resettlement, compensation and livelihood restoration. The purpose of this framework is to clarify resettlement principles, organizational arrangements, and design criteria to be applied to project components to be prepared during project implementation. Once the project components on this subsection of the project are defined and the necessary information becomes available, such a framework will be expanded into a Land Acquisition and Resettlement Plan (LARP) proportionate to potential risks and impacts. Project activities that will cause physical and/or economic displacement will not commence until such a specific plan has been finalized and approved by the Bank.

The main objectives of the LARF are to:

- Provide details on the policies governing land expropriation, the range of adverse impacts and entitlements;
- Present a strategy for achieving the objectives of the resettlement/land acquisition policy;
- Provide a framework for implementation of the stated strategies to ensure timely acquisition of assets, payment of compensation and delivery of other benefits to project affected persons (PAP);
- Provide details on the public information, consultation and participation, and grievance mechanisms in project planning, design and implementation;
- Provide identified sources and estimates of required resources for implementation of the LARP;
- Provide a framework for supervision, monitoring and evaluation of resettlement implementation.

The LARF has been prepared in line with the legislation of the RNM requirements and those of EBRD, including EBRD's Environmental and Social Policy (2019) and Performance Requirements (PR), such as PR 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

## 1.2 Project Description

The total length of the road network in North Macedonia is 14,182 km, of which 242 km of motorways, 911 km of national roads, 3,771.5 km of regional roads, and 9,258 km of local roads. The condition of most of the network is below standards. Road transport has the largest share of all the transport modes in the country, both in terms of freight and passengers.

The location of the assignment is from Skopje (as connection to the existing Skopje Bypass Road) to Blace (on the Kosovo\* border) which forms part of the 4,400 km long north – south European route E65 that begins in Malmö, Sweden and ends in Chaniá, Greece. The route through Macedonia comprises this project road section A4 Blace - Skopje, A2a Skopje - Gostivar, A2e Gostivar - Ohrid, A3b/A3m/A3e Ohrid- Bitola, and A3b Bitola- Medzitlija / Niki in Greece. Macedonia is developing and upgrading its road network in order to cope with the new transport pattern resulting from the transformation of its economy.

The connection of the Republic of North Macedonia with Kosovo, namely the connection of Skopje with the Blace Border Crossing Point, is done via the existing national A4 motorway, built in 1969.

Intensive international traffic, especially heavy freight traffic towards Kosovo, which has a tendency of permanent increase, is being carried out at the Blace-Skopje section. This road section, from a service and safety point of view, no longer meets the needs.

In order to overcome the current situation, there is a need this road to become a high-traffic road, i.e., at the A4 Motorway Blace - Skopje (Stenkovec junction).

The planned Highway A4 Skopje – Blace will connect Skopje to Kosovo via Route 6a and latter to Corridor VIII, as a part of the extension of the TEN-T Core Network in Western Balkan on the Orient/East-Med Corridor.

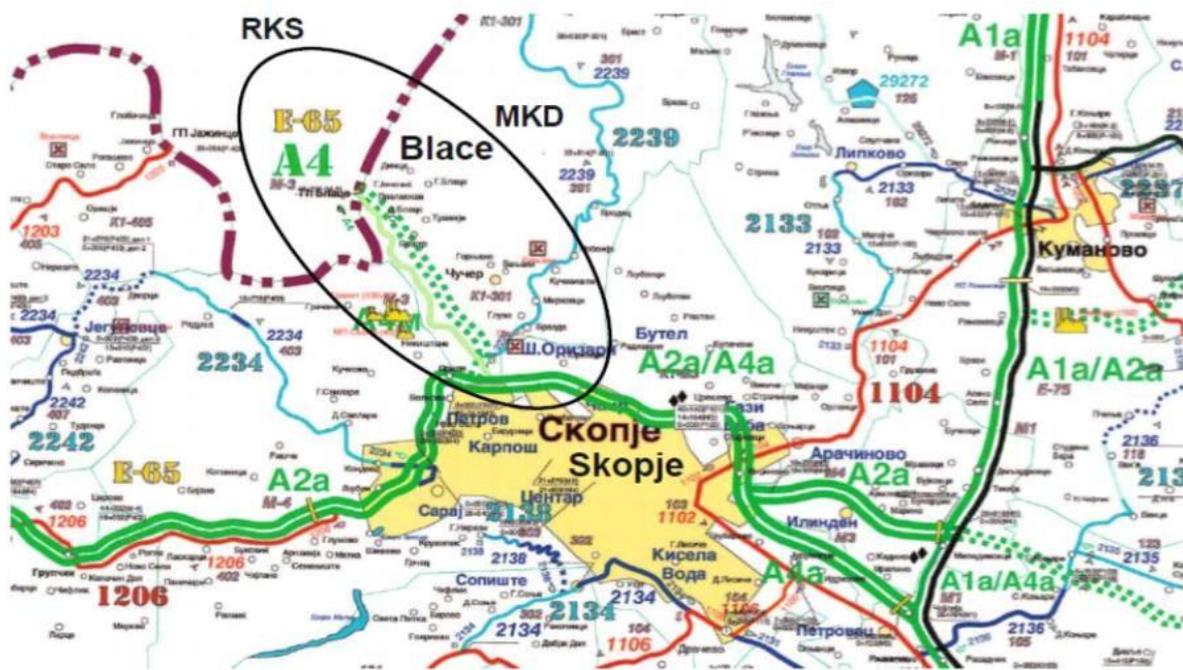
Project area is located in one municipality: Chucher - Sandevo.



**Figure 1** Map of location of the Municipality of Chucher-Sandevo

The beneficiaries of the Project, the Ministry of Transport and Communications and the Public Enterprise for State Roads of the Republic of North Macedonia, undertake activities for preparation, completion and adjustment of the design documentation for construction of Motorway A4, from Interchange with local road for village Blace (interchange "Blace") to Skopje (Interchange "Stenkovec"), km 2+000 to km 12+250, with a total length of about 10,250 km. A toll station is also planned to be constructed on this road.

Near the route of the motorway passes the existing national main road A4 Skopje-Border crossing "Blace" on which are connected more local roads that provided access to the site. In addition, access to the site is provided from the motorway A2 (M-4)-ring road Skopje.



**Figure 2** Map of project location and road network in the wide project area

## 1.3 Summary of Project Related Land Acquisition and Livelihood Impacts

### 1.3.1 General Information on the Identified Land Acquisition and Livelihood impacts

This project is expected to require complete expropriation of some privately owned assets prior to the construction phase (complete expropriation is defined by national law as transfer of full ownership over assets from the previous owner to the expropriation beneficiary – in this case, PESR). Additional temporary impacts during construction works may also occur as listed below.

