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**ELEKTROPRIVREDA SRBIJE**



## FLOODS EMERGENCY AND RECOVERY PROJECT (FERP)

### RESETTLEMENT POLICY FRAMEWORK



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## **Abbreviations**

ARAP	Abbreviated Resettlement Action Plan
DfW	Directorate for Water
ESMF	Environmental Management Framework Document
FERP	Floods Emergency Recovery Project
LGPD	Local Government's Property Department
MAEP	Ministry of Agriculture and Environmental Protection
MoF	Ministry of Finance
OP/BP 4.12	World Bank Policy on Involuntary Resettlement
PIU	Project Implementation Unit
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
WB	The World Bank Group

## FOREWORD

Unprecedented rainfall started in early/mid-May 2014 causing massive floods, resulting in the declaration of a national state of emergency in Serbia on May 15, 2014. The heavy rainfall, led to a rapid and substantial increase of water levels in eight of the main rivers in western, south-western, central and eastern Serbia. Flash floods destroyed houses, bridges and sections of roads, while rising water levels resulted in flooding in both urban and rural areas. The disaster resulted in 51 deaths, with approximately 32,000 people evacuated from their homes, and around 110,000 households cut off from electricity supply. Overall, the floods affected some 1.6 million people, or about one fifth of the total population living in 49 municipalities. Adverse weather conditions have continued since, causing further damage to harvest and energy infrastructure.

Among those sectors hit the hardest in the country were the energy and agriculture sectors, while flood protection infrastructure suffered as well -leading to increased concerns of power and food shortages and leaving the country even more exposed to subsequent flooding.

In response to this situation, the World Bank Group is working with the government of Serbia to address some of the country's most pressing needs in the wake of this disaster. An **Emergency Recovery Loan** has been approved in the amount of \$300 million - the second largest loan ever approved by the World Bank Group in Serbia. Among other objectives, the loan is supporting the urgent rehabilitation of flood protection and drainage control infrastructure, and strengthening the technical capacity of government agencies for improved flood prevention and management.

Under the Loan a subject **Floods Emergency Recovery Project (FERP)** is launched on October 03<sup>rd</sup> 2014. The FERP focuses on delivering support to the priority sectors that were affected by the floods, as identified in the Recovery Needs Assessment already done by Government of the Republic of Serbia. This includes support to the energy and agriculture sectors, and flood protection. The needs in the housing sector, which was also one of the hardest hit, have been addressed by the government through other donor support mechanisms, notably from the EU and the UN.

The FERP project would help close the financing gap and ensure continued provision of electricity services, particularly during the first winter following the floods, provide direct financial support to farmers in affected areas at a time when the fiscal accounts are under severe stress and may be unable to deliver the needed support and help improve resilience to disasters by **financing investments in critical flood prevention infrastructure**.

The project consists of four components: (1) Energy Sector Support; (2) Agricultural Sector Support; (3) Flood Protection; and (4) Contingent Emergency Response.

The Bank Operational Policy on Involuntary Resettlement (OP 4.12) has been triggered in view of the fact that the infrastructure rehabilitation and reconstruction works under **Component 3A** (flood protection infrastructure) in some cases may lead to small amounts of land acquisition for securing the right-of-way. Land requirements are expected to be minor as the rehabilitation investments will be carried out mainly on municipally owned land, or other government owned land. However, restoration and/or rebuilding of damaged facilities might to some extent have adverse social impact if the works require some acquisition of private land for securing the right-of-way.

While land acquisition for Components 1, 2 and 4 is highly unlikely, and this RPF focuses primarily on Component 3, in the event that land acquisition is required for any project Component this RPF will be applied. This RPF has been prepared to ensure that the proposed

FERP Project is implemented in accordance with the World Bank operational guidelines, safeguards and local legislation.

**It must be noted that project Component 1 is responsibility of “Elektropivreda Srbije” (EPS) which has adopted an Environmental and Social Management Framework (ESMF) which includes a social screening procedure through which any land-related issues would be identified beforehand and, if necessary, the application of this RPF will be required.**

## 1. INTRODUCTION

The Floods Emergency Recovery Project focuses on the priority sectors identified in the Recovery Needs Assessment including energy, agriculture, and flood protection.

Flood protection infrastructure was significantly damaged and the country is now more vulnerable to future floods. The Recovery Needs Assessment indicates that the cost of repairs to existing flood protection and drainage infrastructure is in the order of EUR 24 million. The largest share of damages occurred to infrastructure managed by Public Water Management Company (PWMC) Srbijavode and PWMC Beogradvode. Drainage infrastructure was also affected, including both collector canals and pump stations used to help discharge the excess water collected on lower land when it cannot flow by gravity to the recipient river. Without attention to these flood protection facilities, some areas are at significantly increased risk of flooding.

Among other objectives, the loan is supporting the urgent rehabilitation of flood protection and drainage control infrastructure. In some cases it may lead to small amounts of land acquisition for securing the right-of-way. Land requirements are expected to be minor as the rehabilitation investments will be carried out mainly on municipally owned land, or other government owned land.

This document represents the Resettlement Policy Framework (RPF) for the proposed FERP Project. It describes the policies, procedures and processes that will be followed throughout the project in the course of mitigation of adverse social impacts due to project-related land acquisition. Since the FERP is to be implemented with the support of the World Bank (WB), the Directorate for Water (DfW/PIU) through a dedicated Project Implementation Unit (PIU) prepared this RPF to ensure full compliance with the requirements of safeguard policies of the WB: the World Bank Policy on Involuntary Resettlement (OP/BP 4.12). This RPF also contains all the national and local policy provisions that are applicable for mitigation of adverse social impacts.

Since the size, scale and location of subprojects cannot be determined at the project preparation stage, the Resettlement Policy Framework (RPF) is prepared to mitigate potential resettlement impacts.

## 2. PROJECT DESCRIPTION

### 2.1. FERP Project Components

The project consists of four components:

- (1) Energy Sector Support;
- (2) Agricultural Sector Support;
- (3) Flood Protection; and
- (4) Contingent Emergency Response.

The main FERP Project objective is to help restore power system capability to reliably meet domestic demand, protect livelihoods of farmers in flood affected areas, protect people and assets from floods and improve the Republic of Serbia capacity to respond effectively to disasters.

While land acquisition for Components 1, 2 and 4 is highly unlikely, and this RPF focuses primarily on Component 3, in the event that land acquisition is required for any project Component this RPF will be applied.

#### 2.1.1. **Description of the Project Component 3:** Flood Protection (EUR 16.72 million)

The objective of this component is to support urgent rehabilitation of the flood protection and drainage control infrastructure, under the principle of “building back better” through solutions which enhance the function and effectiveness of existing flood protection facilities (e.g. through heightening and improving design and construction standards). This component will also strengthen the technical capacity of the government agencies for improved flood prevention and management. The flood protection component consists of the following two subcomponents:

##### Subcomponent 3A: Investments in Flood Protection (EUR 14.72 million).

The aim of the proposed investments is to reduce imminent risk of recurring floods by restoring and/or improving the function of existing infrastructure. Physical investments proposed under this component include civil works and supply and installation of electrical and mechanical equipment, for the rehabilitation and reconstruction of flood protection and drainage systems, including flood protection dikes/levees and retention systems, cleaning and restoration of drainage canals, and refurbishment of pump stations. The proposed investments concentrate on areas known to be vulnerable and affected by flooding, in which urgent protection is required in order to reduce the risk of future flooding and further devastating social and economic impacts.

An indicative list of potential **sub-projects** of Component 3 are presented within the Annex 1 of this RPF document.

##### Subcomponent 3B: Project Implementation Support for Flood Management and Disaster Resilience (EUR 2 million).

This Subcomponent will cover the incremental costs (staff, equipment, operating costs etc.) of a PIU which will be established under the DWM which will support the implementation of Components 2 and 3.

#### 2.1.2. Type of activities that will be mostly implemented during the project execution

Embankments - Four different types of works are proposed: Construction of Flood Protection structures, reconstruction of the weak points on the embankment, upgrading sections of embankment from the 1:25 year flood to the 1:100 year flood, and bank armoring in locations where erosion of the riverbank may undercut the embankment.

## 2.2. Purpose of Resettlement Policy Framework

This document was prepared to address the case of necessity for minor expropriation and related impacts that may occur during the implementation of the project. The expropriation will be mostly required for geometrical improvements on safety considerations and value-added elements such as sidewalks drain improvements etc.

The main purpose of this document is to provide guidance in screening of the sub-projects and to identify the potential adverse social impacts associated with potential expropriation and right of way areas and propose appropriate mitigation measures. It is developed in consistency with the relevant Serbian law and the WB policies and is applicable for all subprojects implemented under the FERP.

The specific objectives of this RPF:

- Clarify the principles, processes and organizational arrangements to identify and mitigate potential adverse impacts associated with expropriation and related impacts associated with the sub-projects to be implemented under the Project;
- Establish clear directives and methodologies for social screening of activities that will be supported under the FERP and define the steps for preparation and implementation as program generic, where necessary, project specific mitigation plans;
- Ensure compliance with applicable Serbian law on expropriation and policy objectives and provisions of the WB Involuntary Resettlement Policy.
- Define appropriate institutional arrangements for the implementation and monitoring of the RPF, Abbreviated Resettlement Action Plans (ARAP), as well as consultations and disclosures.

