

REPUBLIC OF MACEDONIA
Municipal Services Improvement Project (MSIP)

RP749

LAND ACQUISITION AND RESETTLEMENT POLICY FRAMEWORK

Skopje
FINAL

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Municipal Services Improvement Project Land Acquisition and Resettlement Policy Framework

Considering that some proposed projects might require land acquisition, this report specifies a Land Acquisition and Resettlement Policy Framework that should be applied in the case of such activities. Land acquisition might provoke involuntary resettlement. If unmitigated, these resettlements give rise to severe economic, social, and environmental risks for the affected population: In such cases the relevant Municipality should apply a series of measures that are outlined in the “Land Acquisition and Resettlement Policy Framework”. This framework includes safeguards to address and mitigate impoverishment risks.

In cases of land acquisition, the relevant Municipality should apply a series of measures that are outlined within the “Land Acquisition and Resettlement Policy Framework” of this report.

Description of the specific activities under the project that may require land acquisition

The proposed project development objective is to improve transparency, financial sustainability and delivery of targeted municipal services in the participating municipalities. The project aims to achieve this objective through a focus on infrastructure and services under the responsibility of participating municipalities and their communal service enterprises, such as water supply, sanitation, and solid waste management, but may also include support for other functions such as energy efficiency, urban transport, urban planning, and other services under municipal provision.

The project would finance investments in basic local infrastructure and municipal services; provide technical assistance (TA) to municipalities and Communal Service Enterprises (CSEs); and support institutional reforms in municipalities through performance based investment grants. The project would also provide institutional support to central agencies for policy and strategic analysis related to financial sustainability of the communal services. In addition, the project would cover operational costs associated with project implementation and support project management.

Component A (Municipal Investments) – This component would provide loans to municipalities that are eligible to borrow. Investments to be financed under this component would be mainly for revenue-generating services and other investment projects of high priority to municipalities and with cost saving potential. Though subprojects are not limited to certain sectors, it is expected that revenue-earning investments would be primarily for services and infrastructure provided by CSEs, while cost-saving projects could either be under CSEs or under the direct provision of municipalities.

Component B (Capacity Building and Institutional Reform) – This component would include consultancy services and technical assistance for:

1. *Sub-project preparation*: feasibility studies and required financial, environmental and social assessments; support preparation of final designs and bidding documents; and provide support for bidding procedures for the kinds of investments funded under Component A.
2. *Local capacity building*: finance technical assistance, training and consulting services for municipalities and CSEs to improve performance in service provision and meet the reform objectives of the Project. Capacity-building activities and institutional strengthening would be related in particular to helping the municipalities and CSEs meet criteria for Component C. The TA would also support communications and public outreach activities.
3. *National level Institutional strengthening*: support to national agencies through study of policy issues and strategy development related to the financial sustainability of services.

Component C (Performance-based Investment Grants) – This component would provide grants to municipalities as an incentive and reward for implementation of reform initiatives aimed at performance improvements in service delivery. Performance grants would be awarded according to simple and objective criteria based on the enforcement of legal and regulatory requirements currently in place in the Republic of Macedonia (outlined in the Project Operational Manual, POM). Performance criteria are formulated as a menu for municipalities to prioritize their own reform agenda. The performance grant can be awarded anytime up to one year before the close of the Project, whenever the measures are verifiably implemented. The awarded grant amount to an individual municipality will be 20 percent of the investment subloan. The grants could be used for new investment of the same type funded by the MSIP, including extension of the original investment funded by the subloan. The municipality would need to present to the PMU a subproject proposal meeting all the same appraisal criteria as for Component A investments. The Performance Grant would be subject to a separate Grant Agreement.

Component D (Project Management and Operating Cost) – This component would support operation of a project management unit (PMU) and assist with project implementation and monitoring, as well as preparation of new sub-projects. The component will finance incremental operating costs incurred by the PMU, which would be responsible for overall project management and reports to the Ministry of Finance. The project management services will assist with project implementation in municipalities and CSEs, provide guidance and support to local project entities, and ensure that the Bank fiduciary (procurement and financial management) and safeguard (environment, social/land acquisition or other) guidelines are observed. The PMU would also be responsible for appraisal of sub-projects that become eligible during the course of project implementation. In addition, the PMU will establish a project portal website as central forum for stakeholder dialogue and feedback.

Under the investment components A and C, there may be a need for land easement or, less likely land acquisition, in cases if new structures are built. Since the investments are not known upfront prior to appraisal and there is no prior determined location, this Land Acquisition and Resettlement Policy Framework has been prepared.