Expected impacts are:

- a) **Loss of material assets:**



- Minor loss of used and non-used Agricultural Land (pastures, orchards, fields)
  - Minor loss of Auxiliary Farming and Business Facilities
  - A couple of separate dwelling objects (a weekend house and a shepherd house).
- b) **Loss of Livelihood or Income**
- Minor loss of annual/perennial crops
  - Small scale of individual cases of agricultural/farming activities
  - Minor loss of used and unused agricultural land
  - Minor loss of access to natural resources (free water resources and pastures) used in farming (animal/livestock husbandry)
  - Minor Loss of Firewood and/or Orchards
  - Brief temporary hindered access to the land, other fixed assets and available resources (fields, premises, forest, pastures and other) for the land owners and land users in the project area of influence

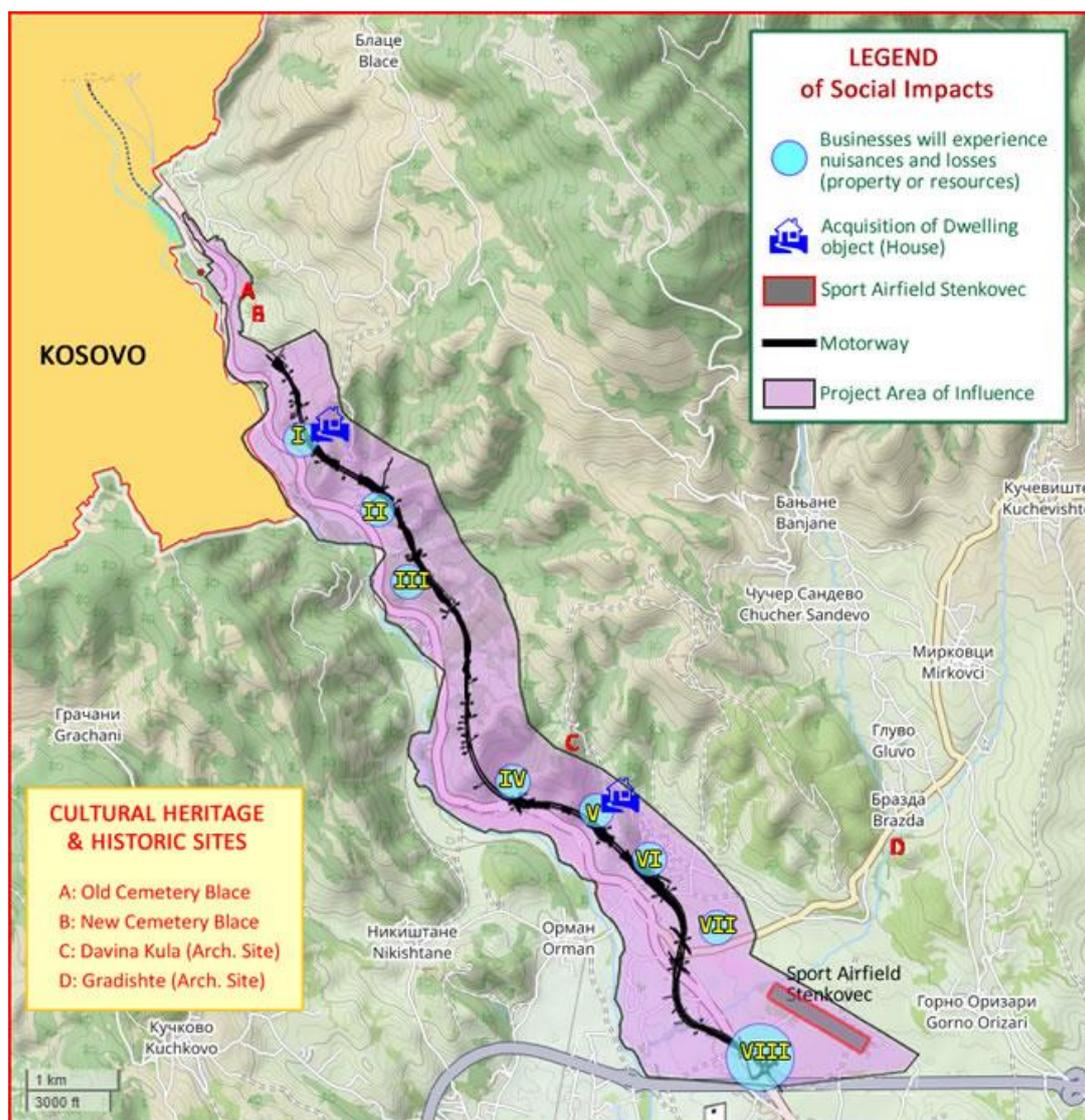
ESIA document, prepared for this project, identifies issues related to land acquisition, restrictions on land use and involuntary resettlement that will occur due to the project realization.

During six site visits performed in the period 2018-2021, for the ESIA purposes, several non-formal livelihood provision, land use and social-data related interviews were held with the present people found on site. Interviews were conducted in order to identify potentially affected people and parties, and to some extent, understand their way of livelihood provision.

No physical resettlement of people or businesses is foreseen. Small scale livelihood impacts are expected, and all can be easily mitigated and or compensated.

Business land and auxiliary non-crucial structures can be affected, but no business is expected to be significantly affected so to be resettled.

The following image gives overview of the location where issues related to physical and economic displacement will occur.



**Figure 3** Identified locations with physical and economic displacement, beside land loss

### 1.3.2 Type and Classification of Affected Land According to the Cadastre Agency of RNM

A land that is, and can be utilized for any kind of agricultural, forestry and other production has been registered as a Cadaster culture.

According the method of land use, the land is classified as fertile, infertile land and land under water.

There are three types of Land:

- 1) Fertile land
- 2) Infertile land
- 3) Land under water



The fertile land is classified as: fields, field under plastic greenhouse, fields under ancillary facilities, fields under a construction/object for primary processing of agricultural products, rice fields, gardens, orchards, vineyards, meadows, pastures, forests, and giant reeds and marshlands.

The infertile land is classified as: naturally infertile land and artificially infertile land. Naturally infertile land includes: valleys, stony fields, beaches and other naturally infertile land. The artificially infertile land is the one for which an urban plan or urban planning documentation has been enacted. As an artificially infertile land is considered:

- 1) Urban non-constructed land (UNCL)
- 2) Urban constructed land (UCL): Land under a building (LUB) and Land under object (LUO).

Fertile lands (FL) are classified into eight cadaster classes. For each cadaster land use, the most fertile land is classified into first class, the land which is slightly less fertile shall be classified into second class and it will successively be done so, all down to the eight (cadastral) class. Infertile land (IL) and land under water is not classified into cadastral classes. Reference/indication lands is determined by the Agency for Real Estate Cadaster (AREC).

When determining the land use for orchard, vineyard and forest, their age and density is not taken into consideration.

Land covered with forest trees, as well as land covered with shrubs, juniper, maquis, hawthorn and the like, as well as with degraded forests is considered forest land and is classified as forest land use. Certain trees planted widely, i.e. solitary trees, is not considered as special land use areas, but are classified in the land use of the parcel in which they are located.

The following cadastral (culture) lands are registered during the geodetic and agricultural surveys conducted for the purpose of this project.

- A field shall be agricultural land, on which in sequential seasons (crop rotation), dissimilar/different types of crops shall be grown, including: wheat, barley, oats, rye, corn, potatoes, alfalfa, clover, fodder beet, poppy, cotton, linen, hemp, tobacco, sugar beet, oilseed rapeseed, sesame, sunflower, chickpeas, lentils, etc. and shall be processed at least once every 5 years, as well as orchards, vineyards and forest nurseries, cultivated willow thickets for collecting rods, strawberry orchards, nurseries of mulberry used for breeding silkworm, hops etc.;
- A garden shall be agricultural land used for cultivating vegetables: tomatoes, peppers, cabbage, leeks, onions, carrots, parsley, green beans, as well as land planted with flowers and ornamental plants used for sale, ornamental plants nurseries and others, and for whose cultivation is necessary to have conditions for irrigation (natural or artificial);
- An orchard shall be agricultural land used for cultivating fruit, olive groves, orchards of raspberry, blackberry, and different types of nuts from which the dried seed is obtained;
- A vineyard shall be agricultural land which is used for cultivating grapevines, grafted or self-grown;
- A meadow shall be agricultural land on which grass grows naturally, which is mowed regularly;
- A pasture shall be agricultural land on which grass grows naturally and serves exclusively for grazing livestock;



- A forest shall be land covered with forest trees that are grown for the purpose of using the timber.