FERP represents a multi-annual project that includes realization of sub-projects for rehabilitation of flood protection infrastructure, starting from the phase after the main design preparation to the phase of completion of rehabilitation works. It is clear that many of the parameters that are of importance for the successful realization of FERP remain unknown at the moment.

Although FERP will rehabilitate the sections of the national flood protection infrastructure within the existing right of way (existing footprint), it is possible that during the execution of the sub-project which are covered with Component 3, it becomes necessary to use the land in property of other people. This RPF document aims at defining general procedures in case of necessity of using the land beyond the right of way.

At this moment, a detailed overview of impact of the works on users and local community cannot be provided, so this document serves to define procedures, rulebooks and legal regulations for different, possible scenarios within the expropriation/resettlement. If, during a later phase, it becomes necessary to have the expropriation/resettlement for the particular section based on the design documents, a particular RAP/ARAP<sup>1</sup> shall be prepared for the particular case based on this RPF and the WB policies. Since only ARAPs are expected to be needed, the remainder of the RPF will refer to these.

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<sup>1</sup> ARAP will be prepared in case of minor impacts on the entire population or when fewer than 200 people are affected and will cover the following minimum elements: (a) a census survey of affected persons and valuation of assets; (b) description of compensation and other resettlement assistance to be provided; (c) consultations with affected people about acceptable alternatives; (d) institutional responsibility for implementation and procedures for grievance redress; (e) arrangements for monitoring and implementation; and (f) a timetable and budget.

The RAP will be prepared in case of physical displacement or loss of livelihoods affecting more than 200 people.

### 3. PROCESS OF EXPROPRIATION AND MANAGEMENT OF SOCIAL IMPACTS

#### 3.1. The Republic of Serbia Expropriation Law

##### 3.1.1. General Background

The Republic of Serbia Expropriation Law (passed in 1995 and enacted on January 1, 1996, amended in March 2001, amended again on March 19, 2009) guides expropriation and serves as a general framework for expropriation in the Republic of Serbia. The Republic of Serbia Expropriation Law does not use the term “involuntary resettlement”, which is used in the relevant WB policy documents, but instead uses the term expropriation. This law enables government institutions to acquire private property for projects that are deemed to be of national and/or local interest, while protecting the interests of all project-affected persons with legal title, whose assets are to be expropriated. The law also enshrines the principle of fair compensation.

The most important features of the Law on Expropriation are:

- It is intended to ensure simple, efficient process, reducing as far as possible the need for a lengthy judicial process to facilitate necessary expropriation. Under normal circumstances, the entire process of acquisition can be completed within six months;
- The fair value of the land affected by a particular scheme, or project, is determined by the Tax Administration, on behalf of the “Beneficiary of Expropriation”<sup>2</sup>. The value is assessed on the basis of current market price;
- As a condition to start expropriation, the Beneficiary of Expropriation must arrange a Bank Guarantee with a Commercial Bank, in the assessed total sum for payment;
- In the case of privately owned agricultural land, if comparable land of the same type and quality, or the appropriate value, in the same area or vicinity (Article 15 of the Expropriation Law) can be identified, it is offered to the project affected person with formal title;
- The comparability of land is determined on the basis of an assessment of the available public land, by an accredited expert hired either by the Beneficiary of Expropriation, or the Ministry of Agriculture and Environmental Protection (MAEP);
- In case of disagreement on the comparability of the land offered, a different accredited expert would be hired by the local municipality to determine the comparability of the land offered;
- Further disagreement would result in the project affected person resorting to the judicial process, where a decision would be made on the comparability of the land, or the payment of the assessed fair value in monetary terms;
- Where comparable land cannot be identified, the project-affected person with legal title is offered the assessed fair value as determined by the Tax Administration. If the project affected person wishes to challenge the assessment of “fair value” they can resort to the judicial process;
- For the project affected person, without formal title, there is no provision to pay compensation currently under the Law on Expropriation;
- In addition, after the passage of the Law on Planning and Construction (passed in 2009 and amended in 2011), it is a criminal offense to construct any structure without a building permit on either public or private land; and
- In the case of a project-affected person, with a formal title, who has constructed a permanent structure, without a formal building permit, compensation can be paid, if decided by a Court, under the Law on Fundamentals of Property Relations (1980, applicable from

<sup>2</sup> Beneficiary of Expropriation under the Republic of Serbia Law is defined as the person, or legal entity, on whose behalf the expropriation is being undertaken.

1st September 1980, amended 1990, 1996 and 2005) in terms of the investment made – as determined by an accredited Expert to assess the value of the materials used.

### Selected Provisions

Under article one of the Expropriation Law, immovable property<sup>3</sup> may be expropriated or ownership rights over such property restricted, only with equitable compensation which may not be lower than the current market price of such immovable property (hereinafter referred to as: the compensation), if it is so required because of a public interest<sup>4</sup> defined under the law. The fair value of the immovable property affected by a particular scheme, or project, is determined by the Tax Administration, on behalf of the Beneficiary of Expropriation. The value is assessed based on comparable sales transactions in the area in the recent past. The assessment of fair value takes into account the value of land, the cost of structures and installations, crops, woods, trees, fruit bearing tress, age of crops, vineyards, and the time needed to reproduce them. The impact of the scheme on the value of land will not be considered in the fair value of the immovable property.

The Law on Expropriation requires the Beneficiary of Expropriation to justify the need for expropriation and to demonstrate that the scheme cannot occur without the proposed expropriation. The declaration of public interest/use is a special procedure, which precedes and enables any property acquisition and expropriation. Immovable property, as defined, may be expropriated when necessary for the construction of facilities or undertaking of works of “public interest/use.” The key assumption is that the scheme cannot progress without expropriating the immovable property. When the scheme is declared to be “of public interest”, a concrete expropriation proposal by the Beneficiary of Expropriation is prepared and then submitted to the relevant municipality encompassing the project affected persons. A concrete expropriation proposal is prepared for each project-affected person that contains the amount of land involved, the assessment of fair value for any immovable property, the justification of the need for the specific expropriation, together with the confirmation that the scheme is included in the relevant regional and/or spatial plan.

The concrete expropriation proposal also involves the Beneficiary of Expropriation arranging a Bank Guarantee with a Commercial Bank for the assessed fair value. This assessment is prepared by referring to the Cadaster Register, which provides details on the titleholder, the immovable property, the type of land, and the area of the affected land. The concrete expropriation proposal also obliges the Beneficiary of Expropriation to submit a request to the Cadaster Office, Land Registry, or other public register, to prevent any transaction (Article 32) on the land to be expropriated. Expropriation must be completed and all project-affected persons are compensated in comparable land or in monetary terms, before the Building Permit (or Construction License) is issued to the contractor to mobilize and start the civil works.

In the event that a project-affected person(s) disagrees with the offered compensation in either form, they can resort to the judicial process, and the Beneficiary of Expropriation can request the Ministry of Finance (MoF), on an exceptional basis, for the permission to access the said plot (s) (Article 35). For any specific scheme to obtain public interest status, the Beneficiary of Expropriation is obliged to submit to the Government (through the MoF) the feasibility study, the justification of the need for the specific expropriation, the estimated costs, the estimated land affected, and to the extent that details are available, the number of affected plots of land.

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<sup>3</sup> Immovable property, for the purposes of this Law, shall be deemed to be the parcels of land, buildings and other facilities.

<sup>4</sup> The Government of the Republic of Serbia may define a public interest for expropriation if the expropriation of immovable property is necessary for the construction of a facility in the area of: education, health care, social welfare, culture, water management, sports, transportation, energy or utility infrastructure, facilities for the requirements of government authorities and the authorities of territorial autonomy and local self- government, facilities for the requirements of national defense, ensuring the environmental protection and protection against natural disasters, for exploitation of mineral resources, and for the construction of apartments to be used for meeting the requirements of socially vulnerable persons.

The request for the designation must also document that the scheme is included in the relevant local, regional, or spatial plan. The public interest status can be granted at either national, or local, level depending on the specific Beneficiary of Expropriation, and the nature and size of the 'scheme'. The Beneficiary of Expropriation is not required to prepare a social assessment (socio-economic study) or a baseline census with regard to project affected persons.

#### Other principles of the Law of Expropriation

Acquisition and compensation principles apply to all types of rights such as ownership rights, third party rights such as lease rights, business rights, easement rights, rights of those who have been cultivating the land etc. (Law on Expropriation, Article 1).

The expropriation may also include the instigation of an easement over the immovable property or a lease of the parcel of land for a specific period of time, which will be occupied temporarily and not for a period exceeding three years. The land must be restored to original condition before given back to the project-affected person, with legal title (Law on Expropriation, Article 5/6).

The Beneficiary of Expropriation shall grant to the project affected person, with any form of legal title (ownership, lease), of an affected residential building (public or private), or business premises, at his request, the equivalent right over another equivalent residential building (public or private), or equivalent business premises, in the same area or vicinity (Law on Expropriation, Article 16/19).