Objectives of the Land Acquisition and Resettlement Policy Framework

7. This Land Acquisition and Resettlement Policy Framework (LARPF) provides details on the likely impacts resulting from land acquisition for the above mentioned activities and the mitigating measures that will be put in place to address these adverse impacts.

8. The main objectives of the LARPF are to:

- Provide details on the policies governing land expropriation, and 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 redress mechanisms in project planning, design and implementation;
- Provide identified sources and estimates of required resources for implementation of the RAP;
- Provide a framework for supervision, monitoring and evaluation of resettlement implementation.

Legal framework for land expropriation in Republic of Macedonia and fit with World Bank Operational Policy [OP 4.12]

9. The Land Expropriation Act dated 1995 governs the expropriation process in Republic of Macedonia. This Law was slightly amended in 1998, 1999, 2003, 2005 and 2008. These together define the procedures for expropriation of immovable property in Republic of Macedonia. The expropriation of private properties is done only for a public interest and with fair compensation. The Land Expropriation Act (1995) vests authority in the name of the State, Funds, Public Enterprises, and Municipalities to acquire land required by the Government for public purposes. The term “public purpose” is defined.

10. For land acquisition in municipal services improvement projects, the Municipality submits expropriation proposals to the Local/ Regional Offices of Property Administration (within the Ministry of Finance). The expropriation proposal shall contain information about the purpose of expropriation, details on the real estate to be

expropriated, the names and addresses of the owners of the real estate, evidence of the ownership over the real estate that is offered as replacement for the expropriated real estate and evidence for the secured funds that shall be used as compensation for the expropriated real estate.

11. **Under the** Temporary Land Acquisition Law on Portable Water and Waste Water Discharge, the owner of the land or the user is obliged to allow access to the land for measurement, screening, surveying, installation or repairing of the water supply/ sewage network. The service provider is obligated to compensate for the temporary land acquisition. In the case of the Municipal Services Improvement Project, the Municipality is obligated provide compensation for temporary land acquisition. This is in accordance to provisions of the Law on Potable Water and Waste Water Discharge.

12. Eight days from the submission of the expropriation proposal, the Local/ Regional Offices of Property Administration shall invite the owner, the carriers of other property rights over the real estate and the user of the expropriation for negotiations. The purpose of the negotiations is to determine the existence of a public interest, the veracity of ownership/ property rights, the nature and amount of the compensation, etc. The law provides scope for appeal against the decision for expropriation to be submitted to the Commission of the Government of Republic of Macedonia. These consultations go on until agreement is reached on the amount of compensation – if the concerned parties cannot agree, appeals are made to the Supreme Court regarding the amount of compensation and date of expropriation. The Municipalities shall acquire the tenure right over the expropriated real estate 15 days after the date of the settlement (agreement).

13. The compensation price is determined with the help of qualified property assessment experts. The offer price for land is calculated based on a situation-specific formula that takes into account the market value of the affected property. There is also a process of open and transparent negotiation before expropriation proceedings begin that ensures that the final agreed price corresponds to the World Bank's requirement of "replacement value" enabling the affected person to purchase land of similar quantity and quality. Owners also have the right to receive market-price based compensation for trees, seedlings, crops and forests etc.

14. Depreciation is used in calculating the offer price of structures. This is not consistent with the principle of replacement value as suggested by Operational Policy (O.P) 4.12. It is not expected that there will be structures that will need to be acquired in the project site. In the event that there are structures (barns, kiosks, small commercial buildings etc.) that will need to be demolished, "depreciation" will not be used while calculating the compensation payable for affected structures, so that affected people will be able to replace their structures with the compensated amount.

15. The Municipality is obliged to make the compensation payments within 30 days from the date of the signed agreement or court decision, if any. If compensation cannot be paid or deposited within the deadline, interest will be paid at market rate on the

amount awarded from the date of award till the date of payment. Compensation for lost assets shall be provided before these are taken into possession.

16. While World Bank OP 4.12 embodies the principle that a lack of legal land title does not disqualify people from resettlement assistance, under relevant Macedonian legislation, discrepancies with this principle arise. However, within the scope of this project, the sites are not occupied by large illegal settlements; neither are there individuals that have multiple or competing or illegal claims to land in the project area. All project affected people in the area whose land have to be acquired have legal titles, according to the updated land ownership report prepared by the State Cadastre Office.

Valuation of assets

17. The valuation of land is established by a committee of valuation experts hired for the 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. It must be noted that active markets for land and housing exist and not only do people use such markets, there is also sufficient supply of both land and housing. 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.

18. 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.