Regarding ownership status the affected land can be divided in two categories:

- 1) Land owned by Private Individuals: single owner and multiple owners; and
- 2) Land owned by the Government of RNM

The land that is owned by private individuals must be compensated during the process of expropriation. The land owned by the government does not need to be paid when acquired, due to the ownership status of the PESR where Government of Republic of North Macedonia is the owner of this enterprise.

## 2. Legal and Institutional Framework and Gap Analysis

### 2.1 National Legislation for Land Acquisition and Livelihood Restoration

**Constitution of Republic of North Macedonia.** 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 RNM 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 laws in North Macedonia and EBRD PR5, 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 PR5, provisions of this LARF and LARP next to existing laws, and most important ways of bridging gaps between them.

Macedonian legislation deals with involuntary resettlement and livelihood restoration under its legal framework for expropriation, with the basic notion that owners of properties are to be compensated for their losses, most often in monetary terms.

In the R. N. Macedonia, the legislative acts given below regulate the issues of obtaining State ownership rights to privately owned land parcels based on the necessary public needs caused due to strictly defined development projects of public interests:

**Expropriation Law**<sup>1</sup> regulates the procedure for the expropriation of property for projects that are of public interest and the connected rights for real estates (immovable properties). See chapter 2.2 for more on this law.

Other main legislation relevant for land issues encompasses the following laws:

**Law on Property and Other Real Property Rights**<sup>2</sup> stipulates fundamental provisions of property relations, including ownership rights substance, subjects of ownership rights, co-ownership and joint

<sup>1</sup> Official Gazette of the Republic of Macedonia no. 95/12, 131/12, 24/13, 27/14, 104/15, 192/15, 23/16, 178/16



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 buildings**<sup>3</sup> 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 national 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.

**Law on privatization and lease of construction land in state ownership**<sup>4</sup> includes provisions about the use and long-term lease of state-owned construction land which is subject to compensation under the national Expropriation law in the same way as ownership, but only if acquired under this law.

**Law on Construction**<sup>5</sup> 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 urban planning**<sup>6</sup> 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 Appraisalment**<sup>7</sup> regulates the conducting of the appraisalment, the areas, the conditions and the manner to carry out the appraisalment, the appraisers, the conditions and the procedure for taking an expert exam for issuing or revoking the appraisalment license, award and reimbursement of the costs for the performed appraisalment, the competence, organization and operation of the Chamber of Appraisers of Republic of Macedonia, as well as other issues related to the appraisalment.

**Methodology for appraisalment of the market value of the real estate**<sup>8</sup> 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 Cadaster**<sup>9</sup> stipulates and regulates the management of the geodetic-cadaster information system, the maintenance of the real estate cadaster, the establishment and maintenance of the cadaster of infrastructure objects as part of the real estate cadaster, the basic geodetic works, the geodetic works of special purposes, the real property survey performed in service of the real

<sup>2</sup> Official Gazette of the Republic of Macedonia No. 18/01, 99/08, 139/09 and 35/10

<sup>3</sup> 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, 190/17

<sup>4</sup> 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, 178/16

<sup>5</sup> Official Gazette of the 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, 35/18, 64/18, 168/18 and Official Gazette of the Republic of North Macedonia 244/19

<sup>6</sup> Official Gazette of the Republic of North Macedonia, no. 32/20

<sup>7</sup> 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

<sup>8</sup> Official Gazette of the Republic of Macedonia No. 54/12, 17/13, 21/13, 142/14

<sup>9</sup> Official Gazette of the Republic of Macedonia No. 55/13, 41/14, 115/14, 116/15, 153/15, 192/15, 61/16



estate cadaster, the survey and the maintenance of the state borderline of Republic of North Macedonia, the topographic maps, the mass property valuation, the establishment and the management of the graphic registry of construction land, the administration of the spatial units registry, the administration of the graphic registry of streets and house numbers, the supervision over the performance of the sole proprietors – authorized surveyors and trade companies for geodetic works, as well as the status, the organization, the functioning and the authorizations of the Agency for Real Estate Cadaster.

**Rulebook on the method of cadastral classification and determination and registration of the change of cadastral culture and land class<sup>10</sup>** regulates the professional activities and affairs of the state administration related to land, buildings and other structures survey, real estate cadaster, records and registration of property, registration of possession, registration of illegal buildings and buildings legalized utilities cadaster, basic geodetic works, address register, topographic and cartographic activities, valuation of real estate based on land class and culture, geodetic and cadastral information system.

**Law on Obligations<sup>11</sup>**. This Law regulates the bases of obligations, contractual and other types of obligations in the exchange of goods and services. Participants in trade should freely regulate the obligations in accordance with the Constitution, the laws and the good customs.

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 Proceedings<sup>12</sup>**. 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 procedures<sup>13</sup>** 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 proposals<sup>14</sup>** - This law regulates the handling of complaints and proposals submitted to the President of the Republic of North Macedonia, the Parliament of the Republic of North Macedonia, the Government of the Republic of North 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 domain laws** that influence some aspects relevant to the resettlement:

<sup>10</sup> Official Gazette of the Republic of Macedonia No. 144/13, 95/15

<sup>11</sup> Official Gazette of the Republic of Macedonia No. 18/2001, 4/2002, 5/2003, 84/2008, 81/2009, 161/2009, and Official Gazette of the Republic of North Macedonia 215/2021

<sup>12</sup> Official Gazette of the Republic of Macedonia No. 9/08

<sup>13</sup> Official Gazette of the Republic of Macedonia No. 124/15

<sup>14</sup> Official Gazette of the Republic of Macedonia No.82/2008, 13/13, 156/15, 193/15



**Law on Social Protection<sup>15</sup>**. Social welfare and protection in North Macedonia comprise of services and benefits from the tax-financed social welfare system (social prevention – which according to the Law on Social Protection includes - educational and advisory work, development of self-assistance forms, volunteering work etc., institutional care, non-institutional care and monetary assistance) and contributory- based social insurance system (pensions and disability, health and unemployment insurance).

**Law on Housing<sup>16</sup>**. The key point from social perspective relevant to this project in the Law on Housing is that it envisages the possibility for renting state-owned apartments to socially endangered and homeless persons in accordance with the Law on Social Protection. This Law deals, among other things, with the issue of social housing and the housing of the vulnerable groups (children without parents or without parental care, users of social and permanent financial assistance, persons affected by natural disasters, disabled persons and persons who need assistance and care by other persons, the socially endangered persons belonging to the Roma community, lone parents with minor children).

**Law on Health Protection<sup>17</sup>** regulates the matters related to the system and organization of health protection and the performance of healthcare activity, the guaranteed rights and the established needs and interests of the country in the provision of health protection, the healthcare institutions, the employment, rights and duties, responsibility, assessment, termination of employment, protection and decision-making upon the rights and obligations of healthcare workers and healthcare co-workers, the quality and safety of healthcare activity, the chambers and professional associations, the marketing and advertising of healthcare activity, the performance of healthcare activity in case of emergencies, and the supervision of the performance of healthcare activity.

## 2.2 Expropriation Process

**The Expropriation Law<sup>18</sup>** 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 cost" used in EBRD PR 5.

### 2.2.1 Key Provisions of the National Expropriation Law

Immovable or fixed 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 North Macedonia or of local importance. The Law provides extensive list of constructions that can be regarded of public interest. The Beneficiary of Expropriation (BoE)

<sup>15</sup> Official Gazette of the Republic of Macedonia 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, 163/17, 51/18

<sup>16</sup> Official Gazette of the Republic of Macedonia No. 99/09, 57/10, 36/11, 54/11, 13/12, 55/13, 163/13, 42/14, 199/14, 146/15, 31/16

<sup>17</sup> Official Gazette of the Republic of Macedonia 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

<sup>18</sup> Official Gazette of the Republic of Macedonia No. 95/12, 131/12, 24/13, 27/14, 104/15, 192/15, 23/16, 178/16



can be the Republic of North Macedonia, the city of Skopje 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 RNM (in case of public interest for construction of national importance), the city of Skopje 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 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 Appraisalment.