Under Article 51 of the Law on Expropriation, the Beneficiary of Expropriation can be requested by a Court Decision to offer a compensation amount in monetary terms that exceeds the assessed fair market value, as defined earlier, if other personal or family circumstances of the project affected person deem it necessary to ensure that his/her livelihood is protected (e.g., number of family members, number of family members capable to earn a living, or number of family members who are employed, health status of family members, monthly income of the household, etc).

Under Article 71 of Law on Expropriation, in the event of the administrative transfer of land or other natural resources which are owned publically, the publically owned legal entity (ies) that has rights over the land or other natural resources shall be entitled to the compensation for the labor and the funds invested in such land, or other natural resources, and the fair value of the land if the legal entity (ies) has proof of purchase.

The assessment of the investment, or the fair value, is made by the relevant accredited expert, as discussed above.

### **3.2. Other Applicable Laws and Provisions**

Besides the Low on Expropriation, the following comprise list of legal documents, policy and regulatory dealing with expropriation and resettlement and other social impacts associated with flood protection works, representing basis for this Resettlement Policy Framework:

1. Law on Fundamentals of Property Relations (adopted in 1980, amended 1990, 1996 and 2005)
4. Law of Planning and Construction (adopted and corrected in 2009, and amended in 2011)
5. Law of Agricultural Land (adopted in 2006, amended in 2009)
6. Law on State Cadaster (adopted in 2009, amended in 2010)
7. Law on Spatial Planning of the Republic of Serbia from 2010 to 2020 (adopted in 2010)
8. Regulations established based on above-mentioned laws
9. The World Bank Policy on Involuntary Resettlement (OP/BP 4.12)

The key provisions in the documents listed in paragraph 17 related to expropriation and resettlement of people are summarized and presented in Attachment 4.

### 3.3. Expropriation Process

The proposed FERP sub-project works are intended to be within the existing right of way. However, in some cases, activities under FERP Component 3 may lead to small amounts of land acquisition for securing the right-of-way. Land requirements are expected to be minor as the rehabilitation investments will be carried out mainly on municipally owned land, or other government owned land. However, restoration and/or rebuilding of damaged facilities might to some extent have adverse social impact if the works require some temporary acquisition of private land for securing the right-of-way.

For the sub-projects for which it is determined that expropriation could be required or strongly recommended in order to achieve the desired performance of the flood protection structure, a detailed analysis of financial and planning implications will be performed. Based on the costs analysis and taking into regard all other aspects, time available within the stated deadlines, estimated duration and simplicity of the procedure, etc. the DfW/PIU management will bring a decision on further acting. Possible options would be to i) continue the procedure and have the property expropriated, rescheduling the implementation program in order to accommodate the expropriation procedure (this may require to postpone the works on the sub-project for the next period) or, ii) if economically no longer justified or required type of intervention falling outside the definition of the current project, to exclude the sub-project from the FERP in which case the sub-project will be subject to future works financed from other financial sources. This RPF shall be used for all Component 3 sub-projects under the FERP.

In all cases requiring land acquisition of private lands, or public lands that involve the loss of assets or livelihoods of project-affected people, an ARAP or RAP must be prepared. The extend and level of detail of the document must be commensurate to the magnitude of the impacts and should provide information regarding: type/scale of impacts; affected people (living conditions and livelihood); mitigation measures; consultation, negotiation and grievance redress process; and monitoring and evaluation mechanism aimed at documenting the outcome which should be in line with the requirements of Serbian law and the WB OP 4.12.

If expropriation is necessary and if so decided by the DfW/PIU management, the property owner will be approached directly with an offer for purchase of the property. In case that the property owner does not accept the offer, the procedure of expropriation shall be initiated in accordance local law and the principles of this RPF.

### 3.4. Principles Guiding Involuntary Resettlement

All compensation of project affected persons will be governed by the following general principles:

- The provisions of relevant Republic of Serbia laws, the World Bank's Operational Policy on Involuntary Resettlement (OP 4.12) will be followed. Where there is a conflict between the Republic of Serbia laws and WB policies, the provisions of this RPF that are more stringent or/and benefit more the project-affected person, will be applied. (see section 2.5 below);
- In general, expropriation will be undertaken in such a way that no project affected person, with or without formal title, will be worse off after expropriation;
- All activities and procedures will have to be formally documented;
- The property and inheritance rights of project affected persons will be respected;
- If the livelihood of the project affected persons without formal title depends on the public land that they are using, they will be assisted in their effort to improve their livelihoods and standard of living to improve or restore them to pre-displacement levels;
- If project affected person, without legal title, is not satisfied with the above decisions, they can approach the independent grievance commission, which will mediate in the manner

described earlier and, if necessary, hire an accredited expert, at the expense of the Beneficiary of Expropriation to review and determine the assessed fair value for immovable property;

- If the remaining parcel of land after expropriation of part of it is not economically viable, it will be expropriated, if the project affected person desires so (In accordance with Article 10 of the Law on Expropriation, land is not economically viable if the affected person does not have economic interest to use the remaining parcel of land, i.e. if because of the expropriation his existence on the remaining parcel of land is impossible or significantly difficult);
- In cases where there are persons working on the affected land or businesses, as determined by the social assessment (socio-economic study carried out during the ARAP process), where the project affected person does not have formal title to the land (e.g. wage earners, workers, squatters, encroachers, etc.), the resettlement and rehabilitation assistance should be provided to these project affected persons to ensure replacement of lost shelter or retain the livelihood opportunities as per the provisions in the Entitlement matrix. In cases where land is needed on a temporary basis, project affected persons who have formal title will be compensated to the assessed fair rental price for the period during which the land is used and the land will be returned in the same condition as before it was rented. In the case of agricultural land, the assessed fair rental price will be determined by an accredited expert paid by the Beneficiary of Expropriation in a manner consistent with the Republic of Serbia Law on Expropriation (Article 55);
- Physical displacement is unlikely, however, if resettlement is unavoidable in addition to the payment of fair market value for all land and immovable property, project affected persons will be provided assistance in relocation and other related expenses (i.e. cost of moving, transportation, administrative costs etc.);
- These rights do not extend to individuals who commence activities, either in the form of cultivation or the construction of any immovable objects, after the initial social screening, reflecting the introduced restriction on property transactions under current practice under the Republic of Serbia Law on Expropriation. Project affected persons will be explicitly informed about this cut-off date and its implications during the consultations at the time of preparation of ARAP (see paragraph 27 (vi));
- The compensation and eligible resettlement and rehabilitation assistance will be paid prior to taking over of land and other assets for construction purposes;
- In the case of severely impacted<sup>5</sup> or vulnerable people, on the basis of, among others, below poverty line, the landless, the elderly, disabled, women who in need of support, households with many dependents or unemployed heads and those not protected under Serbian laws, it will be determined on the basis of the socio-economic study conducted as part of the ARAP, the type and level of additional assistance, if any, to restore livelihood levels to their pre-project levels. Additional assistance could include skills upgrading if necessary to restore livelihood to the pre-project levels (see also paragraph 29).

All project-affected persons (private and public, individual and businesses) entitled to be compensated for land acquired; losses, structures or damages will be offered compensation in accordance with the provisions of this RPF. Those who accept the compensation amount will be paid prior to taking of their land or assets. Those who do not accept will also be paid, if they desire, and could have their grievance registered or referred to the courts as appropriate prior to taking their land and commencing works.

In the case of any disagreement over ownership and/or compensation amounts, the Beneficiary of Expropriation shall transfer the sum corresponding to the assessed fair value, as determined in each applicable case above, to an escrow, while the case is pending, before starting any construction activities on the affected land plots.

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<sup>5</sup> Severely affected people will be identified among those losing more than 10% of productive land or those losing their livelihood opportunities or those losing shelter during socio-economic survey and the appropriate mitigation measures will be proposed in ARAPs

### **3.5. WB policies and deviations from the Republic of Serbia Law on Expropriation and proposed measures for bridging the gaps**

In general, the institutional framework for expropriation in Serbia is broadly compatible with the WB policies (World Bank's OP on Involuntary Resettlement, the following key steps will be taken by the Beneficiary of Expropriation (DfW/PIU):

#### **3.5.1. Establishment of Grievance Redress Committee**

The objective of the independent grievance commission is to provide guidance/advice, and to deal with any complaint/grievance associated with any expropriation or resettlement under the scheme. The scope of responsibility of the independent grievance commission involves the responsibility to mediate in any dispute on the comparability of offered agricultural land, or the assessed fair value for immovable property, discrepancies in measurements, nonpayment of compensation and assistance, eligibility for benefits under RPF, the responsibility to accept grievances of people who believe they are being severely impacted even if they do not fall within the criteria that have been set, and related matters. Common practice within the DfW/PIU is that grievances are received by the DfW/PIU Public Relations department or the cabinet of General Manager. Both bodies within the Enterprise forward the grievances to other DfW/PIU departments (or PIU) that are directly in authority for the issue. After that the issue in question would be forwarded to the Grievance Committee;