Consultations with affected/displaced persons

19. Information dissemination and consultation with the PAPs reduces the potential for conflicts, minimizes the risk of project delays, and enables the project to include resettlement and rehabilitation as a comprehensive development program to suit the needs and priorities of the PAPs. Specific objectives of the public information campaign and public consultation are: (i) to fully share information about the proposed project, its components and its activities, with affected people; (ii) to obtain information about the needs of the affected people, and their reactions to proposed policies and activities; (iii) to ensure transparency in all activities related to land acquisition and compensation payments.

20. In the cases of Land acquisition, the Municipalities will organize meetings with the local population to discuss the process. At the meetings following issues should be presented: basic technical characteristics of the routes and of the structures; the expropriation line of the routes, associated with detailed geographical maps; amount of the compensation for the expropriated land; the manner and the procedures of the

expropriation process, including the method for assessing value or payment of compensation.

The Entitlement Matrix and Eligibility of affected persons

21. The definitions used in this RPF are:

- A. “**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 socio-economic 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.
- B. “**Compensation**” means the reparation at market rates (which is equivalent to replacement cost) in exchange for assets acquired by the Project.
- C. “**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 is the date of the census of the persons affected by land acquisition.
- D. “**Rehabilitation 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.

22. The matrix below defines the proposed eligibility for compensation and/or rehabilitation assistance for impacts/losses for different types of assets for different categories of project affected persons.

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PERSON	COMPENSATION ENTITLEMENT
AGRICULTURAL LAND	No displacement: <ul style="list-style-type: none"> Less than 70% of land holding affected, The remaining land remains economically viable 	Farmer/title holder	Cash compensation for affected land equivalent to market value
	Displacement: <ul style="list-style-type: none"> More than 70% of land holding lost 	Farmer/title holder	<ul style="list-style-type: none"> Cash compensation equivalent to replacement value of land Income restoration package (access to credit/ allowance until next first harvest/ alternative job training)
COMMERCIAL LAND	Not applicable		
RESIDENTIAL LAND	Not applicable		
STRUCTURES	Not applicable		
TREES	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees.
TEMPORARY ACQUISITION	Temporary acquisition	PAP (whether owner or tenant)	Cash compensation for any assets affected (e.g. boundary wall demolished, trees removed) or lack of access in part of the field

23. Project affected people (PAP) includes any household who at the cut-off date of the project (i.e. at the date of conducting the census and baseline survey) are residing or deriving an income from the project area, and because of the project, would lose land, or any other movable or fixed assets, in full or in part, temporarily or permanently, or have their business, occupation, place of work or residence adversely affected. Lack of legal rights will not bar affected people from entitlement to compensation for their lost assets (improvements including structures, houses, crops, trees and other fixed assets). The land ownership information prepared by the State Cadastre Office should clarify that there are no illegal encroachers on the land, who occupy, reside and cultivate land that does not belong to them in the project area.

Procedures for grievance and institutional responsibility for implementation and redress

24. There might be two types of complaints. The first one is a complaint to the act of expropriation submitted to the second stage commission of the Government. If the owner is not satisfied with the decision of this commission, he/she can start an administrative court case at the Supreme Court. The second type of complaint is when the owner is satisfied with the decision for expropriation, but not with the offered price. In that case a complaint is submitted to the regular court in the municipality where the expropriation takes place.

25. The overall activity and responsibility for resettlement and expropriation policy on municipal infrastructure works remains under the authority of the relevant municipality in cooperation with the Ministry of Finance - Local/ Regional Offices of Property Administration. Regardless of the source of financing for the contract civil works, the financial responsibility for resettlement and expropriation procedures is under the budget of the Municipality. The Municipality is responsible for the preparation and implementation of all the necessary steps concluding with the submission of the expropriation dossier required by Macedonian Expropriation Law.

26. The Municipality is responsible for following up and concluding the compensation procedures for the people to be compensated.

27. The institutions and responsible agencies for the co-ordination of all the activities, policy of compensation rights, and execution of compensation are as follows:

- ③ Ministry of Finance - Local/ Regional Offices of Property Administration.
- ③ Municipality: Commission for Expropriation Procedures, Juridical Department, Economic Department, Technical Department;
- ③ Regional Cadastral Department.

The following subprojects which have been proposed for funding under the MSIP are summarized below to illustrate application of the above framework. Subsequent annual work programs of the MSIP will follow this procedure as described below.

Valandovo Subproject (provisional proposal)

The Municipality of Valandovo has 11,890 inhabitants as reported in the 2002 Census. Its water supply comes from the regional sub-basin level which is estimated to contain 342,000,000 m³.