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 appraisalment. 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 appraisalment. 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

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 appraisal;
- A list of property under proposal for expropriation;
- Proof the funds for compensation are in place.

## 2.2.2 The Expropriation Procedure

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 Cadaster 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, in front of 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 for the expropriation, will be determined. 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 EBRD Requirements

Land acquisition and resettlement issues are defined in the PR5 of the EBRD Environmental and Social Policy. The PR 5 Land Acquisition, Restrictions on Land Use and Involuntary Resettlement states that 'involuntary resettlement refers both to physical displacement (relocation or loss of shelter) and economic displacement (loss of assets or resources, and/or loss of access to assets or resources that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition and/or restrictions on land use'.

'Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition which results in displacement.'

Key PR5 objectives are:

- avoid involuntary resettlement or, when unavoidable, minimise involuntary resettlement by exploring feasible alternative project designs and sites;
- avoid forced eviction;
- mitigate unavoidable adverse social and economic impacts from involuntary resettlement on affected persons by: (i) providing timely compensation for loss of assets at full replacement cost; and (ii) ensuring that land acquisition, restrictions on land use, other assets and natural resources and involuntary resettlement activities are implemented with meaningful consultation, participation, and disclosure of information, in accordance with the requirements of PR 10;
- improve, or as a minimum restore the livelihoods and standards of living of affected persons compared to pre-displacement levels; and
- improve living conditions of physically displaced persons through the provision of adequate



housing (including essential services and utilities) with security of tenure at resettlement sites, including those who have no legally recognisable rights or claims to the land (present in the project affected area at the time of the cut-off date)

- To make special provisions for assisting disadvantaged or vulnerable individuals or groups (present in the project affected area at the time of the cut-off date) that may be more adversely affected by displacement than others and who may be limited in their ability to claim or take advantage of livelihood assistance and related development benefits, including consideration of gender; and
- To establish a grievance mechanism to receive and address in a timely fashion specific concerns about compensation and relocation that are raised by displaced persons, including a recourse mechanism designed to resolve disputes in an impartial manner.

## 2.4 Gap Analysis

The key gaps between the national (RNM) Expropriation Law and EBRD’s PR5 relevant for this Project are summarised below. Resettlement and compensation of affected persons shall be carried out in accordance with the applicable National legal framework and EBRD’s Environmental and Social Policy Performance Requirement 5 (2019). Where inconsistencies occur between national legislation and EBRD requirements, the more stringent standards will be adopted. This document (including the subsequent entitlements matrix and eligibility criteria) contains measures to bridge these gaps.

**Table 1** Gap Analysis between PR5 of EBRD’s ESP and expropriation legislation of RNM

Subject	RNM Expropriation law	EBRD PR5	Gaps and measures for bridging the gaps
<p><b>Resettlement instruments, census and socioeconomic study</b></p>	<p>The Geodetic elaborate contains a detailed list of properties to be expropriated, their location, information about individuals who have formal legal rights on these properties. Specialized Appraisal Reports hold estimated value of affected properties (Land, Crops &amp; Trees, fixed assets). No socio-economic study has been prepared.</p>	<p>Preparation of a LARP (based on this LARF), census survey and socioeconomic study 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 EBRD ESP, PR5 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. EBRD financed projects require Socioeconomic Study to be prepared in order to cover entitlements not covered under national legislation including: transition allowance, livelihoods restoration, etc. PESR shall prepare such Socio-economic study as part of</p>



Subject	RNM Expropriation law	EBRD PR5	Gaps and measures for bridging the gaps
			preparation of document entitled Land Acquisition and Resettlement Plan.
<b>Public consultations</b>	<p>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.</p> <p>All those owners whose current addresses are not listed in official records are precluded from being notified of the expropriation.</p>	<p>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.</p>	<p>National legislation does not require public consultation with affected persons and communities at the extent and reach of those envisaged by PR5 and PR1 and PR10. The Borrower shall disclose LARF and LARP to PAPs and stakeholders and conduct consultation meetings as described in the according chapter of this LARF.</p>
<b>Eligibility for Compensation</b>	<p>The Expropriation Law recognizes the eligibility of persons who have formal legal rights on land and structures, as registered by the AREC for and those whose rights are recognizable under national laws (factual ownership).</p>	<p>EBRD ESP 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.</p>	<p>PR5 requirements will be met, including compensation for individuals with no recognizable land rights. Compensation and assistance to PAPs without legal right or claims will be made per principles and entitlements provided in the entitlement matrix of this LARF, 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.</p>
<b>Valuation methodology for compensation for property</b>	<p>Compensation for loss of properties and assets should be at least equal to the market price. Depreciations are deducted from compensation (or included by decreasing the market price value appraisal).</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 LARF.</p>
<b>Transitional Support</b>	<p>No transitional support has been foreseen by the national law for expropriation.</p>	<p>Transitional support will be provided as necessary to all economically displaced persons, based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living.</p>	<p>The Borrower will ensure that displaced persons receive transitional support per entitlement of this LARF.</p>



Subject	RNM Expropriation law	EBRD PR5	Gaps and measures for bridging the gaps
<b>Addressing Loss of Livelihoods / Incomes</b>	Loss of benefits and income for workers and employees are not specifically mentioned by the Law.	Affected employees will receive assistance for temporary loss of wages and, if necessary, assistance in identifying alternative employment opportunities.	Site-specific LARP 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 EBRD.
<b>Grievance Redress Mechanism (GRM)</b>	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 Borrower will establish a Project specific and impact commensurate Grievance mechanism as described in the LARF.
<b>Monitoring &amp; Evaluation</b>	No specific monitoring procedures regarding expropriation are required by national 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 Borrower will be responsible for monitoring in line with the requirements set out in the LARF and LARP.

### 3. Land Acquisition and Resettlement

#### 3.1 Eligibility and Entitlements

##### 3.1.1 Eligibility

The basic principle followed in this LARF is that PAPs should be assisted in their efforts to improve their former living standards, income earning capacity, and production levels, or at least to restore them to pre-Project level whereby lack of legal title does not exclude individuals from the eligibility to receive compensation and/or rehabilitation assistance.

Affected persons may be classified as persons:

- (A) Who have formal legal rights to land or assets;
- (B) Who do not have formal legal rights to land or assets, but have a claim to land or assets that is recognized or recognizable under national law; or
- (C) Who have no recognizable legal right or claim to the land or assets they occupy or use.

Affected persons who **have formal legal rights to land or assets** are those who have formal documentation under national law to prove their rights, or are specifically recognized in national law



as not requiring documentation. In the simplest case, an area is registered in the name of individuals or communities. In other cases, persons may have a lease on the land and therefore have legal rights.

Affected persons who **do not have formal rights to land or assets**, but who have a recognized or recognizable claim under national law can fall into a number of groups. They may have been using the land for generations without formal documentation under customary or traditional tenure arrangements that are accepted by the community and recognized by national law. In other cases, they may have never been provided formal title or their documents may be incomplete or lost. They may have a claim for adverse possession if they have occupied land for a certain period of time as defined by national law, without the formal owner contesting the occupation. In such cases, national law often has legal procedures by which such claims can become recognized.