The Beneficiary of Expropriation shall establish an independent grievance committee comprising of: DfW/PIU representative, municipality representative (delegated by the municipality), project affected persons representative(s) and a respected person in the municipality encompassing project affected persons as community representative, if delegated by the project affected persons. The composition of grievance committee will be constituted at the time of the ARAP finalization. The independent grievance commission has the possibility to hire, with costs covered by the Beneficiary of Expropriation, an accredited expert to review and assess the comparability of offered agricultural land, or the assessed fair value for immovable property. If the independent grievance commission determines that the offered agricultural land is not of comparable value, they can request the Beneficiary of Expropriation to pay the assessed fair value, as determined by the Taxation Administration. If after mediation, the project affected person, offered comparable agricultural land or assessed fair value for immovable property, disputes either the comparability or the assessment of fair value, they are free to enter the judicial process in a manner consistent with the current Law on Expropriation;

#### **3.5.2. Social assessment (socio-economic study)**

In order to bridge the gap with the requirement of WB, the Beneficiary of Expropriation during the preparation of each individual sub-project specific ARAP (expropriation proposal under the Republic of Serbia Law on Expropriation), will undertake a social impact assessment, at a project-affected person level, among the affected families to record their losses and baseline socio-economic characteristics. This data will be used as baseline to measure the impacts and estimate compensation and assistance needed to address the changes in the living standards during the post impact period. These surveys generally will be undertaken around the same time as the announcement of FERP sub-project works for public purpose. The finding of the social impact assessment will be documented in ARAP

#### **3.5.3. Compensation at replacement cost**

The compensation for loss of land is paid at average comparable sales statistics to arrive at the replacement as defined in the WB policies, if any resulting value from this process does not achieve the replacement value the compensation will be topped up. In determining the

replacement cost of the affected land or asset, the cost of market value plus taxes and fees, if any, will be taken into account. In case of valuing the cost of affected structures, the depreciation cost of structures will not be taken into account and the estimation of costs will be assessed on how much it will cost for building a new one of the same quality. The valuation of affected structures will also take into account value of time invested in construction and applicable taxes, if any.

#### 3.5.4. Payment of taxes and fees.

In order to meet the gap in payment of taxes and fees, under this RPF, any compensation of productive land and/or property, including businesses, will include the registration cost in the Cadaster Office, or other relevant register, any administrative fees, and/or transfer taxes.

#### 3.5.5. Assistance to affected non-titled/untitled holders

Under WB policies, their status is clear and non-title holders do have the right to be assisted to restore lost livelihood. This category appears to cover (a) those who do not have formal legal rights to the land at the time of the survey but are in the process of attaining title and/or have a valid claim to it (non-titled holders) as well as those who have no recognizable legal right or claim to the land (untitled holders).

The non-titled holders, as described above, such as for example, persons that by the time the census begins do not yet hold title to the land they are occupying because of, inter alia, delays in the registration of their land rights due attributable to the land registry or, persons that have just inherited the expropriated land/asset and had not yet had the opportunity to register their rights to said land/assets, will be treated exactly as those who have formally legal rights to land.

As for the untitled holders, under this RPF these project affected persons who constructed buildings without permits, who have been using public or private land are entitled to compensation/assistance for any investment made on public and private land in the cost of structures and installations (under the Law on Fundamentals of Property Relations (1980, applicable from 1st September 1980, amended 1990, 1996 and 2005) in terms of the investment made – as determined by an accredited expert to assess the value of the materials used, crops, woods, trees, fruit bearing trees, vineyards, the age of crops and the time needed to reproduce them. These rights do not extend to individuals who commence activities, either in the form of cultivation or the construction of any immovable property, after the cut-off date. If new encumbrances are noticed those will be asked to be vacated immediately. This will be checked on quarterly bases.

#### 3.5.6. Cut-off date

In order to establish a cut-off date for determine the eligibility of affected people for resettlement and rehabilitation assistance, a census survey will be undertaken as soon as the sub-project is identified to enumerate all the impacts supported by videography and photography within the likely impact area along the proposed flood protection structure.

### 3.6. Project Affected Persons

Project affected persons<sup>6</sup> are defined to include the following categories:

- Project affected persons, with formal title, who lose all or part of their land;
- Project affected persons, with formal title, who have immovable property with or without building permissions on the land to be expropriated;
- Project affected persons with formal title over businesses that are affected by the loss of all

<sup>6</sup> Project affected persons are of male and female gender.

- or part of the land on which the businesses are located;
- Project affected persons with formal title over animal husbandries and agricultural processors that are affected by the loss of all or part of the land on which they are based;
- Project affected persons with formal title of tenancy on private or public land;
- Project affected persons with formal title over land that will be needed during construction on a temporary basis;
- Project affected persons without formal title on affected land or businesses but their livelihoods are directly dependent on the affected land or businesses (e.g., those working on affected agricultural land or working in the affected businesses);
- Project affected persons without formal title of ownership or use but who have established usage of public or private land by investing in immovable objects, crops, woods, trees, fruit bearing trees, vineyards, the age of crops, and the time needed to reproduce them; and
- Any affected community facilities will also be reconstructed or necessary support will be provide for their relation to the community losing access to such common facilities.

### 3.7. Entitlement Matrix

For each type of impact and eligible project-affected persons a corresponding mitigation measures, or a combination of mitigations, will be employed as per the Matrix below as necessary to achieve the objective of improving, or at least restring the living conditions and livelihood of those affected..

Impact Categories	Entitlement
Crops	<ul style="list-style-type: none"> <li>i. The value of the crop, including the value of time needed to reproduce such a crop, and the replacement cost for any investment made (input, labor etc.).</li> </ul>
Loss of entire land holding (titled and untitled)	<ul style="list-style-type: none"> <li>ii. offer of replacement agricultural land of equivalent productive value in the area and vicinity of the land being expropriated, together with all transfer/administrative taxes;</li> <li>iii. monetary compensation based on the assessed fair value including taxes and fees and top-up supplement to the compensation (see paragraphs 27 (iii) and (iv));</li> <li>iv. subsistence allowance for 6 months equivalent to minimum wages for agricultural workers in Serbia;</li> <li>v. appropriate level of skill upgrading training, if necessary to restore livelihood of severely impacted persons and determined on a case-by-case basis based on the socio-economic study during ARAP preparation;</li> <li>vi. assistance for alternative livelihood support as appropriate.</li> </ul>
Partial loss of land	<ul style="list-style-type: none"> <li>vii. offer of replacement agricultural land of equivalent productive value in the area and vicinity of the land being expropriated, together with all transfer/administrative taxes;</li> <li>viii. monetary compensation based on the assessed fair value including taxes and fees and top-up supplement to the compensation (see paragraphs 27 (iii) and (iv));</li> <li>ix. when expropriation is minor, the option of acquiring land through “Direct Purchase” will also be explored, which means that the Beneficiary of Expropriation will negotiate</li> </ul>

Impact Categories	Entitlement
	with the landowner to sell voluntarily rather than to go through the process of expropriation. x. Additional transactional support for those severely affected in the form of subsistence allowance and an appropriate level of skill upgrading training if needed to restore livelihood. <sup>7</sup>
Unviable redundant parcels of land/structures <sup>8</sup>	xi. If a remaining parcel of land after expropriation is not economically viable it will be acquired and compensated, if the project affected person desires so.
Structures and installations in the land (barns, shacks, fences, etc.) with or without building permits	xii. The replacement cost assessed for construction of similar quality of structures, and the value of time invested in construction and applicable taxes, if any.
Fruit bearing plants, vineyards, and orchards	xiii. The value of the harvest, including the value of time needed to reproduce such a harvest, the replacement cost for any investment made, (input, labor etc.) to raise new plants, vineyard or orchard until they reach full yielding potential. The compensation for fruit bearing plants, vineyards, and orchards is determined by article 42 of the Expropriation Law. The amount is added to the market price of outstanding investments made for raising and maintaining such a vineyard or orchard and the amount of net income, which the vineyard or orchard has given (considering its age and fertility), for as many years as it takes to raise it and for the orchard or vineyard to come into full bearing.
Young vineyards or orchards not yet fruit-bearing	xiv. The replacement cost for any investment made for raising a replacement vineyard or orchards, including the value of time needed to reproduce, and compensation for lost yields for each year from the year of expropriation. The compensation for young vineyards or orchards not-yet fruit bearing is determined by article 42 of the Expropriation Law. It is added in the amount of the investments necessary for raising such a young vineyard/ orchard and an amount of the yield that would be achieved for as many years as the vineyard/ orchard existed till the moment of the expropriation.
Nursery	xv. The replacement cost for any investment made on planting material (nursery plants and other reproduction material) not utilized.

<sup>7</sup> Severely affected people among those losing significant partial land will be determined based on the type and extent of productive land lost and the nature of support will determined during the preparation of ARAP.

<sup>8</sup> Viability of the land depends upon the land owner. DfW/PIU,PWMC or Municipal,( depending on the authority) legal department shall decide whether the request of project affected person for acquisition of remaining parcel is justified or not based on the size and shape of the remaining parcel. If an agreement is not reached, there is a possibility of engagement of an independent valuer to decide upon viability.