The proposed project in the municipality of Valandovo involves the replacement of the asbestos-cement pipe (Ø250mm, 5,6km) from the pump to the reservoir of Valandovo, by an HDPE 100 pipe (Ø315 mm, 5,745km) for sanitary, maintenance, leak reduction, productivity and profitability reasons. The project would impact the town and villages of Valandovo, Dedeli and Rabrovo.

The main design for the replacement of the pressure pipeline would comprise the following:

- ⑨ Reconstruction of the pressure pipeline from the pump room in Tatarli to the main reservoir.
- ⑨ Planning of new manholes to separate supplies in the villages of Dedeli and Rabrovo.
- ⑨ Planning of one considerable water meter manhole - because the existing one is greatly damaged - at the pump room in which the intakes from the two wells and the separation of the Village Chalakli will be connected.

The dimensions of the pipeline as well as the dimensions and location of the facilities along the alignment are to be determined according to the legal norms and regulations for these types of facilities.

No Impact on Permanent Land Acquisition

The designed route (total length of 5,750 m) will mostly be running along the existing pipeline, at a 2m distance from it. The route was laid out according to the topography of the terrain, the urbanization of the area, the existing roads, the vineyards etc. The new route is 150m longer than the existing one. The main reason for this is to decrease the **temporary expropriation** cases.

According to the pipe route, 90% of the land is owned by the state and 10% by private owners. As the land owned by the state comprises most of the future route, the construction works should not raise many issues. The use of the private-property land requires the temporary acquisition procedure agreement.

Temporary Expropriation

No work can start prior to compensation payment for the temporary land acquisition.

For temporary expropriations, it is necessary to acquire a written approval from the owners of the land. This means a strip along the edge of the land is entirely at the disposal of the municipality during the works. When the works are finished, part of the parcel is returned to the owner. In accordance with the Macedonian law, the owner should be compensated for the temporary land acquisition. Compensation should be enough to pay for all damages on that particular parcel of land.

Trajectory length in state owned and private property:

Temporary land acquisition cases involve lengths of first 966.21 meters which would be distributed into 12 parcels and also involve 10 parcels of 1354,078 meters. The trajectory passes on the edge of the parcels. The zone has vineyards and pomegranate trees.

Steps to be carried out for Valandovo Sub Project

1. Local Government to get approval from the Ministry of Finance for borrowing.
2. After positive technical and financial appraisal of sub-project: Within two months Local Government should carry out discussion for temporary land acquisition and agree with owners on:
 - a) Season and schedule of works for each parcel
 - b) Compensation for temporary land acquisition
 - c) Provide to the project implementing agency reports of the activities
3. Payments should be made no later then 2 weeks after reaching agreement on the amount of compensation and timing for the works.

Kochani Sub-Project

The Municipality of Kočani is located in the Kočani valley - 225km². It has 38,092 inhabitants and 28 settlements (according to the 2002 Census). It has become the third regional center in the eastern part of Republic of Macedonia. The city of Kočani is the sole urban area of the municipality; the other settlements are rural.

The Water Supply System is divided into three zones – upper, middle and lower – from which the water is distributed from one to another, with zones mostly being connected at the reservoirs, each equipped with its own meter. The zones are thus mostly independent from each other.

The project comprises the reconstruction of a part of the middle pressure zone's pipes made of asbestos - cement material. Around 5 km of pipe will be replaced by HDPE pipes with a ND ranging from 90mm to 280 mm.

The area concerned by the project is the middle pressure city zone, where according to the analysis of the SCADA measurements, the water consumption is 41% of the total city consumption. There are approximately 11.615 inhabitants in this zone.

No Impact on Land Acquisition

There is no impact on the land acquisition. The project will replace the main water pipe in the city network system. The pipe route is identified and is along local roads which are the responsibility of the Local Government.

Veles Sub-Project (a) Street Lighting

The project mainly involves the replacement of old mercury lamps (125W) within the city of Veles by new, improved efficiency Sodium lamps (70W) to reduce overall energy use and improve municipal lighting. This project is the continuation of an identical project, thus ensuring its technical feasibility.

The present lamps on the streets will be replaced by OPALO 1 lamps with sodium 70 W bulbs – street lights with mechanical protection level IP65. The lamps present in the communal areas will be replaced by K-LUX lamps with sodium 70 W bulbs – urban lights with optic block mechanical protection level IP66.

No Impact on Land Acquisition

Veles Sub-Project (b) Schools Insulation

This project concerns the three schools in Veles. The plan is to replace the existing wood windows by new aluminium-framed double glazed windows and to rehabilitate the facades for better insulation.

No Impact on Land Acquisition