Affected persons who **have no recognizable legal right or claim to the land or assets they occupy** or use are eligible for assistance under PR5. These can be seasonal resource users, such as herders, grazers, fishers, or hunters (although if the rights of such users are recognized by national law, they may fall into category (A) or (B)). They can also be persons occupying land in violation of applicable laws. Affected persons in these groups are not eligible for compensation for land, but are eligible for resettlement and livelihood assistance and compensation for assets.

All PAPs living in the Project area before the cut-off date will be considered for compensation for their losses and/or resettlement or other type of necessary assistance. Lack of legal rights or titles do not make them ineligible for entitlements.

PESR is not required to compensate or assist those who encroach on the project area after the cut-off date for eligibility, provided the cut-off date has been clearly established and made public.

### 3.1.2 Entitlements

Land acquisition and resettlement will be implemented according to a compensation and entitlements framework in line with Macedonia's laws and regulations and EBRD PR5. Where they are different, the entitlements most favourable to the PAPs will apply, as set out in the Entitlement Matrix below. During compensation identification at Project preparation, the entitlement matrix and description of compensation entitlements shall be revised and updated accordingly.

The definitions used in this LARF are:

- **Census** means the head count of the persons affected by land acquisition in terms of asset loss, together with an inventory of the assets lost by these persons. The census also includes basic socioeconomic data. The date of the census establishes the cut-off date to record the persons in a community project area, who can receive compensation for lost assets, and/or resettlement and rehabilitation assistance.
- **Cut-Off Date** means the date after which no person moving into the project area will be eligible to receive compensation related to land acquisition and resettlement. The cut-off date for determining eligibility for compensation or other assistance is intended to help prevent encroachment by opportunistic settlers.
- **Compensation** means replacement cost (market value PLUS transaction costs) in exchange for assets acquired by the Project. When land acquisition or restrictions on land use (whether permanent or temporary) cannot be avoided, the Borrower will offer affected persons compensation at replacement cost, and other assistance as may be necessary to help them improve or at least restore their standards of living or livelihoods.
- **Resettlement Assistance** means assistance comprising job placement, job training, or other forms of support to enable displaced persons, who have lost their source of livelihood



as a result of the displacement, to improve or at least restore their income levels and standard of living to pre-project levels.

The entitlement matrix is based on the premise that resettlement, rehabilitation and compensation programs should improve or, at a minimum, maintain the PAPs pre-Project living standards and ensure their participation in Project benefits. This is reflected in the following principles of compensation.

**Valuation of and compensation for losses.** The methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation for land, natural resources and other assets under local law and such supplementary measures as are necessary to achieve replacement cost for them.

**Compensation.** PAPs will be compensated at full replacement and substitution costs without depreciation and relocated or resettled in and after due consultation with them. The preliminary compensation rates for replacement and substitution cost will be proposed to the PAPs to give them an opportunity to compare those with the prevailing market rates. All fees and taxes on land and/or house transfers will be waived or otherwise fees and taxes will be included in a compensation package for land and/or house. The competent government authorities will give preferential treatment to PAPs reconstructing their houses on their own, and to obtain the necessary property titles and official certificates. This in case there are cases for displacement of homes.

**Cash compensation.** Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labour exist, PAPs use such markets, and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets, calculated as of the cut-off date. Compensation in cash for all residential, commercial or other structures will be paid at replacement cost of these structures, without any depreciation of the structure and without deduction for salvageable materials;

**Consultation and Planning.** The LARP will be developed and implemented in consultation with the PAPs. Effective and timely design, planning and implementation of resettlement and rehabilitation measures will be conducted to avoid unnecessary delays and consequent inconveniences to the PAPs.

**Timing.** Resettlement, compensation and rehabilitation Programs for PAPs will be timed so as to guarantee the availability of new land and residences, prior to commencement of project or construction activities. Land clearance will not be started before the PAPs have received compensation and rehabilitation assistance.

**Monitoring.** Institutional arrangements will be made for internal and external monitoring of all-important land acquisition activities.

**Table 2** Provisional Entitlement and Compensation Matrix

Asset Acquired	Type of impact/Risk	Entitled person	Compensation entitlement
Agricultural land	No displacement: Less than 25% of land holding affected The remaining land remains economically viable	Owner of the land	Cash compensation, including transactional costs for purchase, for affected land at least equivalent to market value or replacement land at full replacement value with same, or better quality.



Asset Acquired	Type of impact/Risk	Entitled person	Compensation entitlement
	No displacement: Between 25% and 50% of land holding affected. The remaining land remains economically viable	Owner of the land	Cash compensation, including transactional costs for purchase, for affected land at least equivalent to market value or replacement land at full replacement value with same, or better quality.
	Displacement: More than 50% of land holding lost. Remaining land is not viable	Owner of the land	Cash compensation equivalent to replacement value of land, plus compensation for move and provisional accommodation. Income restoration package (access to credit/allowance until next first harvest/alternative job training) if the livelihoods are affected. PAPs can request full expropriation regardless of the fraction affected. Provision of replacement land at full replacement value with same, or better quality.
Construction land	No displacement: Less than 25% of land holding affected The remaining land remains economically valuable	Owner of the land	Cash compensation, including transactional costs for purchase, for affected land at least equivalent to market value or replacement land at full replacement value with same, or better quality.
	No displacement: Between 25% and 50% of land holding affected. The remaining land remains economically viable	Owner of the land	Cash compensation, including transactional costs for purchase, for affected land at least equivalent to market value or replacement land at full replacement value with same, or better quality.
	Displacement: More than 50% of land holding lost. Remaining land is not valuable	Owner of the land	Cash compensation equivalent to replacement value of land, plus compensation for move and provisional accommodation. Income restoration package (access to credit/allowance until next first harvest/alternative job training) if the livelihoods are affected. PAPs can request full expropriation regardless of the fraction affected. Provision of replacement land at full replacement value with same, or better quality.



Asset Acquired	Type of impact/Risk	Entitled person	Compensation entitlement
Commercial property	Loss of business and/or rent	PAP (owner, tenant or squatter)	<p>Compensation for loss of income incurred as a result of relocation including any discrepancies in livelihood. Support to re-establish the business in other suitable location.</p> <p>For business property built on government land, compensation for assets other than land at full replacement value, and assistance in identifying other suitable land for continuation of business operations.</p>
Residential property	Loss of residential housing.	PAP (owner, tenant or squatter)	Offer displaced persons choices among feasible resettlement options, including adequate replacement housing (replacement property of equal or higher value, with security of tenure, equivalent or better characteristics, and advantages of location), or cash compensation at replacement cost.
Structures	Support structure such a garage, fence, well, wall, etc.	Formal and non-formal Owner/user	<p>Compensation at full replacement value. For illegal structures, the cost of materials and improvement are paid.</p> <p>Compensation must cover all costs to rebuild structures, in both cases</p>
Trees/crops	Trees/crops lost	Owner / Tenant / informal land users	Cash compensation at full value based on type, age and productive value of affected trees/crops.
Loss of business income and/or sources of livelihood associated with either of the above losses or other project impacts (economic displacement))	Loss or significant reduction of livelihood	Employees	<p>Cash compensation for lost net income during the period of transition (until the re-establishment of business/economic activities in another location)</p> <p>AND</p> <p>Livelihood restoration assistance, such as the following:</p> <ul style="list-style-type: none"> <li>• Provision of machinery and equipment for improving farming</li> <li>• Provision of skills training</li> <li>• Access to jobs</li> <li>• Provision of personal documents</li> </ul>
Temporary land acquisition	Temporary acquisition	PAP (owner, tenant or squatter)	Cash compensation for any assets affected (e.g. boundary wall demolished, trees removed)



Asset Acquired	Type of impact/Risk	Entitled person	Compensation entitlement
Vulnerable groups	Increasing vulnerability	Marginalized groups, such as people with disabilities, elderly, single headed households, those living below poverty line, ethnically different, without internet access and other attributes that cause vulnerability	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.