Impact Categories	Entitlement
Land needed on temporary basis	xvi. The market rental price for the duration of the lease. The land should be returned to the project-affected person, in the same condition as it was taken.
House	xvii. full compensation based on the replacement cost for house of comparable material, location and access to services , including transfer/administrative taxes; xviii. moving allowance; xix. transitional Allowance for 6 months equivalent to minimum wages in Serbia; xx. assistance for alternative temporary housing as needed.
Lessees of Public or State owned properties	xxi. Provision of the use of other corresponding Public or State owned equivalent property with the rights of a lessee for an equivalent period of time
Legal renters, employees, or workers on the land or in a business	xxii. advance notice of 3 months for tenants; xxiii. 3 months rental allowance for legal tenants as transitional allowance; xxiv. In case of workers, 3 months wages will be offered as transitional allowances.
Untitled users of public and private land	xxv. compensated for the replacement cost of any investment made on the land; xxvi. subsistence allowance for 3 months in case of major impacts such as loss of house or livelihood and as determined through the social survey (see paragraph 24); xxvii. appropriate level of support for skill upgrading training as part of livelihood restoration of severely impacted persons; xxviii. the option of adequate housing with security of tenure as needed.
Persons with non-agricultural business	xxix. full relocation cost of businesses affected, including the inventory, and the replacement cost for any investment; xxx. subsistence allowance for 6 months equivalent minimum wages in Serbia; xxxi. moving allowance; xxxii. appropriate level of support for skill upgrading training to be determined during the social survey, if necessary to restore livelihood.
Vulnerable groups ( See Para 24 last bullet for list of vulnerable households )	xxiii. additional financial assistance equivalent to 6 months minimum wages <sup>9</sup> support for skill upgrade as needed; xxiv. Any additional support required for any affected vulnerable households in addition to the above assistance will be determined on case-to-case basis during socio-economic survey

<sup>9</sup> Any additional support required for any affected vulnerable households in addition to the above assistance will be determined on case-to-case basis during socio-economic survey.

Impact Categories	Entitlement
	xxv. employment with contractors if available.
Unidentified Impacts	xxvi. These will be mitigated in accordance with the principles and objectives of RPF.

Once the projects affected persons are identified, the DfW/PIU will prepare and publish a brochure providing information on the procedure and entitlements so that the project affected persons are fully acquainted with the procedure and possible ways of compensation for the expropriated property.

## **4. INSTITUTIONAL FRAMEWORK FOR EXPROPRIATION AND SOCIAL IMPACTS**

### **4.1. Organizational arrangements and staffing**

31. The organizations and parties involved in the process of expropriation and resettlement are the Ministries of Finance, Agriculture, Taxation Administration, DfW/PIU, the Beneficiary of Expropriation and the implementing entity, municipalities, expert assessors, project affected persons, the independent grievance commission and the court. All issues of expropriation will be managed by the DfW/PIU, PWMC or Municipal relevant legal department who possesses all relevant experience and specialization on practical realization of expropriation, while social specialist within the PIU will be the person responsible for coordination of realization of all activities related to social safeguard issues.

### **4.2. Initial social screening**

The social screening and social impact assessment will be undertaken in the early phase of project and will be done by PIU, so that all potential impacts will be identified and level of participation of local population is increased to maximum. The initial social screening will be performed by the checklist which form is given under Attachment 2.

Keeping in mind the nature of the new project the following will be stated:

- type of the sub-project (topography, location, urban, rural, mixed etc.); for each sub-project, data such as whether it goes through a settlement or has a non-urban character will be noted. In case that the sub-project goes through a settlement, it will be noted whether the buildings by the flood protection structure (close to the embankment edge) are present, and if discovered these will be classified per type, e.g. residential, non-residential (commercial structures), arable land, etc.
- all accesses to houses/commercial structures/land lots will be noted and preserved/rehabilitated in as much as possible or alternative appropriate access will be ensured, regardless of legal or illegal nature of the structure or accesses;

### **4.3. Mitigation of negative social impacts during the construction phase**

35. Measures for mitigation of negative social impacts during the construction phase shall be included in the contract. The contractor will be clearly informed on its duties in regards to the social aspect of the project, i.e. on mandatory:

- reporting on impacts on local population during the Works execution;
- reporting in number of engaged local workmanship for the purpose of the works execution (man-month and number of actually employed persons disaggregated by gender);
- reporting on contracts concluded by the contractor in local community (e.g. for accommodation of workers, lease of lots for storage of materials, etc.)

The Contractor will be also contractually obliged to ensure undisturbed movement of local population to their private properties, i.e. in case that this is not possible, the Contractor will be obliged to provide an alternative access. Upon award of contracts for the works, owners of commercial buildings along the sub-project will be informed on works to be started and the works' expected duration so that they could adjust their activities and business performance during this period.

#### **4.4. Monitoring of social requirements implementation during the construction phase**

Contracted supervision services for the works will have the following contractual duties and obligations for monitoring of social requirements implementation during the construction phase:

- Supervision of the contractors in performance of their obligations and ARAP implementation;
- Preparation and submission to the Employer of regular reports on implementation of measures for social monitoring;
- Provision of service to the local community through receipt of feedback and proposals.
- The board on the site will include clearly visible information on contact persons on behalf of the supervision, as well as working hours for contacts with the public. All complaints, praises, proposals received by the supervision contractor, would be forwarded together with the Supervisor's opinion to the Employer for further acting. The idea is that every reaction of the local population is provided with a timely response, while a unified records of the correspondence with the local population will be presented in regular reports to the financing institution; It is very important that local
- The population shall be fully aware of complaint possibility and that mechanism for submission of complaints is very simple.
- Suspension of works causing a high level of noise in periods when such noise is not allowed;
- Suspension of the works if inadequate protection of local population and environment against dust and pollution is provided.

It is planned that within the final phases of the works execution, the supervisor completes questionnaires with the local population on behalf of the Employer in order to assess the level of content of local population. The questionnaires would be sent to the mailboxes of locals, while ones completing these questionnaires could deliver them in person to the supervisor's representative or send them by regular post to the Employer's address.

Experience gained during the realization of the different infrastructure rehabilitation projects in Serbia, funded by WB Loans, significantly contributed to preparation of bases for social monitoring and assessment subsequent mitigation of impacts produced by the project on local community. Related to positive practice, PIU representative will perform regular controls of measures taken by the contractor and supervision, and control will be performed by the checklist shown in Attachment 3.

#### **4.5. Preparation of individual sub-project specific Abbreviated Resettlement Action Plans (ARAPs)**

Once the social screening is done, the need for preparation of RAP or ARAP will be determined and study on expropriation done. In case the impacts are, minor (loss of less than 10% of productive assets) and involves less than 200 people, an ARAP will be prepared. For greater impacts affecting more than 200 people or where physical displacement is involved, a RAP will be prepared by the Beneficiary of Expropriation. As clarified above, since only ARAPs are expected to be needed, the RPF is referring to ARAPs. Such ARAP will be reviewed and cleared by WB and approved by DfW/PIU prior to the issuance of bids for the respective flood protection structures. The ARAP will be implemented by DfW/PIU, PWMC or Municipal legal department and the payment of compensation and assistance will be certified prior the issuance of notice to precede work. As the DfW/PIU, PWMC or Municipality is legally in charge of the expropriation, the ARAPs will be prepared by the DfW/PIU, PWMC or Municipality's legal department which is the authorized department dealing with the legal issues of expropriation. During the preparation of ARAP, the DfW/PIU, PWMC or Municipality's legal department will liaise closely with the PIU. Consultants, it will be arranged to carry out a socio-economic survey and consult with the affected people and the grievance redress committees will be constituted.

The compensation and assistance for different types of impact categories will be guided by the entitlements described in this RPF. Each ARAP will be approved by the DfW/PIU General Manager and Manager of Sector for Legal, Staff and Common Affairs after receiving endorsement to the draft ARAPs from the WB, The DfW/PIU, PWMC or Municipality's legal department will undertake all actions and responsibilities regarding the expropriation/resettlement procedures as outlined in the ARAPs..

When the scheme is declared to be "of public interest", a concrete expropriation proposal by the Beneficiary of Expropriation<sup>10</sup> is prepared and then submitted to the relevant municipality encompassing the project affected persons. A concrete expropriation proposal is prepared for each project-affected person that contains the amount of land involved, the justification of the need for the specific expropriation, together with the confirmation that the scheme is included in the relevant regional and/or spatial plan. The Beneficiary of Expropriation (DfW/PIU), through the municipalities involved, will collect information on the socio-economic condition of each project affected person at the time of the preparation of the sub-project specific ARAP. This will include information on employment status, income, sources of income, land holding, type and size of land, crops, other resources, number of children and dependents, for all project-affected persons. This information will form the basis of the required social assessment (a socio-economic study) to the satisfaction of the Bank. These will form the basis of the ARAPs.

The performed screening (diagnostic) will also be used as base document for collecting all needed information for specific ARAP. The concrete expropriation proposal also involves the Beneficiary of Expropriation arranging a Bank Guarantee with a Commercial Bank for the assessed fair value. This assessment is prepared by referring to the Cadaster Register, which provides details on the titleholder, the immovable property, the type of land, and the area of the affected land. At this stage, the concrete expropriation proposal also obliges the Beneficiary of Expropriation to submit a request to the Cadaster Office, or other public register, to prevent any transaction (Article 32) on the land to be expropriated.