### 3.2 Valuation of Affected Assets

**Valuation of land** is established by a committee of valuation experts hired for this purpose. Comparable data on prices are gathered through consultation with Public Revenue Office whose data from recently concluded contracts on sale and purchase of land in the region are extracted. The market value which the municipality proposes to provide reflects adequate compensation for the asset to be expropriated. The Municipality considers that the market values proposed are fair and reasonable and will be adequate for the affected people to purchase alternative land of the same size and quality within the region.

**Buildings** are valued based on the price of construction material with which they have been built. The market price remains the most reliable way to evaluate buildings also having a commercial use, i.e. kiosks, shops, workshops or commercial enterprises.

The methodology of appraisal of real estate assets is described in the **Methodology for appraisal of the market value of the real estate**<sup>19</sup>.

The **Market Value of agricultural land, forests and pastures** is determined in accordance with the average price of conducted purchases of land during the previous year. If no purchases are made in the concrete municipality in the previous year, as a market value is considered the average compensation for m2 expropriated agricultural land in the municipality. If there is still lack of information on the purchased and expropriated land in the previous year, in the concrete municipality, then the prices of neighbouring municipalities will be taken into consideration.

During the valuation process, PAPs, local officials and relevant government offices (such as the Cadastre) will be consulted.

The following guiding principles for the valuation will be taken into account. With regard to land and structures, the replacement value is defined as follows:

- For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land,

<sup>19</sup> Official Gazette of Republic of Macedonia No. 54/12, 17/13, 21/13, 142/14



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 near settlement 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 to be compensated to the PAP, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Where domestic law does not meet the standard of compensation at full replacement cost, EBRD/IFI's guidelines and technical specifications for compensation at replacement cost will be applied.

Compensation for land, structures, business, fixed improvements and other temporary assets will be based on market valuation, productivity valuation, negotiated settlements, material and labour valuation, disposition of salvage materials and other fees paid. It should be noted that lack of title, license or permit is not a bar to compensation.

### 3.3 Cut-off Date

National law foresees the cut-off date as the date when the request for expropriation is submitted and delivered to the affected legal owners (with legal deeds). According to PR5, which includes informal users/or owners, the cut-off date is the start of the census and socioeconomic survey.

The date of end of the Census serves as the Cut-off date, for all affected PAPs. All interviewed PAPs will receive information notice on the purpose and aim of the Cut-off date, as well as conducting activities on the land after the cut-off date. Census means the head count of the persons affected by land acquisition in terms of asset loss, together with an inventory of the assets lost by these persons. The census also includes basic socioeconomic data, gathered throughout relevant socioeconomic survey. The date of the census establishes the cut-off date to record the persons in a community project area, who can receive compensation for lost assets, and/or resettlement and rehabilitation assistance.

Cut-Off Date defines the date after which no person moving into the project area (opportunistic settlers) will be eligible to receive compensation related to land acquisition and resettlement. 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.

Cut-off date will be announced in the local printed and electronic media by PESR, as well on the website of affected municipality. Additionally, same announcement will be disclosed to the local population in a form of leaflet set on a visible location at the affected municipalities, as well as local bulletin boards.

### 3.4 Livelihood Restoration



According to the EBRD PR5, people whose livelihoods are affected by the project are entitled to livelihood restoration measures aimed at improving or at least restoring their standards of living or livelihood to pre-project levels.

PESR will design appropriate livelihood restoration support, based on the findings of the socio-economic surveys undertaken to measure and quantify livelihood and income that is likely to be impacted by the project. Such support can include assistance to identify and access other income/livelihood generation activities, agricultural development support such as identifying improvements which could help affected PAP to increase their yield and income on land), assistance to access training, skill development, job opportunities, etc.

## 4. Implementation Arrangements

### 4.1 LARP Development and Approval Process

LARP, as needed, will be developed by PESR. The level of detail of the LARP may vary with the magnitude and complexity of resettlement.

LARP main activities to be undertaken include – but may not be limited to – the following:

- Identification of and consultation with PAPs;
- Census survey and inventory of losses of PAPs;
- Valuation of lost assets;
- Development of compensation matrix;
- Preparation of indicative budget for implementation;

Draft LARP will be submitted to EBRD for review and approval, after which it can be disclosed by PIU for public consultation, clear of private and sensitive data. After its finalization, final LARP will be submitted to EBRD. When approved by EBRD it will be disclosed again by PESR.

### 4.2 LARP Implementation Process

#### 4.2.1 LARP implementation Unit

A LARP Implementation Unit (LIU) within PESR will be established to implement approved LARP. All activities indicated in the LARP shall be covered from the PESR funds and be completed prior to commencing the construction activities. PESR LIU will be responsible for preparing and implementing approved LARP, under the supervision of the PIU.

Major responsibilities and activities of the LIU include – but may not be limited to – the following:

- Verify the LARP census and asset inventory data on the demarcated parcels;
- Undertake cadastral and topographic surveys and ensure correction of data of measuring and inventory as required by possible design changes;
- Closely consult with PAPs and settlements representatives;
- Prepare documentation for registration of new land plots;
- Provide the public with necessary information;
- Negotiations and agreement with PAPs;
- Delivery of compensation and, as needed, implementation and supervision of rehabilitation measures. Cash compensations will be paid on bank transaction account.



- Observe grievance procedures;
- Court processing of cases where no agreement is reached;
- Expropriation proceedings through the court, as required;
- Construction of infrastructure (in case resettlement is necessary) and arrangement of relocation of PAPs;
- Prepare quarterly reports.

Satisfactory completion of the LARP is a condition for any (physical) works to start.

#### 4.2.2 Complaints and Grievances

A **Grievance Redress Committee** at Project level will be established to address complaints and grievances pertaining to resettlement and to pre-empt all disagreements being referred to the court. The Committee will include LIU staff, a representative of affected municipality and 5 representatives of the local communities affected by the Project. A similar grievance redress committee composed of representatives from the PIU, local NGOs and Communities, as well as an independent expert will be convened by the PIU on a case-by-case basis, to address complaints and grievances for more complex cases such as any physical resettlement.

**Procedure:** Under the supervision of the PIU, the LIU will make every effort to achieve an amicable settlement of all identified resettlement issues under the LARP at the Project. If this attempt fails, the PAP may at his/her discretion, deposit a complaint either with the court or Grievance Redress Committee. The proposed procedure and mechanisms will be presented to and discussed with the PAPs at the early stages of the LARP preparation process. In order to effectively collect all grievances from the potential PAPs, a specific site(s) may be designated for timely depositing and collection of all complaints. The PAPs can deposit complains orally (these shall be properly documented at the moment of depositing complain at the designated site) or in written. The response will be provided within a period of two weeks after receiving the complaint. If the case is not resolved at the level of the Grievance Redress Committee, it may be submitted by either party to the Court. Any fees required for this purpose will be paid by PESR after verifying that the PAP is a recipient of Social Cash benefits. All other PAPs will be responsible for their own costs.

All resettlement/displacement related grievances will be registered and acknowledged within 5 calendar days and responded to within calendar 28 days. Individuals who submit their comments or grievances have the right to request that their name be kept confidential.

Scheme of the grievance redress mechanism is presented in the Appendix 2 and the grievance form can be found in Appendix 1. The structure of the Grievance Register is given in Appendix 3.