The individual ARAPs for a given sub-project will also include; specific compensation rates; policy entitlements related to any additional impacts identified, if applicable; description of resettlement sites, if applicable; implementation schedule for resettlement activities; and detailed cost estimates. The ARAPs should be in full compliance with this framework, its principles and procedures. Each individual ARAP must be disclosed, and compensation paid or grievance registered, before commencing construction on any specific sub-project.

#### **4.6. Processes and Consultation**

When the scheme is declared to be "of public interest" and approved by the Government, the first step is the preparation and submission of the expropriation proposal, which includes all the needed papers and information – technical papers based on the detailed design and cadaster maps, information on each parcel – with a bank guarantee to a local government's property department (LGPD) in the municipality where the scheme will be implemented. LGPD is the body which administers the expropriation process based on the administration law, the Law on Expropriation and this RPF.

- The affected persons are notified personally as well as through the local media of plans to the scheme<sup>11</sup>; and
- After public announcement and personal notification through the relevant municipalities, the LGPD starts the process as it is described below.

The role of the municipality in expropriation: The respective LGPD, where properties are being

<sup>10</sup> Beneficiary of Expropriation under this RPF is consistent to the definition under the Law on Expropriation: is the entity which is performing the expropriation and the implementing entity for a particular scheme or project. In the case of the Floods Emergency Recovery Project, the Beneficiary of Expropriation and the implementing entity is the Directorate for Water (DfW/PIU, PWMC or Municipality).

<sup>11</sup> In case of a large number of project affected persons requiring the preparation of a RAP, notifications through mass media and local authorities may suffice.

expropriated, administers the expropriation process at the local level in conjunction with the Beneficiary of Expropriation. In the first step, the municipality reviews the ARAP (expropriation proposal) for accuracy. Once the municipality has all the legal and technical documents and after review, it sends an invitation to all project affected persons, inviting them to a meeting, paying special attention to the needs of women. If the project affected area, (where land is being expropriated) is not spread out, the municipality calls for a public meeting. Otherwise, it invites the project-affected persons to come to the municipality one by one. During the meeting, the municipality informs the project affected persons about the project, presents them with all the information about the level of impact on their property with maps, their entitlement based on this RPF (a brochure with copy of the entitlement matrix and the RPF will be given to the project affected persons in the first meeting), the steps which will be taken afterward, provides them with legal advice and informs them about their rights, including the role of the independent grievance commission. In this meeting, there is no discussion of the comparability of the agricultural land or the concept of fair value. It is only a consultative meeting, informing the project affected persons and providing them with their entitlements and rights.

Once the information process is over, the municipality and the project, affected persons come to a decision on expropriation. However, if the project affected persons have a dispute about the decision of whether expropriation should be brought or not (or if they feel that the law was not followed), the project affected person can register their concern with the MoF, and the decision has to wait till the MoF reviews the case, which takes between 30-60 days. The review determines whether expropriation can continue or not. The latter can only apply if there is a deficiency in the ARAP or the expropriation proposal. In the case of the former, the valuation process starts. In the case of the latter, the case automatically enters the judicial procedure, and access can be gained to the site.

#### 4.6.1. Valuation Stage

At the valuation stage, the Beneficiary of Expropriation contacts the Taxation Administration for the assessment of fair value for all land. In the specific case of agricultural land, the Beneficiary of Expropriation contacts the MAEP, which provides an assessment of the availability of comparable agricultural land. In addition, the Beneficiary of Expropriation hire, at its own expense, through the relevant municipality, an accredited expert(s) to assess the value of the land, agricultural output, businesses, and all immovable property and structures in accordance with paragraph 28(iii). At the request of the project-affected persons, they can be present during the valuation process.

After the valuation, the Beneficiary of Expropriation presents the offer to the project- affected person. If project affected person, with or without legal title, is not satisfied with the decision on valuation, they can approach the independent grievance commission, who will mediate in the manner described earlier. The grievance is required to be registered when first put to the independent grievance commission and the monetary amount equivalent to the assessed fair value are entered into a municipal account, in their name, in a court account in their name, or under a Bank Guarantee with a commercial Bank arranged by the Beneficiary of Expropriation. At this point, the project-affected person also agrees to transfer access to the land to the Beneficiary of Expropriation for the commencement of works. If the project-affected person is unhappy with the guidance/decision of the independent grievance commission, they can apply to the court, following the standard procedures set forth by Serbian law. The ruling of the court also determines who pays the cost of litigation.

#### 4.6.2. Transaction Stage

The expropriation of land and immovable property can take place through two processes: negotiated settlement or court settlement.

##### Negotiated Settlement:

If the project-affected person-according to paragraph 28) agrees to a negotiated settlement,

either in front of the LGPD or the independent grievance commission, then discussions between the municipality and project affected person will take place to finalize the transaction. If an agreement is reached, the project- affected person-according to paragraph 28) will be paid within 15 days after the agreement on the monetary compensation or the replacement of agricultural land or property. The expropriation should be registered in the land registry and cadaster office.

#### Court Settlement:

A court settlement will occur if the negotiated settlement process fails. Prior to requesting a court settlement, rights to due process and appeals will be explained fully by the relevant municipalities, the independent grievance commission, the Beneficiary of Expropriation, and the implementing entity to the owners/affected persons. The municipality will hand over the case to the relevant court for valuation and registration, pursuant to the Serbian Law.

#### 4.6.3. Right of Appeal

After failure or refusal to agree on the assessed fair value decided by the first-degree court, the owner/affected persons can appeal the decision stated in the judgment to the appeal, second degree and court. The ruling of the court determines who pays the cost of litigation.

#### 4.6.4. Payment of Compensation

Landowners, and where applicable, non-titled land users, have the option to receive compensation even if they decide to contest the amount of compensation in court. When the right landowner is not determined due lack of titles, the fair assessed compensation will be put up under a Bank Guarantee with a commercial Bank arranged by the Beneficiary of Expropriation. The landowners have an option to receive the fair assessed compensation, even when appealing to the court and waiting for the court decision, and receive additional compensation, if any, based on the court decision.

#### 4.6.5. Implementation of resettlement and rehabilitation impacts

The resettlement impacts such as physical displacement, payment of resettlement and rehabilitation assistance, loss of small shops, shifting of memorial stone, impacts to common properties like water taps etc. will be mitigated and implemented by the DfW/PIU. The implementation process will be explained under ARAP. The resettlement and rehabilitation impacts are expected to be minimum and negligible.

#### 4.6.6. Monitoring

The Beneficiary of Expropriation (DfW/PIU) will monitor the implementation of the resettlement processes, both through internal, official institutional arrangements, as well as by an independent, external consultant, to be appointed by implementing entity. The external monitoring and evaluation consultant will be appointed prior to construction starting on any sub-project and will have obligation of reporting on semi-annual bases. The WB as part of their supervision will also review the implementation progress and advice on implementation issues.

#### 4.6.7. Cost Estimates and Budget

No estimations of land requirements, or cost of expropriation and resettlement can be made. However, if it becomes necessary the DfW/PIU will be preparing ARAPs including detailed cost estimates for subject sub-project.

#### **4.7. Disclosure**

This RPF in draft form. It will be officially disclosed on the official website of the MAEP and DfW/PIU after it will be recognized as satisfactory to the WB (after receiving Bank's "No Objection"), and it will be publicly advertised in newspaper of national circulation. Hard copies will be made available upon request.

After that, the presentation of draft RPF to the stakeholders will be organized by PIU. The Minutes of the Presentation will be incorporated as Attachment in Final RPF document.

In case of identified expropriation in later stages, every specific ARAP shall be also disclosed in the same manner to receive comments and suggestions. Since in the phase of ARAP preparation for a specific sub-project all facts related to expropriation will be known, public consultation with all project affected persons and the municipality representatives will be held by DfW/PIU. The detailed information of public consultation shall be incorporated in the ARAP.

The provisions of this RPF will be updated/modified from time to time based on the experience during the implementation, as needed, but only in mutual agreement between the Borrower and the World Bank.

**ANNEXES:**

**Annex 1:** List of Priority Projects under Sub-Component 3A

**Annex 2:** Social Screening Check List – Typr I

**Annex 3:** Social Measures Monitoring Check List

**Annex 4:** Additional Key Legal Provisions

**Annex 5:** Sample Screening Check List - Type II

**Annex 6:** Report on Public Disclosure and Public Consultation

**ANNEX 1 INDICATIVE LIST OF POTENTIAL PROJECTS UNDER SUB-COMPONENT 3A**

Responsibility / PWMC	Contract / Description	Cost Estimate (USD)	Contract Period	Readiness / Status
<b>Works</b>				
„Srbijavode“	Flood Protection of Novi Pazar settlement: Including regulation and embankment protection of Raska River and its tributaries. Section I: from Careva Cuprija to mouth of the Banjska River (2,15km)	2,415,400	16 months	Designs complete, construction permit to be issued
„Srbijavode“	Flood Protection of Aleksinac settlement: Including regulation and embankment works on Moravica river through Aleksinac town from km 2+370 to km 3+100 providing the flow capacity for the high water at upstream section from km 3+100 to km 3+950, and downstream section from km2+000 to km 2+370	1,840,800	18 months	Designs complete, construction permit to be issued
„Srbijavode“	Flood Protection of Smederevska Palanka settlement: Including reconstruction of regulation works at Jasenica river and dike (from km 10 +235 to 19+300) for protecting of the river flow capacity in the upstream section (from km 19+300 to km 24+454)	1,950,000	18 months	Designs complete, construction permit to be issued
„Srbijavode“	Flood Protection of Negotin area: Including reconstruction of protective system in Radujevac including embankment construction works (2,7km)	1,495,000	14 months	Designs complete and permits issued
„Srbijavode“	Construction of flood protection system for DonjiLjubes settlement: Including reconstruction of the left bank embankment (16,7km) of the river Southern Morava with left bank protection(1,1km)	3,105,700	19 months	Designs complete, construction permit to be issued
„Beogradvode“	Rehabilitation of Tamis dike including heightening of 1m for 13.5 km section.	3,361,800	18 months	Designs complete and permits not required
„VodeVojvodina“	Erosion protection and rehabilitation works on left bank on the Sava River on section km 174+000 to km 178+500	94,900	9 months	Designs complete and permits not

## REPUBLIC OF SERBIA - FLOODS EMERGENCY RECOVERY PROJECT – FERP

Responsibility / PWMC	Contract / Description	Cost Estimate (USD)	Contract Period	Readiness / Status
				required
„VodeVojvodina“	Rehabilitation of the left bank embankment on the Danube River on section B.Palanka town(km 1+800 to km 9+850) and Sombor town (km 3+461 to km 6+583 and km 49+410 to km 52+400)-embankment crest stabilization (asphaltic road)	2,185,300	13 months	Designs complete and permits not required
<b>SUB-TOTAL</b>		<b>16,448,900</b>		
<b>Goods</b>				
All PWMCs	Supply of mobile equipment for flood control and protection	1,820,000	6 months	Draft specifications and estimates prepared
<b>Services</b>				
All PWMCs	Construction supervision for flood protection works	657,956	20 months	TOR to be prepared by effectiveness
<b>Unallocated</b>		<b>1,073,144</b>		
<b>TOTAL</b>		<b>20,000,000</b>		

**ANNEX 2 – SOCIAL SCREENING CHECK LIST**

<b>SUB-PROJECT:</b>	<i>(section name)</i>		
<b>Screening team:</b>	<i>(Names of team members performing screening)</i>		
<b>Attachments:</b>	<i>(Photos, additional docs, tables, etc.)</i>	<b>date:</b>	

No	Item description	Checked	Note for designer	Screening comments
1	Identification of section location Start point End point			
2	Identification of lane width Lane width Lane no:			
3	Shoulders width Shoulders width Shoulders condition			
4	Identification of Settlements, and subsections with high intensity pedestrian traffic Settlements Type of settlements High intensity pedestrian traffic			
5	Identification of subsections with agricultural land next to the flood protection structure - Agricultural area identification			
6	Identification of subsections passing by the woods Woods Green areas			
7	Identification of structures <sup>12</sup> Commercial objects (workshops, cafes, stores etc.) Residential objects			
8	Identification of places of great cultural heritage Historical heritage			

<sup>12</sup> During the initial screening the encumbrances will be videotaped and retained in the files

No	Item description	Checked	Note for designer	Screening comments
	Cultural heritage Nature preserved area Weekend rest areas			
11	Vulnerable categories needs Access to road Sidewalks Cycle lane Banquette Underground passage			
12	Identification of rivers - Sources of drinking water			
13	Identification of utilities Electricity Low-voltage cable Overhead Installation			
15	Identification of dangerous places (memorial stones and others)			

General conclusion, summary of social impacts, identification of potential issues, measures proposals, etc.

**ANNEX 3 – SOCIAL MEASURES MONITORING CHECK LIST**

<b>SECTION:</b>	<i>(section name)</i>		
<b>Supervision team:</b>	<i>(names of supervision team members performing monitoring)</i>		
<b>Attachments:</b>	<i>(Photos, additional docs, tables, etc.)</i>	<b>date:</b>	

No	Item description	YES/NO	Comments	Action/responsibil
1	Works marking Information board Traffic signalization			
2	Works advertisement DfW/PIU web site Radio Local media			
3	Is complaint mechanism established properly Responsible person named The mechanism clearly described			
4	Is local community familiar with complaint mechanism?			
5	Complaints/comments/inquiries received Complaints Comments Inquiries			
6	Freedom of movement and access to facilities Residential facilities Commercial facilities Agricultural land			
7	Noise impact on local residents - Works limited to the working hours 07-17			
8	Control of the Contractor's contracts with local residents on accommodation of workers, storage of materials, machinery Accommodation of workers Organized feeding Machinery storage Lease of land for disposal of materials			

No	Item description	YES/NO	Comments	Action/responsibil
9	Assessment of cooperation with local institutions directorate for public transportation Municipality Police			
10	Assessment of the degree of works impact on traffic Works under traffic Works without traffic Deviations			
11	Hiring of local labor Qualified			
12	Insurance of all employees against injuries Sums insured in accordance with the contract Sum insured in accordance with the contract			
13	Insurance against damage to third parties Sums insured in accordance with the contract Sum insured in accordance with the contract			
14	Questionnaire on degree of satisfaction of users Questionnaire completed			

General conclusion, identification of potential issues, measures proposals, etc.

## ANNEX 4 – ADDITIONAL KEY LEGAL PROVISIONS

### 1. The Constitution of the Republic of Serbia (Official Gazette of RS, number 98/2006)

- 1) The Constitution, as the highest legal act, does not use the word expropriation, but it does regulate that the one can be deprived of the ownership right or it can be restricted only in the public interest determined on the basis of the law, with the compensation which cannot be lower than the market one.

### 2. Law on Expropriation (Official Gazette of RS, number 53/95, Official Gazette of SRJ, number br. 16/2001 – decision FCC and Official Gazette of RS, number 20/2009 )

- 2) Apart from the provisions stipulated in the revision of RPF, the following are the key provisions of the Law on Expropriation:

- Public interest for expropriation of immovable property is determined by the law or decision of the government pursuant to this law
- The proprietor on the expropriated immovable property is replaced on the day when the decision on expropriation comes in effect (full expropriation).
- By expropriating the construction object on the construction land which is either public or private property, the proprietor of such object is deprived of the right to use the land occupied by the object and the land which serves for its regular use. The previous
  - 3) proprietor of the land, for which the right for utilization has been terminated, is entitled to the right for compensation, unless the compensation has been previously paid to him.
- When determining the public interest for expropriation, the Government is obliged to issue a decision upon the proposal for determining the public interest within 90 days.
- The decision of the Government ,by which the proposal for determining public interest was adopted ,is published in "Official Gazette of the Republic of Serbia" and is considered to be delivered to the parties in the procedure on the day it is published
- An action can be brought against the Government decision by which the proposal for determining public interest is defined within 30 days from the day it is delivered, or published "Official Gazette of the Republic of Serbia", and administrative litigious
  - 4) proceedings can be initiated with authorized court.
- A legal entity planning to submit a proposal for expropriation can demand to be allowed to perform the necessary preparatory activities on a specific immovable property (examination of soil, measurements and alike), for the purpose of making feasibility study, submitting a proposal for determining public interest of a proposal for expropriation .The legal entity, to the benefit of whom the preparatory activities have been allowed to be carried out, is obliged to pay compensation to the proprietor of the property, as prescribed by the law.
- The expropriation costs are borne by the beneficiary of the expropriation
- The beneficiary of the expropriation can give up the proposal for the expropriation before the decision comes into effect.
- The absolute decision on the expropriation shall be annulated or changed whenever the beneficiary of the expropriation and the previous proprietor demand it jointly. Upon the request of the previous proprietor of the expropriated property, or his successor,

- 5) the absolute decision on the expropriation shall be annulated or amended, if the beneficiary of the expropriation, within 3 years from the day the agreement on the compensation came into effect or from the day when the agreement on the compensation was concluded, if, as per the nature of the object, if he hasn't done any considerable construction works on the facility for the sake of which the expropriation has been performed. After the deadline of 5 years has expired since the decision on the compensation came into effect, or since the agreement on the compensation was concluded, the previous proprietor of the expropriated property, or his successor, cannot submit a request for the annulations or amendment of the absolute decision on the expropriation.
- The amount of the compensation for the expropriated immovable property is determined according to the market price, according to the circumstances at the moment the agreement on the compensation was concluded, and if the agreement has not been reached, according to the circumstances at the moment the first- instance decision on the compensation was issued.
  - The previous proprietor is not entitled to the compensation for investments he has made since the day he was informed in writing about the submitted proposal for expropriation, unless for the costs necessary for the utilization of the property. This notice is delivered to the proprietor by the authority in charge of issuing decisions on the expropriation.
  - The beneficiary of the expropriation is obliged to submit an offer regarding the form and amount of the compensation in written form to the municipal administration, within the deadline of 15 days from the day the decision on expropriation comes into effect. Without delay this authority sends in a copy of the offer to the previous proprietor.
  - The agreement on monetary compensation is executed by the competent court, and the agreement on other forms of compensation by the municipal administration
  - If the agreement on the full amount of compensation is not reached within 2 months from the day the decision on the expropriation comes into effects, the municipal administration shall send in the absolute decision on the expropriation accompanied with all documents to the competent municipal court for the purpose of setting the compensation amount.
  - On the day the decision on expropriation comes into effect, personal easements and all actual burdens on the expropriated immovable property cease to exist, apart from the actual easements whose performance is possible after the expropriated immovable property has been brought to its purpose.
  - The mortgage established on the immovable property is transferred to the immovable property which is given to the ownership or co-ownership in compensation for the expropriated property, or any other personal property of corresponding value.
  - Registration of property and other rights on the expropriated property shall be made on the basis of the final decision on expropriation. The request may be submitted by any party.
  - Rights of state-owned or private land may, upon the decision of the municipal government, be revoked or restricted and transferred to the second holder of the property in the public or public property, if it is in the public interest (administrative transfer).