Contact information for Grievances will be:

**Mrs Biljana Cvetkovikj**, Department for Legal Affairs

Tel: + 389 (0)2 3118-044 ext.312

Fax: + 389 (0)2 3220-535

Email: biljanal@roads.org.mk

Address: **Public Enterprise for State Roads**

Dame Gruev 14, 1000 Skopje,

Republic of North Macedonia



### 4.2.3 Court

The Court shall be the last resort for issues and concerns regarding the implementation of the LARP. In cases where complaints and grievances regarding the LARP implementation and compensation are not amicably settled and mediation by the Grievance Redress Committee remains also unsuccessful, the PAP will also have the right to appeal the case to the Court as a last resort. The Courts' decision shall be final and be executed.

PESR will provide assistance in access to justice for complainants (PAP).

The implementation of the LARP will be administratively implemented throughout the expropriation procedures, but the compensation will be determined according to the PR5. In case the compensation offered satisfies the replacement principal, then the compensation is deposited into the escrow account for the PAP, and the PAP can go to Court.

## 5. Monitoring and Evaluation

The main objective of implementation of LARP is to improve or at least restore the social and livelihood resources of the PAPs at their pre-project level. The process of implementation should ensure that this objective is achieved over a reasonable time with allocated resources. Therefore, monitoring of the process of updating LARP, its implementation and delivery of institutional and financial assistance to the PAPs has been designed as an integral part of the overall functioning and management of the Resettlement activities will be regularly supervised and monitored by personnel of PESR (the LIU). LIU will ensure the execution of timely monitoring of the monitoring and evaluation indicators (process, delivery and impact indicators) of land acquisition and resettlement/livelihood restoration tasks.

The purpose of the monitoring and evaluation is to provide feedback to all stakeholders on progress made in view of a timely and comprehensive implementation of the LARP and to identify problems as early as possible to facilitate well-timed adjustment of implementation arrangements. The objectives are to:

- a) Ensure that the standard of living of PAPs are restored or improved;
- b) Ascertain whether activities are in progress as per schedule and the timelines are being met;
- c) Assess whether the compensation, rehabilitation measures are sufficient;
- d) Identify problems or potential issues; and
- e) Identify methods to rapidly mitigate problems

### 5.1 Internal Monitoring

Internal monitoring will be carried out routinely by PIU. The results will be communicated to EBRD through the annual report whereby there will be a section on reporting progress of resettlement /livelihood restoration /land acquisition cases. Specific monitoring benchmarks will be:

- Number of public meetings and consultations with PAPs;



- Status of land acquisition and payments on land compensation;
- Compensation for affected structures and other assets by type;
- Relocation of PAPs;
- Payments for loss of income;
- Selection and distribution of replacement land areas;
- Income restoration activities, and
- Grievances and their resolution, including court cases
- Percentage of all compensations paid to affected people.

The above information will be collected by PIU, throughout the following activities:

- Review of census information for all PAPs;
- Consultation and informal interviews with PAPs;
- In-depth case studies;
- Sample survey of PAPs;
- Key informant interviews; and
- Community public meetings.

## 5.2 External Monitoring

EBRD will perform external monitoring on the implementation of LARP, from time to time. External competition audit should also be conducted by experienced resettlement consultant.

After completion of LARP implementation, a brief survey will be undertaken by the LIU amongst PAPs to assess their satisfaction with the process and results of the LARP. The methodology for this review will be further elaborated in the LARP.

## 6. Disclosure and PAP's Participation

The LARF will be available to the public throughout duration of the Project including its evaluation, foreseen as a period of 120 days, while LARP will be available to the public in duration of 30 days.

LARF is part of the disclosure package for this project.

Digital version of the documents in Macedonian and English language will be published on the web-sites of:

- **PESR** website: [www.roads.org.mk](http://www.roads.org.mk)
- **EBRD** website: <http://www.ebrd.com>
- Website of Municipality of **Chucher-Sandevo**: [www.cucersandevo.gov.mk](http://www.cucersandevo.gov.mk)

Hard copies will also be available at:

- **PESR** in Skopje - Dame Gruev str. 14, 1000 Skopje



- **Municipality of Chucher-Sandevo**, Chucher-Sandevo

Both documents shall be presented to PAPs in the process of land acquisition, particularly to vulnerable groups<sup>20</sup> (if such identified), and project impact on their property and their rights must be explained. Hard copies of the documentation shall be available in the affected municipality. PESR is responsible for all disclosures of the documents.

As indicated in the above sections, PAPs will participate throughout the development and implementation process of resettlement activities and in the land acquisition process. They will be consulted by PESR and the PIU and will be invited to participate in public / online meeting held by municipality in the early stages of the process.

PESR will hold public consultation on the draft LARP document. Public consultation on LARP will take form of public meeting where affected people will receive information regarding the main and important provisions in the LARP document, such as cut-off date, eligibility criteria and entitlements, modalities of compensation, complaints and grievance redress procedures.

The consultation activities should follow the schedule of the Project and should start prior to the construction activities, once the exact affected properties and livelihoods are defined, project design and Property valuation process is completed, and Socio-economic survey completed.

If, due to the COVID-19 pandemic, it is not possible to organize public meeting with the affected property owners/tenants with physical presence<sup>21</sup>, PESR shall organize online presentation and discussion<sup>22</sup>. The registration process for online participation will start one week before the meeting and will embrace all affected people (owners and tenants) with prior contact established over regular mail, at least two weeks before the meeting.

If it is possible to organize meeting with physical presence, it will be organized in the premises of the Municipality of Chucher-Sandevo or PESR properties. Otherwise PESR will use provisions for stakeholder engagement and information disclosure described in Stakeholder Engagement Plan, and organize online meeting.

At this moment it is not possible to propose the exact timeline for information disclosure and stakeholder engagement activities with the affected owners/tenants on this project, in regards of LARP.

PAPs will be also involved in the committees to be established, which will ensure their participation in the decision-making process in various stages of the LARP process: preparation and implementation.

## 7. Costs and Budget

<sup>20</sup> Vulnerable groups refer to people who, by virtue of gender identity, ethnicity, age, disability, economic disadvantage or social status may be more adversely affected by project impacts than others and who may be limited in their ability to claim or take advantage of project benefits. Vulnerable individuals and/or groups may also include people living below the poverty line, the landless, the elderly, women and children headed households, refugees, internally displaced people, ethnic minorities, natural resource dependent communities or other displaced persons who may not be protected by national and/or international law.

<sup>21</sup> (The Official Gazette of the Republic of North Macedonia, No. 263/20, 04.11.2020) The GRNM, on the 03.11.2020, issued a Decision on Preventive recommendations, temporary measures, ordered measures, purposeful protocols, plans and algorithms of actions for protection of the population's health from the infectious diseases COVID-19 caused by the virus SARS-CoV-2, the cases and the time period of their application.

<sup>22</sup> Stakeholder engagement (PR10) EBRD briefing note - COVID-19; 15 April 2020 (available at: <https://www.ebrd.com/covid19-consultation.pdf>)



At this moment there are no sufficient information for providing indicative budget for the total process of resettlement, since part of the project is still in design phase.

All LARP related costs will be borne by PESR.

The budget needed for the implementation of the LARP will be established after the completion of the census and survey activities, and negotiated assistance, once the exact number of PAP is identified.

The budget will cover items related to compensation for crops/objects/land, means for livelihood restoration, resettlement assistance, monitoring and evaluation as well as contingencies and administrative expenses.