**3. Law on Cultural Heritage (Official Gazette of RS, number 71/94, 52/2011 – oth. laws and 99/2011 – oth. law)**

- Expropriation of immovable cultural heritage, that is to say administrative transfer of cultural heritage that is state owned or social property, from one legal person to another, may be done:

- 1) if the proprietor, that is to say owner or user does not have the possibility or interest to take protection measures, and the cultural heritage is in danger of being destroyed;
- 2) if archeological excavations cannot be done in any other way, and measures of technical protection on the cultural heritage taken.
- 3) if in no other way can the cultural heritage of great importance be made available to the public.

- 6) General interest for expropriation and the administrative transfer of cultural heritage is determined by the Government of the Republic of Serbia.

**4. Law on Non-Litigation Procedure (Official Gazette of SRS, number 25/82 and 48/88 and Official Gazette of RS, number 46/95 – oth. law, 18/2005 – oth. law and 85/2012)**

- In the judicial, non-litigation procedure, the court assigns compensation for the expropriated immovable property when the beneficiary of the expropriation and the previous owner have not concluded a valid agreement defining the compensation for the expropriated immovable property.
  - This procedure is urgent.
  - The court shall determine the hearing to give the beneficiary of the expropriation and the previous owner a possibility to make a statement about the type and magnitude of compensation, as well as of evidence of the value of immovable property that is gathered ex officio.
  - At the hearing the court shall also produce other evidence suggested by the participants, if found to be of interest in determining the compensation, and if necessary, it shall designate expertise as well.
  - After the assessment of all relevant facts, the court issues a decision that determines the shape and volume, that is the amount of the compensation.
  - If the beneficiary and the previous owner agree on the form and volume, or the amount of compensation, the court shall base its decision on their agreement, unless
- 7) it has been found that it is not contrary to the regulations enforced.
- If the beneficiary and the previous owner agree that compensation for expropriated building or flat is determined in the form of giving other buildings or flats, the agreement will specify a deadline for the execution of mutual obligations. If the deadline is not defined, the court shall issue a decision on the compensation by which the deadline shall be defined in accordance with the relevant provision of the Law on Expropriation of moving out of the expropriated building or apartment as a separate part of the building.
  - The costs of the proceedings shall be borne by the beneficiary, except for the expenses caused by unjustifiable acts of the previous owner.

**5. Law on Mortgage(Official Gazette of RS, number 115/2005)**

- Mortgage is terminated when, in order to satisfy the public interest (expropriation, etc.), and in accordance with the law and on the basis of a court decision, the right of the owner to move the mortgage is transferred to a third party.
- In that case :
  - 8) -resignation is done upon the request of the new owner of the property;
  - 9) - a mortgagee acquires a lien on the claim for compensation or the compensation paid to, or he enters a mortgage on the immovable property handed over to the owner of the property instead of the seized property in the public interest.

**6. Law on the Protection of Nature (Official Gazette of RS, number 36/2009, 88/2010 and 91/2010 – amend.)**

- In the protected area, for the purpose of carrying out protection and preservation of the protected areas, when there is an interest of the Republic of Serbia, the real estate can be expropriated or property and other real rights over the real estate can be restricted.
- The procedure of expropriation of ownership rights over the real estate is carried out in accordance with special regulations, that is, in accordance with the Law on Expropriation.

**7. Law on Spatial Planning and Construction (Official Gazette of RS, number 72/2009, Official Gazette of RS, number 81/2009 – amend, Official Gazette of RS, number br. 64/2010 – decision of the CC 24/2011, Official Gazette of RS, number 121/2012)**

- In the process of expropriation of immovable property, the rights holders to use construction land shall be subject to the provisions on administrative transfer, contained in the law governing expropriation.
  - The application for a building permit shall be accompanied by:
    - 1) a location permit;
    - 2) a preliminary or final design in triplicate, with a report on the technical control;
    - 3) a proof of ownership or lease of construction land, or evidence of title to the property if the construction works refer to building on the property;
    - 4) a proof of relations in terms of payment of the fee for construction land;
    - 5) a proof of payment of administrative fees.
- 10) For the construction of linear infrastructure facilities, as a piece of evidence for the point 3), final decision on the expropriation and proof that the ultimate beneficiary of the expropriation has secured funding in the amount of the market value of the real estate may be submitted.

**8. Law on State Cadaster (Official Gazette of RS, number 72/2009 and 18/2010)**

- 11) In accordance with this Law, land registry entry is used for facts that, among other things, are related to the initiation of the expropriation of real estate.
- 12) General conditions for the land register entry in the real estate cadaster are:
1. existence of a registered property;
  2. the existence of the registered predecessors; the existence of documents for registration;
- 13) Entry into the real estate cadaster is performed on the basis of a private or public document.

- 14) The particular document must contain:
  1. place and date of preparation, that is certification;
  2. designation of real property to which the document refers to according to the cadastral data;
  3. surname, first name, or the name, place of residence or registered office and citizen's personal number, or identification number of the registered person and the predecessors on whose behalf the enrollment is required.
- 15) Documents for land register entry must be accompanied by the original or a certified copy. A public document to be eligible for registration has to be absolute.
- 16) The request shall be submitted in written form. The application for registration must contain:
  1. surname and name, citizen's personal number, that is the name, seat, address and registration number of the claimant
  2. name of the land registry unit and designation of the real state for which the registry is sought;
  3. the real right or change for which the registry is required.
- 17) With the application for registration in the real estate cadaster one should enclose the document for entry in the original, a certified copy or certified transcript. The request is accepted and the entry allowed when these requirements are met and when the application is in accordance with the contents of the submitted documents. Otherwise, the request is rejected.

**ANNEX 6: SAMPLE SCREENING CHECKLIST FOR THE POTENTIAL RESETTLEMENT ACTIVITIES UNDER FERP PROJECT**

<b>8. Status and Reporting on Resettlement Action Plan/Livelihood Restoration Framework</b>		
<p><b>Existing Land Acquisitions</b>                      Please report any further progress made during this reporting period in the implementation of the Resettlement Action Plan (RAP) or Livelihood Restoration Framework (LRF), using the monitoring indicators as detailed in the RAP or LRF, and complete the table below. Please provide the results of any other related monitoring carried out by the Company or its consultants and attach any additional information you think would be useful.</p>		
Have all the affected persons been fully compensated for their physical displacement and, if applicable, any economic losses resulting from the project?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If no, specify how many compensation payments are still outstanding (in terms of number and percentage of recipients and payment amounts) and state when these payment will be made:
Has the land acquisition had any additional, unforeseen impacts on affected persons' standard of living or access to livelihoods that were not previously covered in the RAP?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, quantify these impacts and specify what measures have been undertaken to minimize and mitigate these impacts. If no, specify how potential impacts on livelihoods have been monitored.
Have any vulnerable groups been identified?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, list the groups that were identified and describe any additional measures undertaken in order to mitigate impacts specific to these groups.
If applicable, have all transit allowances been paid?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If no, specify how many payments are still outstanding (in terms of number and percentage of recipients and payment amounts) and state when these payments will be made.
Has legal support been provided to all the affected persons?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, specify how many persons effectively made use of the legal support.

<b>8. Status and Reporting on Resettlement Action Plan/Livelihood Restoration Framework</b>		
Have all outstanding land and/or resource claims been settled?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable <input type="checkbox"/>	If no, specify how many claims are still outstanding and state what the expected timing is for settling them.
Have there been any new land acquisition-related complaints or grievances?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, please state how many and summarize their content.
Has the company regularly reported to the affected communities on progress made in implementing the RAP?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, please state how many meetings were held and how many participants attended.
<p><b>New Land Acquisitions</b> If the company acquired any new land for the project during the reporting year, please provide documents to show closure of land acquisition transactions. Please attach new/revised RAP covering the new land acquisition and describe mitigation measures, compensation, agreements reached, etc., and provide in tabular form a list of affected people and status of compensation.</p>		
Have any persons been physically displaced?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, how many?
Have any persons been economically displaced?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, how many?
Was it a government assisted resettlement?	Yes <input type="checkbox"/> No <input type="checkbox"/>	

**ANNEX 7: REPORT ON PUBLIC DISCLOSURE AND PUBLIC CONSULTATION**

**To be completed after Public Consultations**