## APPENDICES

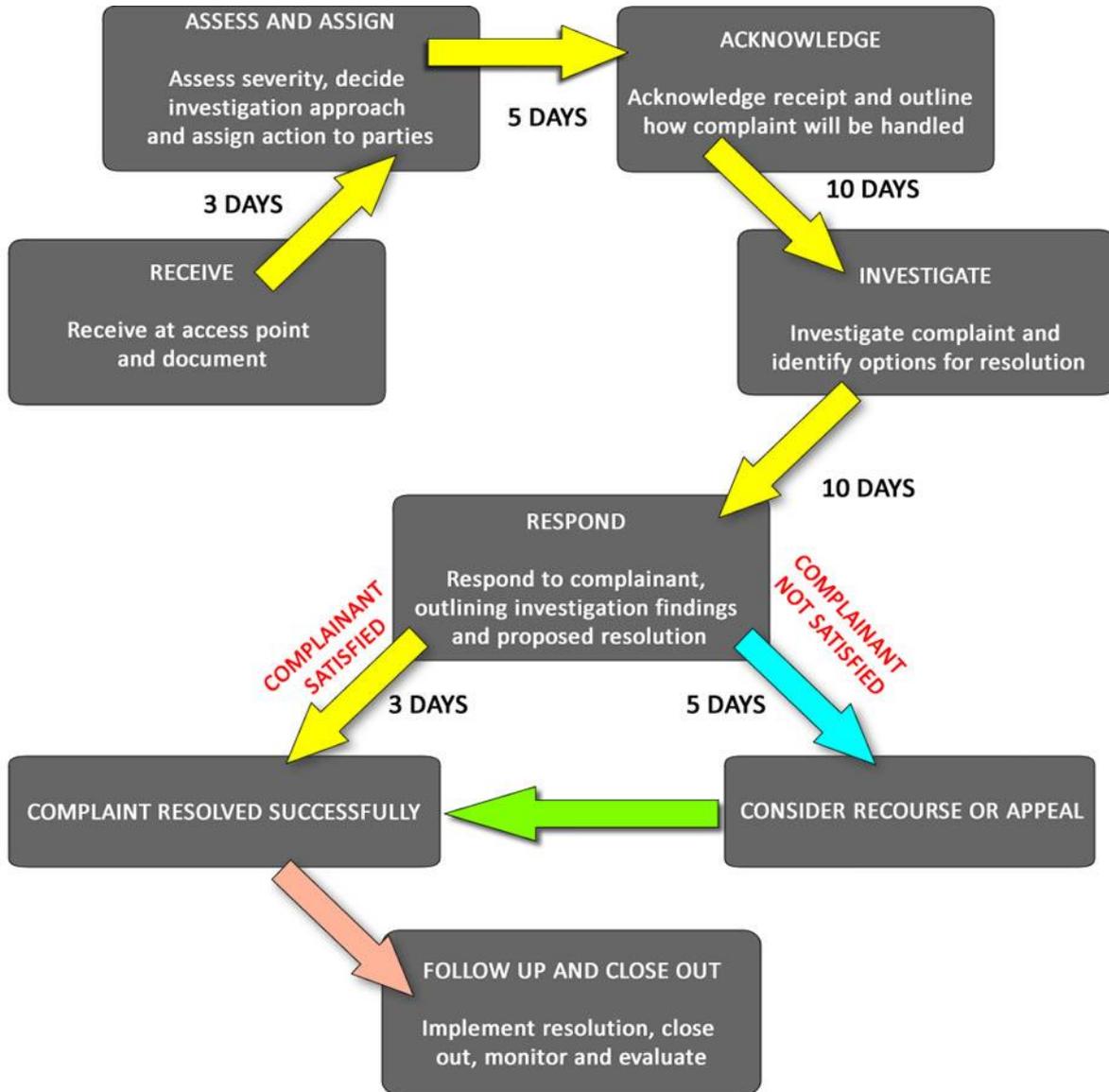


## APPENDIX 1: Grievance Form

<b>Reference No:</b>	
<b>Full Name and Surname:</b> <i>(You can remain <b>anonymous</b> if you prefer or request not to disclose your identity to the third parties without your consent)</i>	
<b>Contact information:</b> Please mark how you wish to be contacted (mail, telephone, e-mail)	<ul style="list-style-type: none"> <li>• <b>By Post:</b> (Please provide postal address) _____</li> <li>• <b>By phone:</b> _____</li> <li>• <b>By e-mail:</b> _____</li> </ul>
<b>Preferred language of communication:</b>	<input type="checkbox"/> Macedonian <input type="checkbox"/> Albanian <input type="checkbox"/> Other: _____
<b>Description of incident/grievance:</b> What happened? Where did it happen? Who did it happen to? What is the result of the problem?	
<b>Date of grievance:</b>	<input type="checkbox"/> One-time incident/grievance (date _____) <input type="checkbox"/> Happened more than once/how many times? (_____) <input type="checkbox"/> On-going/currently experiencing problem
<b>What would you like to see happen to resolve the problem?</b>	
<b>Signature:</b>	<b>Date:</b>
Please return this form to: Ms Biljana Cvetkovikj Tel: + 389 (0)2 3118-044 ext.119 Fax:+ 389 (0)2 3220-535 email: <a href="mailto:biljanal@roads.org.mk">biljanal@roads.org.mk</a>	Public Enterprise for State Roads Dame Gruev str. 14 1000 Skopje, Republic of North Macedonia



## APPENDIX 2: GRM Procedure





## APPENDIX 3: GRM Register Items

The GRM, kept in digital format, as a spreadsheet file, should contain the following information:

### ENTRY:

- Initiator
- Location of residence
- Type of problem
- Name and surname
- Contact information
- Date of entry
- Acknowledgement for receipt of Grievance

### PROBLEM:

- Description of the Problem
- Proposed solution
- Actions to be undertaken for problem solving

### EXIT:

- Date of closure
- Grievance's Follow-up
- Results of the intervention
- Recurrence Y/N.



## APPENDIX 4: Provisional Table of Content for LARP

The Land Acquisition and Resettlement Plan (LARP) will include at least:

- Description of the Project, including land expropriation, economic loss and likely categories/scope of impacts
- Demonstration that resettlement/economic loss was unavoidable (if that is the case) and description of what was/will be done to minimize impacts
- Description of policy principles and objectives governing land acquisition, potential resettlement, livelihood restoration, compensation, and related social impacts
- Eligibility criteria for defining project affected persons (PAPs), and an analysis the differential scope of impacts of the Project to them
- Legal framework summarizing the national laws, customs, and regulations and EBRD policy requirements
- Description of the process carried out for socio-economic surveys and census
- Description of methods of valuing affected land and other assets
- An entitlement matrix, specifying the eligibility for, and standards of compensation and assistance to be provided to PAPs so as to replace all types of loss, as appropriate, and to restore their socio-economic status. This should take into account specific needs of all affected groups (including non-title holders such as spouses and family members with/without ownership rights, those without ownership and/or user rights, those without building permissions, etc.)
- Suggestions of appropriate, financially viable and sustainable options for relocation and/or livelihoods restoration within existing cultural, social, economic and legal parameters
- Framework for meaningful stakeholder engagement and consultation with project affected men and women in all relevant aspects of project design and implementation, particularly all resettlement and/or livelihood restoration processes, in line with EBRD's PR10 on Information Disclosure and Stakeholder Engagement
- Organizational procedures with respect to institutional responsibilities for the delivery of entitlements and LARP implementation
- Description of the implementation process, linking resettlement implementation to civil works, as needed;
- Description of detailed, independent grievance redress mechanisms managed by the Client and other entities (e.g. mediation)
- Description of framework and arrangements for internal and external monitoring & evaluation and reporting, including proposed indicators and reporting timeframe
- Guidance on how to maximize the positive impacts of the Project to local men and women, such as local employment opportunities, as well as project specific social aspects that may need to be addressed at design stage and
- Detailed budget inclusive of resettlement/livelihood restoration and associated compensation costs, and implementation timeline.